

Municipal Court Recorder

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A Statistical “Snap Shot” of Texas Municipal Courts and Decorum-related Practices

By Ryan Kellus Turner, TMCEC Program Attorney & Deputy Counsel
and Seth Johnson, Former TMCEC Program Assistant

This special issue of the *Municipal Court Recorder* focuses predominantly on the subject of court decorum. It also marks the final installment of the *Recorder* for the 2002 Academic Year.

During the 2000-2001 academic year, all municipal judges attending TMCEC judicial education programs were asked to complete a survey gauging various aspects of their court decorum practices. Of an estimated 1,236 judges surveyed, 1,171 judges replied.

Independently, various pieces of data collected provide insight into the attitudes, demographics, and practices of the diverse Texas municipal courts.

The data collectively provides a fascinating “snap shot” of decorum-related issues and a better profile of Texas municipal courts.

While much of this data speaks for itself, certain pieces warrant analysis. While much of the data provides straightforward answers, other pieces of data raise some interesting, yet fundamental, questions. The authors try not to let such questions linger. Analysis and commentary are offered. However, as you, the reader, are likely aware, there is often an inherent danger in human efforts to construe such statistical data. Keep this caveat in mind as you review

the analysis accompanying the data. Certainly the data from the survey can be construed in more than one way. Presumably, that is what makes reading articles such as this one both provocative and entertaining.

I. Decorum

A. Correlation Between Volume and Formalism

There is a danger in generalizing about municipal courts. This is especially true in the context of caseload. Municipal courts can be divided into six categories depending on the volume of cases adjudicated yearly (see Figure 1). A “low volume” court processes under 2,500

Finding Balance

Court Decorum in Local Trial Courts: The Struggle of Finding Balance Between Appropriate Dignity and Undue Formalism

By Ryan Kellus Turner, TMCEC Program Attorney & Deputy Counsel

Justice does not depend upon legal dialectics so much as upon the atmosphere of the courtroom, and that in the end depends primarily upon the judge.

— Judge Learned Hand¹

All judges are guardians of the inherent dignity the public has historically associated with courts.² Described as

“hallowed places of quiet dignity,”³ American courts not only serve as forums for adjudicating alleged wrongdoing, they embody the important appearance of authority, vital to preserving the public’s perception of an orderly society.

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AROUND THE STATE

Smith Named Judicial Fellow

Municipal Judge Robin D. Smith of Midland was recently named the National Highway Traffic Safety Administration (NHTSA) Judicial Fellow. Judge Smith's duties will include the promotion of NHTSA's safety policies and representing judicial perspective in outreach activities, such as publications and educational conferences. He will also be providing judicial insight to various Department of Transportation officials on policy and position matters. NHTSA's main focus is reducing the number of injuries and lives lost on the highways. Among the primary objectives of NHTSA are reducing driving while impaired cases and promotion of seat belt use. Judge Smith is a former TMCA President, currently serves as the TMCA Region V Board Director, and recently received the prestigious *Michael J. Neal Outstanding Jurist Award* from the Municipal Judges Section of the State Bar of Texas.

Clerks Certification

The Municipal Court Clerks Certification Program is pleased to announce that six clerks have attained the highest level of distinction as Certified Municipal Court Clerk, the third level of the program. They are now entitled to bear the designation of CMCC after their name. *Listed in order of completion:*

- Jennifer Sullivan, CMCC (Katy)
- Connie Crenshaw, CMCC (Luling)
- Lueveda Posey, CMCC (Copperas Cove)
- Janell Kucera, CMCC (Sugar Land)
- Alicia St. Cyr, CMCC (Watauga)
- Susie Garcia, CMCC (San Antonio)

Over the summer, many clerks completed the testing, educational requirements, and application at the various levels. TMCEC congratulates all on their achievement and encourages all clerks to consider participation in the program. In some cities, certification at each level results in increased compensation and in most cities there is recognition by city officials. Clerks in the program report that not only does participation increase their competence at their jobs, but also their self-confidence and morale. The total numbers of clerks completing each level are shown below:

- Level I: 403
- Level II: 101
- Level III: 6

The Texas Court Clerks Association (TCCA), Texas Municipal Courts Association (TMCA), and the Texas Municipal Courts Education Center (TMCEC) sponsor the program. Questions about the program should be directed to Leisa Hardin (TCCA Education Committee Chairperson) at 817/297-2201 or Jo Dale Bearden (TMCEC Program Coordinator) at 800/252-3718.



FROM THE GENERAL COUNSEL

W. Clay Abbott

Decorum v. Demeanor

In this edition of *The Recorder* you will find excellent articles on court decorum by Ryan Kellus Turner. It is important, as the articles eloquently make the point, that the court require proper decorum in the courtroom during proceedings. An unordered court of law brings discredit to the law and creates the perception that justice is abandoned. Trial judges must maintain decorum as a matter of ethical mandate. Canon 3B(3) of the Code of Judicial Conduct states, “A judge shall require order and decorum in proceedings before the judge.”

On the other hand, the judge is also required by Canon 3B(4) to be “patient, dignified and courteous” to all persons who appear before the court. This requirement of proper judicial demeanor arrives right on the heels of the requirement of order and decorum. These two requirements result in the court having to be authoritative, while avoiding being autocratic.

The Commission on Judicial Conduct has provided an example of failing to strike this balance in a public admonition on June 21, 2002. Justice of the Peace Patricia Ott was admonished for violating Canon 3B(4) by ordering a disruptive four-year-old child of a prospective juror removed from the courtroom, while ordering the mother to stay. The judge attempted to defend her action by arguing her obligation to maintain order and decorum. The Commission rejected that defense. While proper

decorum is essential to proper court proceedings it is not an excuse to abandon a proper judicial demeanor.

Ethics and the Media

In the middle of our whirlwind tour of the State of Texas, the rules of the topic we were covering changed. On August 21, 2002, the Texas Supreme Court amended Canon 3B(10) and repealed Canon 5(1) of the Code of Judicial Conduct pursuant to the holding of the U.S. Supreme Court in *Republican Party of Minnesota v. White*, 122 S.Ct. 2528 (2002). That case held that a provision similar to Canon 5(1) violated an elected judges’ First Amendment rights to political speech. The changes in Canon 3B(10) added judicial candidates to the persons covered by that canon. The U.S. Supreme Court’s opinion addressed only elected judges, but the changes to the canons make no such distinction. One Supreme Court Justice—Nathan Hecht—cautioned that the canons as amended still may not pass constitutional scrutiny. Needless to say, the changes made are probably not the final ones.

Many candidates pledged to maintain the previous standard. But, just as we emphasized in our traveling course, some accommodation must be made in order to assure free speech and freedom of the press and still provide due process in the neutrality of the fact finder. It would be wonderful if we could simply ignore politics, but that position is naive. Perhaps we can best hold the position that judges are

more than political animals. Many judges are emphasizing that the Rules of Judicial Conduct are minimum standards, not exemplary guidelines. The public may want to know a judge’s position on every issue, but what they need to know is that the judge enters his or her trial with an open mind and all of the alternatives open as well. The public needs to be assured that our system works—and I believe it does—and that our judges are above the clamor of the press and the fluidity of politics.

A copy of the Texas Supreme Court’s statement, Justice Hecht’s Opinion, and the changes to the canons can be accessed on the TMCEC website at www.tmcec.com.

Corrections

In two FY 02 issues of the *Municipal Court Recorder*, there were two significant errors. Pam Liston, who wrote *Hate Crimes: Prosecute in Municipal Court?* in the March 02 issue is a prosecutor for the City of Rowlett, not the City of Dallas. Judge Daniel Sims of the Houston Municipal Court was the judge who volunteered to work with Houston clerks in the evenings and weekends to study for the certification exams. He was not given proper credit in the July 02 issue.

We apologize to both for the mistakes, and thank both individuals for their work helping to improve the administration of justice in Texas through education.



LETTER TO THE EDITOR

August 20, 2002

Dear Hope Lochridge and W. Clay Abbott:

W. Clay Abbott informed us in the July 2002 issue of the *Municipal Court Recorder* of a Public Admonition, which the Commission on Judicial Conduct imposed upon a Texas Justice of the Peace for dozing in court. We have also recently heard of the reversal of a Texas death penalty case because the defendant's attorney slept through parts of the trial. As we all are aware, our behavior as judges and court personnel must be governed by a higher standard than that of the public in general. There is no question that dozing in the courtroom is inappropriate and unacceptable, for judges and court personnel alike.

However, the issue here has greater implications than just simply dozing off in a TMCEC seminar or during the Sunday morning sermon. The suggestion made by Mr. Abbott regarding paperclips and rubberbands may indeed have merit, *e.g.*, recall the Deacon or Elder in years past who sat in the back of the church and tapped noddors with a long pole. But, what must not be overlooked is the possibility that an underlying medical condition could be the cause of this undesired behavior. One such medical condition is "sleep apnea."

Sleep apnea is a common sleep disorder characterized by brief interruptions of breathing during sleep. These episodes may be few or many during a normal night's sleep period. When we think of sleep apnea, we typically picture an

overweight male, over forty. How many of us at a TMCEC seminar fit this profile? But the fact is, sleep apnea affects both males and females of all ages and of ideal weight, although it is more likely to occur in men than in women. Today, more than 12 million Americans suffer from sleep apnea and it is estimated conservatively that ten million more are undiagnosed. The most common symptoms of sleep apnea are loud snoring and excessive daytime sleepiness, *e.g.*, falling asleep easily and sometimes inappropriately. Sound familiar? Most important, however, is that sleep apnea left untreated can be life threatening and the medical consequences may include high blood pressure and other cardiovascular complications.

What causes many people to seek treatment for sleep apnea is the "near miss" from falling asleep while driving. There is no question that falling asleep while driving accounts for a large percentage of fatal, non-alcohol related traffic accidents. While alcohol related driving has received a lot of attention, and rightfully so, we may not have thought of the consequences of sleep deprivation as having the same lethal potential. Or we may have thought of "snoring" as some natural consequence of maleness or aging or both, and that there was no real treatment. Fortunately, there are a variety of treatments now available for sleep apnea. Nasal continuous positive airway pressure (CPAP) is the most commonly treatment used today.

So, the recommendation for falling asleep inappropriately may involve more than us "older gentlemen taking more breaks." Given the demographics of the municipal court judges across the State and the known incidence of this disorder, there are probably many judges, and court personnel, that are candidates for dozing in court. If we are aware of the fact that we suffer from sleep apnea or, more than likely, have been told or elbowed by a spouse that we have kept awake, then we need to see our physician immediately—particularly if we suffer from high blood pressure. Keep in mind that, while a Commission sanction may seem like a "fate worse than death," the fate of an untreated sleep apnea patient can truly be life threatening.

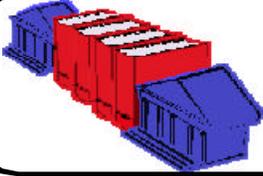
Nothing herein should imply that having a medical condition should excuse sleeping in court. The purpose of this communication is to hopefully encourage judges and court personnel who may have such a condition to seek appropriate treatment.

Respectfully submitted,

Henry A. Baldwin, Judge
Municipal Courts of Venus and
Cross Timber

My thanks to Judge Baldwin for his timely and insightful comments. As a past apnea sufferer, I join him in recommending you seek treatment if similarly affected.

*W. Clay Abbott
General Counsel, TMCEC*



RESOURCES FOR YOUR COURT

Annual Texas Teen Court Conference and Spotlight Award

College Station will host the Annual Conference for the Texas Teen Court Association (TTCA) on November 5-8, 2002 at the Hilton and Conference Center. A number of interesting courses will be offered at the conference, as well as an optional tour of the George Bush Presidential Library. A limited number of scholarships are available. For more information, contact Peggy Calliham, Community Program Coordinator, City of College Station, P.O. Box 9960, College Station, Texas 77842 (409/764-3499 or pcalliham@ci.college-station.tx.us).

TTCA will award the *Spotlight Award* to the teen court that has shown the most progress, innovation, or achievement. To apply for the award, please answer the following questions and submit your registration to Peggy Calliham no later than October 1:

1. Describe how your court functions and include such items as your annual caseload, sentence completion rate, and methods used to dispose of cases.
2. Describe what you consider to be unique about your court and why.
3. Describe the involvement and support of other agencies and

organizations within the community.

4. What achievement of your court in the past 12 months do you feel should be spotlighted and why?

Responses to these questions may not exceed three typewritten pages. A committee from the TTCA will review applications. Announcement of the winner will take place at the Awards Banquet on Thursday night.

Teen Court Starter Book

The TTCA web site contains a starter book on how to create a teen court. It may be downloaded for free at <http://www.texasteencourt.com>. It is estimated that there are at least 57 teen courts currently operating in Texas. The TTCA web site, annual conference, and networking with members are excellent first steps in starting a teen court.

NJC Scholarships

The National Judicial College (NJC) has scholarship assistance available for full and part-time judges wishing to attend NJC programs. The programs are typically held in Reno, Nevada, unless otherwise indicated. Please call Nancy Copfer at NJC at 800/255-8343 if you are interested in attending any of the following courses in 2002:

- October 28-29 *Ethics for Judges*
- October 28- November 1 *Judicial Writing*
- October 30-31 *Building a Bias Free Environment in Your Court*
- November 3-8 *Conducting the Trial* (San Diego, CA)
- November 4-8 *Basic Evidence*
- November 17-22 *Advanced Evidence* (Charleston, SC)
- November 17-22 *Search, Seizure and Criminal Procedure* (Charleston, SC)

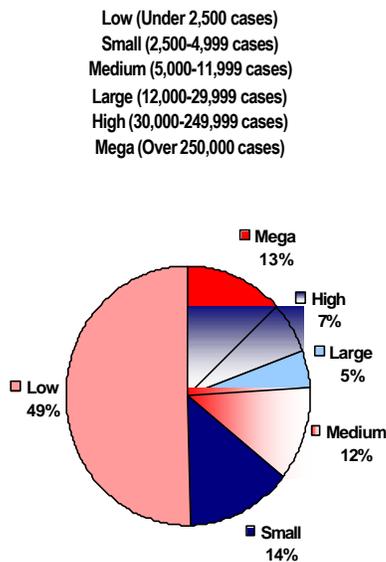
NJC is also taking applications and has scholarship assistance available for the following courses in 2003:

- March 3-7 *Management Skills for the Presiding Judge*
- March 5-7 *How to Be a Change Agent: Problem Solving Courts*
- March 16-21 *Fundamentals of Evidence* (Chicago, IL)
- March 23-28 *Logic and Opinion Writing* (Seattle, WA)
- April 7-10 *Practical Approaches to Substance Abuse Issues*
- April 28-May 8 *Special Court Jurisdiction*
- April 28-May 8 *Special Court Jurisdiction-Advanced*

Individual scholarship applications will be reviewed by the NJC scholarship committee and awarded on a first-come, first-serve basis.

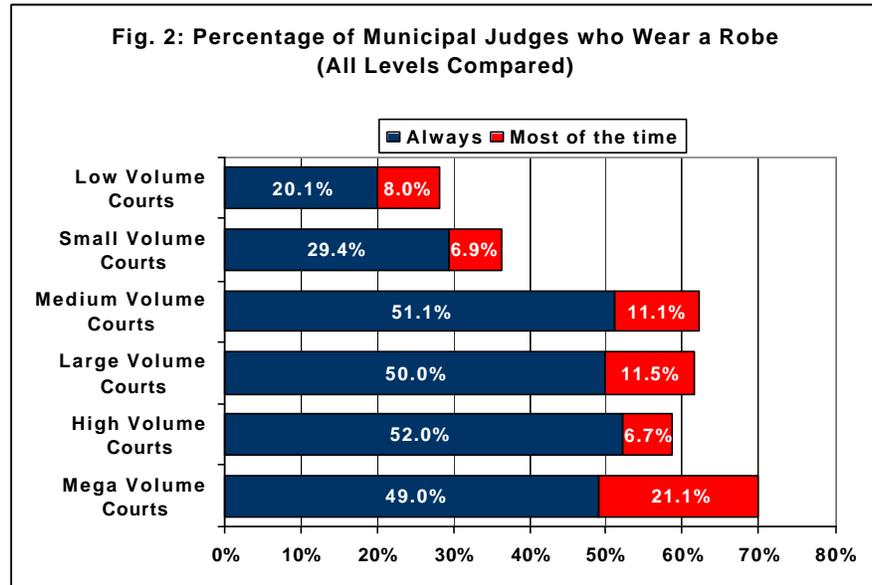
cases per year. On the opposite end of the spectrum, a “mega volume” court processes over 250,000 cases the same year. In FY 2001, more than 7,443,400 cases were filed in Texas municipal courts. Of these filings, 3,244,062 were filed in eight courts alone (Houston, Dallas, San Antonio, El Paso, Austin, Fort Worth, Arlington, and Corpus Christi). These courts account for a whopping 47 percent of all municipal court filings.¹ An interesting contrast to this fact is that “low volume” courts constitute a significant 49 percent of all Texas municipal courts. The decorum survey suggests, not surprisingly, that smaller caseloads exist in smaller towns that presumably have fewer court resources. Comparing various forms of formality (courtroom, robe, and bailiff’s announcement), there appears in the aggregate to be a direct correlation between court volume and formality.

Fig. 1: Texas Municipal Courts by Volume of Cases



B. Attitudes Towards Wearing Robes

Over 40 percent of municipal judges surveyed report never wearing a robe during court proceedings. As illustrated in Figure 2, the vast



majority of such respondents are judges in low and small volume courts. A judge’s robe is certainly one of the most important symbols generally associated with the judiciary.

Proponents claim that psychologically a robe is the most important tool a judge can utilize. Simply stated, a robe distinguishes the judge from all other parties involved. It symbolizes authority and consequently commands the kind of respect essential for maintaining court decorum and compelling compliance with court orders.

Yet if the general

consensus is that robes are so important, why don’t more low and small volume municipal judges wear them? The reasons offered may surprise you.

Nearly 40 percent of low-volume judges surveyed report a simple yet neutral explanation: they simply do not own one. Notably, nearly seven percent of respondents either want one or are planning to get one. Other common responses included “never thought about it,” “no good excuse,” and “no good reason.”

Slightly more than 27 percent believe that wearing a robe would have a negative impact on their ability to perform their judicial duties. Judges commonly responded that, in light of local standards, donning a robe would be viewed as overboard. (“No judge in our county wears a robe.”) Other judges feared that it would have a stifling effect. (“People are uncomfortable when they come to court and are already intimidated. The robe, in my opinion, increases apprehension and intimidation.” Or, “I want court to be a friendly, positive experience.”) Similarly, some judges responded that they do not wear a robe because it helps put *pro se* defendants at ease. Consequently, they are better able to express themselves. Finally, a considerable number of judges responded they believe that wearing a suit and tie suffices.

Disturbingly, nearly 17 percent of low volume judges responded that they do

not wear a robe because of a lack of resources, support, or official discouragement. Many judges replied that their cities do not provide enough funding for them to even consider purchasing a robe. Similarly, nearly four percent replied that they would feel awkward wearing a robe since they did not have a courtroom. Inadequate funding for the most basic judicial accoutrements suggests wanton, gross neglect on the part of many Texas smaller cities. Such inadequate support potentially fosters an environment in which judges feel trivialized, if not marginalized, by the attitude and actions of city officials. (“Our city and PD officers think [wearing a robe] is silly [and] that we are not ‘real judges.’”) Without remedial efforts, such municipalities contribute to an environment of informality that perpetuates and breeds disrespectful attitudes towards all municipal courts and the judicial system.

TMCEC hopes that the results of this survey will spark discussion among

judges and city officials throughout Texas. For the most part, the survey substantiates long held assumptions about municipal courts in Texas. To this end, the data is of importance. Clearly, when discussing municipal courts, the survey underscores the importance of avoiding generalizations. Nevertheless, some of the data leads to conclusions that transcend generalizations. Most notably, a considerable number of Texas cities have opted to activate their municipal court but fail to provide adequate resources. Additionally, the survey suggests that a number of municipalities continue to operate their court in violation of the law by not requiring prosecutors to be present for trial. Presumably, such cities fail to appreciate the social and legal consequences of their neglect. As discussed throughout this issue, court decorum is an issue of importance in municipal court. As discussed elsewhere in this issue (see *Finding Balance*), municipal courts have long struggled with how much formalism is

too much formalism. In low volume courts, there appears to be an especially greater amount of informality and a lack of decorum. This may be due to a combination of local inherent barriers (local attitudes, low expectations, etc.) as well as a lack of awareness on the part of the judge and other local officials. (Note: For additional survey data regarding the number of municipal courts with posted rules of decorum and the number of courts in which the bailiff calls court to session see Figure 6 and Figure 7 on page 12).

II. Profiles

A. Occupational Profile of Municipal Judges

Who are municipal judges, how much time do they spend judging, and how are they compensated?² The survey suggests that 49 percent of all municipal judges are now attorneys. This estimate is consistent with Office of Court Administration data that over the last 10 years has shown a gradual

TABLE A: Profile of Municipal Judges

Numbers reflect percentages

(See Figure 1 for definitions of court sizes)

		LOW	SMALL	MEDIUM	LARGE	HIGH	MEGA
Are you an attorney?	Percentage answering “yes”	21	44	80	94	96	100
How much time do you spend working as a judge?	More than 40 hours a week	4.8	8.8	5.2	5.8	18.7	14.3
	Full-time-40 hours a week	8.5	8.8	8.9	5.8	13.3	23.1
	20-39 hours a week	13.1	18.8	11.1	25.0	12.0	2.0
	10-19 hours a week	16.1	15.6	23.0	11.5	14.7	15.0
	5-9 hours a week	15.6	18.8	11.1	15.4	12.0	19.0
	10-19 hours a month	11.1	11.3	12.6	9.6	9.3	17.0
	5-9 hours a month	13.8	6.9	12.6	9.6	8.0	6.1
	Less than 5 hours a month	13.1	0.0	11.9	11.5	5.3	0.7
Which phrase best describes the relationship between you and your city?	On salary	56.6	50.0	43.7	36.5	44.0	67.3
	On contract	20.8	35.0	47.4	55.8	49.3	27.9
	Work as volunteer	14.6	8.1	5.2	5.8	0.0	0.7
	Registration fees	54.5	61.3	51.9	55.8	77.3	64.6
	Paid leave time	33.9	38.1	24.4	34.6	46.7	42.9
	Law books and resource materials	48.2	42.5	0.0	38.5	46.7	38.1
	Email or internet access	16.1	25.6	24.4	26.9	33.3	25.2
	None	10.1	9.4	17.0	15.4	8.0	9.5

TABLE B: Profile of Local Financial Support

Numbers reflect percentages

(See Figure 1 for definitions of court sizes)

	LOW	SMALL	MEDIUM	LARGE	HIGH	MEGA
Travel to seminar	77.9	76.9	68.1	75.0	80.0	59.2
Meals to and at seminar	71.8	66.3	55.6	65.4	73.3	47.6
Registration fees	54.5	61.3	51.9	55.8	77.3	61.6
Paid leave time	33.9	38.1	24.4	34.6	46.7	42.9
Law books and resource materials	48.2	42.5	0.0	38.5	46.7	38.1
Email or internet access	16.1	25.6	24.4	26.9	33.3	25.2
None	10.1	9.4	17.0	15.4	8.0	9.5
No	13.5	5.6	1.5	0.0	1.3	1.4

What financial support does your city offer you to support your continuing judicial education?

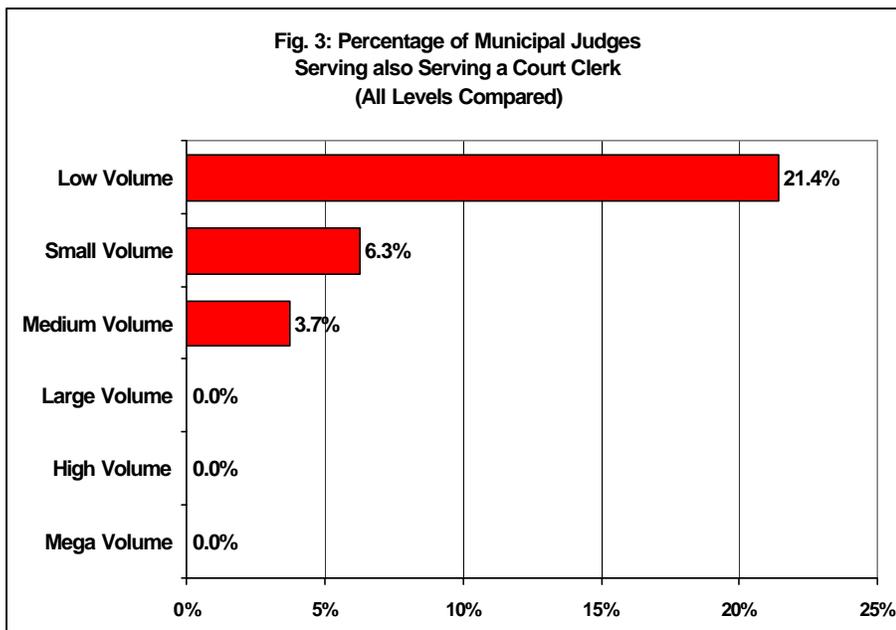
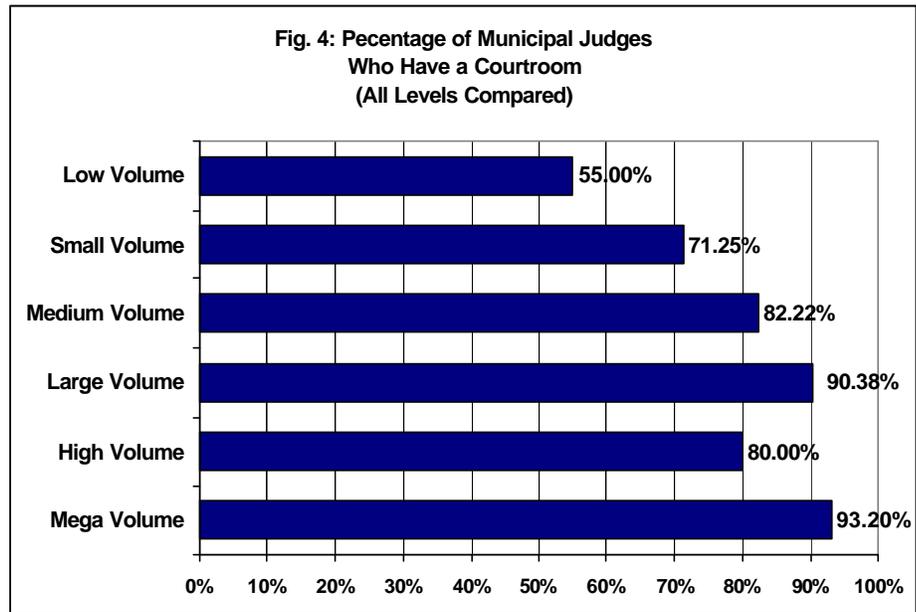
increase in the number of attorneys serving as municipal judges.³ Of all judges surveyed, less than 16 percent reported being full-time municipal judges. The median range of hours worked by judges surveyed was an estimated 10-19 hours per week. Of all judges responding to the survey, nearly 54 percent reported earning a fixed, regular salary; 30 percent reported being compensated on a contractual basis; while nearly 10 percent of all judges reported volunteering to serve as municipal judge without compensation.

B. Financial Support Given by Cities

Another objective of the decorum survey was to gain a better sense of how much financial support municipalities provide that assist

judges to do their job better. The survey suggests that a considerable number of Texas cities are neglecting

to provide adequate financial support for their municipal court's technological infrastructure and for

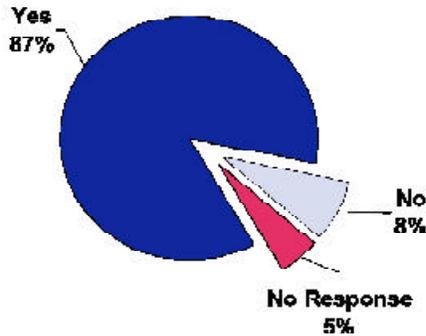


continuing judicial education. While over half of the judges surveyed reported that their cities provide funds relating to registration fees, meals, and travel, 11 percent reported receiving no financial support for continuing judicial education. Nearly 66 percent surveyed reported that their cities do not provide them with law books or resource materials, and 89 percent reported not being provided e-mail or Internet access.

C. Wearing Two Hats: Judges Acting as Clerk

Statewide, 12 percent of municipal judges report they act as their own clerk. The survey suggests that this potentially problematic practice occurs

**Fig. 5: Do You Have a Prosecutor?
(All Levels)**



exclusively in low, small, and medium volume municipal courts (see Figure 3). In light of the relatively limited volume of cases processed by such courts, the practice of “wearing two hats” makes sense from a fiscal perspective. However, a judge acting as a clerk poses significant ethical problems. Clerks help shield judges from *ex parte* communications. Judges acting as court clerks may not be insulated from such communications. Absent are considerable measures to prevent and remedy such communications, and such judges expose themselves personally to disciplinary action by the State Commission on Judicial Conduct. Similarly, municipalities and city officials subsequently share the negative publicity related to such disciplinary actions.

D. Courtroom Facilities

Statewide, 69 percent of judges

surveyed reported having a courtroom. The 26 percent reporting having no courtroom were asked where they conducted court proceedings (e.g., take pleas, conduct pre-trial hearings and trials). The vast majority of respondents replied that they conduct such proceedings in city council chambers. The use of city council chambers is a good solution in that council chambers and courtrooms frequently have similar décor and have a sitting area open to the public. A number of cities have made arrangements to use county court facilities. Other judges responded that they hold court in a variety of locations including community buildings, public libraries, and fire stations. While the interior sufficiency of such facilities may vary, one important feature that they share is that they are all open to the public. A handful of judges responded that they hold court in offices and conference rooms. Such rooms may only be used for court functions if they are open and accessible to the public. Legally speaking, courts are better off holding court outdoors, rather than holding court in any interior facility that is debatably inaccessible to the public.

E. Prosecutors

While prosecutors are not required to be present when defendants initially appear to enter a plea, Article 45.201 of the Code of Criminal Procedure

specifically requires that designated attorneys be present to conduct “prosecutions” at both bench and jury trials.⁴ Such prosecutions are to be conducted by the city attorney of the municipality or by a deputy city attorney.⁵ The survey suggests that more than 48 percent of courts are provided prosecutorial services through the office of the city attorney, while nearly 34 percent utilize either a private law firm or practitioner. Nearly three percent of judges reported that the county attorney conducts prosecutions.

While such data provides a better profile of municipal prosecutors, it also raises the possibility that some municipal courts are operating in violation of the law. Despite the clear language of the Code of Criminal Procedure requiring prosecutors at trial, eight percent of municipal judges report having no prosecutor. If this figure is accurate, it is indicative of a very significant legal problem within a handful of Texas municipalities.

Chapter 45 of the Code of Criminal Procedure makes no distinction between the largest and smallest municipal courts. Just as all municipal courts are required to have judges, they are also required to have prosecutors at trial. Barring specific language in either the city charter, resolution, ordinance, or contract, a solo practitioner or law firm serving as city attorney has a legal duty to prosecute

Snap Shot continued on page 11

TABLE C: Profile of Municipal Prosecutors

Numbers reflect percentages

(See Figure 1 for definitions)

Do you have a municipal prosecutor?		LOW	SMALL	MEDIUM	LARGE	HIGH	MEGA
		87.2	88.8	94.1	94.2	86.7	93.2
	Yes	13.5	5.6	1.5	0.0	1.3	1.4
	No						
Which of the following best describes who prosecutes in your court?	City attorney's office	39.2	35.6	39.3	57.7	78.7	88.4
	County attorney's office	4.3	1.9	0.0	0.0	1.3	0.0
	Private law firm or practitioner	35.5	48.8	55.6	32.7	5.3	2.7
	An attorney pro tem as needed	4.3	1.9	0.0	0.0	0.0	0.0

Despite relaxed social norms for behavior and general de-emphasis on formality throughout society, the U.S. Supreme Court has consistently emphasized that protecting the dignity of the courts and preserving public perception require all judges to remain vigilant in maintaining court decorum.⁴ Preservation efforts begin in municipal court.

Ethically, all Texas judges are required to “maintain order and decorum in proceedings before the court.”⁵ All Texas courts are legally required to conduct proceedings with dignity and in an orderly and expeditious manner, assuring that justice is done.⁶ In complying with the objectives of the Code of Criminal Procedure, municipal and justice courts are specifically required to “ensure appropriate dignity in court procedure without undue formalism.”⁷

While the Code of Judicial Conduct describes what is generally required of Texas judges, the Code of Criminal Procedure’s requirement for municipal judges is more nebulous. What is “appropriate dignity in court procedure”? What constitutes “undue formalism”? The law provides little guidance. Consequently, the task of finding a balance between “appropriate dignity” and “undue formalism” belongs to each municipal judge.

Have most municipal judges considered, yet alone achieved, such a balance? In recent years, Texas municipal courts have been criticized for the informality of their proceedings (*e.g.*, judges seldom wear robes, patrons do not have to rise when the judge enters the room, bailiffs participate in the taking of pleas).⁸ While such criticisms are often presumed to describe courts in smaller municipalities (who have fewer resources), metropolitan municipal courts are not immune from such criticism.⁹

There are sufficient reasons to believe that efforts are necessary to improve perception of municipal courts.¹⁰ Institutional research conducted by the Texas Municipal Courts Education Center suggests that municipal judges neglect court decorum for a variety of reasons. The most common reason for lax court decorum is a general failure to appreciate its importance. Other reasons include a lack of resources, lack of official support, and official discouragement.

Court decorum is not about the vanity of the individual judge or sovereign authority. Rather, court decorum is a utility that creates an optimal climate for the administration of justice. Beginning with the judge, changes in municipal courts begin at home. Thus, not only must municipal judges be aware of the importance of court decorum, city officials must also appreciate its importance as a vital component in the administration of justice. The appearance of a citizen before a municipal court is a rare opportunity for the citizen to gain insight into the quality of city government and its elected or appointed leaders. Accordingly, ensuring positive public perception requires each city to implement necessary changes in its municipal court. Many municipal judges inherit chambers and courtrooms that leave much to be desired, while 26 percent of municipal judges inherit no courtroom at all.¹¹

While some issues, such as posting and enforcing rules of decorum, can be implemented by the judge alone, the administration of justice necessitates a commitment from city council, city managers, and mayors. While cities should budget adequate funds for municipal court operations, city councils dedicated to improving their municipal courts are statutorily authorized to ear-mark 10 percent of time payment revenue for the specific purpose of insuring the efficient

administration of justice.¹² The law specifically requires municipalities to prioritize the needs of the municipal judge who collected the fee in making such expenditures.

In assessing how a courtroom or other facility serving as a courtroom functions, consider the following criteria:¹³

- 1. Function and Organization** – In addition to a judge’s bench, at a minimum, courtroom facilities should be of adequate size to accommodate a jury box (a designated area capable of seating six jury panel members), a witness stand (a designated seat for witnesses when called to testify), designated places for court personnel (court clerk and/or court reporter, bailiff), a gallery (all Texas courts and trial proceeding are required to be open to the public), and designated places for the prosecution and defendant (separate tables facing the bench for both the defendant and prosecutor). Ideally, a courtroom also contains a jury room (a room separate from the court that can be used during jury deliberation and recess). In laying out a courtroom, municipalities should be mindful that all courts are required under federal and state law to be accessible to people with disabilities.
- 2. Symbolic Values** – The interior of a municipal courtroom should reflect the cultural and social values of the city, state, and nation. The fixtures of the courtroom should announce to all who enter it the importance of the administration of justice. The room should be organized to psychologically differentiate it from other governmental workspaces. This can be achieved through the prominent display of the seals of the city and state and the display of the state and national flags. The gavel and

the robe are the two symbols most frequently associated with the courts. Despite the importance of such symbols, a survey conducted by the Texas Municipal Courts Education Center concluded that only 58 percent of municipal judges wear robes. Judges who do not wear robes ignore research that concludes that the robe is an important symbol of judicial authority that evidences the judge's commitment to impartiality. Additionally, the robe establishes the formality of the court and gives the court credibility (*i.e.*, if you don't dress like a judge you are less likely to be treated like a judge). Finally, in rural courts where the judge may be known as a friend or neighbor, the robe eliminates the familiarity that potentially hinders the administration of justice.¹⁴

3. Environmental Factors – A well functioning courtroom should also meet more pragmatic criteria. Facilities should have adequate lighting, air-conditioning, and heating. Additionally, to ensure that all people present can hear the proceeding, the court should be equipped with audio amplification equipment.

4. Construction, Materials, and Furnishings – The quality of construction and décor directly affect the durability of a courtroom. From a management perspective, the appearance of the courtroom directly impacts morale. Simply stated, quality environments encourage quality performance.¹⁵

5. Security – Because violent outbursts are occurring more frequently in the courtroom, judges and city officials should take appropriate measures to protect both court personnel and members of the public. Depending on the volume of cases adjudicated by the court, expenditures pertaining to court security can be supplemented (or altogether covered) by adoption of an ordinance creating a municipal court building security fund.¹⁶ The statute governing the security fund contains a detailed list of physical items and services that may be purchased to improve court security. Most municipalities have opted to create the municipal court building security fund because defendants, rather than taxpayers, bear the additional court cost. Expenditures alone do not, however, ensure security. Protecting patrons and avoiding civil liability require municipalities to develop, implement, and monitor security plans. Related consulting costs can also be offset by municipal court building security fund revenue. ↗

¹ *Brown v. Walter*, 62 F.2d 798, 800 (1933).

² *Illinois v. Allen*, 397 U.S. 337, 351 (1970) (Douglas, J., dissenting).

³ *Mayberry v. Pennsylvania*, 400 U.S. 455, 456 (1971).

⁴ See, *J.E.B. v. Alabama ex rel. T.B.*, 114 S. Ct. 1419, 1438 n.3 (1994) (Scalia, J., dissenting) (asserting that appearance of justice is equally important as actual justice); *Illinois v. Allen*, 397 U.S. 337, 343 (1970) (declaring that dignity, order, and decorum are necessary for success of

criminal justice system).

⁵ Texas Code of Judicial Conduct, Canon 3(B)(3).

⁶ Section 21.001(b), Government Code.

⁷ Article 45.001(3), Code of Criminal Procedure.

⁸ Horton & Turner, *Lone Star Justice: A Comprehensive Overview of the Texas Criminal Justice System*, Austin: Eakin Press (1999) at 166.

⁹ Cities with large dockets have been described as distributors of “assembly-line justice.” Scholars studying such courts conclude that emphasizing the number of cases processed potentially sacrifices procedural and substantive rights, as well as court decorum. Critics have gone as far as describing such municipal courts as “hurricanes of humanity” where the “process is the punishment.” See generally, David W. Neubauer, *America's Courts and the Criminal Justice System 6th Edition* (West 1999) at 470-475.

¹⁰ *The Courts and the Legal Profession in Texas – The Insider's Perspective: A Survey of Judge, Court Personnel, and Attorneys*, Alexandria, Virginia: State Justice Institute (1998) (suggesting that municipal courts rank last in overall impression among judge and court personnel and second to last among lawyers).

¹¹ See generally, TMCEC *Municipal Court Recorder* Vol. 11, No. 9 (Summer 2002).

¹² Section 51.921(d), Government Code.

¹³ National Conference of State Trial Judges, *The Judge's Book*, Chicago: American Bar Association (1989) at 10.

¹⁴ Felix F. Stumpf, *Bench Trial Skills and Demeanor: An Interactive Manual For New Nonlawyer Judges*, Reno, Nevada: The National Judicial College (1995).

¹⁵ See generally, Burns, *Designing the Good Courtroom*, Popular Government (Fall 1984).

¹⁶ Article 102.017, Code of Criminal Procedure.

Snap Shot continued from page 9

in municipal court. Too frequently municipalities pay retainers and lawyers' fees, yet fail to receive the full benefit of having a city attorney. City attorneys who ignore, deny, or otherwise attempt to avoid such responsibility may be subject to contempt, professional disciplinary

action, and/or sued for malpractice.

Similarly, the State Commission on Judicial Conduct may discipline judges who proceed to trial without a prosecutor. It is ultimately, the judge's responsibility to ensure that a prosecutor is present to represent the State at trial. In the event a prosecutor is not present for trial, the law

provides the judge three options:⁶

- Postpone the trial to a date certain;
- Appoint an attorney *pro tem* as provided in Article 2.07 of the Code of Criminal Procedure (Used in conjunction with the postponement option, the appointment of an attorney *pro tem*

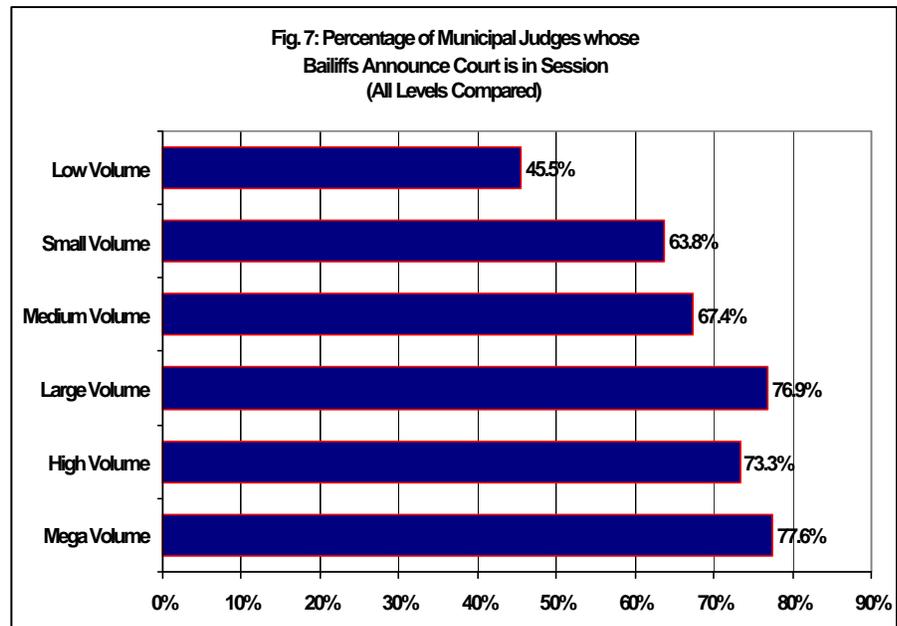
Snap Shot continued on page 24

An Introduction to Model Rules of Court Decorum

By Ryan Kellus Turner, TMCEC Program Attorney & Deputy Counsel

In the same vein that criminal laws are necessary to govern the conduct of members of society, rules of decorum are necessary to govern the conduct of court participants. Most county and district courts adopt local rules of practice. Such local rules govern the practice of lawyers and citizens who come before the court. Frequently, such local rules contain rules of decorum.

The following Model Rules of Court Decorum are derived from various local rules in place throughout the state. Even within jurisdictions that have adopted such rules, it is not unusual to see some variances in the manner in which they are applied. In this sense, there is no such thing as uniform rules of decorum. Nevertheless, the importance of trial courts adopting some compilation of rules deserves emphasis. While some judges may shun the promulgation of such rules for various ideological reasons, the bottom line is that such rules are essential managerial tools that assist the judge in fulfilling his or her duty. Statewide, nearly 59 percent of all



municipal judges surveyed report that they do not have posted rules of decorum. (For a comparative analysis by volume of cases, see Figure 6 below). Fifty-eight percent do, however, have a bailiff that announces when court is in session. (For a comparative analysis by volume of cases, see Figure 7).

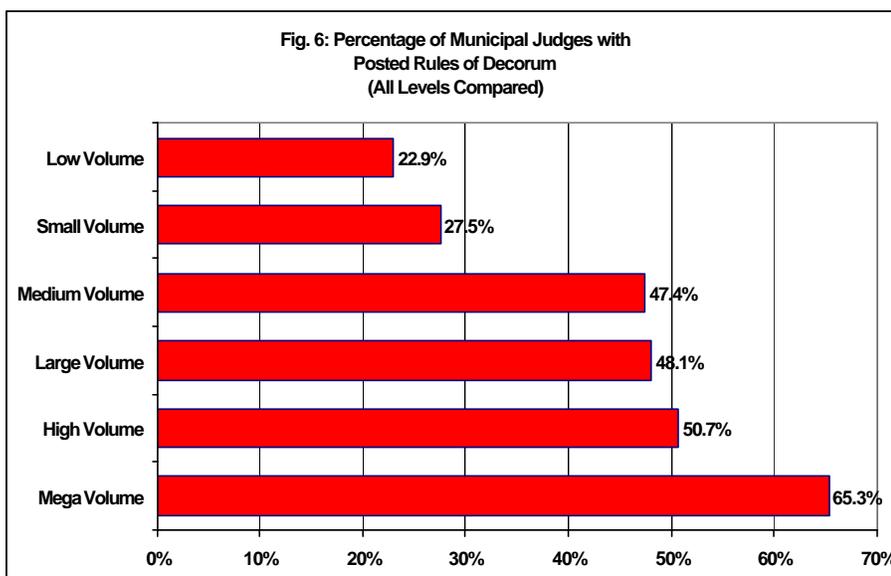
Often, a fine line divides the court from the judge. In the context of rules of decorum, it is necessary for judges to delineate between the two.

Promulgating rules of decorum have little to do with the judge. Rather, such rules preserve respect for the time-honored process. By promulgating and enforcing such rules, each judge honors the history and importance of a truly American institution.

Because rules of decorum frequently address more than merely prohibited conduct by courtroom spectators, courts may want to consider various ways to inform patrons of such rules. Consider the following methods:

1. **Prominent Posting of Rules** (especially rules pertaining to courtroom conduct).
2. **Enclosures** – Distributing court rules of decorum with other court correspondence addressed to defendants, witnesses, and lawyers.

Model Rules continued on page 24



MODEL RULES OF COURT DECORUM

- I. COURTS WHERE APPLICABLE.** Under the inherent power and duty of all Texas courts as codified in Section 21.002, *Government Code*, the following Rules of Decorum shall apply and govern all proceedings before the Municipal Court of the City of _____ in the County of _____, Texas.
- II. FORMAL OPENING.** Each daily session of the Court shall be brought by announcement of the Bailiff, Clerk or other officer of the court requiring all to rise as the Judge takes the bench.
- III. CONDUCT REQUIRED OF ALL PERSONS WHILE ATTENDING COURT.** While the Court is in session there shall be:
- A. No smoking or use of tobacco products.
 - B. No reading of newspapers or magazines.
 - C. No propping of feet or sitting on tables, chairs, benches, or railings.
 - D. No loud noises or talking.
 - E. No gum chewing.
 - F. No food or beverages.
 - G. No gestures, facial expressions, or sounds indicating approval or disapproval.
 - H. No inappropriate attire.
- IV. CONDUCT REQUIRED OF COUNSEL AND PRO SE DEFENDANTS**
- A. Attorneys shall observe the letter and spirit of all canons of ethics, including those concerning improper *ex parte* communications with the Judge and with those dealing with discussion of cases with representatives of the media.
 - B. Attorneys shall advise their clients and witnesses of Rules of Decorum that may be applicable.
 - C. *Pro se* defendants (defendants acting as their own counsel) shall conform their behavior to all provisions applicable to Counsel.
 - D. Counsel shall be dressed appropriately while in attendance of the court, unless otherwise permitted by the Court.
 - E. All parties shall be prompt in arriving for Court and in attending to Court business.
 - F. Once a party has entered the courtroom and is appearing before the Court, he/she shall not leave without obtaining permission from the Court.
 - G. The State, or moving party, shall be seated at the counsel table or side of the counsel table nearer the jury box.
 - H. All remarks of counsel to the Court shall be addressed to the Court formally.
 - I. The Court and opposing parties shall address each other and members of the Jury without familiarity. The use of first names shall be avoided.
 - J. All objections, arguments, and other comments shall be directed to the Judge or Jury and not to opposing counsel.
 - K. Objection shall be in proper legal form. Argument will not be entertained upon an objection except with the Court's permission.
 - L. In addressing the Court, counsel shall rise and remain standing at their positions at counsel table.
 - M. Counsel shall remain seated at the counsel tables at all times except:
 - 1. when the Judge enters and leaves;
 - 2. when addressing the Judge or jury;
 - 3. whenever it may be proper to handle documents, exhibits, or other evidence; and
 - 4. when objecting to opposing counsel.
 - N. Counsel shall not approach the bench except with permission or on request of the Court.
 - O. Counsel shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner.
 - P. No attorney or party shall expect any Court attendant to request his or her presence prior

(over)

to the commencement or resumption of any Court proceedings

- Q. The Court may enforce these rules of conduct and decorum by appropriate action or sanctions.
- R. Nothing herein shall prevent or prohibit the further adoption of additional rules of decorum.

V. BAILIFFS.

- A. The Bailiff or Bailiffs shall be present at all times when the Court is in session or in recess, unless excused by the Judge. No duty shall be assigned to the Bailiff without prior approval of the Judge.
- B. The Bailiff shall see that the flag of the United States of America and the flag of the State of Texas are properly displayed and respected in the Courtroom.
- C. The Bailiff shall enforce all rules of conduct and decorum and other duties assigned by the Judge.

VI. ENDORSEMENT. All attorneys practicing before the Court and *pro se* defendants (defendants acting as their own counsel) are required to conform their conduct to the above stated Rules of Decorum. The undersigned attests to his or her receipt of said Rules and acknowledges the expectation of the Court. The undersigned further acknowledges that violation of the Rules of Decorum may constitute Contempt of Court and may be punishable by a fine and/or confinement pursuant to Section 21.002(c), Government Code.

Printed Name: _____

Signature: _____

Date: _____

Bar Card No.: _____

NOTE: This endorsement must be returned to the clerk prior to any proceeding before the court.

For your editing convenience the text of the Model Rules of Decorum may be downloaded from our website (www.tmcec.com) as a Microsoft Word document.

Court Room Assessment Survey¹

Use the following assessment survey for inspecting courtroom facilities, equipment, supplies, and other conveniences.

	Adequacy or Availability	
1. Lighting	Yes_____	No_____
2. Air-conditioning	Yes_____	No_____
3. Heating	Yes_____	No_____
4. Amplifying Equipment	Yes_____	No_____
5. Bench	Yes_____	No_____
6. Flags	Yes_____	No_____
7. State Seal	Yes_____	No_____
8. Nameplate for judge	Yes_____	No_____
9. Paper, pen, pencils	Yes_____	No_____
10. Water on bench and counsel tables	Yes_____	No_____
11. Place for witnesses	Yes_____	No_____
12. Place for court reporter (if applicable)	Yes_____	No_____
13. Place for bailiff	Yes_____	No_____
14. Place for court clerk	Yes_____	No_____
15. Table for defendant & counsel	Yes_____	No_____
16. Table for prosecutors	Yes_____	No_____
17. Place for spectators	Yes_____	No_____
18. Judges chambers	Yes_____	No_____
19. Robe	Yes_____	No_____

¹ Felix F. Stumpf, *Bench Trial Skills and Demeanor*: The National Judicial College, Reno Nevada (1995) at 15-16. Used with permission.



FROM THE CENTER

Where to Get A Robe? A State Seal?

Looking for a judicial robe? Check your Yellow Pages for a local vendor. Try checking under *Choir Gown, Church Supplies* and *Religious Goods*. A local vendor is especially convenient for the judicial robe as measurements may be needed, and there are often quite a few choices in terms of material and style. TMCEC does maintain a list of robe companies, although TMCEC does not make any guarantees as to the quality of the robe or dependability of the company. Robes typically start at \$125 and up.

TMCEC also has a list on where to purchase a Texas seal for display in your courtroom.

Concerning state seals, it is important to note that private use of the state seal, including the state arms and reverse of the state seal, is regulated by law. The state seal may be used for commercial purposes only if a license is obtained from the Secretary of State and royalties are paid to the state. Additionally, it is a criminal offense for a person other than a political officeholder to knowingly use a representation of the state seal in political advertising. Persons seeking more information on private use of the state seal should contact the Office of the Secretary of State (512/463-5770) or discuss the issue with their own attorney.

For information on purchasing robes or state seals, call or write TMCEC

(1609 Shoal Creek Blvd., Suite 302,
Austin, Texas 78701 (800/252-3718).
Or, email us at tmcec@tmcec.com.

National Collections Symposium

In July 2002, a National Court Collections Symposium (NCCS) was held in Dallas. The NCCS program was highly rated by participants that included judges, clerks, and collections staff from the various levels of the judiciary. A second program is tentatively scheduled for October 23-25, 2002 in Orlando, Florida. Court personnel are asked to contact nccs@gowebo.com if someone in their organization is interested in attending so that the proper number of sleeping rooms and meeting room space can be reserved. For additional information, log on to www.courtcollections.org. Organizers for the program include Jim Lehman and Russ Duncan, who have both served on the TMCEC faculty.

ABA Traffic Court Technology Conference

The 2002 Traffic Court Technology Conference is planned for November

6-9, 2002 in Atlanta Georgia. It is sponsored by the National Conference of Specialized Court Judges of the American Bar Association. Topics include speed measurement devices, drug and alcohol pharmacology, pretest stops, photo speed, and red light enforcement. Tuition for the seminar is \$225 for specialty court conference members and \$275 for non-members. For additional information, contact, 800/238-2667 ext. 5742.

Looking Back on Last Year

A review of the overall evaluations for last year indicates that the Center's programs were well received by the TMCEC constituency.

TMCEC is always looking for ways to improve its program. If you have questions, comments or suggestions, do not hesitate to call Hope Lochridge, TMCEC Executive Director (800/252-3718).

TMCEC wishes to thank the many faculty members who participated in its FY 2002 program this past year.

Mr. W. Clay Abbott, General Counsel, TMCEC, Austin

Mr. Michael Acuña, Assistant City Attorney, City of Dallas

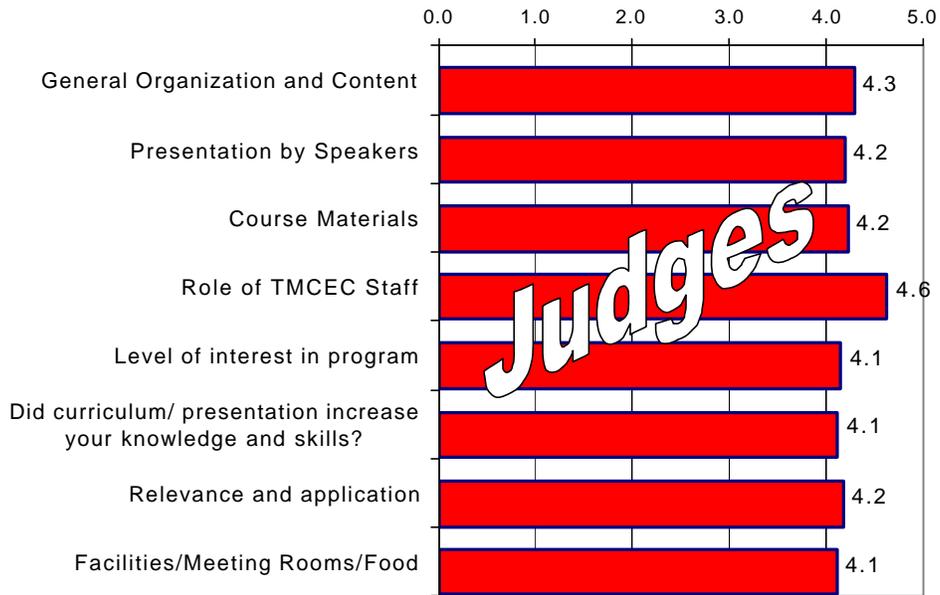
Mr. Brad Alford, Assistant Collections Administrator, Kerr Collections – Kerr County, Kerrville

Mr. Robert Anchondo, Attorney and Counselor at Law, El Paso

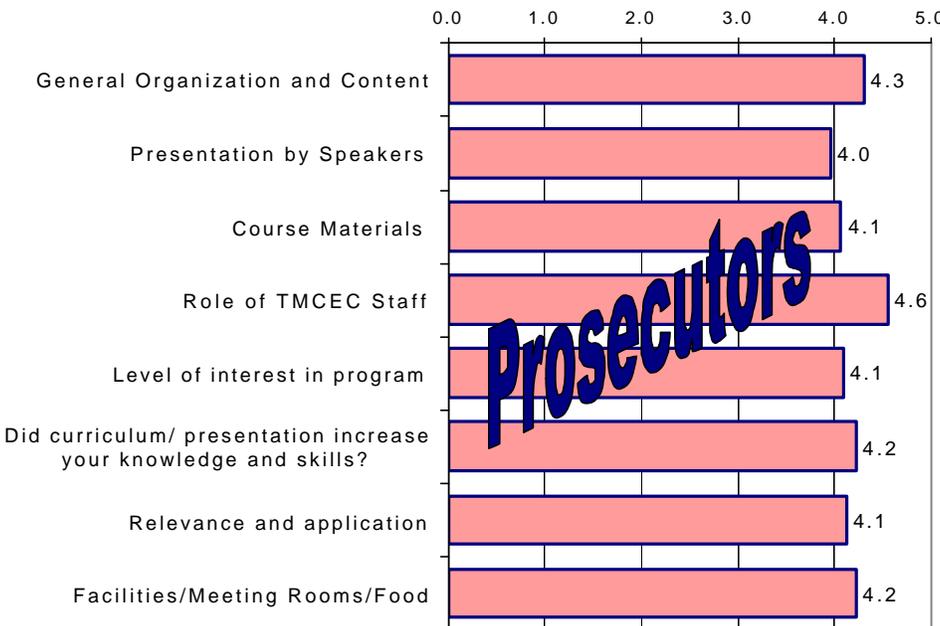
Mr. Reggie Andrews, Administrative Technician IV Driver Records Bureau, Department of Public Safety, Austin

Mr. James S. Angelino, Assistant District Attorney, Denton County

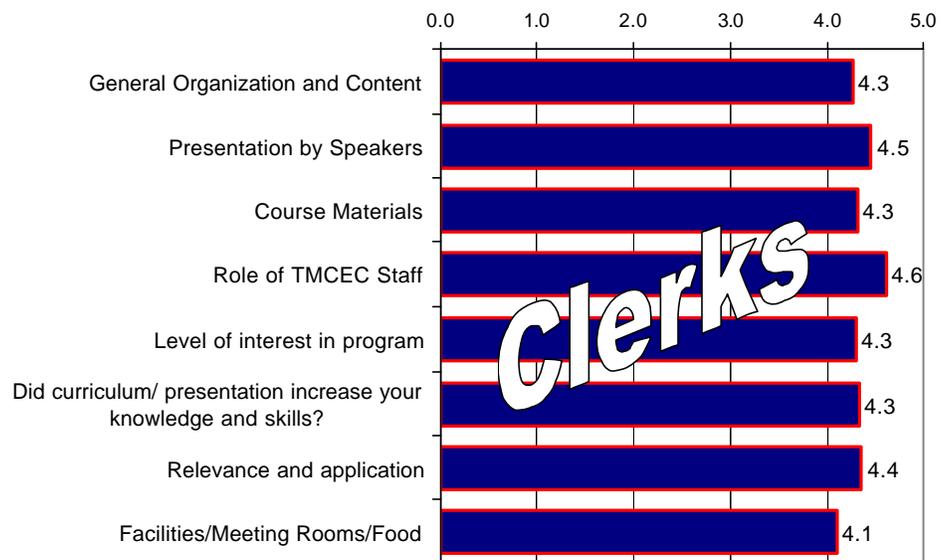
Ms. Betty Arvin, Assistant Criminal District



Attorney, Tarrant County, Fort Worth
 Dr. Suzanne Ashworth, Consultant, Austin
 The Honorable Robert J. Barfield, Municipal Judge, City of Pasadena
 Ms. Jo Dale Bearden, Program Coordinator, TMCEC, Austin
 Mr. Gregory Beaves, City Marshal, City of Jersey Village, Jersey Village
 Mr. James D. Bethke, Director, Task Force on Indigent Defense, Office of Court Administration, Austin
 Ms. Nancy Bischoff, Director – Revenue and Recovery, San Joaquin County, Stockton, CA
 Ms. Donna Bloom, Executive Director, Women's Center of East Texas, Longview
 Mr. Tom Broussard, Commission Counsel, Commission on Judicial Conduct, Austin
 The Honorable John Bull, Presiding Judge, City of San Antonio
 The Honorable Deanna Burnett, Municipal Judge, City of Carrollton

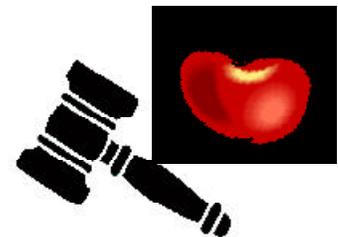


Ms. Rosie Caballero, President – Texas Court Clerks Association, Court Administrator – Coppell
 Ms. Debbie Carter, Public Policy Coordinator, Texas Council on Family Violence, Austin
 Ms. Candace Chappell, Assistant City Attorney, City of Irving
 Ms. Kay Christopher, Consultant, Christopher Communications, Los Alamos, NM
 The Honorable Martin Cirkiel, Municipal Judge, City of Hutto
 Mr. Ron Cornelius, City Marshal, City of Richland Hills
 Ms. Connie Crenshaw, CMCC, Court Clerk, City of Luling
 Dr. Jennifer Cutrer, Consultant, Dallas
 The Honorable Jay Daniel, Municipal Judge, City of San Angelo
 Mr. John Danner, Assistant City Attorney, City of San Antonio
 The Honorable Robert Doty, Municipal Judge, City of Lubbock
 Mr. Steve Drake, Government Information Analyst, State & Local Records Management Division, State Library and Archives Commission, Austin



Mr. Russ Duncan, Collections Coordinator – Kerr Collections, Kerr County, Kerrville
 The Honorable Gary Ellsworth, Presiding Judge, City of Spearman
 Mr. Ross Fischer, County Attorney, Kendall County, Boerne
 The Honorable Linda Frank, Municipal Judge, Plano & Chief Municipal Court Prosecutor, Arlington
 Ms. Cheryl Garren, Administrative Tech III Driver's License Division, Department of Public Safety, Austin
 The Honorable Allen Gilbert, Municipal Judge, City of San Angelo
 Ms. Hope Ging, Administrative Tech II Driver's License Division, Department of Public Safety, Austin
 Ms. Tracie Glaeser, Court Administrator, City of Round Rock

- Mr. Larry Glick, *Administrative Technician II License Issuance Bureau, Department of Public Safety, Austin*
- Ms. Bonnie Goldstein, *City Prosecutor, City of McKinney, Dallas*
- Ms. Frances Gomez, *Administrative Technician II Driver Improvement Bureau, Department of Public Safety, Austin*
- Mr. Michael L. Graham, *Municipal Prosecutor, City of Bryan*
- Ms. Cynthia Gray, *Director, Center for Judicial Ethics American Judicature Society, Chicago, IL*
- Mr. Wesley Green, *Administrative Technician II, Driver Records Bureau, Austin*
- Mr. Rey Guzman, *Multimedia Specialist, TMCEC, Austin*
- Ms. Jacqueline Habersham, *Commission Counsel, Commission on Judicial Conduct, Austin*
- Mr. Randall Hansen, *Judicial Planning Department – Texas Judicial Council, Office of Court Administration, Austin*
- Mr. Rene Henry, *Collections Project Manager, Research & Court Services Section, Office of Court Administration, Austin*
- The Honorable Vonciel Jones Hill, *Municipal Judge, City of Dallas*
- The Honorable Brian S. Holman, *Presiding Judge, City of Lewisville*
- The Honorable William Hughes, *Municipal Judge, City of Canyon*
- Ms. Annette Jones, *Assistant City Attorney, City of Waco*
- The Honorable Karrie Key, *Municipal Judge, City of Austin*
- Ms. Ann H. Kloeckner, *Training Specialist, TDCJ Victim Services Division, Austin*
- Ms. Melissa Kreer, *Administrative Technician IV Driver Records Bureau, Department of Public Safety, Austin*
- The Honorable Robert Kubena, *Municipal Judge, City of Hallettsville*
- The Honorable M. Sue Kurita, *County Court at Law No. 6, El Paso*
- Ms. Mercedes Kutcher, *Commission Counsel, Commission on Judicial Conduct, Austin*
- The Honorable C. Victor Lander, *Municipal Judge, City of Dallas*
- Mr. Mitch Landry, *Program Coordinator, Texas Municipal Police Association, Austin*
- The Honorable Tom Lawrence, *Justice of the Peace, Humble*
- Mr. James Lehman, *Collections Specialist, Office of Court Administration, Austin*
- The Honorable Andrew Leonie, *Municipal Judge, City of Laron, Dallas*
- Dr. Richard Lewis, *President, Round Top Consulting Associates, San Antonio*
- The Honorable Janet Littlejohn, *State District Judge, 150th District Court, San Antonio*
- Ms. Hope Lochridge, *Executive Director, TMCEC, Austin*
- The Honorable Kevin Madison, *Municipal Judge, City of Lakeway, and Villages of Bee Caves and Briarcliff*
- Mr. Scott Mann, *Member, Commission on Judicial Conduct, Lubbock*
- The Honorable Jan Blacklock Matthews, *Municipal Judge, City of Lubbock*
- The Honorable Lamar McCorkle, *133rd District Court, State District Judge, Houston*
- Ms. Amy Messer, *Assistant City Attorney, City of Dallas*
- Mr. Jeff Moore, *Assistant Attorney General, Attorney General's Office, Austin*
- Mr. David Mudd, *Director of Reporting Services, Office of Court Administration, Austin*
- Mr. Mark Muellerweiss, *Senior Assistant City Attorney, City of Houston*
- Ms. Colleen Munds, *Government Records Consultant, Texas State Library, Austin*
- Mr. Craig Nielson, *Senior Revenue Recovery Consultant, Revenue Plus, Vancouver, WA*
- The Honorable Ana Otero, *Municipal Judge, City of Houston*
- Mr. T.J. Patterson, *Assistant City Attorney, City of Fort Worth*
- The Honorable Richard Patteson, *Presiding Judge, City of Tyler*
- Mr. Kent Pfeil, *Assistant Director of Finance, City of Richardson*
- The Honorable Joe Pirtle, *Presiding Municipal Judge, City of Seabrook*
- Mr. David Preciado, *Court Manager, City of San Antonio*
- The Honorable Edwin L. Presley, *Municipal Judge, City of Benbrook*
- Ms. Elizabeth Price, *Publications Coordinator, TMCEC, Austin*
- The Honorable Robin Ramsay, *Presiding Judge, City of Denton*
- Ms. Jodie Reaver, *Advocacy Specialist, Texas Council on Family Violence, Austin*
- Ms. Margaret Reaves, *Executive Director, Commission on Judicial Conduct, Austin*
- The Honorable Thomas Redvine, *Presiding Judge, City of Van Alstyne*
- The Honorable Larry Reed, *Municipal Judge, City of Fort Worth*
- Ms. Susan Richmond, *Chief Marshal, City of Carrollton*
- The Honorable Robert Richter, *Municipal Judge, City of Missouri City*
- Ms. Margaret Robbins, *Program Director, TMCEC, Austin*
- The Honorable Allen Ross, *Municipal Judge, City of Tyler*
- Ms. Patricia Russo, *Program Assistant II/Network Administrator, TMCEC, Austin*
- Ms. Kim Scofield, *Government Records Consultant, State & Local Records Management Division, State Library and Archives Commission, Austin*
- Ms. Jan Seeley, *Collections Supervisor Department of Finance, City of Chula Vista, California*
- Mr. John L. Sbergold, *Assistant City Attorney, City of Brownsville*
- The Honorable Robin D. Smith, *Presiding Judge, City of Midland*
- Ms. Monica Smoot, *Consultant, ASTEP Seminars, Austin*
- The Honorable Daniel Solis, *Municipal Judge, City of Dallas*
- The Honorable Mitchell Solomon, *Municipal Judge, City of Austin*
- The Honorable Sharon Newman-Stanfield, *Municipal Judge, City of Ft. Worth*
- Ms. Julie Steiger, *Administrative Tech III, Driver's License Division, Department of Public Safety, Austin*
- Ms. Deydra Stevenson, *Court Administrator, City of Abilene*
- Ms. Jacklyn Strickland, *Senior Trainer, 311 Houston Services Helpline, City of Houston*
- Ms. Jennifer Sullivan, *CMCC, Court Clerk, City of Katy*
- Mr. Julian Taylor III, *City Attorney, City of Freeport*
- Mr. James Tucker, *Hot Check Office Administrator, Lubbock County District Attorney's Office*
- Mr. Ryan Kellus Turner, *Program Attorney & Deputy Counsel, TMCEC, Austin*
- Mr. Don Vanadore, *Court Services Specialist, City of Grand Prairie*
- The Honorable John Vasquez, *Municipal Judge, City of Austin*
- Ms. Diana Vaughn, *CPA, Internal Auditor, City of Carrollton*
- Mr. Robert Warneke, *Staff Attorney, Commission on Judicial Conduct, Austin*
- Mr. Mark Warren, *Training Coordinator, Texas Association of Counties, Austin*
- Ms. Linda Wasserman, *Special Projects Coordinator, City of San Antonio Office of Customer Service & San Antonio*
- The Honorable Denn Whalen, *Presiding Judge, City of Odessa*
- Mr. Ron White, *City Marshal, City of Westlake*
- The Honorable Penny White, *University of Tennessee School of Law, Knoxville, TN*
- Mr. Robert Williams, *Consultant, ASTEP Seminars, Austin*
- Ms. LaJuana Williams, *Administrative Technician IV Driver Safety, Department of Public Safety, Austin*
- The Honorable Steve Williamson, *Municipal Judge, City of Fort Worth*
- Ms. Seana B. Willing, *Staff Attorney, Commission on Judicial Conduct, Austin*



Academic Schedule

NEW, NON-ATTORNEY JUDGES:

12/9-12/13, 2002
32-Hour Judges/Clerks
Hyatt Regency Austin
208 Barton Springs Austin, 78704
512/477-1234
Registration due by: 11/15

7/21-7/25, 2003
32-Hour Judges/Clerks
Radisson Hotel & Suites Austin
111 East Cesar Chavez Street Austin,
78701
512/478-9611
Registration due by: 6/27

JUDGES 12-HOUR:

10/16-10/17, 2002
12-Hour Judges
Sheraton Tyler
5701 S. Broadway Tyler, 75703
903/561-5800
Registration due by: 9/20
(A few rooms are still available--call TMCEC)

10/31-11/1, 2002
12-Hour Judges/Clerks
Lakeway Inn Austin
101 Lakeway Drive Austin, 78734
512/261-6600
Registration due by: 10/7

1/23-1/24, 2002
12-Hour Judges/Clerks
Omni San Antonio
9821 Colonnade Blvd. San Antonio,
78230
210/691-8888
Registration due by: 1/6

2/20-2/21, 2003
12-Hour Judges/Clerks
Adam's Mark Hotel & Resort
2900 Briarpark Drive Houston, 77042
713/978-7400
Registration due by: 1/27

3/3-3/4, 2003
12-Hour Judges/Clerks
Omni Dallas Hotel Park West
1590 LBJ Freeway Dallas, 75234
972/869-4300
Registration due by: 2/10

4/10-4/11, 2003
12-Hour Judges/Clerks
Holiday Inn Park Plaza Lubbock
3201 Loop 289 Lubbock, 79401
806/797-3241
Registration due by: 3/14

5/1-5/2, 2003
12-Hour Clerks
Radisson South Padre
500 Padre Blvd. South Padre 78597
956/761-6511
Registration due by: 4/7

5/5-5/6, 2003
12-Hour Atty Judges
Radisson South Padre
500 Padre Blvd. South Padre 78597
956/761-6511
Registration due by: 4/7

5/7-5/8, 2003
12-Hour Non-Atty Judges
Radisson South Padre
500 Padre Blvd. South Padre 78597
956/761-6511
Registration due by: 4/7

6/5-6/6, 2003
12-Hour Judges/Clerks
Hilton Midland & Towers
117 West Wall Avenue Midland, 79701
915/683-6131
Registration due by: 5/12

JUDGES 12-HOUR SPECIAL TOPIC:

5/21-5/22, 2003
Judges Special Topic: Evidence
Omni Southpark Austin
4140 Governor's Row Austin, 78744
512/448-2222
Registration due by: 4/25

6/17-6/18, 2003
Court Administrators/Prosecutors & Judges Special Topic: Juveniles
Omni Bayfront Corpus Christi
900 N. Shoreline Boulevard, Corpus
Christi, 78401
361-887-1600
Registration due by: 5/23

JUDGES AND CLERKS 12-HOUR LOW VOLUME COURTS:

11/13-11/14, 2002
Low Volume
Renaissance Casa De Palmas McAllen
101 N. Main Street McAllen, 78501
956/631-1101
Registration due by: 10/21

1/7-1/8, 2003
Low Volume
Hilton Waco
113 S. University Parks Dr. Waco, 76701
254/754-8484
Registration due by: 12/16

3/27-3/28, 2003
Low Volume
Embassy Suites Abilene
4250 Ridgemoor Drive Abilene, 79606
915/698-1234
Registration due by: 3/1

NEW CLERKS:

12/9-12/13, 2002
32-Hour Judges/Clerks
Hyatt Regency Austin
208 Barton Springs Austin, 78704
512/477-1234
Registration due by: 11/15
7/21-7/25, 2003

32-Hour Judges/Clerks
Radisson Hotel & Suites Austin
111 East Cesar Chavez Street Austin,
78701
512/478-9611
Registration due by: 6/27

CLERKS 12-HOUR:

10/14-10/15, 2002

12-Hour Clerks

Sheraton Tyler
5701 S. Broadway Tyler, 75703
903/561-5800
Registration due by: 9/20

10/31-11/1, 2002

12-Hour Judges/Clerks

Lakeway Inn Austin
101 Lakeway Drive Austin, 78734
512/261-6600
Registration due by: 10/7

1/23-1/24, 2003

12-Hour Judges/Clerks

Omni San Antonio
9821 Colonnade Blvd. San Antonio, 78230
210/691-8888
Registration due by: 1/6

2/20-2/21, 2003

12-Hour Judges/Clerks

Adam's Mark Hotel & Resort
2900 Briarpark Drive Houston, 77042
713/978-7400
Registration due by: 1/27

3/3-3/4, 2003

12-Hour Judges/Clerks

Omni Dallas Hotel Park West
1590 LBJ Freeway Dallas, 75234
972/869-4300
Registration due by: 2/10

4/10-4/11, 2003

12-Hour Judges/Clerks

Holiday Inn Park Plaza Lubbock
3201 Loop 289 Lubbock, 79401
806/797-3241
Registration due by: 3/14

5/1-5/2, 2003

12-Hour Clerks

Radisson South Padre
500 Padre Blvd. South Padre 78597
956/761-6511
Registration due by: 4/7

PROSECUTORS:

12/3-12/4, 2002

Bailiffs/ Warrant Officers and Prosecutors

Radisson Hotel & Suites Austin
111 East Cesar Chavez Street Austin,
78701
512/478-9611
Registration due by: 11/8

6/17-6/18, 2003

Court Administrators/Prosecutors & Judges Special Topic: Juveniles

Omni Bayfront Corpus Christi
900 N. Shoreline Blvd. Corpus Christi,
78401
361/887-1600
Registration due by: 5/23

COURT ADMINISTRATORS:

3/18-3/19, 2003

Bailiffs/ Warrant Officers and Court Administrators

Hilton Arlington
2401 East Lamar Arlington, 76006
817/640-3322
Registration due by: 2/21

6/17-6/18, 2003

Court Administrators/Prosecutors & Judges Special Topic: Juveniles

Omni Bayfront Corpus Christi
900 N. Shoreline Blvd. Corpus Christi,
78401
361/887-1600
Registration due by: 5/23

BAILIFFS & WARRANT OFFICERS

12/3-12/4, 2002, 2003

Bailiffs/ Warrant Officers and Prosecutors

Radisson Hotel & Suites Austin
111 East Cesar Chavez Street Austin,
78701
512/478-9611
Registration due by: 11/8

3/18-3/19, 2003

Bailiffs/ Warrant Officers and Court Administrators

Hilton Arlington
2401 East Lamar Arlington, 76006
817/640-3322
Registration due by: 2/21

LEGISLATIVE UPDATES FOR JUDGES & ALL COURT PERSONNEL:

8/4, 2003

Legislative Update

Sofitel Houston
425 N. Sam Houston Parkway E.
Houston, 77060
281/445-9000
Registration due by: 6/11

8/8, 2003

Legislative Update

Omni Southpark Austin
4140 Governor's Row Austin, 78744
512/448-2222
Registration due by: 6/11

CLERK CERTIFICATION LEVEL III ASSESSMENT CLINICS:

2/7-2/9, 2003

Assessment Clinic

Del Lago Resort
600 Del Lago Blvd. Montgomery, 77356
936/582-6100
Registration due by: 1/10

5/20-5/22, 2003

Assessment Clinic

Omni Southpark Austin
4140 Governor's Row Austin, 78744
512/448-2222
Registration due by: 4/25

A Reminder!

Please call TMCEC if your housing needs change. You will be billed \$80 plus tax if you reserve a room and do not use it. If you need to change your arrival date, contact the TMCEC offices to cancel the room so that grant funds won't be wasted.

**TEXAS MUNICIPAL COURTS EDUCATION CENTER
2002-2003 Registration Form**

Seminar Date: _____ Seminar Site: _____

Type of Program: Judge Clerk Court Administrator Prosecutor Warrant Officer/Bailiff*
 I intend to attend the *Mock Plea and Mock Trial Workshop* or the *Survey of the Rules of Evidence Pre-Conference*

TMCEC computer data is updated from the information you provide. Please print legibly and fill out form completely.

Last Name: _____	First Name: _____	MI: _____
Names also known by: _____		Male/Female: _____
Position Held: _____		
Date Appointed/Elected/Hired: _____		Years Experience: _____

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 all seminars: four nights at the 32-hour seminars and two nights at the 12-hour seminars. 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. Please indicate roommate by entering seminar participant's name:
(Room will have 2 double beds.)
- I need a private, double-occupancy room, but I'll be sharing with a 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.

Date arriving: _____ Arriving by: Car Airplane Smoker Non-Smoker

COURT MAILING ADDRESS

It is TMCEC policy to mail all correspondence directly to the court address.

Municipal Court of: _____ Mailing Address: _____ Zip: _____

Office Phone: _____ Court Phone: _____ FAX: _____

Primary City Served: _____ Other Cities Served: _____

Attorney Non-Attorney Full-Time Part-Time

Status: Presiding Judge Associate/Alternate Judge Justice of the Peace Mayor
 Court Clerk Deputy Clerk Court Administrator Warrant Officer/
 Prosecutor Bailiff*
 Assessment Clinic (A program fee of \$100 must accompany registration form.)
 Other: _____

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

Judge's Signature: _____ Date: _____

Municipal Court of _____

I certify that I am currently serving as municipal judge, city 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 five (5) working days prior to the seminar. If I have requested a room, I certify that I live at least 30 miles from the seminar site and have read the cancellation and no show policies in the General Seminar Information section located on Pages 17-18. Payment is required ONLY for the assessment clinics and legislative updates; payment is due with registration form. Participants in the assessment clinics and legislative updates must cancel in writing two weeks prior to seminar to receive refund.

Participant Signature _____ Date _____

Court Technology Survey Summary

Over the past academic year, TMCEC surveyed municipal court personnel about their court and the technology used therein. The survey was distributed to court personnel who attended the Court Technology class in each of the 12-hour Experienced Clerk seminars. The class was a breakout session, in that not all court personnel who attended the TMCEC program attended this session, and the survey was voluntary. The main topics covered by the survey included computer access, computer applications, legal research, and websites. The following results are based on 217 court personnel, who represent 166 cities.

Computer Access

In the digital age, when most of the three-year-olds that we know can use computers, many of us assume that computer access is available for everyone. But, national statistics report that in September of 2001 only 65.6 percent of Americans were computer users.¹ The TMCEC technology survey results show that court personnel participating in the survey are above the national standard at 95 percent. This statistic isn't alarming though; the survey was administered to personnel wanting to learn more about court technology. They were probably familiar with technology already. When questioned about the location of computer access: 49 percent reported having access at work; 37 percent reported having access at home; and nine percent reported having access "elsewhere".

Computer Applications

A computer application is a specific use of the computer, often called application software. The survey asked respondents to identify what applications they used at work. The survey measured word processing, spreadsheets, databases, case management software, electronic mail (e-mail), and electronic scheduling.

The survey reported that 80 percent of those surveyed use word processing applications—applications that allow the user to create and edit text files, such as Microsoft Word or Corel Word Perfect. Forty-eight percent of those surveyed reported using spreadsheets—applications that allow the user to create and edit rows and columns of numbers, for example, Microsoft Excel. Only 36 percent of respondents reported using databases—applications that allow users to create and edit transactions and summarize, sort, and print reports, such as Microsoft Access. Sixty-four percent of those surveyed reported that their courts are using some type of case management software. Sixty-three percent of respondents are using e-mail. Only 17 percent of those surveyed reported using electronic scheduling—the use of the computer to schedule dockets or personnel.

Legal Research

The survey asked participants for information regarding resources being used for legal research. Nine percent of respondents reported using Lexis-Nexis. Ten percent of respondents reported using Westlaw from The

West Group. Eight percent of those surveyed reported using CD-ROMs from one of the two companies listed above. Eleven percent of respondents are conducting legal research using print resources, such as *Black's* and the *Southwestern Reporter*. Nineteen percent of those surveyed are using the Internet to conduct legal research and, when asked which sites they were visiting, the responses were:

- Texas Municipal Courts Education Center (www.tmcec.com)
- Texas Municipal League (www.tml.org), Texas Legislature Online (www.capitol.state.tx.us)
- Attorney General of Texas (www.oag.state.tx.us)
- Texas Department of Public Safety (www.txdps.state.tx.us)
- Texas Alcoholic Beverage Commission (www.tabc.state.tx.us)
- Texas Office of Court Administration (www.courts.state.tx.us)
- Yahoo (www.yahoo.com) and
- Findlaw (www.findlaw.com).

Websites

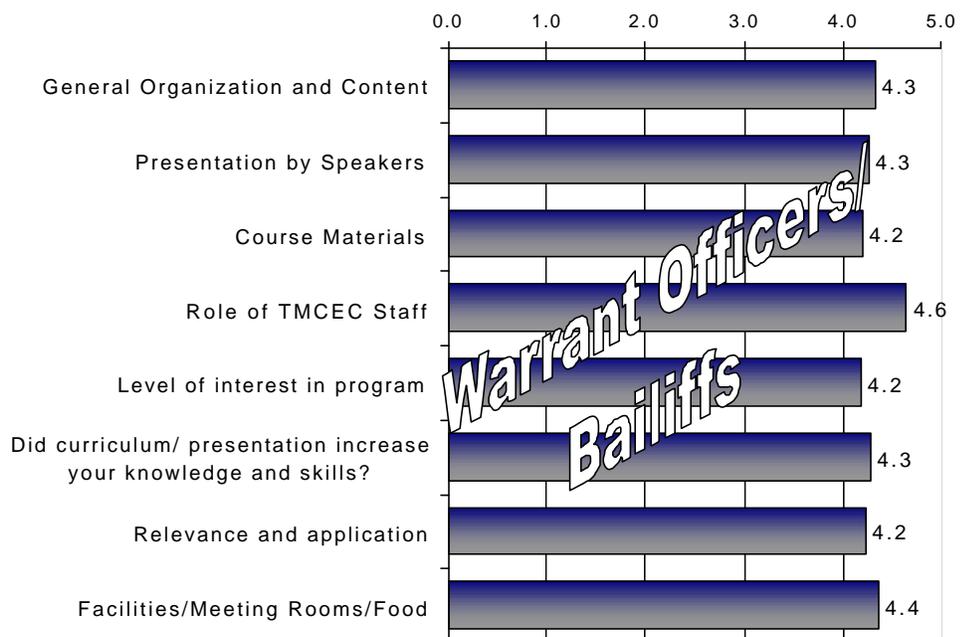
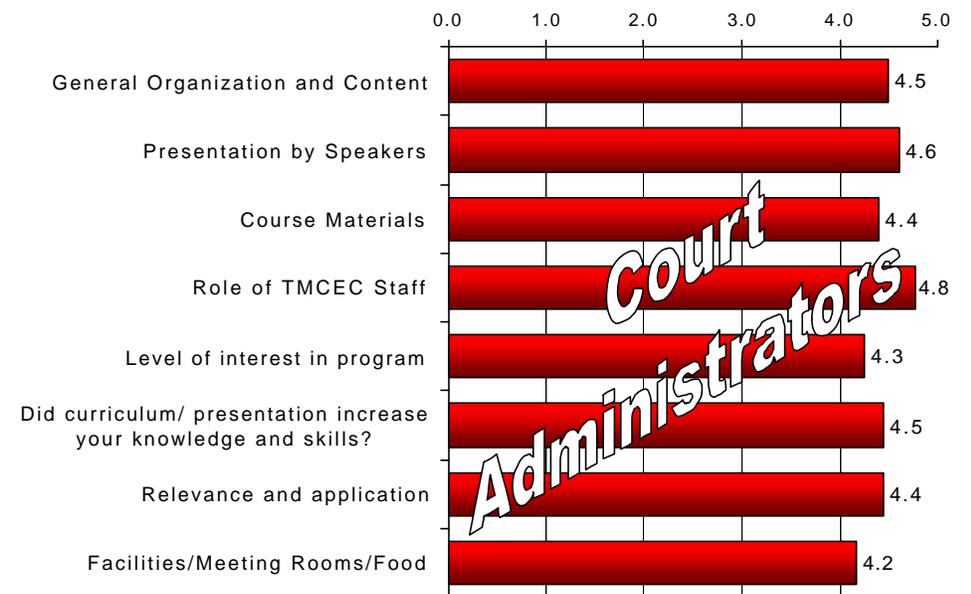
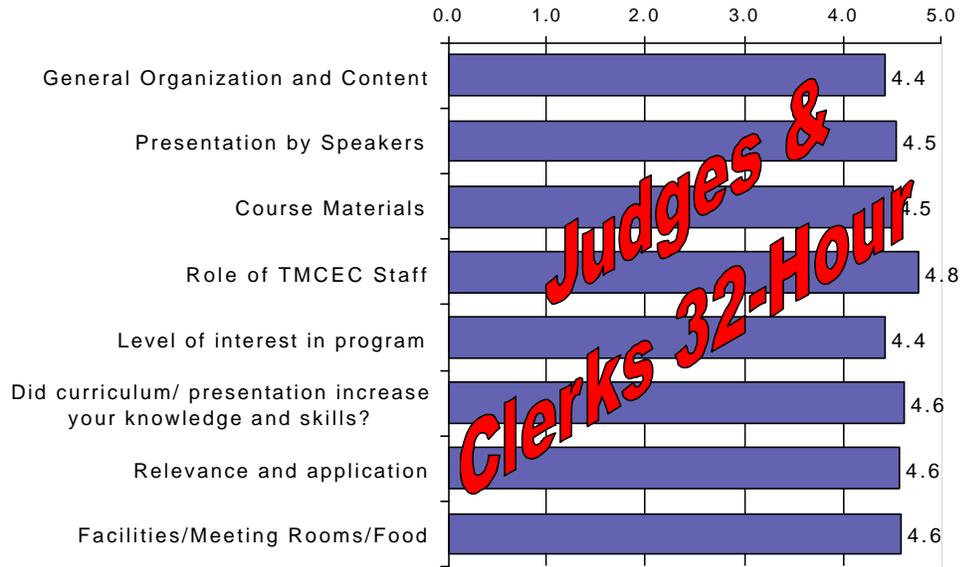
Most organizations have a website, including hotels, stores, and municipalities. Many courts have created websites as a tool for their communities. Texas Municipal Courts Education Center has links to many Texas municipal courts websites (www.tmcec.com/courts.html). When participants in the survey were asked if their courts had a website, 39

percent responded YES and 54 percent responded NO. The survey delved deeper and asked if YES, what type of information was included on the website. The responses were: 34 percent included hours of operation, nine percent included juror information, seven percent listed docket information, and seven percent stated they were doing on-line payments.

Conclusion

Lastly, the survey asked the respondents to list any other technology their courts were using. Responses varied: camera security equipment, handheld ticket writers, automated phone systems, voice recording and video recording, and document imaging. Keeping in mind that this survey was conducted in a TMCEC court technology class and that the results cannot be generalized past those participants, municipal courts in general are beginning to embrace technology. The survey was conducted with the goal, as a court technology faculty and author, of developing a better understanding of what technologies municipal courts are using and how rampant they are being used. I believe that my goal was met. Thanks to all who participated in the survey.

¹ *A Nation Online: How Americans Are Expanding Their Use of the Internet*, U.S. Department of Commerce, Economics and Statistics Administration, National Telecommunications and Information Administration, February 2002.



may be a viable option for smaller courts who rarely hold trials. For nearly three percent of all municipal courts, predominantly low and small volume, this is the preferred method for securing a prosecutor); or

- Proceed to trial. (Presumably, this option triggers Article 45.032 that states, if “upon a trial the state fails to prove a *prima facie* case of the offense alleged in the complaint, the defendant is entitled to a directed verdict of ‘not guilty.’”) 

¹ *Annual Report of the Texas Judicial System, Fiscal Year 2001, Office of Court Administration, Austin, Texas.*

² Statistics from the Office of Court Administration suggest the following: the median age of a municipal court judge is 55-years (the youngest is 24 and the oldest is 87); the median range of service is between five and nine years; more than 60 percent are male, and 84 percent are Caucasian.

Id. at 13. Detailed salary information for municipal judges are published annually in the *Texas Municipal League Salary Survey*.

³ Based off of OCA data, it is estimated that municipal judges constitute 41 percent of all judges in Texas who are attorneys.

⁴ While defendants have a constitutional right to represent themselves, a significant amount of Texas case law provides that an attorney must represent nonhuman entities (*e.g.*, governments, corporations, and associations). Furthermore, Section 81.102 of the Government Code requires that persons practicing law be licensed by the Supreme Court of Texas and in good standing with the State Bar of Texas. Accordingly, while peace officers can be called as witnesses to testify, they cannot act as prosecutors presenting the State’s case.

⁵ Article 45.201, Code of Criminal Procedure. While the county attorney has the ultimate right to prosecute in a municipal court, he or she may not receive additional compensation. *Harris County v. Stewart*, 41 S.W. 650 (Tex. 1897); *Houth v. Greer*, 552 S.W. 211 (Tex.Civ.App. 1905).

⁶ Article 45.031, Code of Criminal Procedure.

- 3. Signed Endorsements** – This method not only compels parties (and especially lawyers) to carefully read and acknowledge the rules of decorum, it also acts as proof of admonishment in instances where insubordination results in contempt.

Regardless of which rules you incorporate or the manner in which they are disseminated, remember one of the most important maxims of parenthood: The only thing worse than having no rules is having rules you do not enforce.

As previously stated, each court is ultimately responsible for creating rules of decorum. To assist courts in drafting such rules the model on page 13 is offered. Its contents and form reflect the more common rules of decorum. 

**TEXAS MUNICIPAL COURTS
EDUCATION CENTER
1609 SHOAL CREEK BLVD., SUITE 302
AUSTIN, TX 78701
www.tmcec.com**

**TMCEC MISSION
STATEMENT**

To provide high quality judicial education, technical assistance, and the necessary resource material to assist municipal court judges, court support personnel, and prosecutors in obtaining and maintaining professional competence.

Change Service Requested