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SOCIAL MEDIA: THE GOOD, THE BAD, AND THE UGLY

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Social Media

Social media, also known as social networking, is the term used to describe any type of social interaction using technology with some combination of words, photos, video, and/or audio,[1] and it has truly revolutionized the way that people interact. Social media includes web-based and mobile-based technologies that are used to turn communication into interactive dialogue among organizations, communities, and individuals.[2]

Social networking sites first came about over 15 years ago, but they have only recently experienced the remarkably explosive growth that has led to its near ubiquity. Facebook, founded in 2004, now has more than 900 million registered users[3] and tops Google in weekly internet traffic in the United States. If Facebook were a country, it would be the world's third largest—double the size of the United States.[4] Sixty-nine percent of parents are "friends" with their children on social media.[5] Twitter, an online social network and microblogging service, began in 2006. Five years ago, Twitter handled 5,000 tweets a day.[6] Today, over 500 million Twitter users generate over 340 million daily tweets.[7]

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A PROSECUTOR'S PERSPECTIVE: CONTENDING WITH OBSTRUCTION ADVOCACY

By Andy Quittner
Assistant City Attorney, City of San Marcos

Along the Gulf Coast, when speaking of hurricanes, we talk not about "if" but "when." The same applies to our individual opportunity to contend with an unreasonable or difficult defendant. Hang around long enough, and you will have to contend with one or more defendants who are unreasonable, difficult, or both.

What makes contending with a defendant difficult? It could be something as easy as unfamiliarity with the judicial system or something as difficult as anger management issues, an inability to understand the process, or an inability to understand and adhere to the required procedures. In the municipal court system, we encounter a large number of people that will necessarily include representation of all socio-economic groups, religions, political affiliations, and just about everything else you can think of. So, it is an eventuality that someone will appear who has an ideological objection to the judicial system.

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AROUND THE STATE

2011 - 2012 TMCA JUDGE AND CLERK OF THE YEAR

The Texas Municipal Courts Association presented the 2011-2012 Outstanding Jurist and Court Support Personnel Awards at its Annual Conference in July. The Outstanding Jurist Award was bestowed to The Honorable Presiding Judge Randy Stump of the Georgetown Municipal Court, and the Outstanding Court Support Personnel Award was presented to Ms. Luane Petrash, Court Administrator for the Webster Municipal Court. The Honorable Judge Donna Starkey, TMCA President, presented the Awards during the TMCA Annual Dinner and Awards Banquet in Fredericksburg.

The Texas Municipal Courts Association recognizes there are more than 1400 municipal judges in Texas and is proud to be the presenter of this award to a judge who demonstrates excellence in the administration of justice. Judge Stump has served as the Presiding Municipal Judge for the City of Georgetown for more than 10 years. After graduating from Baylor Law School, he returned to Georgetown to practice law with his family's firm, where he has worked in municipal law, real estate, and estate planning for more than 25 years. During that time, he served as the City Attorney for the City of Georgetown, and has represented multiple general law cities for many years. Judge Stump has also worked with the award-winning Georgetown teen court Program for over a decade. In the last two years, Judge Stump has served on the Texas Municipal Courts Education Center faculty and worked with TMCEC staff to host two teen court planning sessions in his court with funding from TxDOT. Judge Stump is recognized not only as a role model for youth before his court, but also to judges and court support personnel observing his work, in particular his work with Teen Court and young offenders. He is a reminder of the value of firm, yet enthusiastic leadership from the bench. He and his Teen Court Coordinator, Tina Heine, have worked to ensure that teen court related forms and handouts are made available for other courts to use.

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. Court Administrator Luane Petrash began her career in 1989 as a Court Clerk in Webster—a city of over 10,000 population in southern Harris County, adjacent to the Johnson Space Center. In 1994, she became the Court Administrator, a position she still holds. She has served on multiple boards including the Board of Directors of the Texas Municipal Courts Education Center for three years and the Texas Court Clerks Association for three years. She is also recognized as instrumental in assisting the City of Nassau Bay with administrative court support since 2009. "It is clear, based on the amount of attention and interest received by each of the nominees—both Judge Stump and Ms. Petrash are well-respected by their peers, colleagues, coworkers, and in their respective communities," said Judge Donna Starkey.

NEW JUDICIAL EDUCATION REQUIREMENTS:

EFFECTIVE SEPTEMBER 1, 2012

August 20, 2012

Dear Judge:

Municipal judges face an ever-increasing number of complex issues in their work. These issues, along with the dockets and the experience level of judges, vary greatly from court to court, and additional hours of instruction and training are necessary in order to obtain and maintain proficiency in the courtroom. In an effort to respond to these increased and varying demands, while remaining cognizant of the budgetary limitations and financial pressures, the Texas Court of Criminal Appeals changed The Rules of Judicial Education as they pertain to municipal judges in Texas. These new rules necessitate important and exciting new changes to our required judicial education programs beginning with this upcoming 2012-2013 academic year. The new changes offer increased flexibility for judges in satisfying the judicial education requirements while increasing the number of hours required. The following is a summary of the proposed changes:

- Municipal judges are now required to annually complete 16 hours of judicial education (an increase of 4 hours);
- After judges have completed at least 2 years of required judicial education, municipal judges must complete 8 hours of continuous live presentation, but may complete the remaining 8 hours through live presentation, approved online education, or any combination of approved live events and online education;
- Additionally, after 2 years of judicial education, municipal judges may choose to participate in relevant, approved non-TMCEC presentations of at least 8 hours of live presentation with the remaining 8 hours through live presentation, online education, or any combination thereof. The choice to "opt-out" of TMCEC training is available in alternating years.

This change will ensure that municipal judges are sufficiently trained and well-informed as to their duties and functions as judges. The online component of the new requirements injects added flexibility and affordability into the continuing education process without losing any of the specialized training that makes TMCEC instruction so valuable.

Beginning in September of this year, you will have the option (unless you are in your first 2 years of municipal judicial education) of receiving all 16 hours of your education at a TMCEC regional program or of receiving only 8 hours at a regional program (in one day) with the other 8 hours being satisfied through webinars, clinics, or other approved live or online events. Regardless of how many hours we see you in person this year, we look forward to providing you with your required judicial education.

Sincerely,

Brian Holman, Chair,
Education Committee

Hope Lochridge,
Executive Director

Mark Goodner
Program Attorney & Deputy Counsel

Statute of Limitations:

By Cathy Riedel
Program Director, TMCEC

Two years ago, any question about the existence of a statute of limitations for Class C misdemeanors was answered. However, other questions remained. The biggest: if a case does not have a sworn complaint filed with the court within two years of the date of the alleged offense, is it a viable case? Now, a recent case out of the Court of Criminal Appeals provides the necessary guidance to answer that question.

We last visited the issue of statutes of limitations in the July 2010 issue of *The Recorder*,[1] after the Legislature squashed any lingering doubts that there was indeed a statute of limitations for Class C misdemeanors. As of September 1, 2009, Article 12.02 of the Code of Criminal Procedure reads in Subsection (b), "[a] complaint or information for any Class C misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward." As mentioned in the 2010 article, the limitations issue would usually arise for municipal judges and support personnel during a changing of the guard, when the newcomer was greeted with stacks of old citations, files, and sticky notes, in varying stages of completion. The issue also comes up during annual warrant roundups, when cities are reminded that there are large amounts of uncollected monies out there. And now, with the implementation of the new *Office of Court Administration* reporting form in 2011,[2] courts are reminded monthly about cases languishing "on the books" by the requirement to report all of these old cases as "pending."

Still, even after the 2009 amendment to Article 12.02, it remained unclear whether a Class C case filed within court more than two years after the date of the offense could or should be prosecuted. The language of Article 12.02(b) appears unambiguous in its requirement that a complaint must be submitted within two years of the date of the offense, and not afterward. However, some case law suggested that it was, in certain circumstances, the responsibility of the defendant to raise such an issue as a defensive issue, which would be waived if not done so in a timely fashion.

Historically

Prior to 1998, statutes of limitations were considered to be jurisdictional in nature.[3] If the charging instrument showed on its face that the offense was barred by a statute of limitations, the trial court did not have jurisdiction of the case.[4] Any prosecution commenced after the statute of limitations had run, unless facts under the tolling statute were pled and proven, was barred.[5] Then, in 1998, the Court of Criminal Appeals reversed a century of precedent, when the court issued its decision in *Proctor v. State*.[6]

In *Proctor*, the appellant was first indicted in 1982 for an aggravated robbery that occurred in that year. Proctor was convicted, but the conviction was subsequently reversed by the court of appeals. Proctor was retried in 1988, and at the end of the State's case, the defense moved for a directed verdict on the basis that the State had not proven the statute of limitations had not expired. Ultimately, the Court of Criminal Appeals found,

> [t]he statute of limitations contained in Chapter 12 of the Texas Code of Criminal Procedure insulates individuals from criminal prosecution after the passage of an express period of time following the commission of an offense. Thus, the statute of limitations is an act of grace for the benefit of potential defendants, a voluntary surrendering by the people of their right to prosecute. This act of grace serves several objectives: (1) it protects defendants from having to defend themselves against charges when the basic facts may—or may not—have become obscured by time; (2) it prevents prosecution for those who have been law-abiding for some years; and (3) it lessens the possibility of blackmail. In short, the statute of limitations is a procedural rule, in the nature of a defense, that was enacted basically for the benefit of defendants and not the state.

In other words, the Court determined that the prosecution did not have the responsibility to prove that the prosecution was not barred by limitations. Rather, it determined it was the defendant's responsibility to prove that prosecution was barred by limitations because limitations were enacted for the benefit of the defendant.

Clarification: There are Two Distinct Types of Statute of Limitations Defenses

Recently, the Court of Criminal Appeals clarified the *Proctor* holding in *Phillips v. State*.[7] The opinion, issued June 15, 2011, explains that there are two types of statute of limitations claims: one that is based on factual defenses and one that constitutes an absolute bar.

In *Phillips*, the appellant was convicted of 12 counts of sexual offenses based on a 2007 indictment for offenses which occurred in 1982 and 1983. The prosecution argued that the charges could be resurrected by a 1997 statute that extended the statute of limitations for sexual offenses. On appeal to the Court of Criminal Appeals on Appellant's Petition for Discretionary Review, the State Prosecuting Attorney conceded that the statute of limitations had run before the appellant's indictment, but argued that the appellant failed to preserve the issue for appeal because he did not object to it in the trial court. The prosecutor relied on *Proctor*.

The Court responded to the State's argument by distinguishing types of statute of limitations defenses:

> [I]n *Proctor v. State*, we held that a defendant will forfeit a statute of limitations defense if he does not assert it at or before the guilt stage of trial … But *Proctor* governs statute of limitations defenses that are based on facts (challenging a pleading that includes a "tolling paragraph," "explanatory averments," or even "innuendo allegations," that suffice to show that the charged offense is not, at least on the face of the indictment, barred by limitations), not pure law (challenging an indictment that shows on its face that prosecution is absolutely barred by the statute of limitations). The pleading that gives rise to a limitations factual defense is reparable. The pleading that gives rise to a statute of limitations bar is not.

The court struggled to explain the distinction between a factual statute of limitations defense and a legal bar. If the pleading, on its face, shows that the offense charged is barred by limitations, then it is appropriate that habeas corpus relief be granted.[8] Thus, there is a distinction between a statute of limitations defense that relies upon factual proof and an irreparable bar under the application of the statute of limitations.

Application in Municipal Court

Now that the Court of Criminal Appeals has explained and distinguished the types of statute of limitations defenses, municipal judges and prosecutors necessarily ask, "What application does this have in my court?"

As a practical matter, municipal courts will rarely, if ever, encounter the fact-based statute of limitations defense. Municipal courts will be dealing with complaints not filed within the two-year statute or cases "filed" with only a citation and no complaint. Indisputably, a citation is not a charging instrument.[9] And while the filing of the complaint expressly tolls the statute of limitations, the filing of a citation does not.[10]

The law now requires a complaint to be filed, not only when the defendant pleads not guilty, but when the defendant fails to appear as well.[11]

Thus, the number of cases barred by the statute of limitations should be dwindling. However, there are likely thousands of older cases reported to OmniBase that are based solely on a citation and perhaps a warrant. Can—or should—a court enter a finding of guilt and accept payment on a case, when the prosecution of the case is barred by the statute of limitations? Many courts do enter convictions and accept payment on these cases, perhaps rationalizing that a defendant can waive the right to the filing of a complaint. Courts should keep in mind the different marching orders that municipal courts have from other courts. Article 45.001 of the Code of Criminal Procedure provides in subsections (1) and (3) that the objectives for procedures in municipal courts are to provide fair notice to a person appearing in a criminal proceeding, give that person a meaningful opportunity to be heard, and to promote adherence to the rules with sufficient flexibility to serve the ends of justice. The Court of Criminal Appeals has made it clear in the *Phillips* decision that prosecution is barred in cases without a sworn complaint filed within two years of the charged offense. How our courts respond to the challenge of clearing old case logs remains a political and ethical challenge.

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[1] Cathy Riedel, "Class C Misdemeanor and the Statute of Limitations: Case Closed?," *The Recorder* 19:3 (July 2010).
[2] See http://www.txcourts.gov/oca/required.asp.
[3] *Texas Criminal Practice Guide*, Vol. 5, Section 120.06.
[4] *Ex Parte Dickerson*, 549 S.W.2d 202 (Tex. Crim. App. 1977).
[5] See, *Lemell v. State*, 915 S.W.2d 486 (Tex. Crim. App. 1995); *Cooper v. State*, 527 S.W.2d 563 (Tex. Crim. App. 1975).
[6] 967 S.W.2d 840 (Tex. Crim. App. 1998).
[7] 362 S.W.3d 606 (Tex. Crim. App. 2011).
[8] See, *Ex Parte Tamez*, 38 S.W.3d 159 (Tex. Crim. App. 2001).
[9] See, Ryan Kellus Turner, "Citations-Part II," *The Recorder* 16:3, (May 2007).
[10] *Id.*
[11] Article 27.14, Code of Criminal Procedure.

After four years as Program Director at TMCEC, Cathy will be leaving to join the Bojorquez Law Firm, PLLC, as a Senior Associate and will be providing city attorney services across the State. She can be reached after September 1 at Cathy@texasmunicipallawyers.com.

Social Media from pg 1

Judicial awareness of social media can help courts to tailor an effective online presence while, at the same time, avoiding ethical pitfalls for judges and other court personnel.

The Good

Social media has many benefits. It allows users to stay connected to friends, family, and information in real time with constant access. It can also be used as a powerful force for good.[8] Its medium has allowed users to quickly organize and join together to bring attention to numerous world causes, such as the protests in Pakistan and Iran and the earthquakes and tsunami in Haiti and Japan. Often times, social media allows attention to focus on much smaller causes, such as the recent harassment of New York bus monitor Karen Klein by schoolboys on the last day of school.[9] After video of the bus ride incident went viral, one internet user decided to start an online fundraiser for Klein in an effort to raise $5,000 to send the bus monitor on a vacation. The fundraiser closed on July 20, 2012, raising $703,873 for Klein.[10]

For courts, social media can enable a dialogue directly with the local legal community as well as the public.[11] Social media coverage of courts has changed the way the public hears about what happens in the justice system. In the past, coverage of our courts began as "notes on a pad in a beat reporter's hand that were later written and edited into stories back in the newsroom, distributed by a paper boy, and consumed in print."[12] Now, the same information can simply be blogged or tweeted from the courtroom. These new capabilities offer unprecedented access to the courts. Courts would be wise to harness these capabilities to ensure that public confidence in the system is upheld.

The Bad

Despite all of the wonderful possibilities of social media, it is not always used for good. Social media, like any other tool, reflects the goals of its user. Many would like to use it personally and professionally, but a lack of approval and/or guidance from organizational policies and ethical rules can frustrate noble intent. Some, however, use it for nothing more than wasting time.

"Social media tools are the latest in a long line of time stealers in the workplace, following in the footsteps of March Madness brackets, afternoon golf games, morning water cooler gossip, or cigarette breaks. But social media like Twitter and Facebook are more visible from a distance (of both time and space), so they are easier to criticize and quantify."[13] In other words, unprofessional employees are going to act unethical regardless of whether they are plugged into social media.[14]

Interesting viewpoints about and among social media users are beginning to surface. For instance, the Ethics Resource Center recently released results from its National Business Ethics Survey. Those results showed that social networkers may be more likely to believe that questionable behaviors are acceptable.[15] The report did, however, say that the findings were not an indictment of the character of social networkers, but were more likely to consider issues that are gray areas, or not always clear in company policies. The survey also found that the workplace ethics landscape was more perilous for active social networkers in that they felt more pressure to compromise standards, more frequently observed misconduct, and more often experienced retaliation after reporting observed misconduct.

There is however, skepticism when it comes to drawing conclusions about ethics based on social networking usage. Some argue that to do so perpetuates old-school thinking, calling the notion that social networkers are more likely to be unethical absurd and reasoning that it's simply more likely for social networkers to hear about unethical behavior.[16]

Another social media pitfall is the fact that users, once they post a comment, tweet, or status update, have a lack of control over what subsequently happens to that information. While the user generally has the power to edit a comment or delete it from their page or profile, he or she is ultimately at the mercy of the social platform as well as other users that may have access to the information. This lack of control can lend unfortunate permanence to one's perhaps fleeting viewpoints, attitudes, and frustrations.

So, where can we turn for guidance as judges and court personnel? Our sources of ethical guidance, including the Code of Judicial Conduct, as well as the Rules of Professional Responsibility, were developed long ago and are rarely updated when compared to rapidly evolving social media capabilities and the shifting landscape of the internet. These standards of guidance did not (and could not) have anticipated all of the technological capabilities and options of communication that we have at our fingertips in 2012. No Texas law or rule gives us firm guidance at the moment, but some other states have weighed in on the issues.

Florida takes, perhaps, the most restrictive stance. The Judicial Ethics Advisory Committee said that while a judge may be a part of a social networking site and post comments and other material, a judge may not add lawyers who may appear before the judge as "friends" on a social networking site. Massachusetts follows similar lines of thinking stating that while joining social networking sites is not prohibited, the Code of Judicial Conduct does not permit the "friending" of any attorney who may appear before the judge as it creates the impression that those attorneys are in a special position to influence the judge.[17] Florida's views, however, are not held universally. To the contrary, their reasoning has been criticized as showing a lack of understanding of social media.[18]

On June 12, 2012, the Maryland Judicial Ethics Committee published the most recent opinion regarding the social media use by the judiciary. In it, the committee states "a judge must recognize that use of social media networking sites may implicate several provisions of the Code of Judicial Conduct, and, therefore, proceed cautiously."[19] This opinion appears to have a better grasp of social media and the same type of reasoning can be found in opinions from several other states.

An Ohio Judicial Ethics Advisory Opinion addresses the question of whether a judge may be a social networking site "friend" with a lawyer who appears as counsel before a judge.[20] The Supreme Court of Ohio stated that yes, a judge could be a friend, but "as with any other action a judge takes, a judge's participation on a social networking site must be done carefully in order to comply with the ethical rules in the Ohio Code of Judicial Conduct."

Like Ohio, Kentucky answered the same question with a "qualified yes." While a social networking site might label the participants as friends, the ethics committee found that the label itself "does not reasonably convey to others an impression that such persons are in a special position to influence the judge."[21]

In South Carolina, the Advisory Committee on Standards of Judicial Conduct concluded that a magistrate judge may use Facebook and be "friends" with law enforcement officers and employees of the judge as long as they do not discuss anything related to the judge's position as magistrate. The committee relied on commentary in South Carolina's Canons of Judicial Conduct stating that complete separation of a judge from extra-judicial activities is neither possible nor wise and that the judge should not live in isolation from the community in which the judge lives. The committee further reasoned that being active on social media allows the community to see how the judge communicates and gives the community a better understanding of the judge.[22]

The Judicial Ethics Committee of the California Judges Association found that a judge may be a member of an online social networking community, and that the same rules that govern a judge's ability to socialize and communicate in person, on paper, and over the telephone apply to the internet as well.[23] A judge's presence in social media does not by itself cast reasonable doubt on the judge's capacity to act impartially, demean the judicial office, or interfere with the proper performance of judicial duties. Moreover, the California committee stated that there is no ethical rule prohibiting judges from interacting with lawyers who appear before them, whether that interaction takes place in person, as a part of a civic group, or online as social network friends. Judges were cautioned, however, that a judge's interaction with attorneys who may appear before them will often create appearances violative of the Canons of Judicial Conduct. A reasonable person could conclude that an attorney who interacts with a judge through social media may be in a position of special influence, thus calling into question the judge's ability to be impartial in matters involving the attorney friend.

Finally, a New York Judicial Ethics Advisory opinion merely states that as long as the judge otherwise complies with judicial conduct rules, the judge may join an online social network.[24]

The Ugly

The ugly part of social media is that it too often can reveal (often for perpetuity) people at their very worst. Think for a moment about how communication has changed over the last 20 years. Twenty years ago, after a bad day at the office, a person might mumble under their breath on the way to the car and then tell their significant other about it when arriving home. This was a safe way for a person to blow off steam and to let the anger or anxiety related to a particular person or situation dissipate. In today's world, too often what was once mumbled under one's breath is tweeted to a group of followers or plastered on the internet as a status update. Unfortunately, once this message is posted in the heat of the moment, the person who posted it loses control over what happens to it, risking the creation of a permanent record of a person's worst thoughts and behavior.

Examples of poor conduct displayed through social media related to the court include the Florida prosecutor who posted a ditty on Facebook called the "trial from hell" to be sung to the tune of the "Gilligan's Island" theme song. The judge granted a mistrial, and although the Facebook parody song was not cited as a basis, the State Attorney's

office felt compelled to acknowledge the immaturity of the behavior and pledged to address it.[25] Kristine Peshek, an Illinois attorney, lost her job over her blog entries after 19 years of service as a public defender.[26] Peshek, on her blog, revealed protected client information, showed that she made false statements to a tribunal after she failed to inform the court about a client's methadone use, and showed a lack of respect for the judiciary by referring to judges using vulgar terms as well as nicknames, such as "Judge Clueless."[27] Florida attorney Sean Conway blogged about a Fort Lauderdale judge, calling her an "Evil, Unfair Witch."[28] San Diego lawyer Frank Wilson blogged extensively about a trial for which he was a jury member, writing unflattering descriptions of those involved. He described the judge as "a stern, attentive woman with thin red hair and long, spidery fingers that as a grandkid you probably wouldn't want snapped at you."[29] As a result of the blogging, the judgment was vacated, and Wilson lost his job, paid $14,000 in legal fees, and was given a 45 day suspension and two years of probation.

Judges have not escaped the hot waters of scrutiny and ethical trouble. Judge Williams of Texas, the subject of a youtube video in which he whipped his daughter with a belt, is but one high-profile example. Judge Carlton Terry, Jr. was publically reprimanded for friending a lawyer on Facebook during a pending child custody case, posting and reading messages about the litigation, and independently gathering information about the parties.[30] The commission stated that Terry's ex parte communication and other online behavior constituted conduct "prejudicial to the administration of justice that brings the judicial office into disrepute."[31] New York Judge Matthew Sciarrino was transferred after a history of updating his Facebook status from the bench, broadcasting personal information, and even posting photos of his crowded courtroom to his Facebook account.[32] Judge Shirley Strickland Saffold of Ohio was linked to anonymous internet discussions about cases in her court. More than 80 postings were traced to her account, including calling a defense lawyer a "buffoon" and hoping that he could "shut his Amos and Andy style mouth."[33] The Ohio Supreme Court wrote that "the nature of the comments and their widespread dissemination might well cause a reasonably and objective observer to harbor serious doubts about the judge's impartiality."[34]

In order to prevent some of this online ugliness, new laws are being implemented in the world of social media. In Louisiana, for instance, a state law has been enacted requiring sex offenders to disclose their criminal status, and those who break the law face imprisonment with hard labor for two to 10 years without parole and a fine of up to $1,000.[35] Facebook refuses to let registered sex offenders create profiles. Social platforms are now monitoring chats for criminal activity and notifying police of any suspicious behavior.[36]

Moving Forward

Social networking continues to revolutionize the way that we communicate and receive information. It is ubiquitous, and it is not always used in the right way or by good people. We have seen the good, the bad, and the ugly of it, and employers, states, and ethical bodies continue to try new ways to help manage its use and limit its misuse. With every new technology and every new possible ethical hazard, must we try and keep up with new ethics rules? Not necessarily. The existing rules can always be applied to our behavior, even online ethical lapses.[37] Adopting a new rule now in an effort to address social media specifically would, before long, surely result in both an obsolete medium and an obsolete rule.[38] Perhaps one manager summed it up best when creating a social media policy by keeping it simple and saying: "Be professional." Those are wise words to follow for all of us.

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[1] John G. Browning, *The Lawyer's Guide to Social Networking*, at 17 (Aspatore 2010).
[2] Wikipedia, *Social Media*, http://en.wikipedia.org/wiki/Social_media (last updated July 20, 2012).
[3] Wikipedia, *List of social networking websites*, http://en.wikipedia.org/wiki/List_of_social_networking_websites (last updated July 20, 2012).
[4] E. Qualman, *39 Social Media Statistics to Start 2012*, http://www.socialnomics.net/2012/01/04/39-social-media-statistics-to-start-2012/ (January 4, 2012).
[5] *Id.*
[6] Browning, *Supra*, note 1 at 12.
[7] Wikipedia, *Twitter*, http://en.wikipedia.org/wiki/Twitter (last updated July 20, 2012).
[8] Browning, *Supra*, note 1 at 14.
[9] J.D. Signore, *Over $318K And Counting Raised For Harassed Bus Monitor!*, http://gothamist.com/2012/06/21/over_150k_and_counting_raised_for_h.php (June 21, 2012).
[10] Indiegogo, *Lets Give Karen – The bus monitor- H Klein A Vacation!*, http://www.indiegogo.com/loveforkarenhklein?c=activity (last updated July 20, 2012).
[11] See, Christine O'Clock and Travis Olsen's powerpoint presentation *Social Networking Tools for Courts* from the NCSC Court Technology Conference (September 2009), accessible at http://www.ncsc.org/Topics/Media/Social-Media-and-the-Courts/Resource-Guide.aspx.
[12] See, K. O'Keefe, *Social Media Coverage of Our Courts: Its day has come*, (March 4, 2012).
[13] This quote is attributed to Dwane Law, Human Resources Director at Missouri Baptist Medical Center. S Lauby, *Ethics and Social Media: Where Should You Draw The Line?*, http://mashable.com/2012/03/17/social-media-ethics/ (March 17, 2012).
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] Massachusetts Committee on Judicial Ethics, CJE Opinion No. 2011-06 (December 28, 2011).
[18] B. Shear, *Maryland's Social Media Judicial Ethics Opinion*, http://socialmediatoday.com/bradley-shear/561622/marylands-social-media-judicial-ethics-opinion (June 19, 2012).
[19] *Id.*
[20] The Supreme Court of Ohio Board of Commissioners on Grievances and Discipline, Opinion 2010-7 (December 3, 2010).
[21] Ethics Committee of the Kentucky Judiciary, Formal Judicial Ethics Opinion JE-119 (January 20, 2010).
[22] South Carolina Advisory Committee on Standards of Judicial Conduct, Opinion No. 17-2009 (October 2009).
[23] California Judges Association Judicial Ethics Committee, Opinion 66 (November 23, 2010).
[24] New York Judicial Ethics Advisory Opinion 08-0176 (January 29, 2009).
[25] Browning, *Supra*, note 1 at 150.
[26] J. Schwartz, *A Legal Battle: Online Attitude vs. Rules of the Bar*, http://www.nytimes.com/2009/09/13/us/13lawyers.html (September 13, 2009).
[27] See, Browning, *Supra*, note 1 at 151.
[28] See, Schwartz, *Supra*, note 26.
[29] Citizen Media Law Project, *California Bar v. Wilson*, http://www.citmedialaw.org/threats/california-bar-v-wilson (August 31, 2009).
[30] See, Browning, *Supra*, note 1 at 168-69.
[31] *Id.*
[32] *Id.*
[33] *Id.*
[34] *Id.*
[35] Under the law, sex offenders must (in their profile) state their crime, the jurisdiction of the conviction, a description of their physical characteristics, and their residential address. Subsequent violations may result in imprisonment between five and 20 years and a fine of up to $3,000. N. Prakash, *State Law Requires Sex Offenders to List Status on Facebook*, http://mashable.com/2012/06/21/facebook-sex-offenders/ (June 21, 2012).
[36] Facebook utilizes scanning software that monitors chats for suspicious words or phrases including the exchange of personal information or vulgar language. The software pays more attention to chats between those without a clear connection or whose profiles indicate something strange, like a wide age gap. The software flags suspicious conversations and notifies Facebook security employees, who determine whether police should be notified. A. Fitzpatrick, *Facebook Monitors Your Chats for Criminal Activity [REPORT]*, http://mashable.com/2012/07/12/facebook-scanning-chats/ (July 12, 2012).
[37] Browning, *Supra*, note 1 at 154.
[38] *Id.*

Obstruction Advocacy cont. from pg 1

We must remember that whether difficult, unreasonable, sovereign, or otherwise, a defendant is a defendant and, for prosecutors, our interactions with all defendants are governed by the Texas Disciplinary Rules of Professional Conduct. Rule 3.09 is of particular interest:

> The prosecutor in a criminal case shall:
> (a) refrain from prosecuting or threatening to prosecute a charge that the prosecutor knows is not supported by probable cause;
> (b) refrain from conducting or assisting in a custodial interrogation of an accused unless the prosecutor has made reasonable efforts to be assured that the accused has been advised of any right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;
> (c) not initiate or encourage efforts to obtain from an unrepresented

accused a waiver of important pre-trial, trial, or post-trial rights;
(d) make timely disclosure to the defense of all evidence or information known to the prosecutor that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense and to the tribunal all unprivileged mitigating information known to the prosecutor, except when the prosecutor is relieved of this responsibility by a protective order of the tribunal; and
(e) exercise reasonable care to prevent persons employed or controlled by the prosecutor in a criminal case from making an extrajudicial statement that the prosecutor would be prohibited from making under Rule 3.07.

Subparagraph (c) is of particular importance when dealing with a defendant who has a diminished capacity to understand either the procedures or the judicial system in general. Comment 4 to Rule 3.09 is instructive: Paragraph (c) does not apply to any person who has knowingly, intelligently, and voluntarily waived the rights referred to therein in open court, nor does it apply to any person appearing pro se with the approval of the tribunal. Finally, that paragraph does not forbid a prosecutor from advising an unrepresented accused who has not stated he wishes to retain a lawyer and who is not entitled to appointed counsel and who has indicated in open court that he wishes to plead guilty to charges against him of his pre-trial, trial, and post-trial rights, provided that the advice given is accurate; that it is undertaken with the knowledge and approval of the court; and that such a practice is not otherwise prohibited by law or applicable rules of practice or procedure.

Of particular importance are the words in the first sentence referencing "knowingly and intelligently," especially as applied to the few circumstances when conviction of a Class C misdemeanor may carry long term consequences (such as theft or assault–family violence). There is a fairly large body of law, both state and federal, weighing in on when, under a large number of factual variations, a defendant's action is knowing, intelligent, or voluntary.[1] Given the number of defendants a municipal prosecutor sees, it would not be difficult to unintentionally guide a defendant to a plea when the defendant cannot intelligently do so. In spite of the numbers, one should be diligent in assessing whether or not there are signs that a defendant may not have the capacity to make an intelligent decision.

Additionally, Article 45.201(d) of the Code of Criminal Procedure instructs that "it is the primary duty of a municipal prosecutor not to convict, but to see that justice is done." This applies to all defendants, no matter how irritating or even contentious that defendant might be. That is the backdrop under which municipal court prosecutors must work, including when prosecuting difficult defendants.

Identifying Sovereign Defendants

So who is a "sovereign defendant" and from whence do these persons arise? First, unlike the defendant who either doesn't understand, or lacks capacity to understand, the sovereign defendant *usually does* understand both the procedures and the system. Moreover, the sovereign defendant can be, and frequently is, both difficult and unreasonable. Knowing something, including a little history, about what makes a sovereign defendant helps in working through the issues that will invariably arise when you encounter one. Judge Frank Easterbrook, now the Chief Judge for the United States Court of Appeals for the Seventh Circuit, did an excellent job succinctly setting out who is a sovereign defendant when he opined that "[s]ome people believe with great fervor preposterous things that just happen to coincide with their self-interest."[2]

In all likelihood, sovereignty issues have existed since the beginning of law—after all, if "the King can do no wrong," then why not attack the words and acts that confer jurisdiction over a person. *If I'm not your subject, then you have no jurisdiction to deal with me.* In the United States it took an act of Congress, followed by state ratification, to really begin the onslaught of fringe groups. It appears that upon the passage of the 16th Amendment, which allowed the establishment of an income tax, various "sovereign" and other related arguments began to take on an art form of their own. In fact, you may find that some of the contentions raised by various tax scofflaws are quite similar to what is presented in municipal courts in response to traffic citations. In Texas, and now elsewhere, we can also add those who believe that Texas was not properly annexed to the United States—although how this would legitimately affect adherence to traffic laws is a bit of a stretch. Then again, this is where Judge Easterbrook's words ring true.

This, then, is the decisive factor that sets out a sovereign defendant from one who is merely difficult. It is the adherence to an ideology, no matter how irrational, that is the determining factor. The nature of the ideology may not be important to municipal court proceedings, but early recognition may help avoid pitfalls as well as possibly signal the need for additional security.

Early on (pre-1960s), the anti-establishment groups tended to fall into one of two categories. First, there were those who believed they weren't citizens of the United States (or of a particular state), and thus were not subject to the laws of the state. Somehow these adherents did not believe that the 14th Amendment defined citizenship ("[a]ll persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside").

The second group objected to jurisdiction based on religious or moral grounds. People have attempted to use the 1st Amendment to support a wide variety of arguments against various laws that they do not support. Even though the courts struggle with the contours of religious protection, they have been quite clear about use of the 1st Amendment to circumvent purely secular laws. Stymied on this front, those bent on gaming the system looked to other ideology.

Nevertheless, patriot arguments continue to be raised, frequently in a fashion that many would label as "paper terrorism"—acts of filing a barrage of motions, harassing lawsuits, and bogus documents generally accompanied by bizarre legal, or more accurately "pseudo legal," language and argumentation. What you will see, as a common theme, is that a non-violent "refusal to participate"—coupled with just enough knowledge to muck things up—results in a frustrating series of interactions.

However, beginning in the late 1960s, a number of right-wing fringe groups questioned the authority and nature of the federal government. Most grew out of a recently emergent right-wing tax-protest movement. Arguments about the illegitimacy of income tax laws were easily expanded or altered to challenge the legitimacy of the government itself. The most important of these groups was the *Posse Comitatus*, which originated in Oregon and California around 1970.

Members of the *Posse Comitatus* believed that the county was the true seat of government in the United States. They did not deny the legal existence of federal or state governments, but rather claimed that the county level was the "highest authority of government in our Republic as it is closest to the people." The basic *Posse* manual stated that there had been "subtle subversion" of the Constitution by various arms and levels of government, especially the judiciary. There was, in fact, a "criminal conspiracy to obstruct justice, disfranchise citizens and liquidate the Constitutional Republic of these United States."

The *Posse* wanted to reverse this subversion and "restore" the Republic through (1) unilateral actions by the people (i.e., the *Posse*) and (2) actions by the county sheriff. The sheriff, they argued, was the only constitutional law enforcement officer. Moreover, the sheriff's most important role was to protect the people from the unlawful acts of officials of governments, like judges and government agents. Should a sheriff refuse to carry out such duties, the people (i.e., the *Posse*) had the right to hang him. In fact, the two most prominent *Posse* symbols became a sheriff's badge and a hangman's noose.

This particular thinking, which was generally benign, mostly died out in the early 1980s. Some of the ideas, though, were reborn in varying groups who also took on a new style of protest involving paper terrorism—and in some cases even criminal terrorism. In the wake of Ruby Ridge (Idaho, 1992) and Waco (1993) there has been a resurgence of this alternative government movement.

Although the background details may not have been well publicized, everyone knows the fate of a couple of the recent adherents to such pseudo-legal ideology. In April 1992, an angry resident of Sanilac County, Michigan, wrote a letter to the Michigan Department of Natural Resources stating that he was no longer a "citizen of the corrupt political corporate State of Michigan and the United States of America." He further stated that he was answerable only to the "common laws" and thus expressly revoked his signature on any hunting or fishing licenses, which he viewed as contracts that fraudulently bound him to the illegitimate government. This individual subscribed to an unusual right-wing anti-government ideology whose adherents are now increasingly plaguing public officials with a variety of tactics designed to attack the government and other forms of authority.

They call themselves constitutionalists, freemen, preamble citizens, common law citizens, or non-foreign/non-resident aliens, but most commonly "sovereign citizens." Earlier it was mentioned that knowing who you are dealing with may have security implications. Well, the Michigan resident who adhered to this ideology was Terry Nichols who along with Timothy McVeigh, was convicted in the Oklahoma Advocacy city bombings. Unfortunately, he is not the only violent adherent to this anti-government ideology.

More recently, another adherent to the sovereign citizen ideology made the news. Sovereign citizen Jerry Kane, who frequently travelled the country with his son Joseph, holding seminars in which he would teach his anti-government conspiracies and pseudo-legal solutions, immediately exited his car at a traffic stop, opened fire, and killed two West Memphis police officers. An hour later, Kane and his

Obstruction Advocacy continued pg 23

JUVENILE LAW

Editor's Note: This is the second part of a two-part series. Part I (see, June 2012 issue of The Recorder*) offered a hypothesis explaining retrospectively how municipal and justice courts became the primary venue for adjudicating the misconduct of children in Texas. Part II takes a closer look at the judiciary's role in the public policy debate concerning ticketing at schools and sets the stage for a discussion of related legislative proposals.*

"PASSING THE PADDLE" PART II: THE EMERGENCE OF LOCAL TRIAL COURTS IN THE TEXAS JUVENILE JUSTICE SYSTEM AND THE CHALLENGES OF THE JUDICIARY MOVING FORWARD

By Ryan Kellus Turner
General Counsel & Director of Education, TMCEC

To recap: the legislative response to juvenile crime in the 1990s was based on predictions that never came to pass (e.g., the emergence of juvenile super predators) and the popularity of crime control policies, like "zero tolerance."[1] As a result of such policies, in less than two decades, law enforcement has slowly become an accepted presence in Texas schools. The issuance of citations for Class C misdemeanors by law enforcement to children (ages 10-16) has resulted in municipal and justice courts appearing more like extensions of the local school principal's office than local criminal trial courts of limited jurisdiction.

Notably absent from this dynamic, this "passing of the paddle," are juvenile probation services and juvenile courts. Such entities were created specifically to address both the wayward and illegal behavior of children. Today, however, more children in Texas are adjudicated as criminals in municipal and justice courts than come in contact with juvenile probation and juvenile courts combined.[2] Despite the criminal nature of the conduct that results in "quasi-criminal" proceedings in juvenile court, juvenile court proceedings are civil law matters governed by Title 3 of the Family Code, the Juvenile Justice Code. The purpose of the Juvenile Justice Code is distinct from the objectives of the Code of Criminal Procedure and from the specific objectives of Chapter 45 governing municipal and justice court proceedings.[3]

The subject matter adjudicated in juvenile court falls into two categories (1) delinquent conduct and (2) CINS (conduct indicating a need for supervision).[4] The distinction between delinquent conduct and CINS is that delinquent conduct is conduct that if committed by an adult could potentially result in the imposition by a court of a term of incarceration (i.e., misdemeanors other than Class C misdemeanors and contempt), whereas CINS is conduct, including Class C misdemeanors (excluding traffic and tobacco offenses) and other manners of behavior, that is not conducive to the well-being of children (e.g., running away from home). This awkward, dual classification quite often allows peace officers to determine whether a child is adjudicated by the civil juvenile justice system or the criminal juvenile justice system.

Has Texas inadvertently given up on children whose conduct indicates a need for supervision? To conserve juvenile court resources, and because it is generally believed to cost less to adjudicate such cases in municipal and justice court than juvenile court, cases that can be filed as CINS are today filed as Class C misdemeanors. Consequently, more children are adjudicated in the Texas criminal justice system than the civil juvenile justice system. The wholesale adjudication of children by criminal courts for status offenses and misdemeanors defies commonly accepted notions about juvenile justice. The common narrative featured in most college textbooks explains that the emergence of juvenile courts in the American judicial system is one of the milestone events of the 19th Century. Predicated on the belief that children are distinct from adults and should be treated by the legal system accordingly, juvenile courts differ from criminal courts in three ways: (1) the focus is on rehabilitation rather than punishment, (2) informal diversion is preferred to formal adjudication, and (3) confidentiality, rather than public access to proceedings and records, is the norm.

In recent years, the adjudication of children for fine-only misdemeanors has piqued the attentions of critics and, in turn, the media.[5] Laws passed more recently suggest the Texas Legislature and Governor Perry realize that the wholesale criminalization of misbehavior by children should be subject to restraints and that the unbridled outsourcing of school discipline from the school house to the court house is bad public policy.[6] Yet, at the same time, efforts to decriminalize truancy in 2011 and substantially curtail ticketing at schools in 2009 and 2011 have not gained traction at the Capitol. While it makes perfect sense to send such cases back to the civil juvenile justice system, neither juvenile courts nor juvenile probation services appear prepared to shoulder the caseload of CINS petitions that have been shifted to municipal and justice courts in the form of Class C misdemeanors.

The purpose of this article is to explain the challenges of the Texas judiciary in collectively participating in broader public policy discussions, including, but not limited to, describing what steps the judiciary has taken in terms of the "passing the paddle" phenomenon, and the ethical issues all judges face going forward.

Structure: The Inherent Challenge of Judicial Leadership in Texas

Texas has one of the largest, most complex, and fragmented judicial systems in the United States.[7] In fact, one member of the Texas Supreme Court recently said that to refer to it as a "fragmented" system is generous. Because each segment tends to be insular in its interests, it is no surprise then that a topic of interest to one segment of the judiciary may be of little or no interest to another. Consequently, the silo-like nature of the Texas judicial system often makes it difficult, if not impossible, for the Texas judiciary to act, let alone, speak in a unified manner. This is why when Chief Justice Wallace Jefferson of the Texas Supreme Court chose to address the topic of ticketing school age children in his 2011 State of the Texas Judiciary address to the Legislature, it garnished considerable attention among municipal and justice courts.[8] Few would have expected the topic to make it into the State of the Judiciary address; many were surprised by who delivered the message.

Chief Justice Jefferson's remarks may be the first time that a topic of such significance to local trial courts has been addressed by the leader of the Texas judiciary directly to the Legislature.[9] The Chief Justice's remarks are a positive reminder that despite its size, complexity, and fragmentation, there is a way for the Texas judicial system to speak to the Legislature in a singular voice. Furthermore, it is possible for the concerns of local trial courts to be heard and conveyed to the Legislature by someone other than a judge of a local trial court.

A Judicious Response: The Texas Judicial Council and the Committee on Juvenile Justice

While the interests of municipal judges and court personnel are represented by organizations such as the Texas Municipal Courts Association, the Municipal Judges Section of the State Bar of Texas and the Texas Court Clerks Association, one statutorily created body consists of representatives from all segments of the Texas judiciary: the Texas Judicial Council. Created in 1929 by the 41st Legislature to continuously study and report on the organization and practices of the Texas judicial system, the Judicial Council is the policy-making body for the state judiciary and submits recommendations for improvement of the system to the Legislature, the Governor, and the Supreme Court. The Judicial Council receives and considers input from judges, public officials, members of the bar, and citizens.

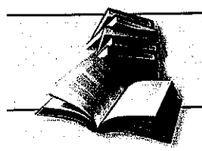
In July 2011, *Breaking Schools' Rules*, a statewide study on how school discipline relates to Texas student success and juvenile justice involvement further spurred media focus on the criminalization of misconduct by children and the use of citations on school grounds.[10] In late 2011, the Judicial Council's Juvenile Justice Committee received the charge of assessing the impact of school discipline and school-based policing on referrals to the municipal, justice, and juvenile courts and identifying judicial policies or initiatives that work to reduce referrals without having a negative impact on school safety; limiting recidivism; and preserve judicial resources.

The Juvenile Justice Committee studying school discipline and ticketing of children is chaired by Travis County District Judge Orlinda Naranjo. There are six additional members of the Judicial Council on the committee including Judge Glenn Philips of the City of Kilgore and Judge Gary Bellair of the City of Ransom Canyon.[11] The Committee also consists of a diverse group of 16 advisory members with varying professional backgrounds who bring a variety of perspectives to the discussion.[12] This has resulted in a healthy, yet lively, debate. Balancing the interests of crime control and due process is rarely easy; the task is only further complicated when the interests of children are injected into the equation.

As of date, the Juvenile Justice Committee has met twice and has had multiple conference calls and e-mail exchanges.[13] The Committee articulated nine general ideas for legislation. On June 5, 2012, a legislative subcommittee narrowed the focus to three.

1. Expressly authorize local

Juvenile Law continued pg 22



Legal Update

An Update on the Criminal and Civil Sides of Animal Cruelty

By Katie Tefft
Program Attorney, TMCEC

This article amends the "Give the Dog a Bone: The Criminal and Civil Side of Animal Cruelty" article that appeared in the January 2011 edition of *The Recorder*, to reflect changes made by the 82nd Legislature.[1] This issue also contains flow charts created this academic year for use in the *Animal Hearings* class in the Regional Judges and Clerks programs, in an effort to simplify the confusing, and sometimes circular, procedures on these civil cases dealing with animals in municipal courts.

The Criminal Offense: The Penal Code

Section 42.092(b)(7) of the Penal Code (Cruelty to Nonlivestock Animals) makes it a state jail felony offense for a person to intentionally, knowingly, or recklessly cause one animal to fight with another animal, if either animal is not a dog. Dog fighting is regulated by its own statute in Section 42.10, which makes it a Class A misdemeanor for a person to intentionally or knowingly own or possess dog fighting equipment with the intent that the equipment be used to train for or further dog fighting, own or train a dog with the intent that the dog be used for fighting, or attend a dog fight as a spectator. It is a state jail felony to intentionally or knowingly cause a dog to fight with another dog, to profit from or operate a facility used for dog fighting, or to use or permit another to use any property for dog fighting. The 82nd Legislature created a new "animal cruelty type" offense to specifically regulate cock fighting, contained in the new Section 42.105.[2] This new offense is a state jail felony if the person knowingly causes a cock to fight with another or profits from a cock fight.[3] It is a Class A misdemeanor for a person to knowingly use or permit another to use any property for cock fighting, to own or train a cock with the intent that the cock be used for fighting, or to manufacture, buy, sell, barter, exchange, possess, advertise, or offer a gaff, slasher, or other sharp instrument designed to be attached to a cock with the intent it be used for fighting.[4] Finally, it is a Class C misdemeanor for a person to knowingly attend a cock fight as a spectator.[5] However, a person must be at least 16 years of age to be charged as a spectator.[6] This new offense is one with which municipal courts should be familiar.

The Civil Side: The Health and Safety Code

H.B. 963, also passed by the 82nd Legislature,[7] made several changes, some helpful and others problematic, to Chapter 821 of the Health and Safety Code, which governs cruelly treated animal hearings in municipal and justice courts. A summary of these changes, compared to the procedures discussed in the original article, follows.

Under the previous law discussed in the 2011 article, the court, upon a finding of cruel treatment, could order as one of the three disposition options that the animal be given to a non-profit animal shelter, pound, or society for the protection of animals. This was amended to now provide that the court order the animal instead be given to a municipal or county animal shelter or a non-profit animal welfare organization.[8] This slight change conforms to what most cities and counties were already wanting to do—that is turn the animal over to its own shelter, which may or may not have non-profit status, where the animal could later be adopted. A definition of non-profit animal welfare organization was also added to the chapter.[9] The court's other two disposition options—sale at public auction or humane destruction—were not affected.

The previous law required the court to order the owner to pay "court costs" upon a finding of cruel treatment.[10] H.B. 963 amended the costs provisions to clarify that the costs findings are to be made *after* the court finds cruel treatment.[11] Consider this to be a bifurcated hearing of sorts, where the hearing will focus on cruel treatment, and if such a finding is made, then the judge will hear evidence on costs. The court shall now order the owner to pay all the same costs, just organized differently under the amended statute. The court shall also determine the amount likely to be incurred by the municipal or county animal shelter or non-profit organization caring for the animal during the pendency of an ensuing appeal.[12]

The appeal bond as discussed in the 2011 article, used to be set at an amount adequate to cover the estimated expenses that would be incurred by the city during the appeal process. The new appeal bond amount, to be set at the time of entering judgment, is an amount equal to the sum of the amount of court costs ordered *plus* the amount of the estimated costs the court determines for the care of the animals during any appeal.[13] This will result in a higher appeal bond amount than previously allowed. The amended statute makes clear that the appeal bond amount cannot be greater than the sum of the two costs determined by the court and that the amount of costs ordered is not considered in determining the court's jurisdiction.[14] H.B. 963 also clarified that any appeal bond is to be a cash or surety bond, eliminating any option for an owner to request a personal recognizance bond instead.[15] The 2011 article suggested that because Section 821.025 did not address any requirement that a motion for new trial be filed prior to the appeal, no such requirement was necessary. That presumption was codified by H.B. 963.[16]

Upon perfection of an appeal, the previous law required the court to deliver a copy of the court's transcript to the county court or county court at law. This was problematic for municipal courts of record, as the statute did not clarify at whose expense the transcript was to be prepared. It was also problematic for non-record courts, as justice courts and non-record municipal courts are not equipped to produce or retain transcripts of cases. The original article presumed that where Section 821.025 mentioned transcript, it meant the court's record. This presumption was also codified by H.B. 963.[17] However, to the chagrin and frustration of municipal courts of record, H.B. 963 also amended the appeal statute to provide that the county court or county court at law shall consider the matter de novo, regardless of whether it is appealed from a court of record.[18]

The predicted, yet unsubstantiated as of yet, problem comes with the inclusion of 13 words to the appeal statute. In addition to reviewing the matter de novo, the law now provides that "a party to the appeal is entitled to a jury trial on request."[19] For how this affects the million-dollar question posed in the original article—whether an owner has the right to a jury trial at the municipal or justice court level—consider that now the Legislature has given a clear right to a jury trial on appeal, but not for the original hearing; had the Legislature intended for owners to be entitled to a jury trial on the original hearing in municipal and justice courts, the Legislature certainly could have added that provision. More commentary on this lingering issue will come in a later article. For now, ponder how successful your court is in summonsing and empaneling a six-person jury with adequate notice. Now consider that the county court would have to summons and empanel a six-person jury within the 10 days that the county court or county court at law has to dispose of the appeal.[20] Furthermore, try to reconcile the fact that the appeal must be resolved not later than the 10th day after the county receives the appeal with the Rule of Civil Procedure requiring that in county courts, the written request for a jury trial must be filed with the clerk not less than 30 days in advance before the date the case is set for trial.[21] Unlike with municipal courts, the Rules of Civil Procedure quite clearly apply to civil cases in county courts. Only time will tell how county courts and county courts at law will be able to adapt to these new procedures.

No Changes to Dangerous Dog Laws

The 82nd Legislature came and went and, unfortunately, did not clear up any of the confusion surrounding the dangerous dog laws. Although H.B. 2679 was introduced by the 82nd Legislature to affect the dangerous dog statutes in Chapter 822 of the Health and Safety Code, the bill never made it out of the Calendars Committee. The bill attempted to authorize judges to set an appeal bond for appeals from dangerous dog hearings, add an appeal statute to mirror the existing cruelly treated animal procedures (prior to the amendments discussed above), and add the right for an owner appealing an animal control determination that a dog is dangerous to the municipal, justice, or county court to have a jury trial on appeal. Fortunately, or unfortunately depending on your role with these cases, H.B. 2679 is not law. Unfortunately for all involved, we are still left chasing our tails, so to speak.

New Case Law

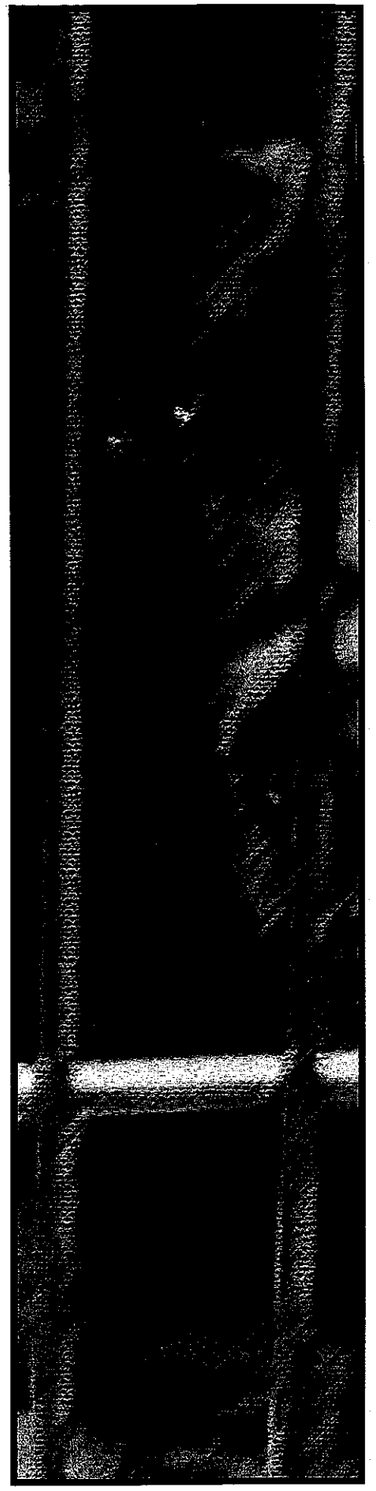
These civil cases regarding cruel treatment of animals or dangerous dogs rarely result in any case law precedent. Whether due to the *Loban* issue[22] noted in Part II of this series (in the May 2011 edition) wherein appellate courts may feel they have no jurisdiction over a civil appeal from a criminal court of limited jurisdiction, or because of the sheer complexity of these cases, courts are often faced with interpreting the procedures in Chapters 821 and 822 without the assistance of higher court opinions. The one recent case dealing with animals does not shed light on these procedures, but rather emphasizes a possible consequence—an alarming one—that may arise from the judge's destruction power over dogs that are found to be dangerous or that have attacked persons. In *Medlen v. Strickland*,[23] the Fort Worth Court of Appeals reversed a 120-year-old Texas Supreme Court decision that pet owners could receive only the fair

market value of the pet. The Medlen's family dog was picked up by animal control, and when the Medlens went to collect the dog without the appropriate payment for fees, a "hold for owner" tag was placed on the dog's cage. Strickland, a shelter employee, put the dog on the list of animals to be euthanized despite the tag. The Medlens sued Strickland for the sentimental or intrinsic value of the dog because the dog itself had little or no market value. Relying on *Heiligmann v. Rose*,[24] a case from 1891, Strickland argued that dogs are treated differently from other personal property and that a party can recover only the market value, if any, or a special or pecuniary value determined by the usefulness of the dog. The Fort Worth Court of Appeals disagreed with Strickland, essentially contravening *Heiligmann*, and remanded the case to determine the sentimental or intrinsic value of the dog. Although not a situation where a dog was disposed of per court order, cities should proceed with caution in euthanizing a dog. What this case, with petition for review pending with the Texas Supreme Court, could mean for a city's liability for the wrongful destruction of a dog is frightening, and provides all the more reason that the statutes dealing with dangerous dogs should be revisited.

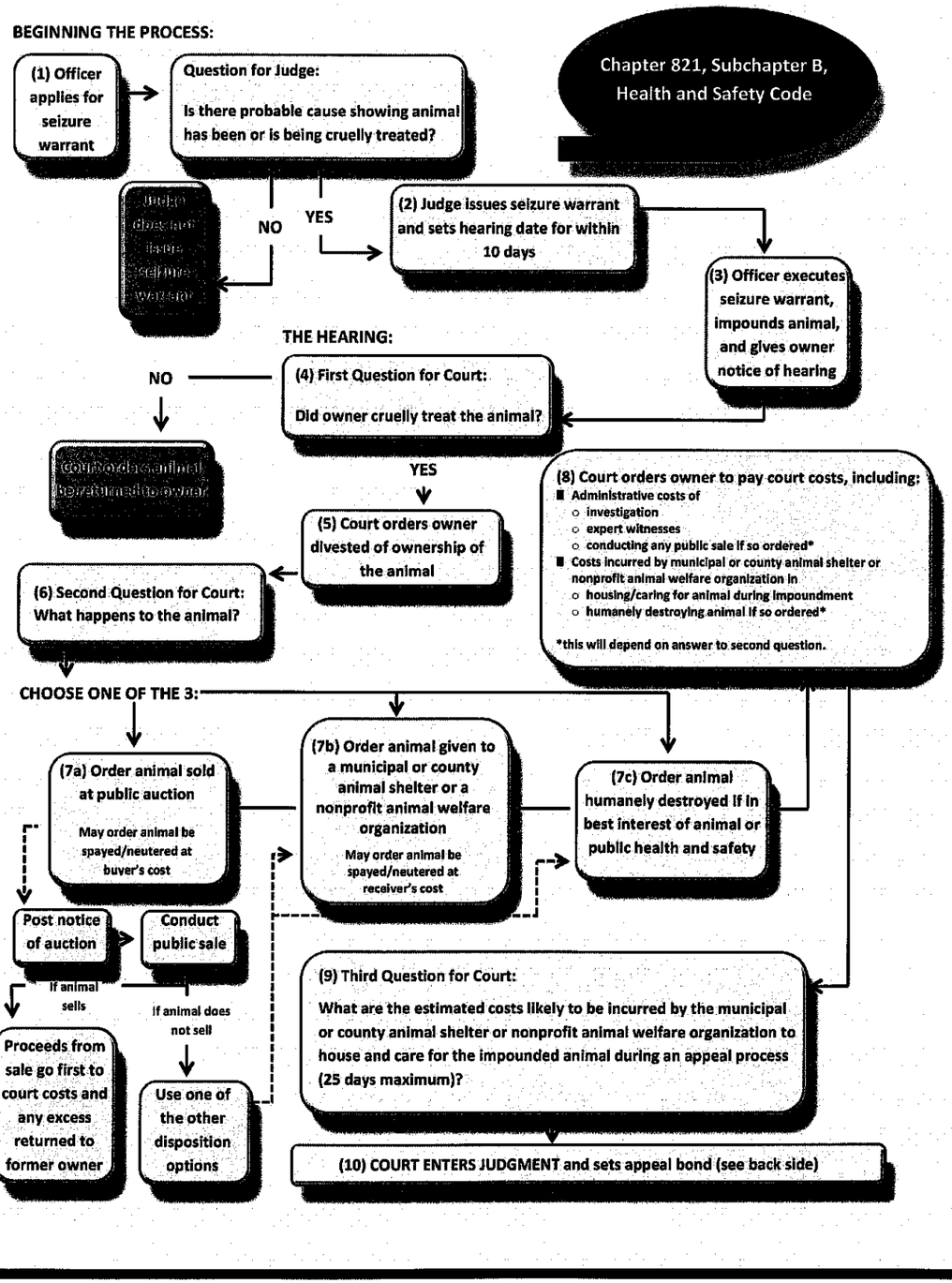
Conclusion

The laws regarding cruelly treated animals, dangerous dogs, or dogs that attack persons and cause serious bodily injury or death are complicated, nebulous, and frustrating, and in serious need of attention. As more judges across Texas are being asked to issue seizure warrants, and more municipal courts are seeing these civil cases infiltrate their dockets, it is imperative to decipher these laws and determine where the attention need be given. As the dog days of summer come to end in these next months, municipal judges, prosecutors, and court personnel are encouraged to examine these laws, flesh out where the gaps exist, and look for ways to clarify what little guidance we have. Perhaps the place to start is in examining the conflict and possible pre-emption issues that arise with city ordinances purporting to govern cruelly treated or dangerous dog hearings.

[1] The article can be downloaded free of charge at *www.tmcec.com/Resources/The_Recorder* under the January 2011 edition (Vol. 20, No. 2). The second part of this series on dangerous dog cases appeared in the May 2011 edition (Vol. 20, No. 3).
[2] H.B. 1043, 82nd Legislature, effective Sept. 1, 2011.
[3] Section 42.105(g), Penal Code.
[4] *Id.*
[5] *Id.*
[6] Section 42.105(f), Penal Code.
[7] Effective Sept. 1, 2011.
[8] Section 821.023(d)(2), Health and Safety Code.
[9] Section 821.021(2), Health and Safety Code.
[10] Remember that the "court costs" ordered upon a finding of cruel treatment are the administrative costs of investigation, expert witnesses, a public sale or humane destruction if so ordered, and the costs incurred by the municipal or county shelter or nonprofit organization in housing and caring for the animal from the seizure until the end of the hearing.
[11] Section 821.023(e), Health and Safety Code.
[12] Section 821.023(e-1), Health and Safety Code.
[13] Section 821.023(e-2), Health and Safety Code.
[14] Section 821.023(e-3) and (e-4), Health and Safety Code. Thus, the amount of the costs is not considered a fine for purposes of determining a municipal or justice court's jurisdiction, nor is it considered an amount in controversy for purposes of determining a court's civil jurisdiction (i.e., a justice court has jurisdiction over civil actions in amounts not more than $10,000).
[15] Section 821.025(b), Health and Safety Code.
[16] Section 821.025(f), Health and Safety Code.
[17] Section 821.025(c), Health and Safety Code.
[18] Section 821.025(d), Health and Safety Code.
[19] *Id.*
[20] *Id.*
[21] Tex. R. Civ. Pro. 216(a).
[22] *In re Loban*, 243 S.W.3d 827 (Tex. App.—Fort Worth 2008).
[23] 353 S.W.3d 576 (Tex. App.—Fort Worth 2011).
[24] 16 S.W. 931 (Tex. 1891).



Cruelly-Treated Animal Hearing Process



(10) COURT ENTERS JUDGMENT AND SETS AMOUNT OF APPEAL BOND

(11) Fourth Question for Court:

Set the amount of the appeal bond equal to the sum of:

(a) the amount of the court costs ordered under step 8; and
(b) the amount of the estimated costs determined under step 9

**Court may not require a bond in an amount greater than or in addition to this amount*

THE APPEAL:

Owner makes decision whether to appeal

Does owner appeal?

NO

YES

(12) Owner has 10 calendar days to appeal and file cash or surety bond in set amount

(13) Court then has 5 calendar days to deliver clerk's record to county court or county court at law

(14) County court then has 10 calendar days to consider the appeal

*Appeal is de novo
*Appellant is entitled to jury trial on request

If owner appeals, animal may not be sold, given away, or destroyed unless necessary to prevent undue pain or suffering during pendency of appeal

Chapter 821, Subchapter B, Health and Safety Code

Cruelly-Treated Animal Hearing Process

Dogs that Attack Persons

Chapter 822, Subchapter A, Health and Safety Code

BEGINNING THE PROCESS:

(1) Any person (including county attorney, city attorney, or peace officer) files sworn complaint with county, justice, or municipal court alleging:
- a dog has caused the death of or serious bodily injury to a person
- by attacking, biting, or mauling the person

Question for Judge:

Is there probable cause to believe the dog caused the death of or serious bodily injury to the person as stated in the complaint?

YES

(2) Judge issues seizure warrant and sets hearing date for not later than 10th day after warrant is issued

Court shall give written notice of hearing date to:
- the owner of the dog or person from whom the dog is seized and
- the person who made the complaint

NO

Judge does not issue seizure warrant

AT THE HEARING:

Question for Judge:

Did the dog cause the death of the person by attacking, biting, or mauling the person?

NO

Question for Judge:

Did the dog cause serious bodily injury to the person by attacking, biting, or mauling the person?

YES

Judge shall order dog destroyed

UNLESS

NO

Judge shall order dog released to:
- its owner
- the person from whom dog was seized, or
- any other person authorized to take possession of the dog

YES

Judge may not order the dog destroyed if:

- dog was being used for protection of a person or property, attack occurred in dog's enclosure that was reasonably certain to prevent dog from escaping and provided notice of dog's presence, and injured person was at least 8 years old and was trespassing in the enclosure;
- attack occurred in dog's enclosure, and injured person was at least 8 years old and was trespassing in the enclosure;
- attack occurred while peace officer was using the dog for law enforcement purposes;
- dog was defending a person from assault or property from damage or theft by the injured person; or
- injured person was younger than 8 and occurred in dog's enclosure that was reasonably certain to keep a child from entering

If none of these circumstances are present, judge may order the dog destroyed

*****

Presumably, if judge may not or chooses not to order the dog destroyed, dog would have to be released to owner or person from whom the dog was seized.

Dangerous Dogs

Chapter 822, Subchapter D, Health and Safety Code

3 ways for an owner to learn that he/she is the owner of a dangerous dog, and thus to become subject to requirements.

City/county has adopted ordinance electing to be governed by Section 822.0422:

Any person reports to a county, justice, or municipal court an incident of an unprovoked attack by a dog causing bodily injury or unprovoked acts that would lead a reasonable person to fear a dog will attack and cause bodily injury, both happening outside the dog's reasonably secure enclosure.

Court shall send notice to dog's owner that report has been filed

Owner then has 5 days from receipt of notice to deliver the dog to animal control

OR

If owner fails to deliver the dog after 5 days, court shall issue seizure warrant for the dog

Court shall set hearing to be held not later than 10 days from date dog is seized or delivered and give written notice of the time and place to:

- **The dog's owner or person from whom dog was seized, and**
- **Person who made the complaint**

AT THE HEARING:

Question for the Judge:

Is the dog a dangerous dog according to the statutory definition?

YES → **Owner learns they are the owner of a dangerous dog and becomes subject to requirements (has 30 days to comply)**

NO → **Presumably, dog shall be released to owner**

Owner may appeal court's determination in the same manner as appeal for other cases from the justice, county or municipal court

Court may order dog remain impounded until court orders disposition after allowing owner a chance to comply

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Owner learns of an unprovoked attack by a dog causing bodily injury or unprovoked acts that would lead a reasonable person to fear a dog will attack and cause bodily injury, both happening outside the dog's reasonably secure enclosure.

Owner knows he/she is the owner of a dangerous dog and becomes subject to requirements (has 30 days to comply).

Any person may file an application with the court alleging that a dog is dangerous and that the owner has failed to comply with the requirements of owning a dangerous dog

Court shall set hearing to be held not later than 10 days from date dog is seized or delivered *[question remains as to how dog is seized/delivered in this type of case]* and give written notice of the time and place to:

- **The dog's owner or person from whom dog was seized, and**
- **Person who made the complaint**

AT THE HEARING:

Question for the Judge:

Did the owner fail to comply with the requirements of owning a dangerous dog?

YES → **Court shall order dog be seized and allow owner 10 more days to comply.**

On 11th day, if no compliance, court shall order dog be destroyed.

NO → **Presumably, end of case**

A person reports to animal control an incident of an unprovoked attack by a dog causing bodily injury or unprovoked acts that would lead a reasonable person to fear a dog will attack and cause bodily injury, both happening outside the dog's reasonably secure enclosure.

Animal control investigates and receives sworn statements of witnesses and determines the dog is a dangerous dog. Animal control notifies owner that dog is dangerous.

Owner then has 15 days to appeal the animal control determination to the county, justice, or municipal court.

Owner knows they are the owner of a dangerous dog and becomes subject to requirements (has 30 days to comply).

Owner knows they are the owner of a dangerous dog and becomes subject to requirements (has 30 days to comply)

Owner may appeal court's determination in the same manner as appeal for other cases from the justice, county or municipal court

Owner may appeal court's determination in the same manner as appeal for other cases from the justice, county or municipal court

governments to implement "deferred prosecution" measures in Class C misdemeanors to decrease the number of local filings from schools.

2. Amend applicable criminal laws to ensure that local courts are the last and not the first step in school discipline (i.e., Amend Section 8.07 of the Penal Code to create a rebuttable presumption that a child younger than age 15 is presumed to not have the capacity for criminal intent to commit a Class C Misdemeanor (exception for traffic offenses). This could be limited to offenses under Chapter 37 of the Education Code (i.e., amend offenses relating to Disruption of Class, Disruption of Transportation, and Disorderly Conduct), but would make more sense to apply to all children so that age (not grade level) is a prima facie element of the offense.

3. Amend existing criminal law and procedures to increase parity between "criminal juvenile justice in local trial courts" and "civil juvenile justice in juvenile court and juvenile probation."

Currently, the subcommittee is fleshing out the specifics of these recommendations. (In late June, I presented a paper at the State Bar of Texas Special Education and Juvenile Justice Course discussing, among other things, the three ideas for legislative reform).[14] The recommendations of the Juvenile Justice Committee will be presented to the Texas Judicial Council on September 7, 2012.

Moving Forward: Ethical Challenges for the Texas Judiciary

Watching the members of the Judicial Council deal with policy issues pertaining to the "passing of the paddle" is a poignant reminder that the dynamics of judges wrestling with policy issues is distinct and complicated. The Canons of Judicial Conduct expressly allow judges to engage in activities to improve the law.[15] Yet, the ability of judges to engage in activities to improve the law must be measured against society's expectations that judges will conduct themselves in a manner that preserves their role as fair and neutral arbiter.

This is where it gets complicated. Legislators often welcome input from the judiciary, and for good reason. The judiciary is in the business of interpreting and applying the Legislature's handiwork. If a bill is filed that is ambiguous, would result in unintended consequences, or conflicts with other legal constructs, legislators would much rather be told during the legislative process than after the fact. The legislative process is designed to place proposals on display for public review and comment. Judges speak from a unique perspective that not only reflects legalities but practicalities. There is potentially a lot of distance between the Capitol building and the courtroom. In other words, written law potentially takes on an entirely different (and sometimes unintended) dynamic when applied to actual cases in the courtroom. Policymakers often appreciate being able to tap into the perspective of judges for good reason; it often results in a better quality work product.

By the same token, judges who interact with members of the Legislature, the media, or members of the public should not lose sight that they are held to a different standard of conduct. The same Canon that allows judges to engage in activities to improve the law also expressly states that "[a] judge shall conduct all of the judge's extra-judicial activities so that they do not: (1) cast reasonable doubt on the judge's capacity to act impartially as a judge; or (2) interfere with the proper performance of judicial duties."[16]

While lobbyists, advocates, and other politicians from the other two branches of government may build their reputations on their ability to garnish public attention with well-placed rhetorical flourishes, being an "outspoken" judge can actually undermine a judge's reputation. It may also set the stage for recurring motions for recusal.

This is not to say that judges should not speak out on juvenile law and other issues. Rather, judges must simply be judicious. The conduct and comments of judges in the public policy arena should be tempered and promulgated from a judicial prerogative that is distinct from that of an advocate or reformer. The balance is saying enough without saying too much.

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[1] Ryan Kellus Turner and Mark Goodner, "Passing the Paddle: Nondisclosure of Children's Criminal Cases," *State Bar of Texas Juvenile Law Section Newsletter* (December 2010) at 13.

[2] Data from the Office of Court Administration's *Annual Report of the Texas Judiciary Fiscal Year 2010* (December 2010) showed that slightly more than 420,000 children appeared in Texas municipal and justice courts. During the same time, slightly more than 44,000 children were adjudicated in juvenile courts. A review of data from the Texas Juvenile Probation Commission shows that nearly 90,000 referrals are made to the 168 juvenile probation departments serving the 254 counties in Texas. See, *The State of Juvenile Probation Activity in Texas: Calendar Years 2009 & 2010* (November 2011).

[3] Compare Section 51.01 of the Family Code with Articles 1.03 and 45.001 of the Code of Criminal Procedure.

[4] Section 51.03, Family Code. In other states, CINS refers to Child In Need of Supervision. The distinction between acronyms is at first glance subtle and insignificant.

[5] Efforts by Texas Appleseed have helped increase public awareness of children being ticketed and criminally adjudicated. See, Texas Appleseed, *Texas Classroom to Prison Pipeline: Ticketing, Arrests and Use of Force in Schools* (December 2010). The topic has recently been placed in the spotlight by the Washington Post, PBS, and BBC.

[6] In 2007, the Legislature passed H.B. 278, which eliminated the authority of school districts to criminalize all violations of school rules as Class C misdemeanors. In 2011, the Legislature passed S.B.1489, which placed procedural safeguards and limitations on how schools and courts handle students who fail to attend school.

[7] Charldean Newell, David Prindle and James Riddlesperger, *Texas Politics* (11th Edition), Cengage (2011) at 312.

[8] "Municipal and Justice Court Issues Featured in State of the Judiciary," *The Recorder* 20:3 (May 2011) at 3.

[9] Chief Justice Wallace Jefferson, *State of the Judiciary Presented to the 82nd Legislative Session* (February 23, 2011). See, on-line at: ow.ly/axIiD.

[10] http://justicecenter.csg.org/resources/juveniles/#media.

[11] http://www.txcourts.gov/tjc/cte-active.asp.

[12] *Id.*

[13] The Texas Judicial Council Juvenile Justice Committee meetings of February 2, 2012 and March 29, 2012 can be viewed on-line at: http://ow.ly/cmyIL.

[14] Ryan Kellus Turner, *Ticketing, Confidentiality, and Special Education Issues*, paper presented at the State Bar of Texas' 8th Annual Special Education and The Juvenile Justice System Course on June 29, 2012. See the paper on-line at: ow.ly/cDWVF.

[15] Canon 4B of the Code of Judicial Conduct states that "[a] judge may speak, write, lecture, teach, and participate in extra-judicial activities concerning the law, the legal system, and the administration of justice and non-legal subjects, subject to the requirements of this Code."

[16] Canon 4A of the Code of Judicial Conduct.

Obstruction Advocacy from pg 11

son were killed in a Wal-Mart parking lot shoot-out. This was, perhaps, a culmination of the rise in sovereign citizen activity that occurred during 2009-2010. The problem has attracted the attention of the FBI who now lists some of these groups as terrorist organizations (anarchist extremism, sovereign citizen extremist movement, and various "militias"). Sovereign citizens (when in court, defendants) are not usually adherents to violence, but frequently are well versed in fraudulent techniques—and in this regard can cause concern for the court system.

Obstruction Advocacy: Designing Procedures to Contend with Those Who Practice Such Tactics

If there is one thing that a sovereign defendant, particularly one that practices "paper terrorism," can successfully accomplish, it is to find and exploit any kink or hole in municipal court procedures. The smoother the system runs, the less likely it is that some difficult or sovereign defendant can successfully exploit the system to his advantage. Many of these sovereign defendants are familiar enough with the system to work it, especially using both discovery requests and open records requests to create additional work.

In real estate, everyone has heard the mantra that value is based on location, location, location. In dealing with difficult defendants, especially the sovereign defendant, the mantra should be communication, communication, communication. The judge, the clerk, and the prosecutor all need to be critically aware of the situation—to the extent allowed under ethical guidelines (i.e., without case specific ex parte communication). Although a sovereign defendant may be a "crackpot" or any other ideological epithet we can think of, in order to avoid problems we need to critically, rather than dismissively, address their spurious motions and pleadings. The reason behind the last statement is that no matter how off the wall the pleadings appear on the surface, there are frequently a few nuggets that need to be properly addressed. If not addressed, then the court might appear biased and a legitimate basis for a complaint may arise (and sovereign defendants have a penchant for filing complaints with the State Bar).

From the prosecution standpoint this is essential. You may be flooded with motions, several at a time, some of which appear—and for the most part are—preposterous on their face. That does not mean, however, that such motions can be ignored. One tactic that I have seen is to include, within several motions, the same requests for relief. For example, one sovereign defendant filed a Demand for a Court of Record (this was filed in a non-record municipal court) along with a Motion for Fair and Impartial Trial. Looking at the two motions, both by title and first page, one would think that the Demand for Court of Record should be denied and the other for Fair and Impartial Trial, granted. In this case, if that had been done, the Court would have denied a demand for a court of record in one motion but granted it in the other (as the request appeared in both motions). The lesson is that, as a prosecutor, you *must* read all motions and respond appropriately.

An appropriate response could be written or oral, depending on the court and its procedures. Appropriate response does not necessarily mean crafting a response to every little issue raised in each motion (and I frequently combine motions in a single response, as they generally raise closely related arguments). The purpose of a response is to assist the court in getting to a plea (or trial, if the defendant refuses to plea, which is not at all unusual). Responding to motions filed by sovereign defendants is a balancing act, particularly during a hearing where you are balancing the needs of the court with the potential anger and frustration of the defendant. Over-litigating can be as detrimental as being under-responsive. Just remember, you are dealing with a defendant who does not see the facts in a realistic setting; in other words, you are dealing with someone who firmly believes that one plus one does not equal two. That person can't be

convinced otherwise, so there is no use in trying.

Sovereign defendants also seem to have a penchant for challenging the authority of various court officers to perform their duties. This is particularly so with regard to prosecutors.

Before delving into challenges to prosecutorial authority, let us first look at our ethical duties, as lawyers, to the judicial system and those served by it, even those who challenge the very right to be brought before the court.

The Preamble to the Texas Rules of Disciplinary Procedure states, in relevant part:

> (1) A lawyer is a representative of clients, an officer of the legal system and a public citizen having special responsibility for the quality of justice. Lawyers, as guardians of the law, play a vital role in the preservation of society. The fulfillment of this role requires an understanding by lawyers of their relationship with and function in our legal system. A consequent obligation of lawyers is to maintain the highest standards of ethical conduct.
> (4) A lawyer's conduct should conform to the requirements of the law, both in professional service to clients and in the lawyer's business and personal affairs. A lawyer should use the law's procedures only for legitimate purposes and not to harass or intimidate others. A lawyer should demonstrate respect for the legal system and for those who serve it, including judges, other lawyers, and public officials. While it is a lawyer's duty, when necessary, to challenge the rectitude of official action, it is also a lawyer's duty to uphold legal process.

So when a sovereign defendant files a motion stating that you, as prosecutor, don't have the authority to prosecute and you are committing a "fraud on the court," how will you respond? With anger and indignation? Or will you address the legal issues and move on? What if the judge agrees with the defendant and finds that you don't have the authority (and this is remotely possible, particularly under hired-counsel practice)? How will you conduct yourself?

When it comes to prosecutorial authority, or for that matter the authority of the judge or clerk, sovereign defendants frequently file open records requests for the current oath of office for all court personnel. Without indulging in the argument as to when an oath is required, (and with respect to prosecutors there is some room for argument as to if, under certain circumstances, one is required at all) this is an easy fix. To have new oaths for each court term, and for each new employee, is easy—and there is no harm in having one in cases where one is not required. I haven't met a mayor yet that balked at issuing an oath—it's just one of those ceremonial duties that mayors love to perform. Once given, file it with the city secretary, and the issue is over.

More importantly, even if the judge's oath is not current, it can be cured at any time before final judgment.[3] The other challenge to authority that I have seen arise is from a parsing of the Code of Criminal Procedure. In these cases the sovereign defendant reads Articles 2.01 and 2.02 to say that only a district or county attorney can prosecute criminal cases. This reading ignores Article 45.201 that specifically refers to prosecution in municipal courts.[4] And with respect to appeals taken to the county court, "the appellate court lacked jurisdiction over defendant's challenge to his speeding conviction based upon his assertion that the *city attorney* should not have prosecuted his case instead of a county attorney based upon the wording in [Article V, Section 21 of the Texas Constitution] where defendant's fine was less than the jurisdictional amount and his constitutional challenge was not based upon the substantive law violated as required by [Article 4.03 of the Code of Criminal Procedure or Section 30.073(a) of the Government Code]."[5]

If dealing with spurious and obstructive motions is not enough, there may be other times where the prosecutor's awareness may be critical, or where other court personnel may request your assistance. There exists a wide array of websites, seminars, and other activities geared to assist sovereign defendants in their activities. With the advent of cheap, high quality, color laser printers and access to a variety of equipment that can manufacture anything from a license plate or a vehicle registration certificate to a driver's license, you can expect to occasionally see documents that are not what they appear to be.

Other areas of municipal work can be affected by adherents to various sovereign citizen theories. Some have been known to move into vacant houses, both as squatters and also with filing fraudulent law suits to attempt to gain ownership. Some still file fraudulent liens against municipal employees (e.g., judge, prosecutor, police chief, mayor), particularly after an unsuccessful trial in municipal court. These situations can create problems for the city, police department, and their legal counsel. Sovereign defendants, in spite of the fact that such behavior has been criminalized, file liens and bogus lawsuits against prosecutors, judges, mayors, council members, and other city officials. So when you think a case is over, it may not be; years later you may be dissolving bogus liens–but at least the law has made this much easier to accomplish.

Update from TMCEC

The next year promises many changes for us all. The Texas Municipal Courts Education Center (TMCEC) is moving on September 1, 2012 to a building purchased by the Texas Municipal Courts Association at 2210 Hancock Drive in Austin (78756).

The number of hours of annual judicial education that judges must attend has increased from 12 to 16 hours—but eight (8) of these hours may, potentially, now be completed by approved online, video, or audio programs.

The clerks regional conferences are now reduced to a one-day conference (with an optional pre-conference session) and one-night stay at grant expense. Every active judge and clerk has been mailed a letter explaining these changes. The registration fee and housing expense has also changed for the bailiff/warrant officer and prosecutor conferences. Please read the letters, emails, and the Academic Catalog carefully, as much will be different in FY13 (September 1, 2012 to August 31, 2013).

Changes adopted last year remain in place. If judges, clerks, and bailiff/warrant officers at the regional programs wish to have a single room, there is a $50 a night fee—otherwise every participant will be assigned a roommate of the same gender. TMCEC has also "gone green" to save grant funds by using email to inform constituents of upcoming programs and deadlines. Confirmation letters, agendas, and directions to TMCEC seminars will now be sent only by email. Please make sure that TMCEC has an accurate and reliable email address on file for you. At the clerks regional programs, participants will be asked to download course materials prior to attending the program. Judges, prosecutors, and bailiffs/warrant officers will continue to receive notebooks of course materials. Certificates will not be mailed out following a program, but are available to download and print online.

We are looking forward to the upcoming year.

Resources for Dealing with Sovereign Defendants

For more information, especially a good listing of *"idiot legal arguments"* with case law, visit:

www.adl.org/mwd/suss1.asp

For a list of cases to use against sovereign citizen arguments, visit:

www.adl.org/mwd/useful.asp

If you want to follow the "latest" on some of these groups, a couple of which are now officially considered domestic terrorists, see:

www.fbi.gov/news/stories/2010/april/sovereigncitizens_041310
www.fbi.gov/stats-services/publications/law-enforcement-bulletin/september-2011/sovereign-citizens

[1] See, e.g., *Williams v. State*, 252 S.W.3d 353 (Tex. Crim. App. 2008).
[2] *Coleman v. Commissioner*, 791 F.2d 68, 69 (7th Cir. 1986).
[3] *Ex parte Dorsett*, 2006 Tex. App. LEXIS 8134 (Tex. App.–Fort Worth Sept. 14 2006) (The court held that a defendant was not entitled to habeas relief from a conviction and fine by a municipal court for a traffic violation; although the municipal judge did not have a current oath of office on file when a pretrial hearing was set, the final judgment was not void because the judge took a new oath before signing it). With respect to the prosecutor, the San Antonio Court of Appeals has held that the State's notice of appeal invoked the court's jurisdiction even though a "special prosecutor," rather than a district attorney, signed it, and although the order of appointment said "special prosecutor," the prosecutor was, in substance, an attorney pro tem with all the powers and duties of the regular prosecuting attorney. Cases in which trial judges failed to timely file their anti-bribery statement supported the view that the prosecutor's delay in filing the oath with the trial court clerk was a mere irregularity that did not deprive the prosecutor of his authority to act as attorney pro tem. *State v. Ford*, 2004 Tex. App. LEXIS 6178 (Tex. App.—San Antonio July 14, 2004), opinion withdrawn by, substituted opinion at 158 S.W.3d 574 (Tex. App.—San Antonio 2005).
[4] City attorney or his deputy may represent the State in a criminal proceeding in municipal court without violating either Article V, Section 21 of the Texas Constitution or Section 44.157 of the Government Code. *Redwine v. State*, 2000 Tex. App. LEXIS 2494 (Tex. App.—Dallas April 17, 2000).
[5] *Aaronson v. State*, 779 S.W.2d 472 (Tex. App.—El Paso 1989).

MATERIALS REQUEST

Please print:

Name:_____ Email address:_____

Court:_____

Mailing address: Please provide the address where you want the materials sent:

_____

City:_____ Zip code:_____

Materials requested:

Note: Materials will be provided as long as there is funding and the materials are in stock.

- ❑ Mock Trials (1)
- ❑ Big Book (11" X 15") – *Don't Monkey Around with Traffic Safety on Field Trips* (1)
- ❑ Big Book (11" X 15") – *The Safety T-Squad* (1)
- ❑ Big Book (11" X 15") – *Be Careful, Lulu*! (1) **(available mid-September)**
- ❑ Big Book (11" X 15") – *Don't Monkey Around with Safety in a Car* (1) (available mid-September)
- ❑ Student Version – *Don't Monkey Around with Traffic Safety on Field Trips* __ English or __ Spanish (limited to 25 copies of each)
- ❑ Student Version – *The Safe T-Squad* __ English or __ Spanish (limited to 25 copies of each)
- ❑ Student Version – *Be Careful, Lulu!* __ English or __ Spanish (limited to 25 copies of each) (available mid-September)
- ❑ Student Ver. – *Don't Monkey Around with Safety in a Car* __ English or __ Spanish (limited to 25 copies each) (available mid-September)
- ❑ Municipal Court Coloring Book __ English or __ Spanish (limited to 25 copies of each)
- ❑ Growth Chart Poster on Child Safety (1)
- ❑ Class Set of Our Town Maps (25)

Additional resources are located on the DRSR website at: www.drsr.info

To receive the materials requested, please fax this form back to: 512.435.6118, scan and email to tmcec@tmcec.com, or mail to: TMCEC, 2210 Hancock Drive, Austin, TX 78756.

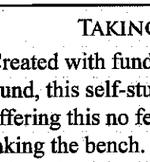
Questions? TMCEC 512.320.8274

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

Please write a short statement as to how you plan to use these materials: _____

RESOURCES FOR YOUR COURT

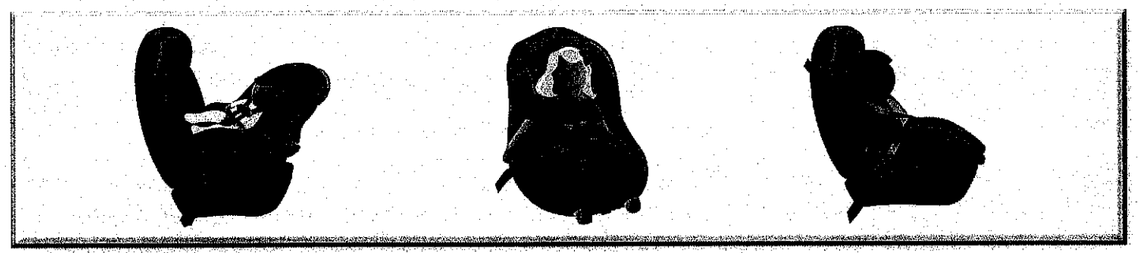
TEEN COURT ASSOCIATION ANNUAL CONFERENCE 2012



Judges and court support personnel interested in starting a teen court are invited to attend the Annual Conference of the Teen Court Association of Texas. It will be held November 6-9, 2012 at the Courtyard Marriott on the River in New Braunfels. This conference will feature information designed to enhance existing teen court programs as well as inform those who are in the process of just beginning to formulate a teen court program.

For additional information, contact Mary Alice Smallbone, masmallbone@nbtexas.org 830.221.4185

2012 CHILD PASSENGER SAFETY WEEK



Materials are now available to support your participation in 2012 Child Passenger Safety Week (Sept. 16-22, 2012) and National Seat Check Saturday (Sept. 22, 2012). In addition to copyright-free creative posters and media templates are also available, which include pre- and post-event press releases, sample proclamations, and talking points.

The materials can be downloaded from the sites listed below:

- ✧ Link to 2012 Child Passenger Safety Week Materials: http://www.trafficsafetymarketing.gov/cpsweek2012
- ✧ Link to PSAs: http://www.trafficsafetymarketing.gov/CAMPAIGNS/Child+Safety/Public+Service+Announcements

There are even instructional videos and PSAs for use in lobbies and community television.

TAKING THE BENCH: AN ONLINE COURSE FOR NEWLY ELECTED/APPOINTED JUDGES.

Created with funding from the State Justice Institute and The National Judicial College's (NJC) Pillars of Justice Fund, this self-study course is designed for those who have recently been elected or appointed to the bench. NJC is offering this no fee course to ensure that all new judges receive an introduction to the profession of judging, prior to taking the bench. NJC staff members are available to assist participating judges in completing the course within five (5) weeks.

An informational flyer with a registration form is shown on the next page. Please share with newly appointed or elected judges. Questions? Please call 775.327.8260.

AMERICAN BAR ASSOCIATION COMMISSION ON LAWYER ASSISTANCE PROGRAMS – JUDICIAL INITIATIVE

Judges who need assistance because of alcoholism, substance abuse, addiction or mental health issues may reach other judges, who are in recovery or who have gone through treatment, by calling a helpline sponsored by the American Bar Association. Judges who have volunteered to be a personal resource to other judges throughout the US and Canada are uniquely positioned to share their experiences, strengths, and hope.

Both judges in need of help and those interested in serving as a peer-to-peer volunteer should call 800.219.6474 during normal business hours (CST). All information is confidential and protected by statute.

The National Judges' Assistance Helpline is a service of the ABA Commission on Lawyer Assistance Programs Judicial Assistance Initiative and administered by the Texas Lawyers' Assistance Program.

TAKING THE BENCH

A No Fee Online Course

This self-study course is designed for judges who have recently been elected/appointed prior to taking the bench. However, it should also be of interest and valuable to judges who recently began their judicial career.

The course will take approximately 7 to 9 hours to complete. Judges may sign up at any time during the week. Once they have signed up, they will have five weeks to complete the course.

Welcome to the Course provides introductory information about the course. It also includes a short video from one of the developers.

Learning Modules: After reviewing the materials in each of the four modules and taking the accompanying self-tests, judges should be able to:

MODULE ONE: ***Transition from Bar to Bench***
(1) define "principled decision making"; (2) differentiate between those community, political, business and financial activities that they are allowed to attend and those they are not; (3) summarize their responsibilities for winding up a law practice (if relevant); (4) describe those cases in which they must disqualify themselves or otherwise note on the record the associations they had with previous clients or organizations; (5) recite the importance of a fair and impartial court system and the rationale behind judicial independence; (6) identify the types of mental health issues personally faced by judges, new and experienced, and describe potential solutions; (7) state the impact that isolation has on some judges and describe possible options for alleviating it; and (8) define the positive aspects of being a judge.

MODULE TWO: ***In the Courtroom***
(1) describe their contempt powers with an understanding that contempt is only to be used as a last resort; (2) define the elements for making a successful record for appellate purposes; (3) outline ways to avoid wasting time at trial; (4) identify best practices for providing access to self-represented litigants; (5) explain the importance of "procedural fairness"; and (6) summarize the role of judicial discretion and ways it can be exercised appropriately.

MODULE THREE: ***Behind the Scenes***
(1) define more clearly the judge's appropriate role in encouraging settlements; (2) describe the judge's role in caseflow management; (3) determine whether judges in your jurisdiction have a role in employment issues; (4) identify the elements of effective judicial opinion writing; (5) summarize the necessary components for an effective court interpreter program; and (6) state the criteria that judges should consider in sentencing.

MODULE FOUR: ***The Judge, the Court, the Community***
(1) define when judges may speak publicly about the justice system without jeopardizing fairness in cases before them; (2) describe methods for dealing with the media with the ultimate goal of educating the public about the courts; (3) identify ways to appropriately respond to criticism; and (4) summarize methods for ensuring the safety of themselves and their families.

Help/Resources provides contact information in the event that the participant has difficulty navigating the site.

Acknowledgments contains the names and photos of the curriculum developers and the course architects.

To enroll in the course, fill out the registration form on the back of this flyer. Upon completion, a certificate and congratulatory gifts will be sent to the participant.

If judges have any questions, they may contact the registrar's office at (800) 255-8343.

The NJC truly appreciates the support of the State Justice Institute and the Pillars of Justice. Without that funding, this project would not have been possible.

THE NATIONAL JUDICIAL COLLEGE
Est. 1963

www.judges.org | (800) 25-JUDGE (255-8343)

TAKING THE BENCH REGISTRATION FORM

The National Judicial College
Judicial College Building | Mail Stop 358 | Reno, NV 89557
(800) 25-JUDGE (800-255-8343) | (775) 784-6747 | www.judges.org
Please TYPE or PRINT CLEARLY in black ink and complete all requested information

ENROLL BY EMAIL
register@judges.org
ENROLL BY FAX
775-784-1269
(no need to mail original)

_____ [ ] F [ ] M
First Name Middle Initial Last Name

Name of Court to which elected/appointed _____

Current Mailing Address (Required) _____

City _____ State/County/Tribe _____

Zip _____

Office Phone (_____)_____ **Ext.** _____ **Fax** (_____)_____ **Home** (_____)_____

Email address _____

Type of Jurisdiction: [ ] General

Population your court serves: [ ] 0-50,000 [ ] 50,000-250,000 [ ] 250,000-500,000 [ ] 500,000 plus

Law Degree: [ ] Yes [ ] No **Other Degrees:** [ ] Yes [ ] No (please specify) _____

❑ **PLEASE ENROLL ME IN: TAKING THE BENCH: A No-Fee Online Course for Newly Elected/Appointed General Jurisdiction Judges**

If you know what your court contact information will be when you take the bench, please provide (or submit as soon as you know it).

Mailing Address _____

City _____ State _____ Zip _____ Email _____

THE NATIONAL JUDICIAL COLLEGE
Est. 1963

RETAIN PHOTOCOPY FOR YOUR RECORDS
Taking the Bench

NJC USE ONLY
Eligibility Approved _____

From the Center

Celebrate Municipal Courts Week
November 5-9, 2012

Join municipal courts, city councils, and communities throughout Texas in showing appreciation for the dedicated **municipal judges, court clerks, court administrators, prosecutors, bailiffs, and warrant officers who comprise the Texas municipal courts from November 5 to November 9, 2012. 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.*
- 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, for additional ways to celebrate Municipal Courts Week.

Remember to start planning early and have fun!

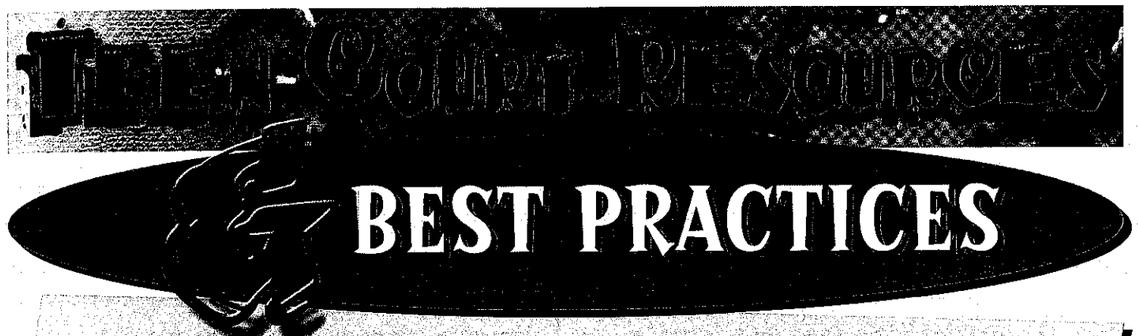
We want to hear all about your celebration so please send copies of your activities, calendar, and news clippings to TMCEC or Deadra Stark (stark@tmcec.com) so that we can share them with other courts.

Also, call TMCEC (512.320.8274) if you need materials to support your program. We have stickers, coloring books, handouts, and more.

Certification Renewal

All clerks and court administrators who are certified at Level I and II are reminded to submit to TMCEC a renewal application with the certificates showing at least 12 hours of continuing education in 11-12. Those certified at Level III must submit documentation of 20 hours of education each academic year. The renewal application may be downloaded from the website at: www.tmcec.com/Programs/Clerks/Annual_Renewals.

*Click on the link at www.tmcec.com that says "Online Registration" to print your certificate.



In FY 12, with funding from the TxDOT grant under the Municipal Traffic Safety Initiative program, TMCEC offered two teen court planning seminars in cooperation with the Georgetown Municipal Court. The materials used in those seminars came from national, state, and local organizations. A CD-ROM of the resource materials is available at no charge for municipal courts interested in starting a teen court. On the CD are many examples of best practices, practical suggestions, and local rules. Email tmcec@tmcec.com for a complimentary copy. Watch the TMCEC website for a teen court page—to be developed in September.

Attention Court Administrators and Court Clerks:

Please take note of these significant changes to the Regional Clerks program, effective in the upcoming academic year, beginning in October 2012 at the Clerks Regional Seminar in Tyler.

1. The Regional Clerks Seminars are now eight-hour sessions, from 8 a.m. to 5 p.m.
2. TMCEC will pay for the hotel stay for the night **before** the seminar. Participants will be responsible for additional night's stays.
3. There will be a four-hour optional pre-conference offered the day before the seminar, so attendees will be able to obtain their traditional 12 hours of training. The pre-conference will be from 1 p.m. to 5 p.m.
4. Prep sessions for the clerk certification testing will be offered the day before the seminar from 1 p.m. to 5 p.m. Prep sessions are now free. Everyone is invited. It is an excellent review.
5. Certification testing will be offered the day after the seminar from 8 a.m. until noon. Those testing will be responsible for hotel arrangements, if needed, the night before the test.
6. Clerks Regional Seminars will continue to be "paperless," with course material available online.

Although the overall length of the regional seminar has been reduced by four hours, clerks needing training hours to maintain their certification, should not be adversely affected. By attending the pre-conference, participants will still be able to obtain 12 hours of training at the regional seminars. Also, keep in mind that up to 7 hours of training per year can be obtained through online training and both live and archived webinars.

Lastly, the TCCA Education Committee recently voted to make the testing prep sessions free of charge. Also, testing is now offered at the TMCEC offices in Austin for first-time test takers, as well as retests.

These changes in the Clerks Regional Seminar format will present some challenges and require some adjustments; however, we have been finalizing the agenda for the seminars and we will have a great program for you and your fellow clerks.

Sincerely,

Hope Lochridge, Executive Director

DRSR: COURTS AND CLASSROOMS

I PROMISE TO OBEY...

Learning Objectives: Students will:

1. Meet a municipal judge or clerk and learn that a judge's job is to keep people safe by making sure they know to follow the law.
2. Recognize the difference between laws (which are meant to keep people safe) and rules or safe practices (which are meant to keep people safe, but are not laws).
3. Identify several safe practices and laws pertaining to pedestrians, bicyclists, and motorists.
4. Take an oath to obey a law and follow a safe practice of their choice.

TEKS: Social Studies: K.8A-B, 9A-B, 14A; 1.11A-B, 12A-C, 17A; 2.12C, 18A; 3.9B-C, 18A; 4.15B, 18A; 5.18B

Materials Needed: Chalkboard or overhead projector, oath certificate.

Teaching Strategy:

1. The teacher will introduce the judge (or clerk) and have the judge (or clerk) tell the students a little bit about him or herself.

2. The judge (or clerk) will tell the students about a judge's job (no more than 5 or 10 minutes to keep their attention), with the main point being that a judge's job is to keep people safe by making sure they know to follow the law.

    - When people break laws, they get in trouble with a police officer, who will either arrest the person and take them to jail or write them a ticket telling them what they did wrong.
    - Police officers are not being mean, but their job is to make sure people are following the laws.
    - When a person gets in trouble with a police officer, the person will have to see the judge, who will determine whether the person broke the law.
    - The judge is not there just to punish the person, but to keep people safe and make sure they start following and always follow the law.

3. The judge (or clerk) will then ask the students what a safe practice is (i.e., something that is a good idea to do just to be safe, but there's not really a law requiring you to), what a rule is (i.e., something that someone tells you that you must do or not do, usually to make sure you stay safe, that you could get in trouble for by a teacher or parent, but is not against the law), and what a law is (i.e., something passed by the city council, state legislature, or congress that tells you how you must or must not act to not only keep you safe, but also keep you from breaking the law and being punished by a court).

4. Have the students brainstorm by calling out different safe practices (oftentimes rules that parents or teachers have) or laws they know of, or tell the students that they will not get in trouble, but to name one rule they have broken. The judge may have to give examples from the following list.

RULES / SAFE PRACTICES

- Raise your hand before you talk in class
- Don't talk to strangers
- Never get in a car with a stranger
- Hold an adult's hand when you cross the street
- Look both ways before you cross the street
- Don't chase a ball out into the street (ask an adult to get it for you)
- Wear a helmet when you ride your bicycle
- Don't ride your bike without using your hands
- Wear a helmet and knee/elbow pads when you skateboard or rollerskate
- When getting off the schoolbus, always walk in front of the bus, not behind it
- Don't walk around inside the schoolbus; stay in your seat and sit on your pockets
- Call home if you need help or are going to be late

LAWS

- Stop at all stop signs when riding your bicycle
- Don't carry a person on the handlebars of your bicycle
- Don't hang onto a car while on a bicycle, skateboard, or roller skates and have the car pull you
- Always have a reflector on your bicycle when riding at night
- Ride your bicycle going the same direction as the rest of traffic
- Use hand signals if you are going to stop or turn
- Do not walk across a street if the cars going the same way you are walking have a red light
- Do not cross the street when the signal says "Don't Walk" or "Wait"
- Do not step out in front of a moving car
- Do not walk diagonally across an intersection
- Always walk in the crosswalk if one is provided
- Walk on the sidewalk if there is one, not on the street
- If there is no sidewalk, walk on the left side of the road facing the rest of traffic
- Do not carry a white cane on a street unless you are blind – white canes are for blind people only
- Drivers must follow the speed limit
- Cars must stop for a schoolbus when kids are getting on or off
- Do not race in a car
- Don't drink and drive
- Wear your seatbelt or ride in your booster seat
- Don't drink alcohol (or beer) until you are 21
- Don't hitch hike
- Don't ride in the back of a pickup truck until you're 18
- Don't ride on a motorcycle until you're 5

5. Going one step further, discuss what happens when you don't follow a safe practice (i.e., you might get hurt), when you break a rule (i.e., you go to the principal's office, you might be grounded by your parents or be sent to time-out), and when you break a law (i.e., you get in trouble with a police officer and have to go see the judge).

6. Have the students all pick one law and one safe practice (or rule) they can promise to always follow. Depending on the grade and ability of the children, pass out the "Oath" certificate attached to this lesson to each student and have them write out the law or safe practice (which should be spelled out on the board already) on the certificate. Note: TMCEC has a limited number of class sets of certificates available to speakers at no charge. Email your request to: tmcec@tmcec.com. Or it may be downloaded from the TMCEC website. For younger grades, have the teacher and judge go around the room and write out the law and safe practice on each child's certificate. For ease, the judge can sign all the certificates before being passed out to the children.

7. Have the judge (or clerk) explain to the children what an oath is:

    - When people come to court to tell what they saw or heard in a case, or when people are picked to be on a jury that will decide whether someone committed a crime or should win in a case, they must promise to tell the truth.
    - When a person is named as a judge, the judge has to promise to uphold the law.
    - Making this promise is called "taking an oath."

8. Have the judge (or clerk) tell the students that today they get to take an oath, just like a judge gets to, to always promise to follow the law and safe practice that they chose. Have the judge stand at the front of the room, have all the children stand up and raise their right hand, and read the following:

Judge (or clerk): Repeat after me. I…
Class: I…

Judge (or clerk): Now say your name
Class: {say name in unison}

Judge (or clerk): …do hereby promise…
Class: …do hereby promise…

Judge (or clerk): …to obey the law…
Class: …to obey the law…

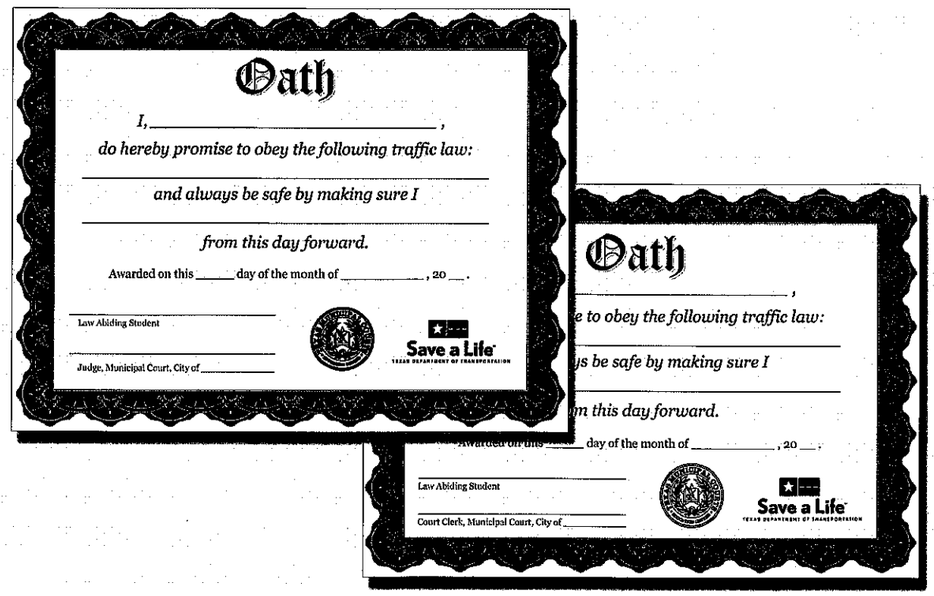
Judge (or clerk): …and always be safe…
Class: …and always be safe…

Judge (or clerk): ..from this day forward.
Class: …from this day forward.

Judge (or clerk): Congratulations! You are now all safe, law-abiding citizens!

9. Finally, let the class clap for each other, sit back down, and perhaps leave time for the students to ask questions of the judge (or clerk).

Prepared by Katie Tefft, TMCEC Program Attorney, 2010 with funds from the Texas Department of Transportation, *Driving on the Right Side of the Road* project.



2012 - 2013 TMCEC Academic Schedule At-A-Glance

Seminar	Date(s)	City	Hotel Information
Regional Judges Seminar	October 22-24, 2012 (M-T-W)	Tyler	Holiday Inn South Broadway 5701 South Broadway, Tyler, TX
Regional Clerks Seminar	October 24-25, 2012 (W-Th)	Tyler	Holiday Inn South Broadway 5701 South Broadway, Tyler, TX
New Judges & Clerks Orientation	November 14, 2012 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX
Regional Clerks Seminar	November 27-28, 2012 (T-W)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
Regional Judges Seminar	November 27-29, 2012 (T-W-Th)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
New Clerks Seminar	December 10-13, 2012 (M-T-W-Th)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
New Judges Seminar	December 10-14, 2012 (M-T-W-Th-F)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
Regional Clerks Seminar	January 7-8, 2013 (M-T)	San Antonio	Omni San Antonio at the Colonnade 9821 Colonnade Blvd., San Antonio, TX
Regional Judges Seminar	January 7-9, 2013 (M-T-W)	San Antonio	Omni San Antonio at the Colonnade 9821 Colonnade Blvd., San Antonio, TX
Regional Clerks Seminar	January 14-15, 2013 (M-T)	Galveston	San Luis Resort Spa & Conference Center 5222 Seawall Boulevard, Galveston, TX
Level III Assessment Clinic	January 28-31, 2013 (T-W-Th)	Austin	Crowne Plaza Austin 6121 IH 35 North, Austin, TX
Regional Clerks Seminar	February 4-5, 2013 (M-T)	Addison	Crowne Plaza Addison 14315 Midway Road, Addison, TX
Regional Judges Seminar	February 4-6, 2013 (M-T-W)	Addison	Crowne Plaza Addison 14315 Midway Road, Addison, TX
Prosecutors Seminar	February 10-12, 2013 (Su-M-T)	Dallas	Omni Dallas Hotel at Park West 1590 LBJ Freeway, Dallas, TX
Regional Judges Seminar	February 24-26, 2013 (Su-M-T)	Galveston	San Luis Resort Spa & Conference Center 5222 Seawall Boulevard, Galveston, TX
New Judges & Clerks Orientation	March 6, 2013 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX
Regional Clerks Seminar	March 24-25, 2013 (Su-M)	Houston	Omni Houston Hotel Westside 13210 Katy Freeway, Houston, TX
Regional Judges Seminar	March 24-26, 2013 (Su-M-T)	Houston	Omni Houston Hotel Westside 13210 Katy Freeway, Houston, TX
Traffic Safety Seminar	April 2-4, 2013 (T-W-Th)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
Regional Clerks Seminar	April 8-9, 2013 (M-T)	Amarillo	Ambassador Hotel Amarillo 3100 Interstate 40 West, Amarillo, TX
Regional Judges Seminar	April 8-10, 2013 (M-T-W)	Amarillo	Ambassador Hotel Amarillo 3100 Interstate 40 West, Amarillo, TX
Regional Clerks Seminar	April 29 - May 1, 2013 (M-T-W)	S. Padre Island	Pearl South Padre 310 Padre Boulevard, S. Padre Island, TX
Regional Attorney Judges Seminar	May 5-7, 2013 (Su-M-T)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S. Padre Island, TX
Regional Non-Attorney Judges Seminar	May 7-9, 2013 (T-W-Th)	S. Padre Island	Isla Grand Beach Resort 500 Padre Boulevard, S.Padre Island, TX
Bailiff and Warrant Officer Seminar	May 22-24, 2013 (W-Th-F)	Galveston	San Luis Resort Spa & Conference Center 5222 Seawall Boulevard, Galveston, TX
New Judges & Clerks Orientation	June 5, 2013 (W)	Austin	TMCEC 2210 Hancock Drive, Austin, TX
Regional Clerks Seminar	June 10-11, 2013 (M-T)	Waco	Hilton Waco 113 South University Parks Dr. Waco, TX
Regional Judges Seminar	June 10-12, 2013 (M-T-W)	Waco	Hilton Waco 113 South University Parks Dr. Waco, TX
Prosecutors & Court Administrator Seminar	June 17-19, 2013 (M-T-W)	Corpus Christi	Omni Corpus Christi Hotel Bayfront Tower 900 N. Shoreline Blvd., Corpus Christi, TX
New Clerks Seminar	July 15-18, 2013 (M-T-W-Th)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
New Judges Seminar	July 15-19, 2013 (M-T-W-Th-F)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX
Legislative Update - Lubbock	August 15, 2013 (Th)	Lubbock	Overton Hotel & Conference Center 2322 Mac Davis Lane, Lubbock, TX
Legislative Update - Houston	August 20, 2013 (T)	Houston	Omni Houston Hotel 4 Riverway, Houston, TX
Legislative Update - Austin	August 23, 2013 (F)	Austin	Omni Southpark Austin 4140 Governors Row, Austin, TX

***There is an optional Traffic Safety four-hour program on May 1, 2013**

TEXAS MUNICIPAL COURTS EDUCATION CENTER
FY13 REGISTRATION FORM:

Regional Clerks Seminars

Note: Please use other registration forms for Level III Assessment Clinic and Court Administrators Conference

Conference Date: _____ Conference Site: _____

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

Name *(please print legibly)*: Last Name: _____ First Name: _____ MI: _____
Names you prefer to be called (if different): _____ Female/Male: _____
Position held: _____
Date Hired: _____ Years experience: _____
Emergency contact and phone number: _____

HOUSING INFORMATION - Note: $50 a night single room fee

TMCEC will make all hotel reservations from the information you provide on this form. **TMCEC will pay for a double occupancy room at all regional clerks seminars.** To share with a specific seminar participant, you must indicate that person's name on this form.

☐ I request a private, single-occupancy room ($50 for one night only).
☐ I request a room shared with a seminar participant. Room will have 2 double beds. TMCEC will assign roommate **or** you may request a roommate by entering seminar participant's name here: _____.
☐ I request a private double-occupancy room, but I'll be sharing with a non-participating guest. I will pay additional cost. ($50 for one night only). I will require: ☐ 1 king bed ☐ 2 double beds
☐ I do not need a room at the seminar.

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

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

STATUS *(Check **all** that apply):*
☐ Full Time ☐ Part Time ☐ Court Clerk/Deputy Clerk ☐ Juvenile Case Manager
☐ Court Administrator ☐ Other _____

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

Full payment is due with the registration form. Registration shall be confirmed only upon receipt of registration form and full payment of both the registration fee and the hotel room.

_____ _____
Participant Signature (may only be signed by participant) *Date*

PAYMENT INFORMATION: Payment **will not** be processed until all pertinent information on this form is complete.

Amount Enclosed: $ 50 Registration Fee + $_____ Housing Fee = $_____
☐ Check Enclosed *(Make checks payable to TMCEC.)*
☐ Credit Card

Credit Card Payment:
Amount to Charge: *Credit Card Number* *Expiration Date*
Credit card type: $_____ _____ _____
☐ *MasterCard*
☐ *Visa*
Name as it appears on card (print clearly): _____
Authorized signature: _____

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118.

TEXAS MUNICIPAL COURTS EDUCATION CENTER
FY13 REGISTRATION FORM:

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

Conference Date: _____ Conference Site: _____

Check one:
☐ Non-Attorney Judge ($50)
☐ Attorney Judge not-seeking CLE credit ($50)
☐ Attorney Judge seeking CLE credit ($150)

☐ Traffic Safety Conference - Judges & Clerks ($50)
☐ Level III Assessment Clinic ($100)
☐ Court Administrators Seminar ($100)
☐ Bailiff/Warrant Officer* ($100)

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

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

HOUSING INFORMATION - Note: $50 a night single room fee

TMCEC will make all hotel reservations from the information you provide on this form. **TMCEC will pay for a double occupancy room at all regional judges, Bailiff/Warrant Officer seminar, Level III Assessment Clinic, the Court Administrators conference and the Traffic Safety Conference.** To share with a specific seminar participant, you must indicate that person's name on this form.

☐ I request a private, single-occupancy room ($50 per night : ____ # of nights x $50 = $_____)
☐ I request a room shared with a seminar participant. Room will have 2 double beds. TMCEC will assign roommate **or** you may request roommate by entering seminar participant's name here: _____
☐ I request a private double-occupancy room, but I'll be sharing with a non-participating guest. I will pay additional cost ($50 per night : ____ # of nights x $50 = $_____). I will require: ☐ 1 king bed ☐ 2 double beds
☐ I do not need a room at the seminar.

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

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

STATUS *(Check **all** that apply):*
☐ Full Time ☐ Part Time ☐ Attorney ☐ Non-Attorney ☐ Bailiff/Warrant Officer
☐ Presiding Judge ☐ Justice of the Peace ☐ Other _____
☐ Associate/Alternate Judge ☐ Mayor (*ex officio* Judge)

***Bailiffs/Warrant Officers:** Municipal judge's signature required to attend Bailiffs/Warrant Officers' program.
Judge's Signature: _____ Date: _____
Municipal Court of: _____ TCLEOSE PID # _____

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

_____ _____
Participant Signature (may only be signed by participant) *Date*

PAYMENT INFORMATION: Payment **will not** be processed until all pertinent information on this form is complete.

Amount Enclosed: $_____ Registration/CLE Fee + $_____ Housing Fee = $_____
☐ Check Enclosed *(Make checks payable to TMCEC.)*
☐ Credit Card

Credit Card Payment:
Amount to Charge: *Credit Card Number* *Expiration Date*
Credit card type: $_____ _____ _____
☐ *MasterCard*
☐ *Visa*
Name as it appears on card (print clearly): _____
Authorized signature: _____

Please return completed form with payment to TMCEC at 2210 Hancock Drive, Austin, TX 78756, or fax to 512.435.6118.

TEXAS MUNICIPAL COURTS EDUCATION CENTER
FY13 REGISTRATION FORM:
New Judges and New Clerks, and Prosecutors Conferences

Conference Date: _____ Conference Site: _____

Check one:

☐ New, Non-Attorney Judge Program ($200)	☐ Prosecutor not seeking CLE/no room ($100)
☐ New Clerk Program ($200)	☐ Prosecutor seeking CLE/no room ($200)
☐ Non-municipal prosecutor seeking CLE credit ($400	☐ Prosecutor not seeking CLE/with room ($250)
☐ Non-municipal prosecutor not seeking CLE credit ($300)	☐ Prosecutor seeking CLE/with room ($350)

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

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

HOUSING INFORMATION

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

☐ I need a private, single-occupancy room.
☐ I need a room shared with a seminar participant. TMCEC will assign you a roommate or you may request a roommate.[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 non-participating guest. [I will pay additional cost, if any, per night]
I will require: ☐ 1 king bed ☐ 2 double beds
☐ I do not need a room at the seminar.

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

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

STATUS (*Check **all** that apply):*

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

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