

# The Recorder

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## JAIL HOUSE PLEAS: IS *ROTHGERY* A TAP ON THE SHOULDER OR A “FLY IN THE OINTMENT” OF LOCAL TRIAL COURT EXPEDIENCY?

by Ryan Kellus Turner

General Counsel and Director of Education, TMCEC

The notion of conducting criminal proceedings behind closed doors runs contrary to our nation’s and state’s founding fathers’ core beliefs about the public nature of criminal accusations and trials. “The Founding Fathers believed that public criminal proceedings would operate as a check against malevolent prosecutions, corrupt or malleable judges, and perjurious witnesses. The public nature of criminal proceedings also aids the fact-finding mission of the judiciary by encouraging citizens to come forward with relevant

information, whether inculpatory or exculpatory.”<sup>1</sup> The Public Trial Clause of the Sixth Amendment, Article 1, Section 10 of the Texas Constitution, and Article 1.05 of the Code of Criminal Procedure each protect accused persons from the abuse of judicial power and secretive proceedings associated with the Court of Star Chamber of 15<sup>th</sup> and 16<sup>th</sup> Century England.<sup>2</sup>

If the media reported that Texas district and county judges routinely accept pleas and impose sentences

out of public view, within the secured confines of a jail facility, for offenses such as DWI, assault/family violence, and theft, it is easy to imagine the consternation and outrage among civil libertarians. Yet, many Texas municipal judges and justices of the peace engage in this very practice for all sorts of Class C misdemeanors (including DUI, assault/violence, and theft) every time they visit the jail. In fact, the practice of accepting a “jail house plea” in Texas appears to be the norm, rather than the exception, when it comes to people arrested for Class

## ORDER IN THE COURT: FINDING CONTEMPT IN MUNICIPAL COURT

by Cathy Riedel

Program Director, TMCEC

At one time or another, every judge is confronted with a situation which rises to the level of contempt of court.<sup>1</sup> Will you recognize it when you see it and what is the procedure to follow when you do? Classification of the type of contempt committed is the critical component before a judge can properly enter that order. Contempt can be criminal, but it is

not a crime. It is sanctionable, but it is not a sanction. It’s direct, it’s constructive. It’s confusing.

### Contempt Is...

Contempt is an act of deliberate disobedience or disregard for the laws, regulations, or decorum of

*Order in the Court continued pg 10*

*Jail House Pleas continued pg 5*

### INSIDE THIS ISSUE

Clerk Certification Update .....	18
FY 11 Schedule .....	30
Faculty Recognition .....	16
From the Center .....	14
IDEA & Municipal Courts .....	3
MTSI 2010 Awards .....	20
MTSI 2011 Awards .....	21
Municipal Court Week .....	18
Registration Form .....	31
TMCEC Order Form .....	15
Traffic Safety Games .....	24

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## AROUND THE STATE

### OUTSTANDING JUDGE & CLERK

The Texas Municipal Courts Association recently announced its 2009-2010 Outstanding Judge and Outstanding Court Support Personnel Awards. The Outstanding Judge Award went to The Honorable Michael A. Smith of Arlington, Texas and the Outstanding Court Support Personnel Award went to Ms. Shona Bohon of Midland, Texas.

The Outstanding Judge Award is given each year to a judge who demonstrates excellence in the administration of justice. Judge Michael Smith has served as a municipal judge for the City of Arlington since 1982. He has also served on the board of directors for the Texas Municipal Courts Education Center from 1988 - 1992. Judge Smith recently conducted the trial involving the cruel treatment of over 27,000 animals seized from U.S. Global Exotics. After a seven day trial over a period of two weeks, Judge Smith found that all of the animals had been cruelly treated in one or more manners. The ruling not only divested U.S. Global Exotics of ownership of the animals but also brought about the safe placement of many animals. Judge Smith is known for his patience and understanding in dealing with difficult issues. His well thought out opinion and judgment not only brought about the rescue of many animals but brought recognition to the important role of municipal courts throughout the state.

The Outstanding Court Support Personnel Award is given each year to a court support person who has demonstrated excellence in the administration of justice in support of municipal courts. Ms. Bohon is the Midland Municipal Court Administrator and has served in that capacity for 15 years. She began her career as a clerk in the Midland Municipal Court in 1988 and was promoted to Court Administrator in 1995. When the Midland Municipal Court decided to implement a new computer system several years ago to handle an increasing caseload, Ms. Bohon was instrumental in making a smooth transition to the latest technology. Ms. Bohon is a Level II certified clerk and is also a certification examiner for Levels I and II clerks. She is a faculty member for the Texas Municipal Courts Education Center and the Texas Court Clerks Association. Her leadership skills are evident not only in Midland but also recognized in the state as she holds the office of president of the Texas Court Clerks Association.



The Texas Municipal Courts Association (TMCA) is an organization dedicated to the education and support of municipal court personnel in order to provide a fair and impartial administration of justice in the municipal courts of Texas. TMCA is proud to recognize Judge Michael A. Smith as the Outstanding Judge and Ms. Shona Bohon as the Outstanding Court Support Personnel for the year 2009-2010.

- Submitted by the TMCA Annual Meeting Committee



# WHAT MUNICIPAL COURTS SHOULD KNOW ABOUT THE IDEA

by Mark Goodner  
Program Attorney and Deputy Counsel, TMCEC

In the 81<sup>st</sup> Regular Legislative Session, a new requirement was placed upon municipal judges to complete minimum education related to child welfare and the IDEA. IDEA stands for Individuals with Disabilities Education Act. This training is particularly relevant when juveniles with disabilities are charged in municipal courts. While it is clear that not every juvenile charged in municipal court is affected by the IDEA, youth who receive special education services are disproportionately represented in state and school disciplinary proceedings.

## What is the IDEA?

IDEA is the federal law enacted with the goal of providing full educational opportunities to all students with disabilities in the United States. Those full educational opportunities are provided in public schools through special education programs. Therefore, IDEA serves as the basis for all special education programs in every public school in Texas. More specific to courts, the IDEA can help ensure certain rights to special education children who may be adversely affected by disciplinary proceedings in the juvenile justice system.

## What is the New Requirement for Education Related to the IDEA?

House Bill 1793 established additional education requirements by mandating that every judge who handles juveniles charged with fine-only offenses complete a two-hour course of instruction related to understanding the relevant issues of

child welfare and the IDEA in every judicial academic year ending in 0 or 5. This requirement became effective on September 1, 2009, but any judge who was in office on the effective date is exempt from the training for the 2010 academic year. Therefore, the large majority of municipal judges will not have to complete the training until the 2015 academic year, although those judges who took office after September 1, 2009 are required to complete the training in the 2010 academic year.

## How Could the IDEA Specifically Help Municipal Courts?

Dealing with children and minors in municipal court can be a demanding and cumbersome process. They require special procedures, offenses committed by them require punishment beyond mere fines, and judges must always remain cognizant of the welfare of the child.

Article 45.057 of the Code of Criminal Procedure provides a laundry list of possible orders a judge can place on a child (or the child's parent) if the child is found to have committed an offense; however, courts do not always have the time, resources, or staff to follow up and oversee the progress and compliance of these children and parents. Juvenile case managers can help, but they often are stretched thin, as well. Wouldn't it be nice if there was a way for some focused, evaluative time to be spent with these child defendants to help pinpoint the source of some of their problems without taking time away from other court functions? Wouldn't it be great to have a team

of outside professionals who deal with children for a living that could put together a plan of action for dealing with child offenders that may very well help to see improved compliance, reduced recidivism, and a continuing plan for rehabilitation and reform? These benefits might be a possibility under the framework already in place within the IDEA.

## What Basics Do Municipal Courts Need to Know About the IDEA?

While municipal courts are not charged with implementing the IDEA and have no direct role in the administration of special education programs, a working knowledge of the subjects can be very helpful. Judges in the know could gain access to evaluations and behavior plans that could enable them to handle juvenile defendants more efficiently and effectively.

Schools are charged with identifying every child with a disability, and each one of those children is guaranteed a free and appropriate public education (FAPE). In order for a child with a disability to receive a FAPE, schools must design and implement curricula and plans that guarantee educational progress. To ensure that academic goals and objectives are met, a child must undergo a Functional Behavioral Assessment (FBA) in an effort to pinpoint and target behaviors that may hinder their learning. If behavioral issues are identified as interfering with their school environment, a Behavioral Intervention Plan (BIP) is developed. If a child appearing before a municipal court has a disability and

has exhibited criminal behavior, it is safe to assume that there is a good chance they have exhibited behavior problems in school. If this is the case, a judge can request a copy of a child's FBA and BIP. These documents could potentially hold invaluable information for a judge as a team of professionals has already studied the child's behavior and determined the best ways to intervene.

Knowledge of a child's specific disability, their behavioral tendencies, and successful discipline techniques could certainly save the courts much time and consternation in determining how to appropriately and successfully handle a child charged with a fine-only misdemeanor.

### **Why Do I Need to Know About Any Disabilities a Child May Have?**

Information is always an asset when dealing with defendants. Consider how your actions might be altered with knowledge of a disability in the following situations:

If your court regularly places children on deferred disposition and requires as a condition of deferred disposition 10 hours of community service at city hall, might you stray from that plan if you knew that a child has been determined to be emotionally disturbed and is prone to violent outbursts?

Your court often requires children to write essays or research papers as a condition of deferred disposition. However, if you were informed that a child is dyslexic and struggles with written language, would a different condition perhaps be more appropriate and effective?

A child is charged with failure to attend school. You learn that the student has been diagnosed with chronic fatigue syndrome that at times prevents him or her from physically being able to attend. If the child had

not been identified, might it be a good idea to order the parent to request an evaluation or assessment through the school for eligible services?

### **Doesn't the IDEA Only Affect a Small Percentage of Children?**

We know that about 494,000 or about 10.7% of students in Texas schools receive special education services. This group of students, however, is represented at a disproportionately higher frequency in municipal courts.

### **What are the Services Available to Students Under the IDEA?**

School districts are obligated to consider and provide when necessary services for special education students including counseling, occupational therapy, physical therapy, speech therapy, specialized transportation, and assistive technology devices.

### **How Long Has the IDEA Been Around?**

The origins of the IDEA can be traced back to the 1970s when Congress voiced concerns relating to the one million children with disabilities who were at that time entirely excluded from the public education system and other children with disabilities who were afforded only limited access to public education. Legislation was passed in 1975 called the Education of All Handicapped Children Act. It has since undergone numerous amendments and revisions, most recently in 2004.

### **Where Can I Find Out More About the IDEA?**

TMCEC has produced a video and supporting material about child welfare and the IDEA that is available at [www.tmcec.com](http://www.tmcec.com). The video consists of lecture and discussion featuring experts in the special education field as well as municipal courts. The faculty consists

of Dr. Rebecca Hutchinson Julius, a special education administrator and Psychological Services Supervisor for the Denton Independent School District and Eric G. Ransleben, a municipal judge, prosecutor, and defense attorney who has been representing school age children in the public school system for over 10 years, with particular interest in special education law.

## **Public Outreach**

TMCEC is encouraging municipal judges and court support personnel to help educate the public about traffic safety, our judiciary, and specifically municipal court through presentations. A wealth of resources is available to help you prepare presentations in schools and before civic groups.

On the websites listed below, handouts, games, information sheets, and more can be downloaded for use in such presentations. Also, on pages 20-24 of this *Recorder*, there are additional materials, including a set of tips on making effective classroom presentations on page 9.

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

[www.drsr.info](http://www.drsr.info)

Such presentations can be a part of a local traffic safety program, the Driving on the Right Side of the Road program (grades K-12), a Constitution Day program (September 17), a Municipal Courts Week activity (November 1-5), or even a Law Day program (May 1). TMCEC would appreciate information about your outreach programs. Please send an email or brief summary to Hope Lochridge ([hope@tmcec.com](mailto:hope@tmcec.com)). TMCEC is preparing an article about all of the outreach offered by Texas municipal courts.





## C misdemeanors.

The origin of the practice is unknown. Literature on the topic is nonexistent, which is surprising since the practice is well known among local trial court judges and criminal law practitioners. Assumedly, the roots of the practice predate the existence of the formal rules governing municipal and justice courts, now contained in Chapter 45 of the Code of Criminal Procedure. Its perpetuation over the years is more a product of utility, efficiency, and perceived benefit to defendants than strict construction of statutes and guiding principles of criminal procedure. Today, convictions of certain Class C misdemeanors have collateral consequences that were nonexistent in the near recent past.<sup>3</sup> This article is not an endorsement or condemnation of the practice but rather the first published effort to explain, analyze, and discuss the topic.

### I. Hypothetical Illustration

For the uninitiated, here is a simple hypothetical illustration of a “jail house plea.”

Joe Sixpack is arrested in Anytown, Texas without a warrant for failure to maintain financial responsibility (FMFR) by the Anytown Police Department. He is taken to jail and a probable cause affidavit justifying the warrantless arrest is filed. Additionally, a charging instrument (a “complaint” per Chapter 45 of the Code of Criminal Procedure) is prepared and left in the file. The next morning, the municipal judge (who is on rotation with the local justices of the peace) comes down to “magistrate” folks at the jail. During the course of the morning, the 15.17 warning is given and related magistrate orders (bail, etc.) are entered on cases ranging from

misdemeanor domestic violence to felony possession of a controlled substance.

When the Anytown Municipal Judge, acting as a **magistrate**, gets to Joe Sixpack, rather than simply doing what is required by Articles 14.06(a) and 15.17 of the Code of Criminal Procedure, the Judge informs Sixpack that a complaint has been filed in the Anytown Municipal Court alleging FMFR. The **Judge** then asks the defendant for a plea. If Sixpack pleads guilty or no contest, the Judge will give him jail credit per Article 42.03 of the Code of Criminal Procedure. If Sixpack pleads not guilty, the defendant is left in jail until he can make bail or until he must be released because of delay per Article 17.151 of the Code of Criminal Procedure.

Sixpack desperately wants to get out of jail and jumps at the opportunity to “plead out.” The Judge is feeling generous and gives Sixpack credit for time served. At the time, Sixpack thinks that kindness was shown as he owes no money to satisfy the fine or costs. Assuming the judgment has been voluntarily satisfied, any subsequent effort to appeal is moot.<sup>4</sup>

Sixpack will learn nine months later that under the Driver Responsibility Program, as a consequence of his plea, he is required to pay the State of Texas \$250 a year for three years to keep his driver’s license.

### II. Judge and Magistrate versus Judge or Magistrate?

Although not all magistrates are members of the judiciary, all members of the judiciary are magistrates.<sup>5</sup> Under Texas law, the authorities and duties of a *magistrate* are distinct from the jurisdiction of a *judge*. The division

between the role of *magistrate* and *judge* is nebulous and commonly misunderstood. As a matter of local custom, most magistrate duties are performed by justices of the peace and municipal judges.<sup>6</sup> However, such judges have no more of a duty to perform magistrate functions than any other public official who is a magistrate within the county.<sup>7</sup> The misconception that justices of the peace and municipal judges perform magistrate duties in their role as judges (rather than by virtue of being a judge) further blurs the already dark line between *magistrate* and *judge* in the Lone Star State. This, in turn, may partially explain the acceptance of jail house pleas in Class C misdemeanor cases.

Similarly, the acceptance of the practice can further be attributed to the longstanding confusion in Texas law regarding the use of the term “complaint.” There are two methods for alleging a Class C misdemeanor in Texas law. The most common method is the issuance of either a written promise to appear<sup>8</sup> or a citation.<sup>9</sup> Alternatively, a complaint (per Article 45.018 of the Code of Criminal Procedure) may be filed in either a municipal or justice court. This document, whose requisites are stated in Article 45.019 of the Code of Criminal Procedure, is not the same “complaint” defined in Article 15.04 (commonly referred to as a probable cause affidavit).<sup>10</sup> Confusion surrounding the meaning of “complaint” has invariably led to confusion among local judges as to “which hat they are wearing” when they are down at the jail — magistrate or judge?

### III. Rothgery – The Right to Counsel and Waiver

While many questions relating to the initial appearance of arrested persons before judicial officers remain unresolved, the U.S. Supreme Court, in *Rothgery v. Gillespie County*

(2008), answered one question that could have implications on the practice of accepting jail house pleas. In *Rothgery*, the Court held that the presentation before a magistrate (or in Texas speak, “magistration”) is an adversarial judicial proceeding to which the 6th Amendment right to counsel attaches.<sup>11</sup> Though the case does not directly address jail house pleas, *Rothgery* focuses the light of the Sixth Amendment directly into the locale and step in criminal procedure where the jail house plea occurs.

The right to have an attorney assist the accused in decision-making exists even in cases involving fine-only misdemeanors.<sup>12</sup> This right is recognized in Article 45.020(a) of the Code of Criminal Procedure which specifically governs proceedings in municipal and justice courts: “The defendant has a right to appear by counsel *as in all other cases.*”<sup>13</sup> The language in Article 45.020(a) is important because in all other criminal cases, defendants are allowed a “reasonable opportunity” to confer with counsel.<sup>14</sup> Article 1.051(a) of the Code of Criminal Procedure states that “[a] defendant in a criminal matter is entitled to be represented by counsel in an adversarial judicial proceeding. The right to be represented by counsel includes the right to consult in private with counsel sufficiently *in advance* of a proceeding to allow adequate preparation for the proceeding.”<sup>15</sup>

If the language of Article 45.020(a) and Article 1.051(a) are not read to prohibit the taking of a jail house plea, careful thought should be given as to what documentation exists to rebut allegations that the defendant was forced to enter a plea and waive the right to counsel. The validity of any waiver of counsel is typically judged by determining if the record demonstrates that it was executed voluntarily, knowingly, and intelligently.<sup>16</sup> If a defendant wishes to waive the right to counsel and enter

a guilty plea, Texas trial courts are required by Article 1.051(g) to advise the defendant of the nature of the criminal charges and the dangers and disadvantages of self-representation prior to obtaining a written waiver of the right to counsel that must be included in the record.<sup>17</sup> Assuming documentation of a waiver, the question remains: would an appellate court be willing to find such a waiver valid despite being made within the confines of a jail?

#### IV. Method of Plea and Open Court

While no statute or case law prohibits the practice, the Code of Criminal Procedure neither contemplates nor authorizes the entering of a plea of guilty or nolo contendere in a misdemeanor case in jail. Rather, it expressly provides two methods. Article 27.14(a) authorizes the making of such pleas in *open court*. Article 27.14(b), which applies only to Class C misdemeanors, authorizes the making of such pleas by *mail* or *personal delivery* to the court.

Note the stark contrast between Article 27.14(a), plea in open court, and Article 27.14(b), plea by mail or personal delivery. Courts that use the jail house plea in order to expedite the handling of cases believe the practice strikes a middle ground by sparing the defendant the further inconvenience of having to return to court. Critics of the practice believe that once a person is arrested and taken to jail, the Legislature intended no such convenience for either defendants or local courts. Rather, the Legislature intends for such cases to be handled publicly, in *open court*, in the same manner as other misdemeanors where defendants are subject to arrest.

Chapter 45 of the Code of Criminal Procedure has always required that judgments and sentences be rendered in open court.<sup>18</sup> Article 27.18 of the Code of Criminal Procedure which

allows other trial courts to accept a plea or waiver of rights by closed circuit video conferencing in spite of similar “open court” language is presumably inapplicable to Class C misdemeanors because it requires the written consent of both the defendant and the attorney representing the State.<sup>19</sup>

Judges who accept jail house pleas rely in part on Article 45.022 of the Code of Criminal Procedure, which states that “[p]roof as to the offense may be heard upon a plea of guilty or a plea of nolo contendere and the punishment assessed by the court,” and that the plain language of the provision places no restriction on where such a plea may be entered.<sup>20</sup> While this is true, a Texas Attorney General opined that a justice of the peace is prohibited from taking a plea subsequent to an arrest and filing of a complaint along a roadside because it violated the Code of Criminal Procedure’s requirement that “all judgments and final orders be rendered in *open court.*”<sup>21</sup> Is a jail cell more like an open court than the side of a road?

Underlying the Code of Criminal Procedure’s requirement that judgments and sentences be rendered in open court is the Texas Constitution’s requirement that “[i]n all criminal prosecutions the accused shall have a speedy *public trial* by an impartial jury.”<sup>22</sup> Does taking a plea outside of an open court conform to the Constitution’s public trial requirement? In 1943, the Court of Criminal Appeals heard a case involving alleged violations of both provisions of law. In *Tishmacher v. State*, a county judge received a plea of guilty on an alcohol offense and pronounced judgment in the judge’s office.<sup>23</sup> The Court of Criminal Appeals rejected the appellant’s arguments that receiving a plea and assessing a fine in the judge’s office denied the defendant a public trial because (1) the judge’s office

was located in the courthouse and adjoined the courtroom; (2) it was a public office where people came to transact public business; and (3) no one was denied entrance at the time in question.<sup>24</sup> Although there is no telling how much weight the Court of Criminal Appeals would give *Tishmacher* today in considering the merits of a jail house plea, in absence of more recent or specific case law, local trial judges should be aware of the opinion and the criteria utilized by the Court.

## V. The Public Interest

Assuming that jail house pleas are lawful, and that the practice can be utilized to ensure individual rights, how can the practice be reconciled with the public's interest in criminal law matters? While Sixth Amendment rights belong to the defendant and may not be asserted by the media or the public, the media and the public have a qualified First Amendment right to attend criminal proceedings. Presumably this qualified right does not extend to "magistration." However, in light of the Code of Criminal Procedure's "open court" language, arguably it applies to all Class C misdemeanors (excluding cases where a citation or written promise to appear is issued).

To some, such First Amendment arguments may seem odd and misplaced. True, compared to other offenses, Class C misdemeanors garnish less media spotlight. Nevertheless, depending on the facts and circumstances of a particular case, or the identity of the defendant, Class C misdemeanors are reported by the media on a regular basis. Accordingly, local courts should be mindful of First Amendment issues in an effort to avoid allegations of obstructionism by the media. Local courts that turn a blind eye to the potential for First Amendment issues do so at their own risk.

## VI. Other Procedural Matters

In considering the merits of accepting jail house pleas, other procedural issues should be considered:

**A. Ensure Jurisdiction** – In Texas, either a written promise to appear or a citation is a short-term substitute for the formal Class C misdemeanor charging instrument—the complaint (Article 45.019, Code of Criminal Procedure). As some court software requires a citation number to open a new case, judges sometime encounter citations while "working the jail." These citations typically do not meet the requirements of Article 45.019 and *should not be considered formal charging instruments* but rather a source of a unique number necessary in the age of computer automation. Judges also commonly encounter people arrested on Class C charges and there is what is commonly called a probable cause affidavit (Article 15.04, Code of Criminal Procedure). This document is typically a sworn narrative but is not required to conform to Article 45.019. Without a complaint conforming to Article 45.019, *specifying the court in which the case is filed*, a magistrate is limited to exercising magistrate authorities. In other words, the magistrate cannot "switch hats" and begin acting as a judge because without a proper complaint neither the municipal court nor a justice court has jurisdiction of the case. It is improper to assume that "the badge determines jurisdiction" (i.e., arrest by a municipal police officer bestows jurisdiction on a municipal court, arrest by precinct constable or county sheriff bestows jurisdiction on a justice of the peace.) Nor is jurisdiction determined based upon who is performing magistrate duties on that particular day. TMCEC is aware of at least one dispute between a municipal judge and justice of the peace that occurred in a local jail. Both the Class C offense and the subsequent arrest occurred within

the territorial limits of the justice court and the municipal court. In such instances, absent a complaint (charging instrument) being filed in either court, *neither* court has jurisdiction.<sup>25</sup>

**B. There is an Alternative** – Some local judges accept jail house pleas out of a perceived necessity. Others engage in the practice because it is the way things have always been done. To some courts, especially high volume courts and in localities experiencing jail overcrowding, the prospect of setting bail in Class C misdemeanors and the possibility of having to engage in bond forfeiture proceedings is a daunting and disfavored proposition. In fact, in October 2009, a metropolitan municipal judge at a TMCEC Regional Judges Conference described the jail house plea as being a necessity, not an option, for her court.

The Code of Criminal Procedure was recently amended to provide an alternative to setting bail or accepting a jail house plea. Article 15.17(b), effective September 1, 2009, authorizes a magistrate, subsequent to magistration, to release the accused without bond and order in writing the accused to appear at a later date in the applicable justice or municipal court. If an accused fails to comply with the order, the accused may be arrested and brought before the judge who is authorized to set bail in an amount double the amount generally set for the offense for which the accused was arrested.<sup>26</sup> Article 15.17(b) is an alternative to the jail house plea and a clear expression of what the Legislature authorizes local courts to do in cases involving persons arrested for Class C misdemeanors.

**C. Avoid Alleged Abuses in Bail Practice** – Assuming that Article 15.17(b) is not utilized, the next procedural issue related to the jail house plea is the matter of bail.

Chapter 17 of the Code of Criminal Procedure generally governs bail. Neither a magistrate nor a judge may increase the amount of bail merely because a defendant withdraws a waiver of the right to counsel or requests the assistance of counsel, appointed **or retained**.<sup>27</sup> As in other cases, bail should not be used as an instrument of oppression. Nor should it be used to discourage or penalize people who “want their day in court” (meaning among other things: (1) they want to contest the charges filed against them; (2) they prefer not to have their plea taken in a jail; or (3) they believe they were illegally arrested and that the charge will be dismissed when brought to the attention of the prosecutor). Remember that Article 17.151 of the Code of Criminal Procedure requires a personal bond or a bond reduction in the event the State is not ready for trial five days from the commencement of detention in Class C misdemeanors. Chapter 45 of the Code of Criminal Procedure contains two specific rules governing municipal and justice courts pertaining to bail. Article 45.016 states “[t]he justice or judge *may* require the defendant to give bail to secure the defendant’s appearance with this code. If the defendant fails to give bail, the defendant *may* be held in custody.”<sup>28</sup> Two points of emphasis: (1) Article 45.016 applies after jurisdiction is bestowed upon either a municipal or justice court; and (2) it is the judge’s choice to require, or not require, bail and the judge may, but is not required to, hold a defendant in custody, if the accused fails to give bail. If the defendant *chooses* to post a cash bond (the court cannot mandate a cash bond unless there has been a bond forfeiture and the defendant is subsequently arrested on a *capias*),<sup>29</sup> enters a written and signed plea of *nolo contendere* and waiver of jury trial, and fails to appear according to the terms of the defendant’s release, a judgment of conviction may be entered, the bond

forfeited, and the cash from the bond used to satisfy the fine and costs per the procedural requirements of Article 45.044 of the Code of Criminal Procedure.

**D. Avoid “Pay or Lay” Issues** – Assuming a defendant is allowed to “plea out” behind bars but has *not* remained in jail a sufficient time to have earned enough jail credit to satisfy the fine and costs, what options are available to the judge? Requiring bail is improper because the defendant has already appeared and answered to the court in which the defendant was charged and is not being “held over for trial.”<sup>30</sup> A safe course of action is to order (1) the immediate release of the defendant, and (2) the defendant to either pay the entire fine and costs at some later date or at specified intervals.<sup>31</sup> The most dangerous course of action entails ordering (1) the defendant to pay the entire fine and costs immediately without considering the defendant’s willingness or ability to pay; and (2) the defendant to remain incarcerated until he or she has earned sufficient jail credit to satisfy the judgment. If the defendant is indigent and has not been given an alternative means of discharging the fine and costs, such “pay or lay” practice violates the 14th Amendment and is prohibited by the U.S. Supreme Court in *Tate v. Short* (1971).<sup>32</sup>

### Conclusion

The practice of accepting the jail house plea in Class C misdemeanor cases is rooted in custom, not law. *Rothgery v. Gillespie County* gives us reason to take a careful look at an array of jail house practices in light of the rights of defendants. When viewed solely from an efficiency perspective, a jail house plea is a time-honored and accepted practice that makes sense, as it allows defendants and courts to expedite matters. Despite not being expressly authorized by law, the practice is

so deeply engrained in the local administration of justice that some courts cannot imagine it not being utilized. Despite such perceptions, the Code of Criminal Procedure provides an alternative to the jail house plea (release with or without bail with an order to appear in open court).

In an age in which there are consequences for being convicted for Class C misdemeanors, the merits of the jail house plea should be questioned. Readers should give careful thought as to whether individuals arrested (in contrast to those issued citations) should be provided the convenience of a jail house plea when the Code of Criminal Procedure only authorizes a plea in open court. A jail, by its very nature, is not an open place and Texas law does not currently allow defendants the option of pleading guilty or no contest to Class C misdemeanors from behind bars via closed circuit video conferencing.

All criminal defendants have the right to the assistance of counsel. Although defendants accused of Class C misdemeanors may not generally avail themselves of this fundamental right, such a right exists and should neither be discounted nor ignored by local members of the judiciary. While a defendant can waive the right to counsel and plead guilty or no contest, the question remains: would an appellate court recognize such a waiver and the voluntariness of a plea when made behind bars? Accordingly, it is important that local judges distinguish between **accepting** a jail house plea at the request of the defendant and **taking** such a plea against a defendant’s will. If the validity of a jail house plea is ever challenged on appeal, efforts documenting the voluntariness of the plea are likely to be dispositive.

1. Read more: “Sixth Amendment - Public Trial - Public Trial.” <http://law.jrank.org/pages/10300/Sixth-Amendment-Public-Trial.html#ixzz0vaQlXyq>.



2. For general information on the Star Chamber, see: [http://en.wikipedia.org/wiki/Star\\_Chamber](http://en.wikipedia.org/wiki/Star_Chamber).
3. Consider the consequence of the Driver Responsibility Program. See Brandi Grissom, "A Fine Mess – Lawmakers: Fixes May Not Save Surcharge Program" *Texas Tribune* (July 26, 2010) ("Seemingly minor misdemeanor convictions cannot only affect one's eligibility for certain types of jobs, but also their ability to get student loans or admission to college, as well as government housing."); Amanda Kerr, "How Rowdiness Led to a Nightmare" *Chicago Tribune* (October 4, 2008); see also C. Victor Lander, "View from the Bench: Collateral Damage" *Dallas Weekly* Volume 55, Number 21 (May-June 2008) at 11.
4. The "voluntary payment of the fine in a misdemeanor case renders the appeal from the judgment in that case moot." *Fouke v. State*, 529 S.W.2d 772, 773 (Tex. Crim. App. 1975).
5. Article 2.09, Code of Criminal Procedure.
6. Ryan Kellus Turner and W. Clay Abbott, *The Municipal Judges Book* (TMCEC/TMCA 2010) at 1-19.
7. Tex. Atty. Gen. Op. GA-426 (2006). The author was once told, tongue in cheek, that 98 percent of magistrate duties in Texas are performed by municipal judges and justices of the peace and that the other two percent are performed by other public officials but only in election years. The request for GA-426 is indicative of the common misconception that justices of the peace and municipal judges perform magistrate duties in their role as judges. General acceptance of this misconception blurs the line between *magistrate* and *judge* and is conducive to the acceptance of the practice of taking jail house pleas in Class C misdemeanor cases.
8. Section 543.005, Transportation Code.
9. Article 14.06, Code of Criminal Procedure.
10. Ryan Kellus Turner, "Complaints, Complaints, Complaints: Don't Let the Language of the Law Confuse You" *Municipal Court Recorder* Vol. 13, No. 6 (July 2004).
11. 128 S. Ct. 2578 (2008). In reaching its decision, the majority stated: "Texas law has no formal label for this initial appearance before a magistrate, which is sometimes called the 'Article 15.17 hearing'; it combines the Fourth Amendment's required probable-cause determination with the setting of bail, and is the point at which the arrestee is formally apprised of the accusation against him." *Id.* at 2581-2582.
12. Ryan Kellus Turner, "The Oversimplification of the Assistance of Counsel in the Adjudication of Class C Misdemeanors in Texas" *Municipal Court Recorder* Vol. 18, No. 3 (January 2009).
13. Emphasis added.
14. Article 1.051(f), Code of Criminal Procedure.
15. Emphasis added.
16. *Johnson v. State*, 760 S.W.2d 277 (Tex. Crim. App. 1988) (the court has the obligation to make sure a waiver of counsel is voluntarily and intelligently made by providing admonitions and questioning the defendant); *Blankenship v. State*, 673 S.W.2d 578 (Tex. Crim. App. 1984) (presuming waiver from a failure to request counsel is not permitted); *Webb v. State*, 533 S.W.2d 780, 785 (Tex. Crim. App. 1976) (an intelligent and knowing waiver means that the court must make sure the defendant understands his or her right to counsel and the disadvantage of proceeding pro se).
17. This presumably could be accomplished in either a record or non-record court by a written waiver.
18. Article 45.041(d), Code of Criminal Procedure. Formerly Article 45.49, Code of Criminal Procedure.
19. In a jail house plea for a Class C misdemeanor, a prosecutor may be unaware of the arrest, let alone the filing of a formal charge. Thus, while the use of video conferencing seems to be a feasible alternative, under the existing statute a plea could feasibly be taken without the involvement of either a prosecutor or a defense attorney.
20. Similarly, state law specifies no specific term in which a municipal court can conduct its business. Thus, assuming the jail is in the territorial jurisdiction of the municipal court, a judge can hold court at any given time.
21. Tex. Atty. Gen. Op. O-3353 (1942) (emphasis added). Article 916 was recodified as Article 45.49 in 1965 and subsequently became Article 45.041(d) in 1999.
22. Texas Constitution, Art. I, Sec. 10.
23. 176 S.W.2d 188 (Tex. Crim. App. 1943).
24. *Id.* at 189.
25. A related issue is whether a municipal judge can take a plea in a county jail when the jail is not located within the territorial limits of the municipality.
26. Prior to its revision in 2009, Article 15.17(b) for unknown reasons required "the accused to appear at a later date for arraignment in the county court or statutory county court."
27. Article 17.09, Sec. 4, Code of Criminal Procedure (emphasis added).
28. Emphasis added.
29. *Ex parte Deaton*, 582 S.W.2d 151 (Tex. Crim. App. 1979); *Ex parte Rodriguez*, 583 S.W.2d 792 (Tex. Crim. App. 1979); Tex. Atty. Gen. Op. JM-363 (1985); Article 23.05, Code of Criminal Procedure.
30. Articles 17.01 and 17.02, Code of Criminal Procedure.
31. Article 45.041(a)(1)(B)-(C), Code of Criminal Procedure.
32. 401 U.S. 395; Ryan Kellus Turner, "Pay or Lay: *Tate v. Short* Revised" *Municipal Court Recorder* Vol. 12, No. 3 (March 2003).

### Public Outreach in Schools

Talk with the teacher. Discuss the ages and experience of the students. Request that the teacher have name tags or name tents printed with students first names. Consult with the teacher about what additional background materials might help the students. Have they been studying a particular unit that involves municipal court? Or is this a Career Day type program? Ask if you will have a computer and projector available—check the TMCEC web site for sample lessons and presentations ([www.tmcec.com](http://www.tmcec.com)).

#### Remember to:

- Translate legalese into English.
- Use a variety of methods and examples.
- Send material to the teacher for students to read before your presentation (a handbook or pamphlet, chart, case study, or newspaper articles).
- Have a planned outline of how you would like your presentation to proceed, but be prepared to be flexible.
- Begin your presentation at the students' level and relate to their world through hypothetical or real examples involving young people and the law.
- Briefly tell the students about your work and explain the goals or your visit.
- Move around the room. Use the chalkboard to illustrate ideas or if available, a Powerpoint presentation to reinforce your points visually.
- Introduce only one or two main topics and explain them fully.
- Localize examples for students' interest and understanding.
- Encourage questions. Repeat questions so all students can hear what was asked.
- Use humor and a personal approach.
- Express your appreciation to the teacher for incorporating study of the law into lesson plans.
- Reinforce this with a letter to the principal or superintendent.



a public authority, such as a court or legislative body. It is behavior that opposes or defies the authority, justice, and dignity of the court.<sup>2</sup> Contempt charges may be brought against the parties to proceedings, the attorneys, the court officers or personnel, the jurors, the witnesses, and the other people who insert themselves in a case, such as protesters outside of a courtroom.

Contempt is categorized in two ways: *civil contempt* and *criminal contempt*. The classification of the conduct as civil or criminal determines which procedural requirements must be followed.

*Civil contempt* involves the failure to perform an act that is ordered by a court. The intent and purpose for ordering civil contempt is to compel compliance with the court's orders. *Criminal contempt*, on the other hand, is punitive and is ordered when behavior assaults the dignity of the court or impairs the ability of the court to conduct its work.<sup>3</sup> In a civil contempt proceeding, the contemnor "has the keys to the cell door" upon compliance with the court's order; whereas a contemnor in a criminal contempt cannot avoid the order by voluntary compliance after the fact to avoid punishment for his or her past acts.

There are two subsets that apply to both civil and criminal contempt: direct and constructive (sometimes referred to as indirect contempt). *Direct contempt* is an act that occurs in the presence of the court and is intended to embarrass or engender disrespect for the court. For example, shouting or causing a disturbance in the courtroom or refusing to rise when the judge enters the courtroom is direct contempt.<sup>4</sup> *Constructive contempt* occurs outside the presence of the court.

## General Authority

Courts have the inherent power to find a person in contempt in order to ensure that court proceedings are conducted with dignity and in an expeditious manner so that justice is done.<sup>5</sup> The general statutory authority for municipal courts to punish for contempt is found in Section 21.002 of the Government Code. The section provides that the punishment for contempt in municipal court is a fine of not more than \$100, confinement in the county or city jail for not more than three days, or both the fine and confinement.<sup>6</sup>

## Certain Specific Contempt Statutes

While Section 21.002 of the Government Code is the general contempt statute, there are several specific statutes that are applied to certain situations.

### A. Statutes Relating to Jurors and Jury Deliberations

Article 45.027 of the Code of Criminal Procedure contains specific provisions applicable to municipal and justice courts. The statute provides that when jurors are summoned to court, they shall remain in attendance until discharged by the court. Any person summoned by the court that fails to attend may be fined an amount not to exceed \$100. Another provision in the Code of Criminal Procedure that deals with juror contempt is Article 35.01. Under this statute, when a case is called for trial and the parties have announced ready for trial, those not present when the names of the summoned jurors are called may be fined not less than \$100 or more than \$500. Finally, a potential juror who files a false claim of exemption from jury service or a juror properly notified but failing to attend court in obedience to the notice without reasonable excuse can be found in contempt of court and fined \$100 to \$500, pursuant to Section

62.111 of the Government Code.

Often municipal courts have difficulty obtaining a sufficient number of jurors to conduct the business of the court, particularly in small towns. If you, as judge, are considering holding an absent juror in contempt, keep in mind that this juror's objectionable conduct did not occur in your presence, and as such constitutes constructive contempt entitling the contemnor to notice and a hearing before the court before any of these statutory penalties may be imposed.<sup>7</sup>

### B. Children in Municipal Court

Certainly the most often employed contempt statute in municipal courts is Article 45.050 of the Code of Criminal Procedure. This statute contains the procedures for enforcing "Juvenile Now Adult" and juvenile cases. Under the narrow parameters of this statute, a person may be held in contempt of court and pay a fine of up to \$500 and/or have their driver's license suspended.<sup>8</sup> Judges and court personnel should carefully note the procedures to follow before holding a juvenile in contempt.<sup>9</sup>

### C. Officers of the Court

An officer of the court is any person upon whom the court relies for its functioning and the enforcing of its orders.<sup>10</sup> Officers of the court include clerks, bailiffs, police, and attorneys. Special procedures apply when an officer of the court is held in contempt.<sup>11</sup>

### Contempt is not...

In determining what constitutes contumacious conduct, it is necessary to separate the person from the robe. Conduct which is insulting or offensive to a judge is not necessarily contempt of court; it is conduct which is offensive to or disrespectful of *the court* which is contemptuous. To illustrate, in the case of *In re Bell*,

894 S.W.2d 119 (Spec. Ct. Rev. 1995), a justice of the peace was publicly admonished by the Texas Commission on Judicial Conduct after she held a person in contempt of court. The facts showed that the judge was angrily confronted by a family member of a defendant in the hallway outside her courtroom. The offending party was chastising and complaining to the judge for having been kept waiting. After the confrontation, the judge signed an order of direct contempt and sentenced the putative contemnor to jail. The Special Court recognized contempt as an act calculated to impede or embarrass the court, yet emphasized that judges should not confuse offenses to the judge's personal sensibilities with obstruction to the administration of justice. The Special Court found, as pertained to the contempt order, the following:

We hold that Mr. Caress was not in direct contempt because his acts were neither in the presence of the court, nor did they impede the administration of justice. Moreover, we hold that for an individual to be in direct contempt for criticizing a judge, he or she must have some sort of notice that the judge is acting as the court, and that to allow the criticism to proceed unchecked would result in an demoralization of the court's authority."<sup>12</sup>

Appellate courts recognize the necessity for a judge to preserve order and decorum in the court, demand respect and enforce its mandates and decrees. "There can be no doubt that the judge has the right to punish for contempt, and yet this right is not given for the private advantage of the judge but to preserve that respect in regard to which the court cannot be deprived and maintain its usefulness ... extreme caution is required that the judge in redressing a public wrong does not also find revenge for his private grievances."<sup>13</sup>

## Finding Contempt

First, proceed with caution. Contempt is an extraordinary remedy which should be utilized as a last resort.<sup>14</sup>

Secondly, determine the type of contempt: did the act occur in the court's presence? If so, the court can immediately proceed with the adjudication, as direct contempt adjudications do not require further notice.<sup>15</sup> If not, due process demands that before a court can punish acts or omissions that are not committed in the court's presence, the accused must have full and complete notification of the contemptuous conduct alleged. A person accused of constructive contempt must receive adequate notice and a hearing. Further, because confinement is a possibility in contempt proceedings, the accused is entitled to be represented by counsel and appointed an attorney if indigent.<sup>16</sup>

The TMCEC 2009 *Bench Book*, in Chapter 14, outlines detailed steps for the court to follow. Note that this is not a criminal proceeding. Unlike other cases filed in municipal court, there are no court costs assessed, nor is there a reporting requirement to the Department of Public Safety.

## Examples of Direct Contempt:

*Ex Parte Reposa*, AP-75,965 is an unpublished opinion by the Court of Criminal Appeals, delivered in 2009.<sup>17</sup> In this case, the Court was called to determine whether the conduct of an attorney constituted contempt of court. In the trial court, the attorney was found to be in criminal, direct contempt of court when he simulated a masturbatory gesture while standing before the bench and looking at the judge. The appellate court found that whether or not the gesture was intended for the judge, it nevertheless was a purposeful act of disrespect and an affront to the dignity of the court. As such, it rose to the level of

criminal contempt.<sup>18</sup>

Another example of direct contempt can be found in *Ex parte Daniels*, 722 S.W.2d 707 (Tex. Crim. App. 1987). In *Daniels*, the applicant appeared pro se in a Harris County district court. When she got into an argument with the judge, the judge ordered her to leave the courtroom. When she did not leave the courtroom immediately, the bailiff was ordered to escort her out. The applicant apparently went peacefully with the bailiff until they reached the doorway of the courtroom. At that point, the applicant "attacked the master of the court." The bailiff then moved to restrain the applicant and a general disturbance erupted in which several people were involved. The judge found the applicant in direct, criminal contempt. On appeal, applicant argued that the contempt was not direct because it did not happen in the presence of the court. Significantly, the Court of Criminal Appeals found that "presence of the court" does not mean in the immediate presence of the trial judge. The court is "present" whenever any of its constituent parts, the courtroom, the jury, or the jury room is engaged in pursuing the work of the court.

## Constructive Contempt:

In *Ex parte Knable*, 818 S.W.2d 811 (Tex. Crim. App. 1991), the applicant appeared before the trial court and falsely represented that he was an attorney. Twenty days later, the trial court discovered the applicant's misrepresentation. The trial court then, without notice to applicant or a hearing, found applicant in contempt of court. The applicant was arrested and filed an application for writ of habeas corpus in the Court of Criminal Appeals alleging that he was not afforded the right to notice and a hearing under the Due Process Clause of the United States Constitution.

It was the trial judge's position that

the contemptuous conduct did occur in the presence of the court when the applicant made his false claim, and thus, it was direct contempt which did not require notice and hearing. The Court of Criminal Appeals determined that at the time the trial court discovered the applicant's misrepresentations, there was no need to maintain order in the courtroom; in fact, the applicant was not in the courtroom when the contemptuous conduct was discovered. Consequently, the judgment of contempt was set aside.

In *Ex parte Cooper*, 657 S.W.2d 435 (Tex. Crim. App. 1983), the applicant was held in contempt by the Court of Appeals and ordered confined to jail for five days and assessed a \$500 fine. Cooper was the court-appointed attorney for an incarcerated defendant. He had requested three extensions to file his appellate brief and when he did not file the brief within the timeframe ordered by the court of appeals, the court ordered a show cause hearing. When the applicant failed to appear at the show cause hearing, the Court of Appeals held him in contempt. On appeal, the Court of Criminal Appeals noted that direct contempts are those acts which occur in the presence of the court and the court knows all of the facts which constitute contempt. Constructive contempts relate to acts which require testimony to establish their existence. Cooper's failure to appear in court was constructive contempt and as such he was denied proper notice and a hearing. Hence the contempt judgment was determined to be invalid and void.<sup>19</sup>

### Cautionary Tales for Court Personnel

The foregoing cases involved contemptuous acts by attorneys or defendants. However, officers of the court can also be held in contempt. Recently, the Tennessee Court of Appeals upheld the ruling

of a juvenile court judge, holding the court clerk in contempt for failure to produce certain files to the court. The juvenile court judge had requested the files from the clerk, and when they were not produced, the court ordered a show cause hearing. When the clerk did not produce all of the files at the show cause hearing, the judge found the clerk in contempt of court and ordered him incarcerated until the files were produced.<sup>20</sup>

In another incident, an Indiana court clerk was jailed when found in criminal contempt of court because the clerk's office was "making it impossible for the court to function" due to a backlog in the clerk's office. Specifically, the offended judge cited a case wherein the judge had ordered the return of a cash bond and the clerk certified that the money had been returned when in fact it had not. The clerk was fined \$1,000 and sentenced to 48 hours in jail.<sup>21</sup>

Fortunately, a search far and wide is required to find instances of contempt of court by court clerks and other court personnel. Yet, there is the cautionary tale to be told from across the pond—cautionary, for several reasons. Recently in Blackburn, England, Magistrate Malloy told two 16-year-old boys, at their sentencing for vandalism,<sup>22</sup> that "[n]ormal people would consider you absolute scum." At this, the magistrate's court clerk jumped up and, in open court, challenged the judge for his "inappropriate language." After this incident, the matter was investigated, and the magistrate and his colleagues determined that the clerk had "overstepped and over-reacted quite far;" however it turned out that it was the magistrate of 18 years that was then "relieved of his duties."<sup>23</sup>

### Conclusion

Although the power to enter a contempt order is an inherent power of the court, it bears repeating

that contempt is an extraordinary remedy to be applied as a last resort. The court must take care to properly classify the nature of the contemptuous conduct in order to afford the accused due process. And finally, with respect to the orders of the court, they are enforceable against all persons, even court personnel. A step-by-step checklist for findings of direct and constructive contempt is contained in the *TMCEC 2009 Bench Book*, Chapter 14, and the corresponding forms can be obtained in the *TMCEC 2009 Forms Book*, Chapter 14, both of which can be found online at our website: [www.tmcec.com](http://www.tmcec.com).

1. This article addresses the basics on contempt. For a more complete and thorough treatment of this issue, please consult other TMCEC publications: *The Municipal Judges Book*, Chapter 5; the *TMCEC 2009 Bench Book*, Chapter 14; and the *TMCEC 2009 Forms Book*.
2. *In re Dotson*, 76 S.W.3d 393 (Tex. Crim. App. 2002).
3. See *Ex parte Daniels*, 722 S.W.2d 707 (Tex. Crim. App. 1987).
4. See *Ex parte Krupps*, 712 S.W.2d 144 (Tex. Crim. App. 1986); *Ex parte Arnold*, 503 S.W.2d 529 (Tex. Crim. App. 1974).
5. *The Municipal Judges Book* at 5-2.
6. Section 21.002(c), Government Code.
7. The procedural requirements in a constructive contempt case are discussed later in this article.
8. Article 45.050(c), Code of Criminal Procedure.
9. *TMCEC 2009 Bench Book*, Chapter 13.
10. *The Municipal Judges Book*, p. 5-7.
11. Section 21.002(d), Government Code.
12. *In re Bell* at 127.
13. *Ex Parte Arnold*, 503 S.W.2d 529 (Tex. Crim. App. 1974); *Ex Parte Davis*, 353 S.W.2d 29 (Tex. Crim. App. 1962).
14. See *The Municipal Judges Book*, p. 5-3.
15. *Ex Parte Harvill*, 415 S.W.2d 174 (Tex. 1967).
16. See *TMCEC 2009 Bench Book*, Chapter 14.
17. Unpublished opinions of the court are not legal authority, and as such, this case is cited here merely as an example of contemptuous conduct, not legal authority (although it does contain a thorough recitation of applicable case law).
18. In contrast, see the case of *Ex parte Pink*, 746 S.W. 2d 759, (Tex. Crim. App. 1988).
19. See also *Ex parte Arnold*, 503 S.W.2d 529

(Tex. Crim. App. 1974).  
20. *In Re Lineweaver*, No. M2009-0061-COA-R3-CV (Tenn. App. 2010).  
21. Source: The Indiana Law Blog, "Ind. Courts-Martin County Judge Jails County Clerk" June 9, 2006. [http://](http://indianalawblog.com/archives/2006/06/ind_courts_mart_1.html)

[indianalawblog.com/archives/2006/06/ind\\_courts\\_mart\\_1.html](http://indianalawblog.com/archives/2006/06/ind_courts_mart_1.html).  
22. The two were charged with having written racist and sexually abusive words in prayer books and damaging a priceless John the Baptist cross.

23. Nafeesa Shan, "East Lancs magistrate who called vandals 'scum' axed as chairman," *The Citizen* (August 20, 2010) found at [www.blackburncitizen.co.uk/news/darwen/816248.\\_Scum](http://www.blackburncitizen.co.uk/news/darwen/816248._Scum).

## Integrating Technologies:

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Registration for the entire conference is \$150 before Jan. 3 and \$175 after Jan. 3. Registration is transferable. Requests for refunds (minus a \$10 administration fee) should be submitted in writing by Jan. 3. After Jan. 3, refunds will be subject to an administrative fee equal to half the registration fee. Online registration is available at [www.tmcec.com](http://www.tmcec.com) or by using the registration form on Page 31 of this *Recorder*.

#### HOTEL INFORMATION

The conference site is the Embassy Suites and Conference Center (512.392.6450) in San Marcos,

1001 E. McCarty Lane just off IH 35 at the Outlet Mall exit. To receive the conference room rate of \$109 when reserving your hotel room, please request the Texas Association of Counties room block. The hotel block reservation deadline is Jan. 7. Participants pay their own hotel expense.

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The 2011 conference is co-sponsored by the Texas Municipal Courts Education Center, the Texas Justice Court Training Center, the Judicial Committee on Information Technology, the County Information Resources Agency, and the Texas Association of Counties.



Approved to meet mandatory judicial education requirements for municipal judges.

Special appreciation is expressed to the Texas Association of Counties for their leadership in sponsoring this program.

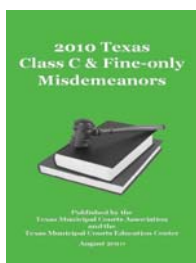


# FROM THE CENTER

## Change in Registration Policy

In order for TMCEC to allow for representation of all courts in our programs, TMCEC will only be accepting 15 court support personnel (clerks, court administrators, deputy clerks, court managers, etc.) from the same court to register for a TMCEC seminar at any one site. This is effective September 1, 2010 per board policy. Additional participants from a city with 15 registered participants already registered will be placed on a wait list and allowed to register after the registration deadline, if room permits.

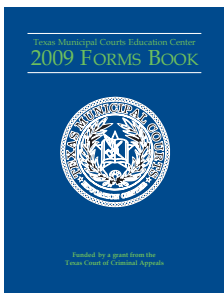
## TMCEC Publications



The *Texas Class C and Fine-only Misdemeanors* handbook (the "Green Book") represents a comprehensive effort to compile all Class C, fine-only criminal offenses under State law. Covering 25 codes and containing roughly 1,400 offenses, it includes statutory cites for both the offense and penalty provision, the fine or fine range

for each offense, DPS reporting codes for those offenses that have assigned codes, and notes for those offenses that are enhanceable or for which circumstances would heighten the punishment category. A new appendix contains the list of moving violations promulgated by DPS in the Texas Administrative Code.

Updates were completed in August 2010, and include changes from the 81st Regular Legislature. The 2010 edition contains many new offenses and significant changes from earlier versions. Order copies directly from TMCEC: \$10.00 each.



The TMCEC *2009 Forms Book* provides over 200 ready-to-use forms, notices, letters, warnings, and ordinances specific for use by municipal judges, court clerks, and municipal prosecutors. These forms may be modified to suit the individual needs of each court.

The 2009 version (Ninth Edition) includes updates and changes from the 81st Legislature, as well as many new forms, including a sample Nondisclosure Order. An appendix contains over 60 Spanish-translated forms.

The TMCEC Forms Book was designed as a companion to the TMCEC Bench Book. Order copies directly from TMCEC. \$25.00 each.

CD-ROM \$5 (includes TMCEC *2009 Bench Book*, too).

## IDEA Training\*

Municipal judges now have to complete two hours of training specifically related to child welfare and the Individuals with Disabilities Education Act (IDEA) in every judicial academic year ending in 0 or 5. TMCEC has produced a video and supporting material about child welfare and the IDEA that is available on our website at [www.tmcec.com/tmcec/Programs/Judges/IDEA\\_&\\_Child\\_Welfare](http://www.tmcec.com/tmcec/Programs/Judges/IDEA_&_Child_Welfare). The two hour video consists of lecture and discussion featuring experts Dr. Rebecca Hutchinson Julius, a special education administrator and Psychological Services Supervisor for the Denton Independent School District and Eric G. Ransleben, a municipal judge, prosecutor, and attorney who has been representing school age children in the public school system for over 10 years, with particular interest in special education law. **Judges who were in office on the effective date of the bill are not required to complete the specialized judicial training during the 2010 academic year but must complete the training in the 2015 academic year.**

\*See article on page 3.

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_____	10.00	<i>Quick Reference Trial Handbook</i>	_____
_____	10.00	<i>Rules of Evidence</i>	_____
_____	10.00	<i>Court Interpreters' Municipal Court Legal Glossary</i> (Spanish)	_____
_____	20.00	<i>IDEA Video</i> (DVD)	_____
_____	20.00	<i>Authority and Duties</i> (DVD)	_____
_____	20.00	<i>I Object</i> (DVD)	_____
_____	20.00	<i>Pro Se Defendants in Municipal Court</i> (DVD)	_____
_____	20.00	<i>Role of Municipal Court in City Government</i> (DVD)	_____
_____	_____	Other: _____	_____
<b>Subtotal</b>			_____
Shipping charge (see previous page)			_____
<b>TOTAL</b>			_____

*All orders must be prepaid. Checks payable to Texas Municipal Courts Education Center.*

*Send order to:*

*Texas Municipal Courts Education Center 1609 Shoal Creek Boulevard, Suite 302 Austin, Texas 78701 Fax: 512.435.6118*

Name: \_\_\_\_\_

Court: \_\_\_\_\_

Court Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Court Telephone Number: ( \_\_\_\_\_ ) \_\_\_\_\_ Email Address: \_\_\_\_\_

**CREDIT CARD PAYMENT INFORMATION:**

MasterCard

Visa

Credit card number: \_\_\_\_\_

Expiration Date: \_\_\_\_\_

Verification # (found on back of card): \_\_\_\_\_

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

**Amt to be Charged** (from total above): \_\_\_\_\_ + \_\_\_\_\_ **Credit Card Processing Fee** (see previous page) = \$ \_\_\_\_\_

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

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## In Appreciation

TMCEC wishes to extend a debt of gratitude to the faculty members and course directors who participated in FY10 programs. Without the hard work and dedication of the following faculty members, TMCEC would not have been able to make the year's programs an overall success.

W. Clay Abbott, DWI Resource Prosecutor, Texas District & County Attorneys Association, Austin

Chief Art Acevedo, Chief of Police, Austin Police Department

Lieutenant Jimmie H. Barrett Jr., Court Security Supervisor, Arlington County Sheriff's Office, Arlington, Virginia

The Honorable Gary Bellair, Presiding Judge, City of Ransom Canyon

Ron Bennett, Senior Investigator, State Commission on Judicial Conduct, Austin

Crystal Black, Court Clerk, City of Fritch

Cathy Bradford, Commission Counsel, State Commission on Judicial Conduct, Austin

Elaine Brown, Court Administrator, City of Katy

The Honorable Deanna Burnett, Judge, City of Carrollton

Aaron Castillo, Regional Collections Specialist, Office of Court Administration, Weslaco

Joellyn Champagne, Human Resources Leadership, HR 24, Humble

April Christiansen, Court Administrator, City of Cedar Park

Kyle Clark, Assistant Director, Office of the Dean of Students, University of Texas Administration, Austin

The Honorable Michael A. Coffey, Associate Judge, City of Austin

Mary Cowherd, Deputy Director and Director of Research, Office of Court Administration, Austin

Jameson Crain, Multi-Media Specialist, TMCEC

Robin Cross, Assistant City Attorney, City of Galveston

Hilda Cuthbertson, Court Administrator, City of Bryan

The Honorable Jay Daniel, Associate Judge, City of San Angelo

Rob DeGroot, Risk Management and Security Specialist, Leadership Systems, LLC, Rowlett

Ray Dittrich, Law Enforcement Coordinator, Texas Municipal Police Association, Fate

Mike Earney, Law Enforcement Coordinator, Texas Municipal Police Association, Austin

The Honorable Gary Ellsworth, Judge, City of Spearman

Dianna Faulkenberry, Court Administrator, City of Mansfield

The Honorable Linda Frank, Judge, City of Plano & Chief Municipal Court Prosecutor, City of Arlington

Angela Garcia, Judicial Information Manager, Office of Court Administration, Austin

Frederick Garcia, Jr., Court Clerk, City of San Antonio

Susie Garcia, Court Administrator, City of San Marcos

The Honorable Valerie Garcia, Presiding Judge, City of Harlingen

Tracie Glaeser, Court Administrator, City of Lewisville

The Honorable Rod Goble, Presiding Judge, City of Woodway

The Honorable Bonnie Goldstein, Presiding Judge, Royse City

Mark Goodner, Program Attorney and Deputy Counsel, TMCEC

Roger Gordon, Attorney at Law, The Law Office of Roger Gordon, Austin

Joseph Gorfida, Partner, Nichols, Jackson, Dillard, Hager, & Smith LLP, Dallas

Chad Graff, Regional Collections Specialist, Office of Court Administration, Marshall

The Honorable Peter Graham, Judge, City of Irving

Jesse Gutierrez, Patrolman, Floresville Police Department

Jackie Habersham, Senior Commission Counsel, State Commission on Judicial Conduct, Austin

Leisa Hardin, Consultant, Hardin & Robbins, LLC, Burleson

Randy Harris, San Angelo Airport P.D., San Angelo

Rene Henry, Consultant, Hot Springs Village, Arkansas

Ryan Henry, Attorney and Counselor at Law, Denton, Navarro, Rocha & Bernal, P.C., San Antonio

Rebekah Hibbs, Project Administrator, Driver Responsibility Program, Department of Public Safety, Austin

Victor Hidalgo, Commission Counsel Investigator, State Commission on Judicial Conduct, Austin

The Honorable Brian Holman, Presiding Judge, City of Lewisville

The Honorable Odell Holmes, Judge, City of El Paso

Lisa Howard, Court Administrator, City of Hurst

Landra Hudson, Court Administrator, City of Seguin

Leah Huff, Court Supervisor, City of Southlake

Dr. Rebecca Hutchinson Julius, Supervisor of Psychological Services, Denton ISD

The Honorable David Indorf, Associate Judge, City of Anna

The Honorable Dana Jacobson, Presiding Judge, City of Fair Oaks Ranch

David Johnson, Assistant City Attorney, Arlington

F. Dale Kasperek, Jr., Director of National Programs, National Center for State Courts, Institute for Court Management, Williamsburg, Virginia

Wanda Kelly, Court Administrator, City of Shenandoah

Suzanne Kennedy, Court Administrator, City of Corinth

Kim Kierce, Court Administrator, City of Richardson

Lynda Kilgore, Court Administrator, City of La Porte

The Honorable Deanie King, Judge, City of Corpus Christi (former)

The Honorable Matt King, Tarrant County Magistrate, Keller

Rhonda Kuehn, Court Administrator, City of Brenham

The Honorable C. Victor Lander, Judge, City of Dallas

Otis J. Latin, Sr, Director, Office of Homeland Security and Emergency Management, Austin

Jim Lehman, Collections Program Manager, Office of Court Administration, Austin

Pamela Liston, The Liston Law Firm, P.C., Dallas

Hope Lochridge, Executive Director, TMCEC

Sandra Ma, Deputy Court Clerk, City of Dalworthington Gardens



Sandra Mabbett, Judicial Information Specialist, Office of Court Administration, Austin

The Honorable Kevin Madison, Presiding Judge, City of Lakeway

Tessa Madison, Program Coordinator, TMCEC

Phyllis Mathison, Court Administrator, City of Bastrop

The Honorable Jan Matthews, Judge, City of Lubbock

Lisa Mayo, Client Services Coordinator, McCreary, Veselka, Bragg & Allen, P.C., Round Rock

Don McKinley, Court Operations Manager, City of Austin

Melissa Medina, Deputy Clerk, City of Georgetown

Robert Miklos, Counsel, K & L Gates, Dallas

The Honorable Stewart Milner, Presiding Judge, City of Arlington

Angela Moore, Chief Appellate Public Defender, Bear County, Boerne

Oma Morey, Training and Development Specialist, Galveston

John Morris, City Marshal, Duncanville

The Honorable Marian Moseley, Presiding Judge, City of Coppell

Gary Nadler, The National Judicial College, Reno, Nevada

Karen Newsom, Judge, City of Winnsboro

Tammy Odom, Deputy Clerk, City of Sweeny

James Oswald, Special Agent / Investigator, Texas Commission on Law Enforcement Standards and Education, Austin

Ana Otero, Professor, Thurgood Marshall School of Law, Houston

The Honorable Morris L. Overstreet, Presiding Judge, City of Prairie View

Melissa Pace, Court Administrator, City of Haltom

Gary Parker, Law Enforcement Liaison, Texas Municipal Police Association, Austin

The Honorable Robert Penley, Judge, City of Shiner

Luevada Posey, Court Clerk, City of Cedar Park

Kenneth Price, Sergeant, City of Parker Police Department

Jesus Ramon, Warrant Officer, Hurst

The Honorable Robin Ramsay, Presiding Judge, City of Denton

LeAnn Randall, Registered Dietitian and Yoga Instructor, Georgetown

The Honorable Eric Ransleben, Associate Judge, Town of Trophy Club

Timothy Rich, City Marshal, City of McKinney

The Honorable Bob Richter, Presiding Judge, City of Missouri City

Cathy Riedel, Program Director, TMCEC

Pat Riffel, Court Administrator, City of Pearland

Margaret Robbins, Consultant, Hardin & Robbins, LLC, Cedar Park

Brent Robbins, Investigator, Denton County Criminal District Attorney's Office, Denton

Jay Robinson, Judge, City of Dallas

Lisa Robinson, Grant Administrator, TMCEC

The Honorable Lester Rorick, Presiding Judge, City of Pasadena

The Honorable Mike Russell, Judge, City of Corsicana

The Honorable Evans S. Rutledge, Associate Judge, City of Abilene

Jeff Saunders, Operations Chief, Texas Task Force 1, College Station

Audrea Scales, Court Manager, City of Houston

Aaron Setliff, Policy Director, Texas Council on Family Violence, Austin

Kristen Shea, National Traffic Law Center, National District Attorneys Association, Alexandria, Virginia

Marshall Shelsy, Staff Attorney, Harris Co. Criminal Courts at Law, Houston

The Honorable Robin D. Smith, Presiding Judge, City of Midland

The Honorable Steve Smith, District Judge, 361st District Court, Bryan

April Spann, Revenue Collections Manager, City of Frisco

The Honorable Edward Spillane, Presiding Judge, City of College Station

Rebecca Stark, Court Administrator, City of Austin

Daniel H. Straub, Ph.D., National Center for State Courts, Williamsburg, Virginia

Katie Tefft, Program Attorney, TMCEC

Elaine Thompson, Legal Assistant, State Commission on Judicial Conduct, Austin

Gerry Tucker, Associate Vice-President of College of Human Resources, Austin Community College

Ryan Kellus Turner, General Counsel and Director of Education, TMCEC

Dr. Sara Villanueva Dixon, Asst. Professor of Psychology, St. Edward's University, Austin

Richard Vlavianos, The National Judicial College, Reno, Nevada

Sarah Wannarka, Assistant U.S. Attorney, San Antonio District

Bob Warneke, Staff Attorney, State Commission on Judicial Conduct, Austin

J. Mark Warren, Training Coordinator, Texas Association of Counties, Austin

Daphne Webber, Regional Collection Specialist, Office of Court Administration, Austin

Myra Weeks, Program Coordinator, Wichita County Teen Court, Wichita

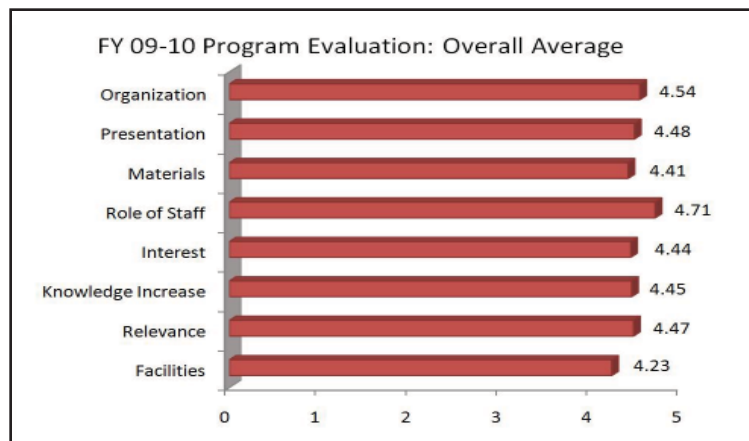
Karolyn Williams, Regional Collection Specialist, Office of Court of Administration, Houston

Melissa Williamson, Regional Collections Specialist, Office of Court of Administration, Denton

Seana Willing, Executive Director, State Commission on Judicial Conduct, Austin

The Honorable G. Michael Witte, Judge, Dearborn Superior Court No.1, Lawrenceburg, Indiana

Ted Wood, Assistant General Counsel, Office of Court Administration, Austin



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# CELEBRATE MUNICIPAL COURTS WEEK NOVEMBER 1 - NOVEMBER 5, 2010

Join municipal courts, city councils, and communities throughout Texas in showing appreciation for the dedicated municipal judges, court clerks, court administrators, bailiffs, and warrant officers who comprise the Texas municipal courts from November 1 to November 5, 2010. Municipal Courts Week is a great time to not only recognize how much municipal courts do, but to share with the public the important role that local courts and their personnel play in the criminal justice system and the larger community.

Your celebration of Municipal Courts Week should be as unique as your court, so be creative with your activities. Just in case, here are some ideas that have been successful in the past:

- Ask your city council to pass a local resolution.
- Host a tour of your court for the city council and the public. While they are there, ask the presiding judge to make a presentation or show the TMCEC video *Role of the Municipal Court in City Government*.
- Hold a mock trial with a local high school government class acting as the key players.
- Show the court staff what a great job they are doing by treating them to a staff appreciation lunch or have a brown-bag lunch hour together.
- Host a Q&A column in the newspaper all week to explain how your municipal court works.
- Still need more ideas? Watch the TMCEC website, [www.tmcec.com](http://www.tmcec.com), for additional ways to celebrate Municipal Courts Week.

On page 24 of this *Recorder* is a sample activity for elementary students. On page 26 is information on teens and cell phones that can assist you with presentation to students on the dangers of cell phones and driving.

Remember to start planning early and have fun! We want to hear all about your celebration so please send copies of your activities, calendar, and news clippings to TMCEC or Deadra Stark ([stark@tmcec.com](mailto:stark@tmcec.com)) so that we can share them with other courts.

## CLERK CERTIFICATION PROGRAM UPDATE

The TCCA Education Committee recently met and many changes were made that affect participants in the Clerk Certification Program. Below is a list of updates to the program:

**Renewals:** Starting in FY 2011 participants who have completed their continuing education requirements for the previous year, but fail to timely file their renewal application by the August 31st deadline, will be given two options to become compliant. The first option is to pay a \$50 late filing fee and then complete the standard 12 hours of continuing education in the following year. The second option is to complete 24 hours (for Level I and II) or 40 hours (for Level III) of education in the following the year. Both options will satisfy the requirements. Note: This policy only applies to participants who completed their education hours, but did not timely file their renewal application.

**CALI:** The number of CALI hours (or other approved online courses) that can be used for continuing education hours has been increased from four to seven.

**Inactive CMCC:** Beginning in FY 2011 any clerk who has achieved Level III, CMCC status, but has become inactive, will be allowed to reinstate their certification by completing 40 hours of education. Six of those hours must come from TMCEC's Legislative Update and all 40 hours of education must be from within the preceding three years. Certificates of attendance, along with a renewal application, must be submitted to TMCEC. Note: The rule only applies to Level III.

**Participants no longer employed by a municipal court:** If you are no longer employed by a municipal court, you will no longer be contacted with reminders for certification renewal purposes. Sole responsibility for verifying and maintaining your standing lies with the participant.

Please feel free to contact Tessa Madison at 512.320.8274 or [madison@tmcec.com](mailto:madison@tmcec.com) with any questions regarding these policy updates.

## Local Proclamation Municipal Court Week November 1 -5, 2010

**Whereas**, the Municipal Court of \_\_\_\_\_, a time honored and vital part of local government, has existed since \_\_\_\_\_,

**Whereas** more people, citizens and non-citizens alike, come in personal contact with municipal courts than all other Texas courts combined, and

**Whereas** public impression of the entire Texas judicial system is largely dependent upon the public's experience in municipal court,

**Whereas**, Municipal Judges and court support personnel have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all, and conform to the standards set by the Canons of Judicial Conduct,

**Whereas**, the Municipal Courts play a significant role in preserving the quality of life in Texas communities through the adjudication of traffic offenses, ensuring a high level of traffic safety for our citizens,

**Whereas**, the Municipal Courts serve as the local justice center for the enforcement of local ordinances and fine-only state offenses that protect the peace and dignity of our community,

**Whereas**, the Municipal Judges and Clerks continually strive to improve the administration of justice through participation in judicial education programs, seminars, workshops and the annual meetings of their state and local professional organizations.

**Therefore**, it is most appropriate that we recognize the accomplishments of the 916 Texas Municipal Courts, and salute their critical role in preserving public safety, protecting the quality of life in Texas communities, and deterring future criminal behavior,

**Now**, I \_\_\_\_\_, Mayor of the City of \_\_\_\_\_, do recognize the week of November 1 - November 5, 2010, as Municipal Court Week, and further extend appreciation to all \_\_\_\_\_ Municipal Judges and court support personnel for the vital services they perform and their exemplary dedication to our community. I call upon all residents of \_\_\_\_\_ to join with the City Council in recognizing the vital service they perform and their exemplary dedication to the communities they represent.

**Dated** this day \_\_\_\_\_ of \_\_\_\_\_, 2010.

\_\_\_\_\_, Mayor

\_\_\_\_\_, Attest

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# TRAFFIC SAFETY NEWS

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## MTSI 2010 AWARDS

The TMCEC Municipal Traffic Safety Initiative, funded by a grant from the Texas Department of Transportation, sponsored Traffic Safety Awards to recognize those who work in local municipalities that have made outstanding contributions to their community in an effort to increase traffic safety. This competition encourages municipalities to increase their attention to quality of life through traffic safety activities. All municipal courts in the State of Texas were eligible to apply.

Applicants were judged on the basis of what their court is doing in terms of public outreach in their community to increase traffic safety while decreasing traffic crashes, traffic fatalities, juvenile DUI cases, child safety seat offenses, red light running, and other traffic related offenses. Fourteen courts were selected to receive awards: two in the large volume courts, *servicing a population of 150,000 or more*; six in the medium volume courts, *servicing populations between 30,000 and 149,999*; and six in the small volume courts, *servicing a population below 30,000*.

Numerous award applications were received and the following courts were selected by a panel of judges to receive recognition for their initiatives and hard work: Balch Springs, Harker Heights, Katy, Royse City, Shenandoah, and Westworth Village were selected from the low volume courts; Burleson, Conroe, Frisco, Hurst, La Porte, and North Richland Hills from the medium volume courts; and El Paso and Irving from the high volume courts.

The awards presentation occurred on Monday, May 24, 2010 in Houston at the Omni Riverway Hotel at 10:30 a.m. Texas Municipal Court Association (TMCA) Board President, The Honorable Ed Spillane, College Station Municipal Court, presented the awards to the recipients.

To learn more about the Texas Municipal Courts Education Center or the Municipal Traffic Safety Initiatives Award, contact TMCEC at 512.320.8274 or visit [www.tmcec.com](http://www.tmcec.com). Information about the 2011 Awards can be found on page 21 of this *Recorder*.

## NEW TRAFFIC SAFETY GAMES

As part of the *Driving on the Right Side of the Road* program, TMCEC offers four new online games on traffic safety for kids age 6-18. Although designed for use in classrooms, the short games can also be used in courts when kids visit the court, with grandkids, with children, when volunteering in classrooms, or even during Municipal Courts Week. The games may be accessed on the TMCEC website at [http://www.tmcec.com/tmcec/DRSR/Traffic\\_Safety\\_Games](http://www.tmcec.com/tmcec/DRSR/Traffic_Safety_Games).

- **Traffic Safety Challenge:** Staying safe requires a lot of knowledge about all forms of transportation. Pick the best answer to these general traffic safety facts and tips, and score high to win! For grades 1-8.
- **Bus Safety Challenge:** Everyday, millions of kids ride the bus to school. Take this quiz in the style of Jeopardy to find out if you know what it takes to stay safe on the bus. For grades 1-8.
- **Things with Wheels:** For grades 1-8, this board game will challenge your knowledge about things with wheels, including bicycle, inline skating, and skateboarding safety. Answer the questions to move around the board and win!
- **Young Driver Challenge:** So you think you can drive? Take this quiz to see if you know what the greatest dangers of driving on Texas roads as a young driver can be, in the style of Who Wants to Be a Millionaire. Do you think you can make it to the top? For grades 8-12.

Other traffic safety games are also available on the TMCEC web page at [http://www.tmcec.com/tmcec/DRSR/On-Line\\_LearningGames](http://www.tmcec.com/tmcec/DRSR/On-Line_LearningGames). These games were developed in conjunction with the Law-Related Education Department of the State Bar of Texas, a partner with TMCEC on the DRSR program.

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# 2011 Municipal Traffic Safety Initiatives Awards



**Purpose:** To recognize those who work in local municipalities that have made outstanding contributions to their community in an effort to increase traffic safety. This competition is a friendly way for municipalities to increase their attention to quality of life issues through traffic safety activities. Best practices will be shared across the state. Each submission will be recognized.

**Eligibility:** Any municipal court in the State of Texas. Entries may be submitted on behalf of the court by the following: Judge, Court Clerk, Deputy Court Clerk, Court Manager, Court Administrator, Bailiff, Marshal, Warrant Officer, City Manager, City Councilperson, Law Enforcement Representative, or a Community Member.

**Categories:** There are three categories this year:

Nine prizes will be awarded.

- Two in the large volume courts, *servicing populations of 150,000 or more*;
- Three in the medium volume courts, *servicing populations between 30,000 and 149,999*; and
- Four in the small volume courts, *servicing populations below 30,000*.

**Awards:** Award recipients will be honored at the Texas Municipal Courts Education Center (TMCEC) Traffic Safety Conference that will be held May 22 - 24, 2011, in San Antonio. Award recipients will receive (for two municipal court representatives) complimentary conference registration, travel to and from the Traffic Safety Conference to include airfare or mileage (within state guidelines), two night's accommodations at the conference hotel, and most meals and refreshments.

There may be categories where no awards will be presented due to a lack of entries.

**Honorable Mentions:** If there are a number of applications that are reviewed and deemed outstanding and innovative, at the discretion of TMCEC, honorable mentions may be selected. Honorable mentions will be provided airfare or mileage that is within state fiscal guidelines to attend the Traffic Safety Conference and will be recognized at the Traffic Safety Conference.

**Judging Committee and How Entries are Judged:** A panel of judges will review each application and assign points based on the materials submitted. After judging, the scores will be averaged and a final score assigned. Applicants will be judged on the basis of what their court has done from January 1, 2010 through December 31, 2010 in terms of public outreach in their community to increase traffic safety while decreasing traffic crashes, traffic fatalities, juvenile DUI, child safety seat offenses, red light running, and other traffic related offenses. It may be helpful to review "What Can You Do?" on page 22.

**Section I:** *A maximum of 50 points can be awarded.*

**What did you do from January 1, 2010 through December 31, 2010?** Please provide a written report that is no longer than five pages in length. This may include details regarding, but not limited to: monthly or regular articles in local publications; sponsorship of mock trials; community outreach; distribution of written materials and pamphlets; creative sentencing; bilingual programs and initiatives on traffic safety; endorsements of national programs, such as Click It or Ticket; webpages addressing traffic safety; presentations to local civic groups and organizations; interaction with youth; outreach with repeat offenders; and community partnerships. Court programs may be represented in conjunction with city departments, local schools, civic groups, and other community programs.

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

**Section II:** A maximum of 30 points can be awarded.

**Attachments/Samples:**

Seeing is believing. Show us samples or digital photos of your materials. This may include, but is not limited to: copies (*these will not be returned*) of photos, news articles, press releases, materials you distribute, copies of your web-pages, flyers, and letters of support.

**Section III:** A maximum of 20 points can be awarded

**Neatness, organization of materials, and following submission guidelines.**

**General Tips on a Winning Submission:**

- First impressions count. A neat, well-organized submission that is easy to understand during the judging makes big difference.
- Make sure that all of the information you want the judges to see is securely attached.

**Entry Rules:**

- Three copies of the application packet must be submitted.
- Provide a completed application form/packet that includes the application form.
- All typed pages should be 1.5 or double spaced, printed single-sided in at least a font size of 12, *excluded: attachments and samples do not have to follow these guidelines.*
- Each application packet cannot contain more than 30 pages or documents, including attachments, pictures, and supporting documentation. You may include letters of support as long as you do not exceed page limitations. If, for example, you create a four-page handout on Juvenile DUI to distribute to your local schools, this will count as one document.
- Please provide copies only, **no originals**, as your submission will not be returned.
- No late submissions will be considered.

**Deadline:** Entries must be postmarked no later than **Friday, January 16, 2011.**

**Send applications to:**

TMCEC – Traffic Safety Awards  
TxDOT Traffic Safety Grant Administrator  
1609 Shoal Creek Boulevard, Suite 302  
Austin, TX 78701

**Presentation:** Award recipients and Honorable Mention winners will be notified by Monday, March 7, 2011. and will be honored during the Traffic Safety Conference to be held in May 2011.

**Best Practices:** Information submitted will be compiled and shared statewide for community networking, collaboration, and examples of best practices.

For more information, please contact:  
tmcec@tmcec.com

***Traffic Safety benefits can go far beyond the traffic stop!***

**What Can You Do?**

- Get involved!
- Add traffic safety materials to your city's and court's websites
- Host a warrant round-up with nearby cities
- Invite school groups into your court
- Start a proactive fine collection program
- Recognize situations where a "fine is not fine"
- Join the TMCEC listserv on traffic safety
- Approve adequate funding, staff, and support for your municipal court
- Speak to local civic groups on the importance of traffic safety
- Build community partnerships
- Ask law enforcement officers and prosecutors to work together to identify at-risk drivers in your community
- Create meaningful sentencing alternatives for repeat offenders, especially juveniles and minors using deferred disposition
- At the close of a trial after sentencing, remind jurors and court observers of the importance of compliance with traffic laws
- Adopt a seat belt policy for all city employees
- Participate annually in Municipal Courts Week

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# 2011 Municipal Traffic Safety Initiatives Award Application



*Please print all information as you would like to appear on the award*

Name of Person Submitting: \_\_\_\_\_

Position: \_\_\_\_\_

Court Nominated: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone number: (\_\_\_\_) \_\_\_\_ - \_\_\_\_ Email address: \_\_\_\_\_

Category (please check one):

\_\_\_\_\_ Large Volume Court: serving a population of 150,000 or more

\_\_\_\_\_ Medium Volume Court: serving a population between 30,000 and 149,999

\_\_\_\_\_ Low Volume Court: serving a population below 30,000

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

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## DO NOT WRITE IN THIS AREA:

Section I: Written Report: Maximum of 50 points: \_\_\_\_\_

Section II: Attachments/Samples: Maximum of 30 points: \_\_\_\_\_

Section III: Neatness, Organization of Materials  
& Following Submission Guidelines: Maximum of 20 points: \_\_\_\_\_

Total Points Awarded: \_\_\_\_\_

Notes: \_\_\_\_\_

\_\_\_\_\_

# New Games from TMCEC!

**BUS SAFETY**  
*Challenge*



**TRAFFIC SAFETY**  
*Challenge*



**Things on Wheels**  
*Challenge*



Play them on  
the TMCEC  
website!

**YOUNG DRIVER**  
**MILLIONAIRE**  
CHALLENGE



[http://tmcec.com/tmcec/DRSR/Traffic\\_Safety\\_Games](http://tmcec.com/tmcec/DRSR/Traffic_Safety_Games)



# District Traffic Safety Specialists Contact List

The Texas Municipal Courts Education Center is very appreciative of the traffic safety resources that the Texas Department of Transportation (TxDOT) shares with TMCEC and the municipal courts across the State of Texas.

The following is a list of the TxDOT District Traffic Safety Specialists (DTSS), their contact information, and the area that they serve. You may already be familiar with some of the DTSS on this list. If not, we encourage you to make contact with the DTSS in your area.

The DTSS have educational resources and can be present during special events and partner with you to educate the community on the importance of traffic safety. If funding for shipping is not available, TMCEC has funds to ship public information and education materials from the TxDOT field offices to the courts.

District	TSS Name	Phone	Fax
Abilene	Brenda Mitchell	(325) 676-6802	(325) 676-6901
Amarillo	Tracy Tellman	(806) 356-3295	(806) 356-3294
Atlanta	Irene Webster	(903) 799-1221	(903) 799-1288
Austin	Sharon Little Jacque Magill	(512) 832-7035 (512) 832-7253	(512) 832-7246 (512) 832-7246
Beaumont	Georgette Pillitere	(409) 898-5719	(409) 898-5732
Brownwood	Tina Crelia	(325) 643-0465	(325) 643-0306
Bryan	Terri Miller	(979) 778-9779	(979) 778-9703
Childress	Barbara Seal	(940) 937-7288	(940) 937-7280
Corpus Christi	Hazel Zepeda	(361) 808-2381	(361) 808-2424
Dallas	Pat Hickman Susan Clark	(214) 320-6235 (214) 320-6220	(214) 320-6615 (214) 320-6615
El Paso	James Chesshire	(915) 790-4384	(915) 790-4349
Ft. Worth	Joel Mallard Kathy Neely	(817) 370-6618 (817) 370-6626	(817) 370-3582 (817) 370-3582
Houston	Garry Rand Olga Navarro	(713) 802-5187 (713) 802-5177	(713) 802-5030 (713) 802-5030
Laredo	Veronica Solis Blanca Trevino-Castro	(956) 764-1212 (956) 712-7410	(956) 764-1226 (956) 712-7768
Lubbock	Karen Peoples	(806) 748-4478	(806) 748-4381
Lufkin	Shirley Reynolds	(936) 633-4321	(936) 633-4378
Odessa	Robert Martinez	(432) 498-4748	(432) 498-4680
Paris	Jolita Norris	(903) 737-9200	(903) 737-9204
Pharr	Ruby Martinez	(956) 782-2508	(956) 702-6110
San Angelo	James Whitlock	(325) 947-9271	(325) 947-9292
San Antonio	Linda Tomasini Sam Aquirre	(210) 615-5844 (210) 615-5886	(210) 615-6115 (210) 615-6115
Tyler	Juanita Daniels-West	(903) 510-9106	(903) 510-9188
Waco	Cindy Parks	(254) 867-2725	(254) 867-2772
Wichita Falls	Patsy Walls	(940) 720-7708	(940) 720-7707
Yoakum	Rhonda Moorman Sheri Jacobs	(361) 293-4331 (361) 293-4428	(361) 293-4372 (361) 293-4372

# DRIVING ON THE RIGHT SIDE OF THE ROAD INFORMATION SHEET: CELL PHONES AND TEXTING\*

As we all know, cell phones are now part of the everyday lives of many Americans. With this relatively new trend comes an extremely dangerous activity: talking on cell phones and texting while driving. Simply put, a person cannot pay attention to the road when he or she is using a cell phone. These actions are not only dangerous for the person doing them (and those driving around them), but they can also get that person in trouble. More and more cities and states are passing laws that ban cell phone use and texting while driving.

## The Numbers

Since the National Highway Traffic Safety Administration (NHTSA) conducted its workshop on distracted driving research in 2000, the use of electronic devices while driving has increased exponentially. Not only has cell phone use increased from 4% of drivers using cell phones at any given time in 2002 to 6% in 2008, but now there are an increasing number of electronic devices in use for GPS, texting, and “in-car entertainment.”

The accident statistics associated with cell phone use and texting are staggering and cannot be ignored. Recent data shows that crashes caused by drivers using cell phones rose from 636,000 in 2003 to 1.6 million in 2008.

Now that we have established that cell phone use while driving is on the rise, let’s look at how this behavior can result in an accident:

- According to the Human Factors and Ergonomics Society, it is estimated that cell phone distraction by motorists causes 2,600 deaths and 330,000 injuries in the United States every year.<sup>1</sup> This same study found that drivers using cell phones have an 18% slower reaction time to brake lights than non-users.
- A study by the University of Utah said that a 20-year-old using a cell phone while driving will drive “the same as a 70 year old driver not using a cell phone.”<sup>2</sup> It also suggested that driving while using a cell phone is similar to drinking and driving.
- The National Highway Traffic Safety Administration (NHTSA) has estimated that talking on a cell phone while driving increases the odds of an accident by 300%. They have also said that 25% of all traffic accidents result from distracted driving.<sup>3</sup>

There is much more evidence available on page 28 of this *Recorder* that shows how unsafe cell phone use while driving is. Refer to the “More Information” section at the bottom of this information sheet if you are interested in learning more.

## Rules of the Road

Citizens and lawmakers have reacted to the popularity of using a cell phone while driving. Every state has responded

State	Handheld Ban	All Cell Phone Ban		Text Messaging Ban			Crash Data
		School Bus Drivers	Novice Drivers	All Drivers	School Bus Drivers	Novice Drivers	
Alabama			16, and 17 with intermediate license <6 months (Primary)			16, and 17 with intermediate license <6 months (Primary)	
Alaska				Yes (Primary)	Covered under all driver ban		Yes
Arizona		Yes (Primary)					
Arkansas	18 - 20 years old (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
California	Yes (Primary)	Yes (Primary)	<18 (Secondary)	Yes (Primary)	Covered under all driver ban		Yes
Colorado			<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Connecticut	Yes (Primary)	Yes (Primary)	Learners Permit and <18 (Primary)	Yes (Primary)	Covered under all driver ban		
Delaware	Yes (Primary) (eff. 1/2/11)	Yes (Primary)	Learner's permit and intermediate license holders (Primary)	Yes (Primary) (eff. 1/2/11)	Covered under all driver ban		Yes
D.C.	Yes (Primary)	Yes (Primary)	Learners Permit (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Florida							
Georgia		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Guam				Yes (Primary)	Covered under all driver ban		
Hawaii							
Idaho <sup>1</sup>							See footnote
Illinois <sup>2</sup>	See footnote	Yes (Primary)	<19 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Indiana			<18 (Primary)			<18 (Primary)	Yes

\* This information sheet is one of dozens developed by TMCEC with funding from TXDOT. Others are available at <http://www.tmcce.com/tmcec/Resources/Charts/>.

Iowa			Restricted or Intermediate Licenses (Primary)	Yes (Secondary)	Covered under all driver ban		Yes
Kansas			Learner or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Kentucky		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		
Louisiana	Learner or Intermediate License (regardless of age)	Yes (Primary)	1st year of licensure (Primary for <18) (eff. 8/15/10)	Yes (Primary) (eff. 8/15/10)	Covered under all driver ban		Yes
Maine <sup>3</sup>			<18 (Primary)			<18 (Primary)	Yes
Maryland	Yes (Secondary) (eff. 10/10)		<18 w/ Learner or Provisional License (Secondary)	Yes(Primary)	Covered under all driver ban		Yes
Massachusetts		Yes (Primary)	<18 (Primary) (eff. 9/30/10)	Yes (Primary) (eff. 9/30/10)	Covered under all driver ban		Yes
Michigan <sup>4</sup>			See footnote	Yes (Primary)	Covered under all driver ban		Yes
Minnesota		Yes (Primary)	<18 w/ Learner or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Mississippi						Learner or Provisional License (Primary)	
Missouri						<21 (Primary)	
Montana							Yes
Nebraska			<18 w/ Learners or Provisional License (Secondary)	Yes (Secondary)	Covered under all driver ban		Yes
Nevada							Yes
New Hampshire <sup>5</sup>				Yes (Primary)	Covered under all driver ban		
New Jersey	Yes (Primary)	Yes (Primary)	<21 w/ GDL or Provisional License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
New Mexico	In State vehicles						Yes
New York	Yes (Primary)			Yes (Secondary)	Covered under all driver ban		Yes
North Carolina		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		
North Dakota							Yes
Ohio							
Oklahoma	Learners Permit or Intermediate License (Primary) (eff. 11/10)	Yes (Primary) (eff. 11/10)			Yes (Primary) (eff. 11/10)	Learners Permit or Intermediate License (Primary) (eff. 11/10)	Yes
Oregon	Yes (Primary)		<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Pennsylvania							Yes
Rhode Island		Yes (Primary)	<18 (Primary)	Yes (Primary)	Covered under all driver ban		Yes
South Carolina <sup>6</sup>							See footnote
South Dakota							Yes
Tennessee		Yes (Primary)	Learners Permit or Intermediate License (Primary)	Yes (Primary)	Covered under all driver ban		Yes
Texas <sup>7</sup>		Yes, w/ passenger <17 (Primary)	Intermediate Stage, 1st 12 mos. (Primary)		Yes, w/ passenger <17 (Primary)	Intermediate Stage, 1st 12 mos. (Primary)	Yes
Utah <sup>8</sup>	See footnote			Yes (Primary)	Covered under all driver ban		Yes
Vermont			<18 (Primary)	Yes (Primary)	Covered under all driver ban		
Virgin Islands	Yes						Yes
Virginia		Yes (Primary)	<18 (Secondary)	Yes (Secondary)	Covered under all driver ban (Primary)	Covered under all driver ban	Yes
Washington	Yes (Primary)		Learner or Intermediate Stage (Primary)	Yes (Primary)	Covered under all driver ban		Yes
West Virginia			Learner or Intermediate Stage (Primary)			Learner or Intermediate Stage (Primary)	
Wisconsin				Yes (Primary) (eff. 12/10)	Covered under all driver ban		
Wyoming				Yes (Primary)	Covered under all driver ban		Yes
Total	8 + D.C., Virgin Islands Primary (7) Secondary (1)	18 + D.C. All Primary	28 + D.C. Primary (23 + D.C.) Secondary (5)	30 + D.C., Guam Primary (26 + D.C., Guam) Secondary (4)	2 Both Primary	8 All Primary	34 + D.C., Virgin Islands

1. Idaho has a "Distraction in/on Vehicle (List)" attribute as part of its Contributing Circumstances element, and officers are supposed to list the distractions in the narrative. 2. Illinois bans the use of cell phones while driving in a school zone or in a highway construction zone. 3. Maine has passed a law making it against the law to drive while distracted in the state. 4. In Michigan, teens with probationary licenses whose cell phone usage contributes to a traffic crash or ticket may not use a cell phone while driving. 5. Dealt with as a distracted driving issue; New Hampshire enacted a comprehensive distracted driving law. 6. South Carolina has a Distracted/inattention attribute under Contributing Factors. 7. Texas has banned the use of hand-held phones and texting in school zones. 8. Utah's law defines careless driving as committing a moving violation (other than speeding) while distracted by use of a handheld cellphone or other activities not related to driving.

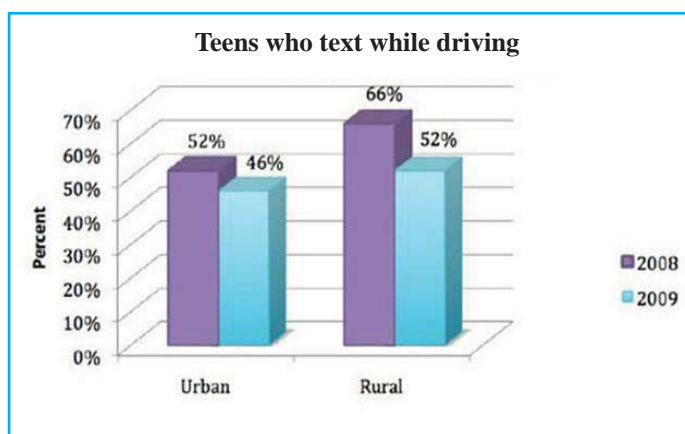
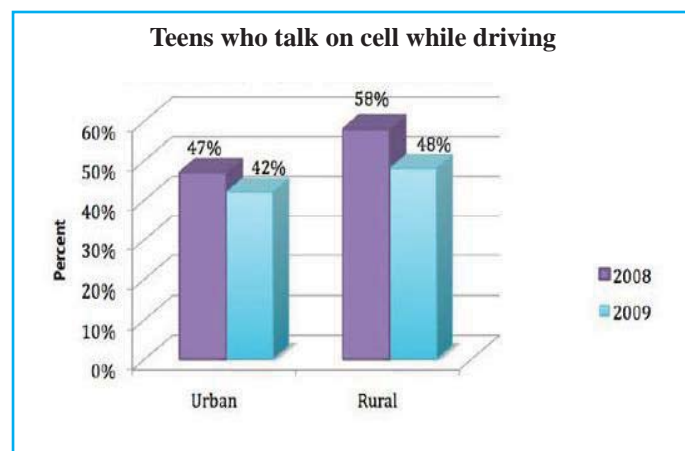
# TEEN DRIVING

## Texas Teen Drivers Show Decline in Cell Phone Use

Texas teen drivers are more aware of the danger posed by cell phones than they were a year ago, and they are less likely to use a phone while driving. And overall, urban teens tend to be better at avoiding distractions behind the wheel than their rural counterparts, just as they were a year ago.

The changes are reflected in the nation's largest review to date of risk awareness and driving behavior among teens, conducted by the Teens in the Driver Seat Center of the Texas Transportation Institute. Researchers collected responses from more than 18,000 high school students over a two-year period. The review produced several major findings. Among them:

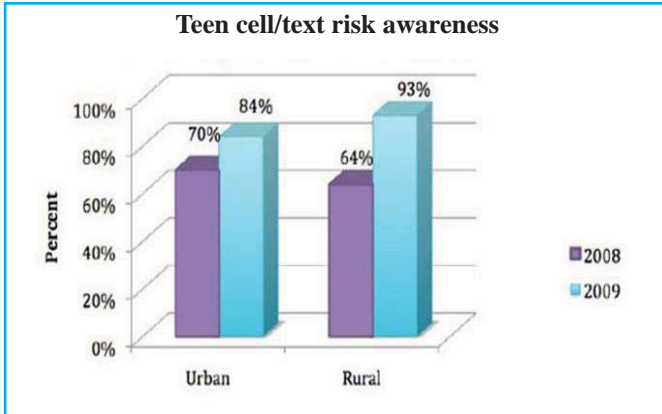
- The percentage of those teens who recognized the danger of texting or talking on a cell phone while driving rose from 70 percent to 84 percent for urban teen drivers, and from 64 percent to 93 percent for rural teens.
- The percentage of teens who reported talking on a cell phone while driving dropped from 52 percent to 46 percent for urban teen drivers, and from 66 percent to 52 percent for rural teens.
- The percentage of teens who say they text behind the wheel dropped from 47 percent to 42 percent for urban teen drivers, and from 58 percent to 48 percent for rural teens.
- While rural teens were more prone to dangerous distractions behind the wheel than urban teens, the two groups reported that they received traffic tickets at about the same rate.



Researchers also examined awareness and behavior related to the danger associated with teen passengers, as studies have shown that the distraction created by the presence of those passengers increases the likelihood of a crash significantly. Although urban teen drivers are more likely to expose themselves to the passenger risk, both groups showed improvement from last year to this year. The percentage dropped from 65 to 54 percent for rural teen drivers, and from 74 to 57 percent for urban teens.

Car crashes kill more young people nationwide each year than any other cause. Distractions constitute the third-most-common factor leading to fatal and injury crashes among teens, according to studies by TTI's Teens in the Driver Seat Center. Nighttime driving and speeding are number one and two on the list.

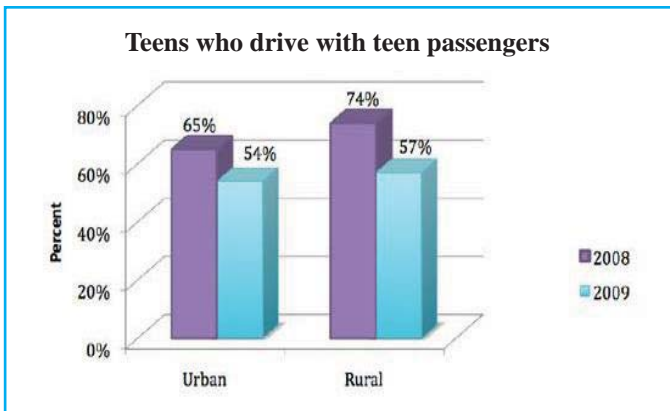
For more information on the Texas Transportation Institute: [tti.tamu.edu](http://tti.tamu.edu). For more information on Teens in the Driver Seat: [www.t-driver.com](http://www.t-driver.com).



differently, but seemingly all of them are trying to do something to stop this deadly trend. Below is a chart that shows different states' laws (note that these laws are constantly changing, so be sure to stay informed of the most recent laws):

It is clear that these laws are complex and different for every state, so it is important that you know the laws for your home state and any state that you may be driving in. Remember, though, that talking on the phone or texting while driving is NEVER safe, even if the law allows it.

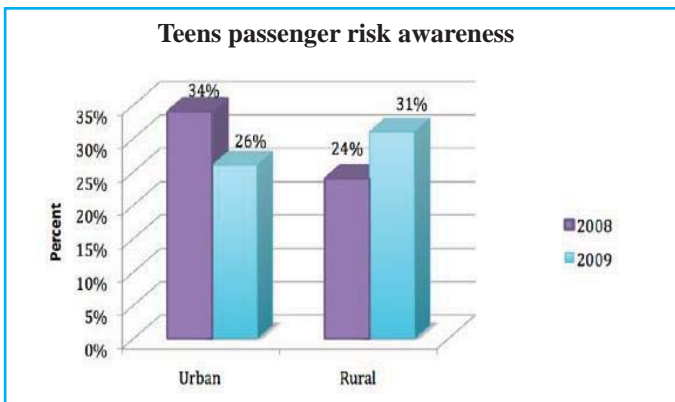
Also, note that many cities across the state have restricted the use of electronic devices while driving. For example, in 2009, the City of Austin banned texting while driving. So, if you are in Austin, don't text and drive!



### On the Safe Side

When you are driving:

- Do not talk on your cell phone or text.
- If you must make or take a call, pull over to a safe place and then do it.
- If you are a passenger and the driver is using a cell phone, encourage them to stop – for your safety.
- Be wary of cars around you that may have a driver using a cell phone. You should use extra caution when driving around them and, if possible, stay a good distance away from them.



### More Information

- <http://www.drivinglaws.org/texas.php> - Here you can learn about cell phones and texting while driving laws in Texas.
- [http://www.ghsa.org/html/stateinfo/laws/cellphone\\_laws.html](http://www.ghsa.org/html/stateinfo/laws/cellphone_laws.html) - Here is the chart of each state's specific cell phones and texting while driving laws.
- <http://www.unews.utah.edu/p/?r=062206-1> - Read about the study that the University of Utah conducted.
- <http://www.youtube.com/watch?v=aPlnNaHGZY8> - A video that shows the dangers of distracted driving.
- [www.distraction.gov](http://www.distraction.gov) - The Department of Transportation's website on distracted driving.
- [www.focusdriven.org](http://www.focusdriven.org) - A new cell-free driving advocacy group's website.

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1. "Drivers on Cell Phones Kill Thousands, Snarl Traffic" by Robert Roy Britt, LiveScience Senior Writer. February 2005. [http://www.livescience.com/technology/050201\\_cell\\_danger.html](http://www.livescience.com/technology/050201_cell_danger.html)
2. "Young Cell Phone Users Drive Like Elderly, Study Says" National Geographic, February 2005. [http://news.nationalgeographic.com/news/2005/02/0202\\_050202\\_phone.html](http://news.nationalgeographic.com/news/2005/02/0202_050202_phone.html)
3. <http://www.drivinglaws.org/stats.php>

## 2010 - 2011 TMCEC Academic Schedule

Seminar	Date(s)	City	Hotel Information
New Clerks Seminar	September 27-30, 2010	Austin	Omni Southpark 4140 Governor's Row, Austin, TX
New Judges and Clerks Orientation	October 13, 2010	Austin	TMCEC 1609 Shoal Creek Blvd. Ste. 302, Austin, TX
Regional Judges Seminar	October 25-27, 2010	Tyler	Holiday Inn Select 5701 Broadway, Tyler, TX
Regional Clerks Seminar	October 27-29, 2010	Tyler	Holiday Inn Select 5701 Broadway, Tyler, TX
Regional Judges and Clerks Seminar	November 17-19, 2010	Austin	Omni Southpark 4140 Governor's Row, Austin, TX
New Judges Seminar	December 6-10, 2010	Austin	Crowne Plaza 6120 North IH-35, Austin, TX
New Clerks Seminar	December 6-9, 2010	Austin	Crowne Plaza 6120 North IH-35, Austin, TX
Regional Judges and Clerks Seminar	January 10-12, 2011	San Antonio	Omni San Antonio at the Colonnade 9821 Colonnade Blvd., San Antonio, TX
Level III Assessment Clinic	January 24-27, 2011	Austin	Doubletree Hotel 6505 North IH-35, Austin, TX
Texas Association of Counties: Courts & Local Government Technology Conference	January 25-27, 2011	San Marcos	Embassy Suites 1001 McCarty Lane, San Marcos, TX
Regional Judges and Clerks Seminar	February 7-9, 2011	Addison	Crowne Plaza Addison 14315 Midway Road, Addison, TX
ABA Judges Traffic Court Technology Conference	February 16-18, 2011	Addison	Crowne Plaza Addison 14315 Midway Road, Addison, TX
Prosecutors Seminar	February 16-18, 2011	Addison	Crowne Plaza Addison 14315 Midway Road, Addison, TX
New Judges and Clerks Orientation	February 23, 2011	Austin	TMCEC 1609 Shoal Creek Blvd. Ste. 302, Austin, TX
Regional Judges Seminar	February 27-March 1, 2011	Galveston	San Luis Resort and Spa 5222 Seawall Blvd., Galveston, TX
Regional Judges and Clerks Seminar	March 6-8, 2011	Houston	Omni Westside Hotel 13210 Katy Freeway, Houston, TX
Regional Judges and Clerks Seminar	April 11-13, 2011	Amarillo	Ambassador Hotel 3100 W IH-40, Amarillo, TX
Regional Clerks & Bailiffs/Warrant Officers Seminar	April 18-20, 2011	Corpus Christi	Omni Corpus Christi Hotel Bayfront Tower 900 North Shoreline Blvd., Corpus Christi, TX
Regional Clerks Seminar	May 1-3, 2011	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd., South Padre Island, TX
Regional Attorney Judges Seminar	May 8-10, 2011	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd., South Padre Island, TX
Regional Non-Attorney Judges Seminar	May 10-12, 2011	S. Padre Island	Isla Grand Beach Resort 500 Padre Blvd., South Padre Island, TX
New Judges and Clerks Orientation	May 18, 2011	Austin	TMCEC 1609 Shoal Creek Blvd. Ste. 302, Austin, TX
Traffic Safety Conference	May 22-24, 2011	San Antonio	Omni San Antonio at the Colonnade 9821 Colonnade Blvd., San Antonio, TX
Prosecutors & Court Administrators Seminar	June 6-8, 2011	San Antonio	St. Anthony Hotel 300 E. Travis, San Antonio, TX
Regional Judges and Clerks Seminar	June 13-15, 2011	Odessa	MCM Elegante 5200 East University, Odessa, TX
New Judges Seminar	July 18-22, 2011	Austin	Omni Southpark 4140 Governor's Row, Austin, TX
New Clerks Seminar	July 18-21, 2011	Austin	Omni Southpark 4140 Governor's Row, Austin, TX
Legislative Update - Lubbock	August 10, 2011	Lubbock	Overton Hotel 601 Avenue Q, Lubbock, TX
Legislative Update - Houston	August 16, 2011	Houston	Omni Hotel Houston 4 Riverway, Houston, TX
Legislative Update - Austin	August 19, 2011	Austin	Omni Southpark 4140 Governor's Row, Austin, TX

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

**TEXAS MUNICIPAL COURTS EDUCATION CENTER  
FY11 REGISTRATION FORM**

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

*Check one:*

- |  |   |  |
|--|---|--|
| <input type="checkbox"/> New, Non-Attorney Judge (\$200)                     | <input type="checkbox"/> Traffic Safety Conference - Judges & Clerks (\$50) | <input type="checkbox"/> Prosecutor <b>not seeking CLE/no room</b> (\$200) |
| <input type="checkbox"/> New Clerk program (\$200)                           | <input type="checkbox"/> Clerk/Court Administrator (\$50)                   | <input type="checkbox"/> Prosecutor <b>seeking CLE/no room</b> (\$300)     |
| <input type="checkbox"/> Non-Attorney Judge (\$50)                           | <input type="checkbox"/> Bailiff/Warrant Officer* (\$150)                   | <input type="checkbox"/> Prosecutor <b>not seeking CLE credit</b> (\$350)  |
| <input type="checkbox"/> Attorney Judge <b>not seeking CLE credit</b> (\$50) | <input type="checkbox"/> Assessment Clinic (\$100)                          | <input type="checkbox"/> Prosecutor <b>seeking CLE credit</b> (\$450)      |
| <input type="checkbox"/> Attorney Judge <b>seeking CLE credit</b> (\$150)    | <input type="checkbox"/> Court Administrator Seminar - June (\$100)         | <input type="checkbox"/> Cologo (\$150/\$175)                              |

By choosing TMCEC as your MCLE provider, attorney-judges and prosecutors help TMCA pay for expenses not covered by the Court of Criminal Appeals grant. Your voluntary support is appreciated. (For more information, see the TMCEC Academic Schedule)

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 all seminars: four nights at the new judges/clerks seminars, three nights at the assessment clinics, and two nights at the regional seminars. To share with another 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
- Arrival date: \_\_\_\_\_  Smoker  Non-Smoker
- I do not need a room at the seminar.

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

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

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

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 10 business days prior to the conference. I agree that if I do not cancel 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. **Payment is due with the registration form. Registration shall be confirmed only upon receipt of registration form and payment.**

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

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

**PAYMENT INFORMATION**

- Check Enclosed (Make checks payable to TMCEC.)  
 Credit Card (Complete the following; \$5.00 will be added for each registration made with credit card payment.)

Credit Card Payment: Amount to Charge: \_\_\_\_\_ Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_  
Credit card type: \$ \_\_\_\_\_  
 MasterCard \_\_\_\_\_ Name as it appears on card (print clearly): \_\_\_\_\_  
 Visa \_\_\_\_\_  
Authorized Signature: \_\_\_\_\_

Please return completed form with payment to TMCEC at 1609 Shoal Creek Boulevard #302, Austin, TX 78701, or fax to 512.435.6118.

## **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**

## **RESOURCES FROM DPS**

A large percentage of calls on the TMCEC 800-line revolve around two DPS-related issues: moving violations and reporting codes. Most of these questions can be answered from the following two sources.

### **Moving Violations**

The Texas Department of Public Safety (DPS) recently revised the list of “moving violations” printed in Title 37, Part 1, Chapter 15, Subchapter D, Section 15.89(b) of the Texas Administrative Code. This list is important to municipal courts in four respects: (1) effective January 1, 2010, courts are to assess a \$0.10 court cost on all moving violations pursuant to Article 102.022 of the Code of Criminal Procedure; (2) under Article 45.0511(a-1) of the Code of Criminal Procedure, defendants under 25 years of age are entitled to take a driving safety course if the offense involves the operation of a motor vehicle and is classified as a moving violation; (3) under Article 45.051(b-1), defendants under 25 who are charged with a moving violation must complete a driving safety course as a condition of deferred disposition; and (4) this list determines which offenses accrue points on a defendant’s driving record under the Driver Responsibility Program in Chapter 708 of the Transportation Code. Note: every offense on this list receives the \$0.10 court cost and is a moving violation for purposes of driving safety courses. The “yes/no” column only applies to points and surcharges.

The updated list of moving violations can be found in the Texas Administrative Code online at the Secretary of State’s website or on the TMCEC website at: <http://www.tmcec.com/tmcec/Resources/Charts/>.

### **DPS Reporting Codes**

Courts are required by law to report traffic convictions to DPS under Section 543.203 of the Transportation Code. The Automated Traffic Conviction Report utilizes a code, created by DPS, for ease of reporting. DPS traffic violation codes are four-digits long and begin with the number “3.” Additionally, most court software programs rely on this code to generate complaints and maintain dockets. The state law traffic violation codes can be found in the Uniform Traffic Conviction Report (UTCR) last published by DPS in 2006.

To request copies of the UTCR or if you have specific questions about DPS reporting codes, contact the Automated Conviction Reporting division of DPS at 512.424.2031.