

Municipal Court Recorder

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Two Wrongs Didn't Make It Right

By The Honorable Bonnie Lee Goldstein, Cockrell Hill

What the Legislature started in 2001, it failed to correct by the passage of SB 782. More specifically, SB 782, effective June 18, 2003, amends Article 103.0031, of the Texas Code of Criminal Procedure, by expanding the collection services for which a county and municipality can contract, as well as establishing new procedures. This article does not purport to address all the issues presented by the newly enacted legislation; rather, this is but a brief purview into the morass that is Article 103.0031. The author recommends that each governmental body critically review the legislation and any proposed contract with legal counsel and judicial representatives to ensure the governmental interests are

protected and the appropriate procedures implemented.

The most notable amendment, and perhaps the most controversial, is the ability to contract for the collection of amounts in unadjudicated cases, *i.e.*, cases where the defendant has failed to appear in compliance with a lawful summons, a lawful order of a court, as specified in a citation, summons, or other authorized notice. In order to charge the defendant, the amount to which the 30 percent applies must be communicated to the accused in a manner acceptable under the court's standard policy for resolution of the case. The accused may then voluntarily agree to pay that amount. If the

accused does not agree, the amount to be paid will be that ordered by the court after plea or trial. The vendor's communication, in a form acceptable to the court under the court's standard policy for resolution of the case, must include a notice of the individual's right to enter a plea or go to trial on any offense charged.

SB 782 clarified that the amount of the collection fee is 30 percent on each allowable item that is 60 days past due and referred to an attorney or vendor for collection. An amount is past due if the amount remains unpaid on the 61st day after the date on which the debt, fine, fee, forfeited bond, or court costs

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Holding Youth Accountable

What Peace Officers, Prosecutors, and Judges Need to Know about HB 2319, Fine-Only Offenses, and Juveniles Now Adults

By Ryan Kellus Turner, Program Attorney/Deputy Counsel, TMCEC

Peace officers and prosecutors see it every day, children slowly progressing down the pathway of crime. Rarely do criminals begin as felons. To the contrary, criminal behavior tends to be progressive. First offenders tend to be misdemeanants. In Texas, a young offender's first encounter with the judicial system is rarely in juvenile

court. Rather, his or her first brush with the judicial system is likely to be before one of the State's 1,310 municipal judges or 834 justices of the peace.¹

During FY 2002, Texas municipal courts alone adjudicated more than 270,000 juvenile cases.² While municipal

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Texas Municipal Courts Education Center

1609 Shoal Creek Boulevard, Suite 302
Austin, Texas 78701
512/320-8274 or 800/252-3718
Fax: 512/435-6118
Web site: www.tmcec.com

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AROUND THE STATE

Association Recognizes Outstanding Judge & Clerk

The Honorable Judge C. Victor Lander of Dallas was selected by the Texas Municipal Courts Association (TMCA) to receive the Association's Outstanding Judicial Award. Judge Lander received the special judicial recognition award at the TMCA's Annual Convention held in Galveston on September 18-20, 2003.

The award recognized Judge Lander for his contributions to the fair and impartial administration of justice. He has been the Presiding Judge of Municipal Court #7 for the City of Dallas for the last seven years. Prior to this, he was the Presiding Judge for the Balch Springs Municipal Court from 1993-96, and in the private practice of law with an emphasis in employment discrimination, civil rights, and criminal law from 1986 - 2000.

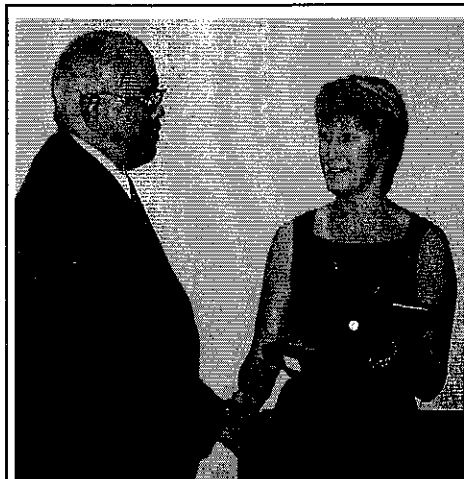
Judge Lander has served as a faculty member and lecturer for both legally trained and non-lawyer judges at TMCEC and the National Judicial College in Reno. He writes periodically for the *Dallas Weekly* and other publications, and gives presentations to schools, churches, and civic organizations throughout Dallas, the State of Texas, and the United States.

"He [Judge Lander] is a respected member of the judiciary and leader. He has done much to advance the administration of justice throughout the United States. He has promoted programs, which improve the performance of judges. He has dedicated himself to advance the fair and equal treatment of each person who uses the court system," said TMCA President and City of Midland Municipal Judge Sharon Hatten.

Carol Gauntt, the Court Administrator for the City of Richland Hills was selected by the TMCA to receive the Association's Outstanding Clerk Award. Mrs. Gauntt also received the special award at the TMCA's Annual Convention held in Galveston in September.

The award recognized Mrs. Gauntt for her contributions to the administration of justice. Mrs. Gauntt served the City of Richland Hills as Court Administrator from 1993 to 2003.

In October 2002, Mrs. Gauntt became the 7th Certified Municipal Court Clerk, Level III, in the State of Texas. In addition to her own educational



Judge C. Victor Lander of Dallas receives Outstanding Judge Award from TMCA President Sharon Hatten of Midland.

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FROM THE GENERAL COUNSEL W. Clay Abbott

Special Session Legislation

Sunday, October 12, 2003, the 78th Legislature finally went home. This ended regular and special sessions that started in January. The special sessions yielded redistricting and the passage of one bill that impacts municipal courts. HB 2 was signed by the Governor on October 15, 2003 and modifies three legislative actions from the general session: DSC/Deferred Disposition, the \$30 STF, and License Renewal Surcharges.

At the end of the session, there was great concern that conflicting language in SB 631 and SB 1904 might require adjudication of defendants completing the court's orders under Art. 45.051 (Deferred Disposition), and Art. 45.0511 (DSC), Code of Criminal Procedure. Last minute additions to SB 631 seemed to cure the problem, but worries lingered. HB 2 tackles the problem reenacting large portions of Articles 45.05 and 45.0511, Code of Criminal Procedure, making it clear that if the defendant completes the condition imposed by the court the case should be dismissed with no adjudication of guilt. Given the tremendous number of cases municipal courts dispose of using these articles, this is good news both for its

clarity and the continued viability of these procedures.

Secondly, HB 2 remedies one of the strangest aspects of the new driver responsibility program based on driver's license renewal surcharges. This program was created during the general session in HB 3588. Presumably it was created to raise State income and deter certain traffic offenses. Surcharges were applied to drivers with multiple traffic violations, DWI offenders, unlicensed drivers, and uninsured drivers. These surcharges are collected by DPS based upon conviction reports from the courts. The program requires a targeted driver to renew his or her license after conviction and pay the required surcharge for three years. Under the originally passed scheme, surcharges applied to drivers **convicted** after September 1, 2003. This provision was protested as having a retroactive application. HB 2 changes the application to offenses **committed** after September 1, 2003. If DPS collected or collects any surcharges for offenses committed before September 1, they are now required to return them.

The biggest change was the repeal of the \$30 State Traffic Fee. Wait...don't celebrate too soon. It was immediately

reenacted as a State Traffic Fine. The good news is it is collected, reported, and otherwise treated just like the State Traffic Fee. It still applies only to Subtitle C "Rules of the Road" violations. The Comptroller has told us when remitting this fee/fine courts will not be required to separate or distinguish them. Courts will still keep five percent. Even though the new expense is labeled a "fine" it will continue to be collected up front on Deferred Disposition and DSC, just like it was as a cost. Finally, it is collected outside of the statutory fine amounts. More specifically, it is not subtracted from the fine collected by the court, nor does it raise or lower the fine range. The State Traffic Fine is collected independently from the "regular" or "criminal" fine.

Collection Contracts

In an excellent article originally published by GCAT (page 1), Bonnie Goldstein discusses problems created by new legislation created to allow collection contracts on unadjudicated cases. She mentions the court's obligations under the Code of Judicial Conduct. Canon 2(B)(4) requires the judge be "patient, dignified, and

Continued

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achievements, she has implemented an innovative style of teaching which has improved the participation in the Level I and Level II Clerk Certification Preparation Courses. She has also been credited with modernizing the Richland Hills Municipal Court by successfully implementing a

computerized court system regarding records management, a ticketless (Auto Cite) traffic violation entry module in conjunction with the police department and an online court payment and signature system.

In addition to being an outstanding court professional, Mrs. Gauntt is an

active volunteer with Special Olympics, her church, and teen court.

Richland Hills City Manager, James W. Quin, said, "If one word were used to describe Ms. Gauntt, it would be dedication. She is truly imbued with the spirit of TMCA and unfailingly promotes its tenets in each and every aspect of her professional career."

Continued from page 3

courteous” and to “require similar conduct of...others subject to the judge’s direction and control.” This opens a whole new can of worms when collections contracts allow an outside vendor to collect amounts “communicated to the accused as acceptable to the court under its standard policy for resolution of the case.” Is this vendor therefore subject to the judge’s discretion and control? Many may answer, “Of course not.” But, on what authority do the collectors speak? If the collectors are not patient, dignified, and courteous, may the judge face discipline by the Commission? Of course, no collector has ever been anything but patient, dignified, and courteous. It is, in fact, that for which they are best known. As Judge Goldstein has suggested this should cause the court some concern about the details of how a collections contract will be executed.

The reputation, perceived fairness, and independence of a court is a delicate thing. We are well served in protecting it.

Youth Accountability

This issue leads with an outstanding article by Ryan Kellus Turner concerning youth accountability. The issue of “surprise birthday party” warrants has been discussed at schools and in this publication for years. The issue was created by conflict between the equally important needs to protect juvenile offender’s rights and to make them accountable for their behavior. Too many juvenile offenders were being taught—inadvertently—that the offenses they were charged with in municipal court did not matter.

The new youth accountability provisions in Chapter 45, Code of Criminal Procedure, will be a centerpiece of the TMCEC educational programs this

year. Besides the article in this publication, you will also find a wonderful juvenile checklist created by Margaret Robbins. This variety of different aids is provided to meet the varied needs of our readers. Also remember to browse through the TMCEC website(www.tmcec.com) for new materials and information.

Municipal courts have been asked to handle more and more serious juvenile offenses. Juvenile offenders are now more likely to appear in municipal and justice courts than in the designated juvenile court in the county. The perception these youthful offenders of the criminal justice system created in our courts will likely follow them well into adulthood. We have an important duty to convey the message that our courts are both fair and worthy of respect and compliance. These new legislative tools may be difficult to master, but master them we must. ↗

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courts are commonly associated with traffic violations, in FY 2002 such violations constituted only 38 percent of the total number of juvenile cases adjudicated by Texas municipal courts.³

The impression that municipal and justice courts make on young offenders not only influences their perception of the Texas criminal justice system but, potentially, the decisions they will make when it comes to engaging in future criminal behavior.

While in the minds of Texas youth who appear in these courts, the Texas Department of Criminal Justice Institutional Division may seem like a destination on the opposite end of the criminal justice universe, peace officers and prosecutors are often the first to point out that every journey begins with the very first step. While for a majority of children, an appearance in municipal or justice court is an aberration, the byproduct of youthful poor judgment, for others it is the beginning of something worse.

While the volume and variety of cases in municipal and justice courts increased during the 1990s, the courts continue to be plagued by limited resources and inadequate enforcement measures. As a consequence and to the growing frustration of peace officers, prosecutors, and judges throughout the State, a significant number of children who are either accused or convicted of fine-only offenses have gradually learned through frequent trips to court that the Texas criminal and justice systems are ill equipped to hold them accountable for their behavior. The lack of procedural law not only resulted in courts sometimes acting without clear authority, but also contributed to a whole generation of young Texans believing that they could leave their childhood wrongs behind upon reaching age 17.

A Significant Change

HB 2319, sponsored by Representative Harold Dutton of Houston and co-sponsored by Representative Toby Goodman of Arlington, is a significant piece of legislation that impacts a wide array of juvenile justice issues. One component of HB 2319 is a compromise between two factions with differing beliefs about how the State should handle young offenders who enter adulthood with either outstanding judgments or who have refused to appear in municipal or justice court. Notably, it prohibits “surprise birthday parties” (where the court makes no efforts to secure the appearance of the accused or enforce its orders against the juvenile misdemeanor until the child reaches age 17). At the same time, however, it puts into place a new framework of enforcement that ultimately allows judges who have attempted to enforce their judgments using juvenile contempt to commit a JNA (juvenile now adult) to jail by means of a capias pro fine warrant. (Thus, actually, the “birthday party” is now a statutory formal affair.)

Another key component of the youth accountability measures contained in HB 2319 pertain to juvenile defendants who fail to appear in municipal or justice court. A major problem in municipal and justice courts is that neither youthful offenders nor their parents or guardians are under any obligation to keep the court advised of their current residency and place of address. HB 2319 makes it the legal obligation of both the youth and the parent to keep the court advised of the defendant’s place of residence. Because of such obligation, municipal and justice courts are now able to presume that the address they have as stated on the citation is the correct address for the defendant. Failure to

inform the court of changes in address is a Class C misdemeanor.

The Critical Role of Peace Officers

From a law enforcement prospective, it must be emphasized that under HB 2319 the ability of a prosecutor or judge to enforce violations of the obligation to keep the court informed of a current address, as well as the court’s ability to exercise other accountability measures will nearly always depend on the actions of the peace officer. For there to be a criminal violation of the juvenile’s obligation, there must be proof that the juvenile or his or her parent was provided notice. The vast majority of the time, the only opportunity for notice to be given is when provided by a peace officer. A peace officer may effectively provide notice (1) pursuant to arrest and release as authorized by Article 45.058(a), Code of Criminal Procedure, or (2) when a citation is issued by a peace officer pursuant to Section 543.003, Transportation Code, or Article 14.06(d), Code of Criminal Procedure. While a municipal or justice court may also provide the notice when the juvenile makes his or her initial appearance, there is no guarantee that the juvenile or parent will appear. Accordingly, the better practice for peace officers issuing citations to suspects younger than 17 is to make the issuance of the new “obligation” notice part of their field citation practice. If peace officers do not provide such notice, courts and prosecutors will be unable to bring about compliance under the new law. Lack of notice is an affirmative defense.

Pursuant to HB 2319, the child and parent are entitled to written notice of their obligation under Subsections (h) and (i) of Article 45.057, Code of Criminal Procedure. The Subsection reads as follows:

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materials will be put on the TMCEC web site for use by other courts and to encourage others to participate in future court weeks. Please send your materials to TMCEC, 1609 Shoal Creek Blvd., Suite 302, Austin, Texas 78701 or email them to tmcec@tmcec.com. A list of municipal courts that participated in this year’s *Municipal Court Week* is printed to the right.

Following is a list of municipal courts that participated in *Municipal Court Week* November 3-7, 2003. See the article on page 21 in this newsletter.

Bastrop	Cockrell Hill	Gonzales	Mission	San Antonio
Beeville	College Station	Harlingen	North Richland Hills	Sealy
Brenham	Coppell	Irving	Princeton	Tyler
Bryan	Elmendorf	LaPorte	Richland Hills	Wataugh
Cisco	Falfurrias	Midland	Round Rock	Wichita Falls
	Garland			Wills Point

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you to open the door and talk to them. Don’t be afraid of your judge. If you don’t get the response you want, try a different approach. Go to lunch with your judge see what they are like out of the courtroom. You can learn a lot about a person and how they feel about issues just by spending a little time with them. Let your judge know

you are there for them, to assist them, not challenge them.

Involve your court administrator in the process and get their help. They may be able to mediate between the judge and bailiff and present the ideas and thoughts in a different way that will assist you in getting what we all want, a secure courtroom. Remember

courtroom security is YOUR JOB as the bailiff. Although it may be challenging to accomplish, you are the one everyone will look at when something goes wrong. ↗

(h) A child and parent required to appear before the court have an obligation to provide the court in writing with the current address and residence of the child. The obligation does not end when the child reaches age 17. On or before the seventh day after the date the child or parent changes residence, the child or parent shall notify the court of the current address in the manner directed by the court. A violation of this subsection may result in arrest and is a Class C misdemeanor. The obligation to provide notice terminates on discharge and satisfaction of the judgment or final disposition not requiring a finding of guilt.

(i) If an appellate court accepts an appeal for a trial de novo, the child and parent shall provide the notice under Subsection (h) to the appellate court.

As previously mentioned, it is an affirmative defense to prosecution that notice was not given in accord with Article 45.057. Thus, it is critical that the peace officer be able to prove that the requisite notice was given. As most peace officers can attest, while not an insurmountable task, incorporating the "obligation" notice will require some thought by law enforcement. Here are three ways that the "obligation" notice can be effectively issued.

On the Citation – In the wake of new court costs, and the law impacting driving safety courses, all municipal, county, and state peace officers will soon be revising the contents of their citations. Assuming (and I understand that in some places this is a big assumption) that the obligation notice could be incorporated into the citation. While the law does not require the "obligation" notice incorporation into the citation, it certainly would be the easiest way to document that notice was provided.

Specialized Citations – Because only suspects younger than 17 are required to be provided notice, some law enforcement agencies might find it easier to incorporate the "obligation" notice into either a supplemental or stand-alone "kiddy" citation. Such specialized citations ideally would have a signature/acknowledgement line and generate carbon duplicates.

Incorporation by Reference – If your citation already contains so much text that including the "obligation" notice would necessitate providing the suspect with a magnifying glass, consider reference by incorporation. In other words, rather than containing the full text of the notice on the actual citation, the citation would contain a checkbox option for the peace officer and the following: "The suspect, who is younger than 17 and/or his or her parent, has been provided written notice of their obligation under Subsections (h) and (i) of Article 45.057, Code of Criminal Procedure." The text Subsections (h) and (i) could be reproduced on an easily distinguished index-size card printed on bright card stock.

Addressing the "No Show" Scenario

While to some, the "obligation" notice

may seem like one more piece of paperwork, it is in fact the linchpin of HB 2319's youth accountability measures intended to address the problem of securing the defendant's appearance before the court.¹ As previously mentioned, municipal and justice courts (especially in metropolitan areas) have difficulties securing the initial appearance of juvenile offenders. A growing number of juveniles see no negative consequences to failing to appear. Under HB 2319, once a peace officer provides the juvenile with the citation and "obligation" notice, municipal and justice courts are legally able to presume that the address on the citation is a correct address until the case's final disposition. The juvenile, and possibly even the parents, can be made legally responsible for informing the court of any change of address. As previously mentioned, violation of this obligation is a separate Class C misdemeanor.

In the event that the juvenile offender fails to make an appearance, and if attempts to take the juvenile into nonsecured custody are unsuccessful, a municipal or justice court may issue the juvenile a foreshadowing warning in the form of a final notice.

ATTENTION: Pursuant to Texas law, Article 45.057(j), Code of Criminal Procedure, you are being providing written notice of the following:

1. A child and parent required to appear before the Court have an obligation to provide the Court in writing with the current address and residence of the child.
2. The obligation does not end when the child reaches age 17.
3. On or before the seventh day after the date the child or parent changes residence (any place where the child lives or resides for a period of at least 30 days), the child or parent shall notify the Court of the current address in the manner directed by the Court.
4. Failure to provide notice is a Class C misdemeanor and may result in arrest.
5. The obligation to provide notice terminates on discharge and satisfaction of the judgment or final disposition not requiring a finding of guilt.
6. If an appellate court accepts an appeal for a trial de novo, the child and parent shall provide the notice to the appellate court.

A notice of continuing obligation to appear must contain the following statement provided in boldfaced type or capital letters:

Warning: Court records reveal that before your 17th birthday you were accused of a criminal offense and have failed to make an appearance or enter a plea in this matter. As an adult, you are notified that you have a continuing obligation to appear in this case. Failure to appear as required by this notice may be an additional criminal offense and result in a warrant being issued for your arrest.

So why issue another notice to appear if the juvenile has already failed to appear once? Well, the answer lies in the fact that the failure to obey the notice to appear is a new separate Class C offense committed, not by a child, but rather by an adult. As a consequence, the JNA may be arrested and taken into secured custody, as would any other adult arrested for a Class C misdemeanor. Once in secured custody, the JNA should be brought before the court that issued the warrant. When taking a plea, it is critical that the court take a plea on all of the outstanding offenses, including those allegedly committed by the defendant prior to becoming an adult. This is possible because municipal and justice courts do not lose jurisdiction of the original offenses due the age of the defendant. Potentially, juveniles who commit a Class C offense on or after September 1, 2003 and who

subsequently fail to make an appearance in court can, upon their 17th birthday, face charges on the original offense, violate promise to appear/failure to appear, a change of address violation, and violation of the court's notice of the continuing obligation to appear. Excluding court costs and possible contempt-related fines, if convicted, such JNAs can now potentially face aggregate fines up to \$2,000. As an adult, failure to pay such fines can result in the issuance of a *capias pro fine* and commitment to jail for as long as 40 days.⁵ This will, undoubtedly, come as a surprise to young adults and others unfamiliar with the new law.

Summary

Effective September 1, 2003, juveniles accused of fine-only offenses will face tougher laws aimed at insuring that Texas youth are held accountable for their conduct. New procedures will provide guidelines to assure uniformity and fairness in local judicial practices. Adulthood is about responsibility and accountability. Under HB 2319, young people in Texas will no longer be allowed to enter adulthood without being held accountable for offenses committed or alleged while juveniles.

The successful implementation of HB 2319 will require a combination of adaptive measures and cooperation throughout the criminal justice system. While ultimately, judges and prosecutors will be called upon to see that these new youth accountability

measures are properly and fairly applied, the actual use of such measure will depend on the informed and full participation of local government and Texas peace officers. ↗

¹ *Annual Report of the Texas Judicial System, Fiscal Year 2002*, Office of Court Administration, Austin, Texas at 36.
² *Id.* at 366. During the same period of time juvenile courts adjudicated a total of 69,125 cases.
³ *Id.* While juvenile activity in municipal courts actually fell by three percent in FY 2002, the total volume of juvenile cases adjudicated by municipal and justice courts frequently dominates dockets and often depletes the insufficient resources allocated by local governments. The considerable task of adjudicating juveniles in such local trial courts is frequently hindered by either the inadequate support or involvement of juvenile courts in enforcing the municipal or justice court's orders. Juvenile courts need to be aware of the implications this portion of HB 2319 will have on case referred to them as delinquent conduct (i.e., contempt of the municipal or justice court order). Family Code, Section 54.023(a)(1).
⁴ For years municipal and justice courts have been cursed by dilemmas of how JNAs should be processed. As a general proposition of law, a suspect is to be processed in accord with their age at the time of the alleged offense (not their age at the time of their arrest). This principle has recently been highlighted in the arrest of Kennedy cousin, Michael Skakel, accused of the 1975 killing of Martha Moxley and in the arrest of the young men accused of the 1991 Austin Yogurt Shop Murders. In both cases, the accused were all adult were arrested and processed as juveniles. Problematically, Texas law has, until now, contained no such comparable procedure for municipal and justice courts. HB 2319 is the first attempt at providing such procedures.
⁵ Pursuant to HB 2424, effective September 1, 2003, municipal and justice courts are only required to provide \$50 jail credit per offense per 24-hour period.

Juvenile Forms Available in 2004 TMCEC Forms Book

The 2004 TMCEC Forms Book contains a number of new forms on juvenile issues. One copy was sent at no charge to every court in late November. Look for the following new forms:

- Notice of Continuing Obligation to Inform Court of Child's Residence
- Statement/Change of Residential Address
- Violation of Continuing Obligation to Inform Court of Child's Address
- Notice of Continuing Obligation to Appear - JNA (Art. 45.060, CCP)
- Violation of Continuing Obligation to Appear (Art. 45.060, CCP)
- Affidavit for Probable Cause for Default in Payment of Fine (Capias Pro Fine - JNA)
- Capias Pro Fine - JNA (Payment of Fine)
- Order of Fine Commitment - JNA

Checklist for Processing Youth Accountability

Checklist #1

Citation or complaint filed with court. (Arts. 27.14, 45.018, and 45.019, C.C.P.)

- Clerk or judge accepts citation or complaint. Case filed. Citation should contain notice of defendant's continuing obligation to notify the court of any change of address within seven days of moving.
- Citation or complaint entered on docket. (Art. 45.017, C.C.P.)
- Case file prepared.
- Court issues summons for parent to appear with child. (Arts. 45.0215 and 45.057, C.C.P.) Summons or any courtesy notice should contain notice of child and parent's continuing obligation to provide notice of change of address.
- Parent and child appear. See Checklist #2.
- Parent and child fail to appear. See Checklist #5.
- Child appears without parent. See Checklist #6.

Checklist #2

Parent and child appear in open court.

- Court notifies parent and child in writing of continuing obligation to give written notice of current address. (Art. 45.057, C.C.P.) Court should provide a copy of Subsections (h) and (i) of Article 45.057, C.C.P.
- Court explains rights, charge(s), pleas, and penalties. Court makes sure child understands consequences of each plea.
- Court should make notes on child's sophistication and maturity at time of appearance and file notes with case.
- Child (defendant) enters a plea.
 - Child enters a not guilty plea. See Checklist #4.
 - Child enters a guilty or nolo contendere plea. See Checklist #3.

Checklist #3

Guilty or nolo contendere plea.

- Child in presence of parent in open court enters a plea of guilty or nolo contendere.
- Court may listen to any circumstances that might mitigate amount of fine.
- Court assesses punishment (fine and any sanctions allowed or required).
- Court may grant DSC or deferred, if applicable.
 - Under DSC or deferred, child's case is treated as an adult case for dismissal and revocation.
- Court determines child's ability to pay.
 - Court may require child to perform community service to discharge fine and costs.
- Judge enters (signs) judgment.
- Clerk enters judgment in docket.
- Case monitored for any type of compliance.
- If child fails to pay, see Checklist #7.
- If child fails to pay and then turns age 17, see Checklists #7 and #8.
- If child complies, case archived.

Checklist #4

Child in presence of parent in open court pleads not guilty. Trial scheduled and child and parent are given notice of date and time of trial. Defendant has right to a jury trial or may opt for a trial before the judge.

- On date of trial, child and parent appear. (Parent may not represent child unless the parent is an attorney.)
 - Trial is in open court.
 - Trial proceeds as any other trial.
 - If child found not guilty, the child is released without any liability.
 - If child found guilty, judge renders judgment and assesses punishment. (If jury trial, jury might assess punishment if requested by defendant before the jury trial began.)
 - Court may grant DSC or deferred, if applicable.
 - Under DSC or deferred, child's case is treated as an adult case for dismissal and revocation.
- Judge enters (signs) judgment.
- Clerk enters judgment in docket.
- Case monitored for any type of compliance with sanctions required.
- If child fails to pay or violates a court order, see Checklist #7.
- If child fails to pay or violates a court order and then turns age 17, see Checklists #7 and #8.
- If child is adjudicated before turning age 17 and then fails to pay or violates a court order after turning age 17, see checklists #7 and #8.
- If child complies, case archived.

Checklist #5

After being properly notified (summons) by the court, the parent and child fail to appear.

- Court may order the suspension of denial of child's driver's license.
 - Clerk notifies the Texas Department of Public Safety (DPS) of the court's order. (Secs. 521.201 and 521.294, T.C.)
- Court should use several different methods of contacting parents and child to compel appearance in court. (For example: courtesy notices, telephone calls, and summons for parent. All methods should contain a message about the parent and child's continuing obligation to notify the court within seven days of moving of the change of address and a copy of Subsection (h) and (i) of Article 45.057, C.C.P. The court should retain documentation of all contacts, attempted contacts, and copies of notices and orders to the defendant. If the child fails to appear, the court may use a nonsecure custody warrant to secure the child's appearance. Before court may proceed under Article 45.060, C.C.P., the court must have used all available procedures in Chapter 45 to secure the appearance of the child.)
- If child appears, see Checklist #2.
- If the court is unable to secure the appearance of the child and then the child turns age 17, court issues a notice of continuing obligation to appear by personal service or by mail to the last known address and residence of the individual. Notice contains an order to appear. (Art. 45.060, C.C.P.)
 - Notice given to peace officer to serve either in person or by mail at the last known address on file with the court.
 - Peace officer serves notice. (If defendant is convicted and peace officer served notice, court must assess, \$35 fee under Article 102.011, C.C.P.)
- Child now an adult appears.
 - Court should require a plea on all charges including offenses committed as a child.
 - If defendant's plea is not guilty and the defendant is found not guilty, defendant is released without any liability.
 - If defendant is convicted, punishment is assessed by the court or by jury.
 - If applicable, court notifies the Texas Department of Public Safety of the conviction.

- If defendant complies, case archived.
- If defendant fails to comply, see Checklists #7 and #8.
- Child now an adult fails to appear.
 - Prosecutor files complaint for violation of continuing obligation again to appear. (Court must have used all available procedures to secure the presence of the defendant.) (Article 45.060, C.C.P.)
 - Probable cause affidavit prepared and sworn.
 - Clerk prepares warrant of arrest.
 - Judge reviews case and probable cause.
 - If probable cause sufficient, judge issues warrant of arrest for violation of continuing obligation to appear.
 - Warrant given to marshal, warrant officer, or police department to serve.
- Defendant arrested.
- Court should require a plea on all charges including offenses committed as a child. Court should document sophistication and maturity of defendant. (It is an affirmative defense to prosecution if child did not receive notice of obligation to notify the court in writing of current address under Article 45.057, C.C.P. or did not receive notice of order to appear under Article 45.060, C.C.P.) (Art. 45.060, C.C.P.)
- If defendant fails to pay the fine or comply with a court order, court may issue a *capias pro fine* for violation of continuing obligation to appear. For offenses that occurred while the defendant was under the age of 17, see Checklists #7 and #8.
- If defendant complies, case archived.

Checklist #6

Child appears in open court without a parent.

- Court determines diligence used to compel presence of parents.
 - If court determines that diligence was used (summons, courtesy notices, and telephone contact), the court may waive presence of parent and proceed.
 - Court notifies child of continuing obligation to give written notice of current address within seven days of moving.
 - Court explains rights, charge(s), pleas, and penalties. Court makes sure child understands consequences of each plea.
 - Court should make notes on child's sophistication and maturity at time of appearance and file notes with case.
 - Court proceeds as usual with all required procedures and processes required by law to handle case.
 - Court takes plea.
 - If plea is not guilty, court schedules case for trial, determines that information regarding address, telephone numbers, and parents' names are correct. Court provides child with notice of date and time of trial. See Checklist #4.
 - If plea is guilty or *nolo contendere*, court may grant DSC, if applicable, or deferred or assess fine and costs and other required sanctions or optional sanctions.
 - If defendant fails to comply, see Checklists #7 and #8.
 - If defendant complies, archive case.
 - If court determines that there was not sufficient diligence used, the court continues the case so that the court may secure the presence of the parent.
 - Court determines that it has correct address, telephone, and names of parent(s) and orders court staff to continue to attempt to locate the parents and notify them of their obligations and required appearance with their child.
 - Court gives child notice of time and date of next appearance.

Checklist #7

The following procedures apply in the following cases: child fails to pay or violates a court order after being adjudicated in open court in presence of parents unless waived; child turns age 17 before being adjudicated; or child was adjudicated before turning age 17, but fails to pay fine or violates court order after turning age 17.

- Court orders that child or child now an adult be notified of a contempt show cause hearing. (Art. 45.050, C.C.P.)
- Clerk prepares notice and mails (regular mail) it to the address on file. (Art. 45.050, C.C.P.)
- Court conducts hearing and provides child or child now an adult with an opportunity to be heard. (If a person while younger than age 17 engaged in conduct that constituted contempt of a court order but proceedings could not be held before the person's 17th birthday, the court may still proceed under Article 45.050, C.C.P. The court, however, could not refer the case to juvenile court. If a person committed an offense before age 17 but failed to obey a court order while age 17 or older, and failure to obey constitutes contempt of court, the court may still proceed under Article 45.050, C.C.P. The court, however, may not refer the person to juvenile court.)
 - If child or child now an adult appears, court hears testimony about why he or she failed to pay and make determination of how defendant will dispose of case.
 - Court may refer child to juvenile court for contempt. Municipal court keeps jurisdiction of the underlying case. Municipal court is just referring the contempt case to the juvenile court. (Court may not refer child now an adult to juvenile court.)
 - If court retains jurisdiction and holds the child or child now an adult in contempt of a municipal court order, the court may order either or both of the following:
 - That contemnor pay a fine not to exceed \$500; and/or
 - The Texas Department of Public Safety (DPS) to deny issuance of or suspension of the contemnor's driver's license.
 - Clerk notifies DPS of the order of suspension or denial of the defendant's driver's license. (When the defendant fully complies, the court must notify DPS of the compliance.)
 - If child fails to appear, court may still determine whether to refer the child to the juvenile court or retain jurisdiction.
 - If child now adult fails to appear and the court retains jurisdiction, the court may find the defendant in contempt and order one or both of the above sanctions.

Checklist #8

Child fails to pay and then turns age 17 or child turns age 17 before being adjudicated and then fails to pay.

- Court must make following findings:
 - That person is age 17 or older.
 - The issuance of *capias pro fine* is justified based upon the following considerations:
 - The sophistication and maturity of defendant. (Court should refer to notes in case on sophistication and maturity that were made when defendant appeared in court. See Checklist #2.)
 - The criminal record and history of defendant. (Court may consider records of court and history of defendant in court. The court may consider the defendant's driving record and criminal history.)
 - The reasonable likelihood of bringing about the discharge of judgment by other procedures.
 - That the court has proceeded under Article 45.050, C.C.P. See Checklist #6.
- After court makes findings, court determines whether to issue the *capias pro fine*.
 - If court decides to issue the *capias pro fine*, the clerk prepares it and gives it to the judge to sign and issue.
 - The clerk coordinates service with the marshal, warrant officer, or police department.
 - If court decides not issue the *capias pro fine*, the court may direct that a nonsecure custody warrant be issued or a courtesy notice be mailed. Clerk should also attempt to telephone the defendant and the police department should investigate to find more information on locating the defendant.

MUNICIPAL JUVENILE/MINOR CHART

	Alcoholic Beverage Code	Alcoholic Beverage Code/DUI	Education Code	Health and Safety Code	Penal Code	Transportation Code Chapter 729
Waiver of Jurisdiction Transfer to Juvenile Court Sec. 51.08, F.C.	Yes. (See Art. 4.14, C.C.P., Sec. 29.003, G.C., Sec. 8.07, P.C., and Sec. 51.03, F.C.)	Yes. (See Art. 4.14, C.C.P., Sec. 29.003, G.C., and Sec. 8.07, P.C., and Sec. 51.03, F.C.)	Yes. (See Art. 4.14, C.C.P., Sec. 29.003, G.C., Sec. 8.07, P.C., and Sec. 161.256, H.S.C.)	Yes. (See Art. 4.14, C.C.P., Sec. 29.003, G.C., Sec. 8.07, P.C., and Sec. 161.256, H.S.C.)	Yes. (See Art. 4.14, C.C.P., Sec. 29.003, G.C., Sec. 8.07, P.C., and Sec. 51.03(f), F.C.) All fine only offenses, except the offense of public intoxication.	Yes. (See Art. 4.14, C.C.P., Sec. 29.003, G.C., and Sec. 51.03, F.C., and Sec. 729.001(a), T.C.) For exceptions, see section on offenses.
Age Art. 45.058(h), C.C.P.; Sec. 51.02, F.C. & Art. 45.058(h), C.C.P. Sec. 8.07, P.C.	Sec. 51.08, F.C. Under age 17: •May waive jurisdiction over first and second violations; •Shall waive jurisdiction after two previous convictions of any non-traffic fine-only offenses. At age 17 or more, after two previous convictions, charge may be enhanced and filed in county court.	Sec. 51.08, F.C. Under age 17: •May waive jurisdiction over first and second violations; •Shall waive jurisdiction after two previous convictions of any non-traffic fine-only offenses. At age 17 or more, after two previous convictions, charge may be enhanced and filed in county court.	Sec. 161.257, H.S.C. Title 3, Family Code (including transfer to juvenile court) does not apply to Subchapter N, H.S.C.	Sec. 51.08, F.C. Under age 17: •May waive jurisdiction over first and second violations; •Shall waive jurisdiction after two previous convictions of any non-traffic fine-only offenses.	Sec. 51.08, F.C. Municipal court may not waive its jurisdiction over traffic violations.	Sec. 51.08, F.C. Municipal court may not waive its jurisdiction over traffic violations.
Common Offenses	Sec. 106.01. Definition of a minor - Under age 21. Sec. 51.02, F.C. & Art. 45.058(h), C.C.P. Child defined as at least 10 years of age & younger than 17. •Sec. 106.02. Purchase of Alcohol by Minor; •Sec. 106.025. Attempt to Purchase Alcohol by a Minor; •Sec. 106.04. Consumption of Alcohol by a Minor; •Sec. 106.05. Possession of Alcohol by a Minor; •Sec. 106.07. Misrepresentation of Age by a Minor.	Sec. 106.01. Definition of a minor - Under age 21. Sec. 51.02, F.C. & Art. 45.058(h), C.C.P. Child defined as at least 10 years of age & younger than 17. •Sec. 106.041. Driving Under the Influence of Alcohol by a Minor.	Sec. 25.085, Compulsory School Attendance •Child under age 6, if previously enrolled in 1st grade, or •At least age 6 and who has not reached his or her 18th birthday. (See Sec. 25.086 for Exemptions)	Sec. 161.252, H.S.C. Definition of a minor - Under age 18. Sec. 51.02, F.C. & Art. 45.058(h), C.C.P. Child defined as at least 10 years of age & younger than 17. Sec. 161.252 •Possession of cigarettes or tobacco; •Purchase of cigarettes or tobacco; •Consumption of cigarettes or tobacco; •Acceptance of cigarettes or tobacco; •Display false proof of age.	Sec. 8.07. Age Affecting Criminal Responsibility under Age 17. Sec. 51.02, F.C. & Art. 45.058(h), C.C.P. Child defined as at least 10 years of age & younger than 17. All fine-only offenses, except a person under 17 years of age may not be charged in municipal court for the offense of public intoxication (See Sec. 51.03(f), F.C.).	Sec. 729.001. Operation of Motor Vehicle by Minor - under Age 17. Sec. 51.02, F.C. & Art. 45.058(h), C.C.P. Child defined as at least 10 years of age & younger than 17. Sec. 729.001(a) •Chpt. 502. Registration of Vehicles, except Secs. 502.282 or 502.412; •Chpt. 521. Driver's Licenses, except Sec. 521.457; •Subtitle C. Rules of the Road, except offenses punishable by imprisonment or by confinement in jail under Secs. 550.021, 550.022, 550.024, or 550.025; •Chpt. 601. Safety Responsibility; •Chpt. 621. Vehicle Size & Weight; •Chpt. 661. Motorcycles & All Terrain Vehicles; •Chpt. 681. Parking, Towing & Storage of Vehicles.

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MUNICIPAL JUVENILE/MINOR CHART

	Alcoholic Beverage Code	Alcoholic Beverage Code/DUI	Education Code	Health and Safety Code	Penal Code	Transportation Code Chapter 729	
Penalties	Secs. 106.02, 106.025, 106.04, 106.05, 106.07 1 st conviction •Class C misdemeanor (max \$500); •Mandatory alcohol awareness program, Sec. 106.115*; •Mandatory 8-12 hours alcohol-related community service; •DL suspension or denial - 30 days; eff. 1 st day after conviction. 2 nd conviction •Class C misdemeanor (max \$500); •Optional alcohol awareness program* •Mandatory 20-40 hours alcohol-related community service; •DL suspension or denial - 60 days; eff. 1 st day after conviction. 3 rd conviction Under age 17: •See waiver provisions in chart. Age 17 & under 21 •Fine \$250 to \$2000 and/or confinement not to exceed 180 days if charge enhanced.	Sec. 106.041 1 st conviction •Class C misdemeanor (max \$500); •Mandatory alcohol awareness program* •Mandatory 20 to 40 hours alcohol-related community service; •Administrative DL suspension (separate proceeding - Chapters 524 and 724, T.C.). 2 nd conviction •Class C misdemeanor (max \$500); •Optional alcohol awareness program* •Mandatory 40 to 60 hours of alcohol-related community service; •Administrative DL suspension (separate proceeding - Chapters 524 and 724, T.C.). 3 rd conviction Under age 17: •See waiver provisions in chart. Age 17 & under 21 •Fine \$250 to \$2000 and/or confinement not to exceed 180 days if charge enhanced.	Secs. 25.094, 37.102, 37.107, 37.122, 37.124, 37.126. Class C misdemeanors (max \$500) Sec. 25.094(c) - In addition to a fine, a court may order a sanction listed in Art. 45.054, C.C.P.: •Attend school without unexcused absences; •Attend preparatory class for GED (older child that will not do well in classroom environment) or, if child is 16 or older, take GED exam; •Attend a special program: -alcohol & drug abuse program, -rehabilitation program, -counseling program, -training in self-esteem & leadership, -work and job skills training, -training in parenting, -manners training, -violence avoidance training, -sensitivity training, -advocacy, and -mentoring training; •Attend class for student at risk of dropping out of school (may require parent to attend with child); •Participate in tutorial program; •Order DPS to suspend or deny issuance of a DL for a period of time not to exceed 365 days.	Sec. 161.252 and 161.253 1 st conviction •A fine not to exceed \$250, but court shall suspend execution of sentence (court costs must still be assessed and imposed) and order tobacco awareness program. Court dismisses charge on completion of course. •If no course available, court shall require 8-12 hours tobacco-related community service. •Failure to complete tobacco awareness course or community service, court required to order DPS to suspend or deny issuance of DL. Subsequent offenses •A fine not to exceed \$250; •Court shall suspend execution of sentence and order tobacco awareness course; •Upon completion of course, court may reduce fine to not less than half; •Failure to complete tobacco awareness course or community service, court required to order DPS to suspend or deny issuance of DL not to exceed 180 days after date of order.	Sec. 12.23 Class C misdemeanor (max fine \$500) Under age 17 & two prior convictions, see waiver provisions in chart. Persons under age 21 (municipal court has jurisdiction if person is at least age 17) charged with public intoxication, the penalty is under Sec. 106.071, A.B.C.: 1 st conviction •Class C misdemeanor (max fine \$500); •Mandatory alcohol awareness program* •Mandatory 8-12 hours alcohol-related community service; •DL suspension or denial - 30 days; eff. 1 st day after conviction. 2 nd conviction •Class C misdemeanor (max fine \$500); •Optional alcohol awareness program* •Mandatory 20-40 hours alcohol-related community service; •DL suspension or denial - 60 days; eff. 11th day after conviction. 3 rd conviction •Fine \$250 to \$2000 and/or confinement not to exceed 180 days if charge enhanced.	Secs. 729.001 and 729.002 Penalty same as adult defendant. See general and specific penalty clauses throughout Transportation Code.	Secs. 729.001 and 729.002 Penalty same as adult defendant. See general and specific penalty clauses throughout Transportation Code.

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MUNICIPAL JUVENILE/MINOR CHART

	Alcoholic Beverage Code	Alcoholic Beverage Code/DUI	Education Code	Health and Safety Code	Penal Code	Transportation Code Chapter 729
Appearance	Art. 45.057, C.C.P. Court should provide notice of child (under age 17) and parent's obligation to notify the court in writing of the child's current address. Secs. 106.10, 106.11, A.B.C. •Must be in open court; •Under age 18, parent or guardian required to appear with minor; •Under age 18, court must summon parent or guardian, if they reside in jurisdiction; if they reside outside jurisdiction, court must give written notice; •Court may waive presence if unable to locate or compel parent's presence.	Art. 45.057, C.C.P. Court should provide notice of child (under age 17) and parent's obligation to notify the court in writing of the child's current address. Secs. 106.10, 106.11, A.B.C. •Must be in open court; •Under age 18, parent or guardian required to appear with minor; •Under age 18, court must summon parent or guardian, if they reside in jurisdiction; if they reside outside jurisdiction, court must give written notice; •Court may waive presence if unable to locate or compel parent's presence.	Art. 45.057, C.C.P. Court should provide notice of child (under age 17) and parent's obligation to notify the court in writing of the child's current address. Art. 45.0215, C.C.P. Under age 17: •Must be in open court; •Parent or guardian required to appear with child; •Court must summon parent or guardian; •Court may waive presence, if unable to locate or compel parent's presence. Art. 45.054, C.C.P. Failure to Attend School Proceedings: Court required to summon parents to appear with defendant regardless of defendant's age.	Art. 45.057, C.C.P. Court should provide notice of child (under age 17) and parent's obligation to notify the court in writing of the child's current address. Art. 45.0215, C.C.P. Under age 17: •Must be in open court; •Parent or guardian required to appear with minor; •Court must summon parent or guardian; •Court may waive presence, if unable to locate or compel parent's presence. Age 17 - parent's presence not required.	Art. 45.057, C.C.P. Court should provide notice of child and parent's obligation to notify the court in writing of the child's current address. Art. 45.0215, C.C.P. Under age 17: •Must be in open court; •Parent or guardian required to appear with minor; •Court must summon parent or guardian; •Court may waive presence if unable to locate or compel parent's presence.	Art. 45.057, C.C.P. Court should provide notice of child and parent's obligation to notify the court in writing of the child's current address. Art. 45.0215, C.C.P. Under age 17: •Must be in open court; •Parent or guardian required to appear with minor; •Court must summon parent or guardian; •Court may waive presence if unable to locate or compel parent's presence.
Custody Art. 45.058 C.C.P.	•A child at least age 10 and under age 17 may be taken into custody. •Child may be: -released to parents, guardian, custodian or other responsible adult; -taken before a municipal or justice court; -taken to a place of nonsecure custody - held for not more than 6 hours. •If a minor who is a child has been referred to juvenile court under Sec. 51.08(b), F.C. or Art. 45.050, C.C.P., the child may be detained in a juvenile detention facility. •A minor age 17 when offense committed may be handled as an adult.	•A child at least age 10 and under age 17 may be taken into custody. •Child may be: -released to parent, guardian, custodian or other responsible adult; -taken before a municipal or justice court; -taken to a place of nonsecure custody - held for not more than 6 hours. •Order, based on probable cause that individual failed to attend school: -A child may be taken into custody. •Individual may be: -released to parent, guardian, custodian or other responsible adult; -taken before a municipal or justice court that has venue.	•A child at least age 10 and under age 17 may be taken into custody. •Child may be: -released to parent, guardian, custodian or other responsible adult; -taken before a municipal or justice court; -taken to a place of nonsecure custody - held for not more than 6 hours. •Order, based on probable cause that individual failed to attend school: -A child may be taken into custody. •Individual may be: -released to parent, guardian, custodian or other responsible adult; -taken before a municipal or justice court that has venue.	•A child at least age 10 and under age 17 may be taken into custody. •Child may be: -released to parent, guardian, custodian or other responsible adult; -taken before a municipal or justice court; -taken to a place of nonsecure custody - held for not more than 6 hours. •If a minor who is a child has been referred to juvenile court under Sec. 51.08(b), F.C. or Art. 45.050, C.C.P., the child may be detained in a juvenile detention facility. •A minor age 17 when offense committed may be handled as an adult.	•A child at least age 10 and under age 17 may be taken into custody. •Child may be: -released to parent, guardian, custodian or other responsible adult; -taken before a municipal or justice court; -taken to a place of nonsecure custody - held for not more than 6 hours. •If a child has been referred to juvenile court under Sec. 51.08(b), F.C. or Art. 45.050, C.C.P., the child may be detained in a juvenile detention facility.	•A child at least age 10 and under age 17 may be taken into custody. •Child may be: -released to parent, guardian, custodian or other responsible adult; -taken before a municipal or justice court; -taken to a place of nonsecure custody - held for not more than 6 hours. •If a child has been referred to juvenile court under Sec. 51.08(b), F.C. or Art. 45.050, C.C.P., the child may be detained in a juvenile detention facility.

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MUNICIPAL JUVENILE/MINOR CHART

	Alcoholic Beverage Code	Alcoholic Beverage Code/DUI	Education Code	Health and Safety Code	Penal Code	Transportation Code Chapter 729
Failure to Appear	Sec. 38.10 P.C. May charge the penal offense of Failure to Appear. Art. 45.058, C.C.P. May issue a custody warrant. Art. 45.057(h), C.C.P. Child may be charged with the offense of failure to provide written notice of current address. (It is an affirmative defense to prosecution if the child and parent were not informed of their obligation to notify the court of change of address.)	Sec. 38.10 P.C. May charge the penal offense of Failure to Appear. Art. 45.058, C.C.P. May issue a custody warrant. Art. 45.057(h), C.C.P. Child may be charged with the offense of failure to provide written notice of current address. (It is an affirmative defense to prosecution if the child and parent were not informed of their obligation to notify the court of change of address.)	Sec. 38.10 P.C. May charge the penal offense of Failure to Appear. Art. 45.058, C.C.P. May issue a custody warrant. Art. 45.057(h), C.C.P. Child may be charged with the offense of failure to provide written notice of current address. (It is an affirmative defense to prosecution if the child and parent were not informed of their obligation to notify the court of change of address.)	Sec. 38.10 P.C. May charge the penal offense of Failure to Appear. Art. 45.058, C.C.P. May issue a custody warrant. Art. 45.057(h), C.C.P. Child may be charged with the offense of failure to provide written notice of current address. (It is an affirmative defense to prosecution if the child and parent were not informed of their obligation to notify the court of change of address.)	Sec. 38.10 P.C. May charge the penal offense of Failure to Appear. Art. 45.058, C.C.P. May issue a custody warrant. Art. 45.057(h), C.C.P. Child may be charged with the offense of failure to provide written notice of current address. (It is an affirmative defense to prosecution if the child and parent were not informed of their obligation to notify the court of change of address.)	Sec. 543.009, T.C. May charge the offense of Violation of Promise to Appear for Subtitle C, Rules of the Road offenses. Sec. 38.10 P.C. May charge the penal offense of Failure to Appear or other traffic offenses. Art. 45.058, C.C.P. May issue a custody warrant. Art. 45.057(h), C.C.P. Child may be charged with the offense of failure to provide written notice of current address. (It is an affirmative defense to prosecution if the child and parent were not informed of their obligation to notify the court of change of address.)
Violation of a Court Order; Failure to Pay Fine; Art. 45.050, C.C.P.	Art. 45.050, C.C.P. Applies to: children under age 17; children who turn age 17 before contempt proceedings can be held; and persons who failed to obey court order while age 17 or older. Court must provide notice of and a hearing on contempt, before court may: • refer the child to the juvenile court for delinquent conduct for contempt of the municipal court order (if child turns age 17 court may not refer to juvenile court); or • retain jurisdiction and contempt of court (max fine \$500); and/or • order suspension or denial of DL until child/person fully complies with orders. All defendants: • Failure to complete alcohol awareness course, court required to suspend DL for up to 6 months.	Art. 45.050, C.C.P. Applies to: children under age 17; children who turn age 17 before contempt proceedings can be held; and persons who failed to obey court order while age 17 or older. Court must provide notice of and a hearing on contempt, before court may: • refer the child to the juvenile court for delinquent conduct for contempt of the municipal court order (if child turns age 17 court may not refer to juvenile court); or • retain jurisdiction and contempt of court (max fine \$500); and/or • order suspension or denial of DL until child/person fully complies with orders. All defendants: • Failure to complete alcohol awareness course, court required to suspend DL for up to 6 months.	Art. 45.050, C.C.P. Applies to: children under age 17; children who turn age 17 before contempt proceedings can be held; and persons who failed to obey court order while age 17 or older. Court must provide notice of and a hearing on contempt, before court may: • refer the child to the juvenile court for delinquent conduct for contempt of the municipal court order (if child turns age 17 court may not refer to juvenile court); or • retain jurisdiction and contempt of court (max fine \$500); and/or • order suspension or denial of DL until child/person fully complies with orders. All defendants: • Failure to complete alcohol awareness course, court required to suspend DL for up to 6 months.	Art. 45.050, C.C.P. Applies to: children under age 17; children who turn age 17 before contempt proceedings can be held; and persons who failed to obey court order while age 17 or older. Court must provide notice of and a hearing on contempt, before court may: • refer the child to the juvenile court for delinquent conduct for contempt of the municipal court order (if child turns age 17 court may not refer to juvenile court); or • retain jurisdiction and contempt of court (max fine \$500); and/or • order suspension or denial of DL until child/person fully complies with orders. All defendants: • Failure to complete alcohol awareness course, court required to suspend DL for up to 6 months.	Art. 45.050, C.C.P. Applies to: children under age 17; children who turn age 17 before contempt proceedings can be held; and persons who failed to obey court order while age 17 or older. Court must provide notice of and a hearing on contempt, before court may: • refer the child to the juvenile court for delinquent conduct for contempt of the municipal court order (if child turns age 17 court may not refer to juvenile court); or • retain jurisdiction and contempt of court (max fine \$500); and/or • order suspension or denial of DL until child/person fully complies with orders. All defendants: • Failure to complete alcohol awareness course, court required to suspend DL for up to 6 months.	Art. 45.050, C.C.P. Applies to: children under age 17; children who turn age 17 before contempt proceedings can be held; and persons who failed to obey court order while age 17 or older. Court must provide notice of and a hearing on contempt, before court may: • refer the child to the juvenile court for delinquent conduct for contempt of the municipal court order (if child turns age 17 court may not refer to juvenile court); or • retain jurisdiction and contempt of court (max fine \$500); and/or • order suspension or denial of DL until child/person fully complies with orders. All defendants: • Failure to complete alcohol awareness course, court required to suspend DL for up to 6 months.

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MUNICIPAL JUVENILE/MINOR CHART

	Alcoholic Beverage Code	Alcoholic Beverage Code/DUI	Education Code	Health and Safety Code	Penal Code	Transportation Code Chapter 729
Expunction	Sec. 106.12 Yes. May apply to municipal court at age 21 if only one conviction under Alcoholic Beverage Code.	Sec. 106.12 Yes. May apply to municipal court at age 21 if only one conviction under Alcoholic Beverage Code.	Sec. 25.094(g) Only for offense of failure to attend school. •Court must notify child of right; •Court must give copy of Art. 45.055, C.C.P.	Sec. 161.255, H.S.C. Yes. •May apply to the court to have conviction expunged; •Applicant must have completed tobacco awareness course; •May have multiple convictions expunged as long as applicant completed tobacco awareness course for each conviction.	Art. 45.0216, C.C.P. •Court must give copy of right; •Court must give copy of Art. 45.016, C.C.P. •Not more than one conviction; •Child may apply on or after age 17; •Apply to trial court; •Child makes request under oath; •Court cannot charge fee.	Chpt. 55, C.C.P. Expunction order must be filed in district court.
Child Turns age 17 after Failure to Appear	Art. 45.060, C.C.P. Court must have used all available procedures under Chapter 45 to secure appearance while under the age of 17 before proceeding under Art. 45.060, C.C.P. At age 17 or older, court issues an order to appear. Order must have a warning about continuing obligation to appear and that failure to appear may result in a warrant being issued. If person fails to appear after notice, court may file failure to appear charges under Art. 45.060 and issue a warrant of arrest.	Art. 45.060, C.C.P. Court must have used all available procedures under Chapter 45 to secure appearance while under the age of 17 before proceeding under Art. 45.060, C.C.P. At age 17 or older, court issues an order to appear. Order must have a warning about continuing obligation to appear and that failure to appear may result in a warrant being issued. If person fails to appear after notice, court may file failure to appear charges under Art. 45.060 and issue a warrant of arrest.	Art. 45.060, C.C.P. Court must have used all available procedures under Chapter 45 to secure appearance while under the age of 17 before proceeding under Art. 45.060, C.C.P. At age 17 or older, court issues an order to appear. Order must have a warning about continuing obligation to appear and that failure to appear may result in a warrant being issued. If person fails to appear after notice, court may file failure to appear charges under Art. 45.060 and issue a warrant of arrest.	Art. 45.060, C.C.P. Court must have used all available procedures under Chapter 45 to secure appearance while under the age of 17 before proceeding under Art. 45.060, C.C.P. At age 17 or older, court issues an order to appear. Order must have a warning about continuing obligation to appear and that failure to appear may result in a warrant being issued. If person fails to appear after notice, court may file failure to appear charges under Art. 45.060 and issue a warrant of arrest.	Art. 45.060, C.C.P. Court must have used all available procedures under Chapter 45 to secure appearance while under the age of 17 before proceeding under Art. 45.060, C.C.P. At age 17 or older, court issues an order to appear. Order must have a warning about continuing obligation to appear and that failure to appear may result in a warrant being issued. If person fails to appear after notice, court may file failure to appear charges under Art. 45.060 and issue a warrant of arrest.	Art. 45.060, C.C.P. Court must have used all available procedures under Chapter 45 to secure appearance while under the age of 17 before proceeding under Art. 45.060, C.C.P. At age 17 or older, court issues an order to appear. Order must have a warning about continuing obligation to appear and that failure to appear may result in a warrant being issued. If person fails to appear after notice, court may file failure to appear charges under Art. 45.060 and issue a warrant of arrest.

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JUVENILE CHART, page 5

MUNICIPAL JUVENILE/MINOR CHART

	Alcoholic Beverage Code	Alcoholic Beverage Code/DUI	Education Code	Health and Safety Code	Penal Code	Transportation Code Chapter 729
Child Turns age 17 after failing to pay fine, capias pro fine, Art. 45.045, C.C.P.	Art. 45.045, C.C.P. Court must make the following findings before issuing a capias pro fine: • that person is age 17 or older; • that issuance of capias pro fine is justified (must consider sophistication & maturity, criminal record and history of individual, and the reasonable likelihood of bringing about the discharge of judgment by other procedures); and • that the court has proceeded under Art. 45.050, C.C.P.	Art. 45.045, C.C.P. Court must make the following findings before issuing a capias pro fine: • that person is age 17 or older; • that issuance of capias pro fine is justified (must consider sophistication & maturity, criminal record and history of individual, and the reasonable likelihood of bringing about the discharge of judgment by other procedures); and • that the court has proceeded under Art. 45.050, C.C.P.	Art. 45.045, C.C.P. Court must make the following findings before issuing a capias pro fine: • that person is age 17 or older; • that issuance of capias pro fine is justified (must consider sophistication & maturity, criminal record and history of individual, and the reasonable likelihood of bringing about the discharge of judgment by other procedures); and • that the court has proceeded under Art. 45.050, C.C.P.	Art. 45.045, C.C.P. Court must make the following findings before issuing a capias pro fine: • that person is age 17 or older; • that issuance of capias pro fine is justified (must consider sophistication & maturity, criminal record and history of individual, and the reasonable likelihood of bringing about the discharge of judgment by other procedures); and • that the court has proceeded under Art. 45.050, C.C.P.	Art. 45.045, C.C.P. Court must make the following findings before issuing a capias pro fine: • that person is age 17 or older; • that issuance of capias pro fine is justified (must consider sophistication & maturity, criminal record and history of individual, and the reasonable likelihood of bringing about the discharge of judgment by other procedures); and • that the court has proceeded under Art. 45.050, C.C.P.	Art. 45.045, C.C.P. Court must make the following findings before issuing a capias pro fine: • that person is age 17 or older; • that issuance of capias pro fine is justified (must consider sophistication & maturity, criminal record and history of individual, and the reasonable likelihood of bringing about the discharge of judgment by other procedures); and • that the court has proceeded under Art. 45.050, C.C.P.
Reports	Sec. 51.08(g), F.C. Under age 17 •Juvenile court when case filed; •Juvenile court when case disposed. Secs. 521.201 and 521.294, T.C. Under age 17 •DPS, if child fails to appear or fails •DPS, when case adjudicated. Sec. 521.3451, T.C. •DPS, when child fails to pay under Art. 45.050, C.C.P. •DPS, when child makes final disposition. Sec. 106.116, A.B.C. •Tex. Alcoholic Bev. Commission, if requested. Sec. 106.117, A.B.C. All minors •DPS, upon conviction or order of deferred, and acquittal under 106.041.	Sec. 51.08(c), F.C. Under age 17 •Juvenile court when case filed; •Juvenile court when case disposed. Secs. 521.201 and 521.294, T.C. Under age 17 •DPS, if minor fails to appear; •DPS, when case adjudicated. Sec. 521.3451, T.C. •DPS, when child fails to pay under Art. 45.050, C.C.P. •DPS, when child makes final disposition. Sec. 106.116, A.B.C. •Tex. Alcoholic Bev. Commission, if requested. Sec. 106.117, A.B.C. All minors •DPS, upon conviction, order of deferred, and acquittal under 106.041.	Sec. 51.08(c), F.C. Under age 17 •Juvenile court when case filed; •Juvenile court when case disposed of. Secs. 521.201 and 521.294, T.C. Under age 17 •DPS, if child fails to appear; •DPS, when case adjudicated. Sec. 521.3451, T.C. •DPS, when child fails to pay under Art. 45.050, C.C.P. •DPS, when child makes final disposition.	Sec. 161.254, H.S.C. All minors •DPS, if defendant fails to present evidence of completion of tobacco-related program or community service. Secs. 521.201 and 521.294, T.C. Under age 17 •DPS, if child fails to appear; •DPS, when case adjudicated. Sec. 521.3451, T.C. •DPS, when child fails to pay under Art. 45.050, C.C.P. •DPS, when child makes final disposition.	Sec. 51.08(c), F.C. Under age 17 •Juvenile court when case filed; •Juvenile court when case disposed of. Secs. 521.201 and 521.294, T.C. Under age 17 •DPS, if child fails to appear; •DPS, when case adjudicated. Sec. 521.3451, T.C. •DPS, when child fails to pay under Art. 45.050, C.C.P. •DPS, when child makes final disposition.	Sec. 543.203 •Convictions reported to DPS. Secs. 521.201 and 521.294, T.C. •DPS, if child fails to appear; •DPS when case adjudicated. Sec. 521.3451, T.C. •DPS, when child fails to pay under Art. 45.050, C.C.P. •DPS, when child makes final disposition.

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MUNICIPAL JUVENILE/MINOR CHART

	Alcoholic Beverage Code	Alcoholic Beverage Code/DUI	Education Code	Health and Safety Code	Penal Code	Transportation Code Chapter 729
Parents	<p>Art. 45.057(a), C.C.P. •Parent includes a person standing in parental relation, a managing conservator, or a custodian.</p> <p>Art. 45.0215, C.C.P. •Court required to issue summons for parents.</p> <p>Art. 45.057(g), C.C.P. •Failure to appear with child in court is a Class C misdemeanor.</p> <p>Art. 45.057(h), C.C.P. •Failure to notify the court in writing of the child's current address is a Class C misdemeanor.</p> <p>Art. 45.057, C.C.P. •Attend a parenting class.</p> <p>•Attend child's school classes & functions.</p> <p>•Pay up to \$100 for special program for child.</p> <p>•Attend child's school classes & functions.</p> <p>•Pay up to \$100 for special program for child.</p> <p>•Court may order parent to do an act or refrain from an act to increase likelihood that child will comply.</p> <p>Sec. 106.011, A.B.C. •Required to appear in open court with any minor under age 18.</p> <p>Sec. 106.115(d), A.B.C. •Court may order parent to do any act or refrain from an act to increase likelihood that minor will complete alcohol awareness program.</p>	<p>Art. 45.057(a), C.C.P. •Parent includes a person standing in parental relation, a managing conservator, or a custodian.</p> <p>Sec. 25.093, E.C. •May be charged with the offense of Parent Contributing to Nonattendance, a Class C misdemeanor.</p> <p>Art. 45.054, C.C.P. •Order parent to attend a class for students at risk of dropping out of school.</p> <p>Art. 45.057, C.C.P. •Attend a parenting class.</p> <p>•Attend child's school classes & functions.</p> <p>•Pay up to \$100 for special program for child.</p> <p>•Court may order parent to do an act or refrain from doing an act that will increase likelihood that child will comply.</p> <p>Art. 45.057(h), C.C.P. •Failure to notify the court in writing of the child's current address is a Class C misdemeanor.</p> <p>Art. 45.054(d), C.C.P. •Failure to comply with summons to appear with child charged with failure to attend school is a Class C misdemeanor.</p> <p>Art. 45.057(b), C.C.P. •Failure to notify the court in writing of the child's current address is a Class C misdemeanor.</p>	<p>Art. 45.057(a), C.C.P. •Parent includes a person standing in parental relation, a managing conservator, or a custodian.</p> <p>Art. 45.0215, C.C.P. •Court required to issue summons for parents.</p> <p>Art. 45.057(g), C.C.P. •Failure to appear with child in court is a Class C misdemeanor.</p> <p>Art. 45.057, C.C.P. •Attend a parenting class.</p> <p>•Attend child's school classes & functions.</p> <p>•Pay up to \$100 for special program for child.</p> <p>•Court may order parent to do an act or refrain from doing an act that will increase likelihood that child will comply.</p> <p>Art. 45.057(h), C.C.P. •Failure to notify the court in writing of the child's current address is a Class C misdemeanor.</p>	<p>Art. 45.057(a), C.C.P. •Parent includes a person standing in parental relation, a managing conservator, or a custodian.</p> <p>Art. 45.0215, C.C.P. •Court required to issue summons for parents.</p> <p>Art. 45.057(g), C.C.P. •Failure to appear with child in court is a Class C misdemeanor.</p> <p>Art. 45.057, C.C.P. •Attend a parenting class.</p> <p>•Attend child's school classes & functions.</p> <p>•Pay up to \$100 for special program for child.</p> <p>•Court may order parent to do an act or refrain from doing an act that will increase likelihood that child will comply.</p> <p>Art. 45.057(h), C.C.P. •Failure to notify the court in writing of the child's current address is a Class C misdemeanor.</p>	<p>Art. 45.057(a), C.C.P. •Parent includes a person standing in parental relation, a managing conservator, or a custodian.</p> <p>Art. 45.0215, C.C.P. •Court required to issue summons for parents.</p> <p>Art. 45.057(g), C.C.P. •Failure to appear with child in court is a Class C misdemeanor.</p> <p>Art. 45.057, C.C.P. •Attend a parenting class.</p> <p>•Attend child's school classes & functions.</p> <p>•Pay up to \$100 for special program for child.</p> <p>•Court may order parent to do an act or refrain from doing an act that will increase likelihood that child will comply.</p> <p>Art. 45.057(h), C.C.P. •Failure to notify the court in writing of the child's current address is a Class C misdemeanor.</p>	<p>Art. 45.057(a), C.C.P. •Parent includes a person standing in parental relation, a managing conservator, or a custodian.</p> <p>Art. 45.0215, C.C.P. •Court required to issue summons for parents.</p> <p>Art. 45.057(g), C.C.P. •Failure to appear with child in court is a Class C misdemeanor.</p> <p>Art. 45.057, C.C.P. •Attend a parenting class.</p> <p>•Attend child's school classes & functions.</p> <p>•Pay up to \$100 for special program for child.</p> <p>•Court may order parent to do an act or refrain from doing an act that will increase likelihood that child will comply.</p> <p>Art. 45.057(h), C.C.P. •Failure to notify the court in writing of the child's current address is a Class C misdemeanor.</p>

MUNICIPAL JUVENILE/MINOR CHART

¹ Art. 45.056, C.C.P. provides authority for municipal court to employ case managers for juvenile cases. Sec. 51.08, F.C. provides that a court that has implemented a juvenile case manager program under Art. 45.056, C.C.P. may, but is not required to, waive its original jurisdiction under subsection (b)(1) of Section 51.08, F.C.

² Art. 45.057, C.C.P. - When a child who is at least 10 years old and younger than 17 is charged with a fine-only offense, the court may, in addition to a fine, order the following sanctions: 1) Refer the child or child's parent for services under Sec. 264.302, F.C.; 2) Require child to attend a special program that is in best interest of child, including rehabilitation, counseling, self-esteem and leadership, work and job skills training, job interviewing and work preparation, self-improvement, parenting, manners, violence avoidance, tutoring, sensitivity training, parental responsibility, community service, restitution, advocacy or mentoring program; 3) Require parents to do an act or refrain from an act that will increase the likelihood that the child will comply with court orders, including attending a parenting class or parental responsibility program and attending the child's school classes or functions; 4) Order the parents of a child required to attend a special program to pay an amount not greater than \$100 for the costs of the program; 5) Require both the child and parent to submit proof of attendance. (If program involves the expenditure of county funds, county must approve child's attendance.)

Deferred Disposition

- If the court grants deferred for all Alcoholic Beverage Code offenses except DUI, the court must require the defendant to perform the community service requirements and attend an alcohol awareness course; for DUI, the court must require an alcohol awareness course.
- If defendant charged with the offense of public intoxication is at least age 17 and under age 21, and the court grants deferred, the court must order the community service requirements under Sec. 106.071, A.B.C. and attendance at an alcohol awareness course.

³ A dispositional order under Art. 45.054, C.C.P. is effective for the period specified by the court in the order but may not extend beyond the 180th day after the date of the order or beyond the end of the school year in which the order was entered, whichever period is longer.

⁴ Art. 45.059, C.C.P. Children Taken into Custody for Violation of Juvenile Curfew or Order: 1) Release person to parent, guardian, or custodian; 2) Take person before a justice or municipal court; or 3) Take person to juvenile curfew processing office (similar to nonsecure custody and not held for more than six hours).

⁵ Art. 45.0216, C.C.P. provides that proceedings under Art. 45.051, C.C.P. (Deferred Disposition) and proceedings under Art. 45.052, C.C.P. (Teen Court) may be expunged under Art. 45.0216, C.C.P.

⁶ Under Sec. 25.093(f), E.C., when a court grants deferred disposition to a parent charged with parent contributing to nonattendance, the court may require the defendant to attend a program that provides instruction designed to assist the parent in identifying problems that contribute to his or her child's absence from school and strategies for resolving those problems.

must be paid in full or the date by which the accused promised to appear, or was notified, summoned, or ordered to appear. A defendant remains not liable if the court determines the individual to be indigent, has insufficient resources or is otherwise unable to pay all or part of the underlying fine or costs. SB 782 further provides that the collection fee does not apply if the case is dismissed or to any part of the fine or cost which is satisfied by time-served credit or community service. Any balance remaining after such credit is given, however, may be subject to the 30 percent collection fee if the balance is more than 60 days past due. If a partial payment is allowed by the court, there must be a proportionate distribution allocated to the Comptroller, the city or county, and the vendor. If the contract does not provide the appropriate allocation, the legislation requires that the court calculate the amount of any collection fee due the governmental entity or the private attorney or vendor performing the collection services and receive all fees, including the collection fee.

It was also made clear by SB 782 that the collection fee may only be used to compensate the private attorney or private vendor who earns this fee. Although the Legislature authorized a municipality with a population of more than 1.9 million to authorize the addition of the 30 percent collection fee for a collection

program performed by employees of the governing body, this authorization conflicts with the provision that limits the collection fee to compensation of private attorneys and vendors.

Remaining Conundrums

- 1. In the event of a trial by jury, is the fee assessed as part of the court costs imposed after the jury finds the defendant guilty and assesses the fine? If the judge does not so assess the defendant, is the governmental entity liable for the amount to be paid the collection contractor?
2. What is the court's standard policy on the resolution of the case? This is generally articulated by the court's standard order. What happens if the court refuses to generate a standing order for the imposition of the fee? If the fee is not part of the judgment, is it enforceable or otherwise collectable against the defendant?
3. How may the defendant enter the plea? How is a reduction in the amount to be paid, through community service or jail credit, communicated to the defendant? How and when is a partial payment acceptable? What is the procedure for a reduction or modification of the judgment?
4. Should the court or vendor notify the defendant of

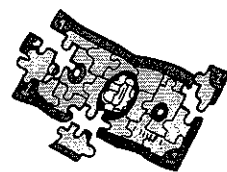
alternative methods to discharge the fine?

- 5. How do you ensure against violations of the defendant's civil rights, Judicial Code of Conduct, or any other applicable state or federal debt collection acts?
6. The definition of past due is any item that remains unpaid on the 61st day after a person failed to appear. This purports to make a failure to appear a strict liability offense. If a person pleads not guilty to a failure to appear, and is subsequently adjudicated and found guilty, is the 30 percent collection fee immediately imposed or must there be an additional 60-day period and subsequent non-payment prior to the imposition of the fee.
7. Inasmuch as a defendant is not required to pay, nor otherwise liable for, the additional 30 percent fee, if the defendant has been declared indigent or been found to have insufficient income or an inability to pay, when does this determination occur?

Each governing body must determine the ultimate goal of outsourcing the collection of delinquent accounts and unadjudicated offenses. The outsourcing contract should reflect the purpose and provide a procedure for attaining the stated goal. Based upon the above, it is clear that the cooperation among the various branches of local government are essential to a viable collection service contract.

Reprinted with permission from the newsletter of the Governmental Collectors Association of Texas. Bonnie Goldstein is an attorney in private practice in the Dallas area (Bonnie Lee Goldstein, P.C.) and serves as the Municipal Judge in the City of Cockrell Hill.

If you need additional information on fine and fee collection programs, contact Jim Lehman, Don McKinley, or Russ Duncan with the Office of Court Administration at 512/463-1625.



FROM THE CENTER

Judicial Education Requirements

The TMCEC Education Committee recently formalized a committee policy concerning municipal judges who are also justices of the peace. Pursuant to the Rules of Judicial Education, the Education Committee requires that a municipal judge who also serves as a justice of the peace attend a TMCEC course no less than every other year.

Pursuant to Rule 4(b), Rules of Judicial Education, the Education Committee of the Texas Municipal Courts Education Center determines that a person who serves in the dual capacity as a municipal judge and as a justice of the peace may require credit toward fulfillment of the requirements of the Rules of Judicial Education for municipal judges for attendance of 12 hours of criminal jurisdiction training from the Justice of the Peace Training Center in any non-successive year. The Committee having reviewed the past curriculum of the justice of the peace Training Center and the educational needs of Texas municipal judges, has determined that special issues

covering topics, including, ordinances, fees, budgeting, infrastructure, appointment, clerks, and warrant officers, require a municipal judge serving in dual capacity as justice of the peace to attend a TMCEC 12-hour course no less than every other year.

Municipal Courts Week

Thanks to the support of Texas Representative Burt Solomons (R-65) and Representative Kenny Marchant (R-115), November 3-7, 2003 was officially declared as Municipal Courts Week by the 78th Legislature. TMCEC is very appreciative of these two Representatives who sponsored the House Resolution. Both are from the Carrollton area. Municipal courts are asked to send TMCEC copies of any press releases, newspaper articles, planning documents, photographs, etc. that were developed locally to celebrate the important contributions of Texas municipal courts in local communities. These



Court Week continued on page 4

Looking Back on Last Year

A review of the overall evaluations for last year indicates that the Center's programs were well received by the TMCEC constituency. TMCEC is always looking for ways to improve its programs. If you have questions, comments, or suggestions, do not hesitate to call Hope Lochridge, TMCEC Executive Director (800/252-3718). TMCEC wishes to thank the many faculty members who participated in its FY 2003 programs this past year.

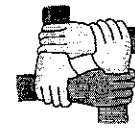
- Mr. W. Clay Abbott - General Counsel, TMCEC, Austin
Mr. Michael Acuna - Assistant City Attorney, City of Dallas
Mr. Brad Alford - Collections Manager, Kerr Collections, Kerr County, Kerrville
Ms. Suzette Ashworth - Consultant, Austin
Honorable Robert Barfield - Municipal Judge, City of Pasadena
Ms. Jo Dale Bearden - Program Coordinator, TMCEC, Austin
Mr. Ray Bentley - Marshal, City of Flower Mound
Mr. James D. Bethke - Director, Task Force on Indigent Defense, Office of Court Administration, Austin
Ms. Siri Bletzer, Round Top Consulting Associates, San Antonio
Ms. Shona Bohon, Court Administrator, City of Midland
Mr. Tom Bridges - Prosecutor, City of Portland
Mr. Charles Brothers - President, OmniBase Services of Texas
Honorable Deana Burnett - Municipal Judge, City of Carrollton
Ms. Candace Chappell - Senior Prosecutor and City Attorney II, City of Irving
Honorable Cathy Cochran - Texas Court of Criminal Appeals
Mr. Ron Cornelius - City Marshal, City of Richland Hills
Ms. Connie Crenshaw - CMCC, Court Clerk, City of Luling
Mr. John Danner - Assistant City Attorney, City of San Antonio
Honorable Robert Doty - Presiding Judge, City of Lubbock
Ms. Kathy Dubose - Assistant City Manager, Fiscal & Municipal Services, City of Denton
Honorable Gary Ellsworth - Municipal Judge, City of Spearman
Ms. Julie Escalante - Prosecutor, City of Baytown
Ms. Carolyn Espeseth - Assistant City Attorney, City of Austin
Mr. Ross Fischer - County Attorney, Kendall County, Boerne

Honorable Freida Fiske – Municipal Judge, City of Dallas
 Honorable Linda Frank – Municipal Judge, Plano & Chief Prosecutor, City of Arlington
 Honorable Barbara Gailey – Municipal Judge, City of Oak Point
 Mr. Stewart Gallas, MS LPC – Psychotherapist, Austin
 Ms. Susie Garcia – Court Manager, City of San Antonio
 Honorable Pat Garza – Associate Judge, 386th District Court, Bexar County, San Antonio
 Ms. Carol Gauntt, CMCC – Software Trainer, Incode, Inc.
 Honorable Allen Gilbert – Municipal Judge, City of San Angelo
 Ms. Tracie Glaeser, CMCC – Court Administrator, City of Round Rock
 Honorable Bonnie Goldstein – Attorney at Law, Dallas & Municipal Judge, City of Cockrell Hill
 Dr. Carolyn Greenleaf – Psychotherapist/Consultant, Carrollton
 Honorable Kathy Gustafson – Municipal Judge, City of Kenedy
 Mr. Rey Guzman – Multimedia Specialist, TMCEC, Austin
 Ms. Leisa Hardin – Court Administrator, City of Crowley
 Ms. Lieta Hart – Management Consultant, Austin
 Ms. Sara Hartin – Assistant City Attorney, City of Killeen
 Mr. Rene Henry – Collections Project Manager, Research & Court Services Section, Office of Court Administration, Austin
 Honorable Vonciel Jones Hill – Municipal Judge, City of Dallas
 Mr. Hugo Holland – Assistant District Attorney, Caddo Parish District Attorney's Office, Shreveport, LA
 Honorable Brian Holman – Presiding Judge, City of Lewisville
 Dr. David Horton – Ph.D., Professor and Criminal Justice Director, St. Edward's University, Austin
 Ms. Pennie Jack – Court Services Supervisor, City of Arlington
 Mr. Andy Kerstens – Bailiff, City of Webster
 Honorable Karrie Key – Municipal Judge, City of Austin
 Ms. Kimberly Kierce – Court Administrator, City of Richardson

Ms. Lynda Kilgore – Court Administrator, City of Baytown
 Ms. Janelle Kucera, CMCC, Court Administrator, City of Sugar Land
 Honorable C. Victor Lander – Municipal Judge, City of Dallas
 Mr. James Lehman – Collections Specialist, Office of Court Administration, Austin
 Mr. Andrew Leonie – Municipal Judge, City of Lavon, Dallas
 Mr. Richard Lewis – President, Round Top Consulting Associates, San Antonio
 Ms. Hope Lochridge – Executive Director, TMCEC, Austin
 Ms. Robin Loving – Communications Result, Austin
 Ms. Vicky Madaras – Court Administrator, City of Carrollton
 Honorable Kevin Madison – Municipal Judge, City of Lakeway, and Villages of Bee Caves and Briarcliff
 Honorable Ninfa Mares – Presiding Judge, City of Fort Worth
 Mr. Garry McDaniel – Consultant, PowerWorks, Austin
 Honorable Evelyn McKee – Presiding Judge, City of Austin
 Mr. Don McKinley – Asst. Collections Specialist, Office of Court Administration, Austin
 Honorable Stewart Milner – Presiding Judge, City of Arlington
 Mr. Jeff Moore – Former Assistant Attorney General, Austin
 Mr. Nick Moutos – Assistant Criminal District Attorney, Lubbock County CDA's Office, Lubbock
 Mr. David Mudd – Director of Reporting Services, Office of Court Administration, Austin
 Honorable Sharon Newman-Stanfield – Presiding Judge, Municipal School Attendance Court, City of Fort Worth
 Ms. Kim Ogg – Executive Director, Crime Stoppers of Houston
 Honorable Ana M. Otero – Municipal Judge, City of Houston
 Mr. T.J. Patterson – Assistant City Attorney, City of Fort Worth
 Honorable Richard Patteson – Presiding Judge, City of Tyler
 Honorable Katherine Peake – Presiding Judge, City of Fredericksburg
 Mr. Tom Pertierra – Regional Manager, Garrett Metal Detectors

Ms. Hilda Phariss, Court Administrator, City of Bryan
 Ms. Kimberly Piechowiak – Assistant City Attorney, Family Violence Prosecutor, City of San Antonio
 Sgt. Hilan Priddy – Texas Department of Public Safety, Austin
 Honorable Robin Ramsay – Presiding Judge, City of Denton
 Mr. Gerald Reamey – Professor of Law, St. Mary's University, San Antonio
 Ms. Margaret Reaves – Former Executive Director, Commission on Judicial Counsel
 Ms. Susan Richmond – Consultant, Flower Mound
 Ms. Margaret Robbins – Program Director, TMCEC, Austin
 Ms. Patricia Russo – Program Assistant II/Network Administrator, TMCEC, Austin
 Mr. Al Schorre – District Attorney, Midland County, Midland
 Ms. Kim Scofield – Government Information Analyst, Texas State Library and Archives Commission, Austin
 Mr. Wesley Shackelford – Special Counsel, Task Force on Indigent Defense, Office of Court Administration, Austin
 Mr. August Skopik – Regional Account Manager, Official Payments Corp.
 Honorable Robin Smith – Presiding Judge, City of Midland
 Ms. Judy Spalding – Commission Counsel, Commission on Judicial Conduct, Austin
 Ms. Rebecca Stark – Municipal Clerk, City of Austin
 Ms. Kystal Strong – Court Manager, City of San Antonio
 Mr. Ricardo Subia, Court Clerk, City of Odessa
 Ms. Barbara Sudhoff – Director of Courts, City of Houston
 Ms. Jennifer Sullivan, CMCC – Deputy Court Clerk, City of Katy
 Ms. Zindia Thomas – Assistant Attorney General, Austin
 Ms. Gerry Tucker – Associate Vice-President of Human Resources, Austin Community College, Austin
 Mr. Ryan K. Turner – Program Attorney/Deputy Counsel, TMCEC, Austin
 Honorable John Vasquez – Municipal Judge, City of Austin

Faculty Appreciation continued on page 32



INSIGHTS INTO DIVERSITY

Language Interpreters in Court

Texas courts are required to appoint an interpreter when either a defendant or witness does not understand the English language. (Article 38.30, C.C.P.) This rule applies to both

municipal courts of record and non-record courts. Thus, a court interpreter should be appointed when an interpreter is requested for a legal proceeding or when the judge

determines that a defendant or a witness has a limited ability to understand and communicate in English. The role of the interpreter is to translate and explain court proceedings and to give the defendant a voice in the proceedings.

Interpreters serve the interest of the court – not one defendant or party to the case. Their only function is to interpret accurately, faithfully, and with complete impartiality. Thus, allowing a parent or relative to translate is **not** recommended, as impartiality becomes a question.

Interpreters must be sworn before performing interpretation. (Tex. Rules of Evidence 604) The sample oath shown below is recommended. All interpreters – like witnesses – must be sworn each time they testify. After any recess, the better practice is to have the interpreter verify he or she is under oath.

Do you solemnly swear or affirm that you will truly and correctly interpret for the court, jury, attorneys, defendant, and the person being examined in all of the proceedings in this case into the language that the witness (or the accused) understands, and you will repeat the statements made by said witness (or said accused) into the English language to the best of your skill and judgment (so help you God)?"

In 2001, the Texas Legislature amended Chapter 57, G.C., to provide for a state-operated licensing and certification program for court interpreters for foreign languages under the auspices of the Texas Department of Licensing and Regulation (TDLR). After January 1,

Telephone Interpreting

Language Line is an interpreter service that can typically be set up in a matter of seconds for more than 150 different languages at a cost of \$3.50 per minute. Language Line also offers group rates and monthly-itemized statements. For example, for a \$1000 one-time subscription/set-up fee, a community's police, health services, and court offices could all share the translator service for as low as \$2.20 a minute. The State of Texas has negotiated a state contract with this service that offers significant discounts (\$1.95 a minute) – courts may be eligible to participate. For additional information, contact:

Language Line Services
 1 Lower Ragsdale Drive, Building 2
 Monterrey, CA 93940-9880
 800/752-0093 or 800/752-6096 ext. 87140
www.languageline.com

Other Vendors with Similar Services:

Language Learning Enterprises
 1100 17th Street, NW, Suite 900
 Washington, D.C. 20036
 888/464-8553
 202/775-0444
 202/785-5584 (fax)
www.lle-inc.com

NetworkOmni Multilingual Communications
 1329 East Thousand Oaks Boulevard
 Thousand Oaks, CA 91362
 Sales & Marketing: 800/543-4244 extension 2232
www.networkomni.com
 (also on State vendor list)

Tele-Interpreters
 500 N. Brand Boulevard, Suite 1850
 Glendale, CA 91203
 800/811-7881
 818/543-6781 (fax)
www.telephone-translators-interpreters.com

2002, municipal courts must now appoint only licensed court interpreters. An **exception** to this rule is made for 54 counties with a population of less than 50,000. Under this exception, the interpreter must still be qualified under the Rules of Evidence, over 18 years of age, and not a party to the cause. (Section 57.002, G.C.)

The rules regarding certified interpreters apply to court proceedings when a defendant or a witness does not understand the English language. The TDLR website states that the following are defined as court proceedings under the regulatory scheme: civil and criminal trials, administrative hearings, depositions, mediation, and arbitrations. According to TDLR, Texas law requires that a licensed court interpreter be appointed in a court proceeding in a county whose population exceeds 50,000 upon one of the following:

1. Upon the motion of a party;
2. Upon the motion of the court; or
3. Upon request of a witness.

Thus, when a judge realizes that a defendant or witness is unable to speak or understand English, an interpreter should be appointed on the court's own motion. Attorney General Opinion JC-0584 (11/26/2002) opined that a court clerk who merely converses with a defendant in a language other than English does not "act as a licensed court interpreter" within the meaning of Chapter 57. As so many *pro se* defendants appear in municipal court, the court must watch carefully for persons with limited English.

When performing magistrate duties, judges may also come in contact with persons who do not speak English. The provisions of the Occupations Code and the related regulations by TDLR do not seem to cover Art.

15.17 initial appearances before the magistrate or other magistrate functions. However, the right to an interpreter is constitutionally based and included in the provisions of Art. 15.17, C.C.P. The right to be seen by a magistrate "immediately" and the right to a competent interpreter may come into conflict in small jurisdictions or where less common foreign languages are involved. Many courts use one of the "language lines." The advantages of these services are that the interpreters are accessible on short notice, available 24 hours a day, and offer interpreting in a wide range of languages. The use of telephone interpreting will help courts identify with reasonable certainty what language is needed. The biggest limitation of the telephone interpreting is that the knowledge and skills of the interpreters may vary. Note that these language lines may not replace the legal requirements for a licensed interpreter in the larger counties because the licensing regulations license individuals, not services. If using a language line in one of the larger counties, request a Texas certified interpreter.

Chapter 57, G.C., requires that the TDLR certify the interpreter. Section 57.043, G.C., provides that a license shall be issued to an applicant who can interpret for an individual who can hear but who does not comprehend English or communicate in English. The applicant must pass an examination prescribed by the Commissioner of the TDLR and possess other qualifications required by Subchapter C, Chapter 57, G.C., which includes applying for a license on a form prescribed by the Commissioner and demonstrating reasonable proficiency in interpreting. This information is available on the TDLR website: www.license.state.tx.us/Court/courtinterprethome.htm or by calling 512/463-1688. The examination currently consists of a written part to measure English comprehension and

court terminology. The oral exam will measure foreign language competency in sight, sequential and simultaneous interpretation.

TDLR offers examinations in Arabic, Cantonese, Haitian Creole, Hmong, Korean, Laotian, Mandarin, Polish, Russian, Spanish, and Vietnamese. These exams are developed by the National Center for State Course Consortium. The TDLR also accepts examinations offered by the following entities as satisfying both the written and oral examination requirements:

- Any National Center for State Courts Consortium Member State: 757/253-2000;
- Federal Court Interpreter Certification: 916/263-3494; and
- Federal Bureau of Investigation (FBI).

Languages other than those for which TDLR offers exams may be offered by one of the acceptable providers listed above. For languages not provided by TDLR or any acceptable provider, applicants must take the written English competency examination, and the TDLR Executive Director on a case-by-case basis will determine foreign language oral competency requirements. TDLR accepts examinations offered by the following entities as satisfying the oral examination requirements if TDLR does not offer an oral examination in that language:

- Language Line Services: 800/752-0093
- Bowne Global Solutions (formerly Berlitz): 888/241-9149, extension 180

If a defendant or witness appears in your court, speaking another language for which you cannot locate a licensed foreign language interpreter locally, the court must weigh the need for immediacy in conducting a hearing against the potential compromise of

due process and potential injustice, if telephone interpreting is inadequate or does not meet the requirements of Texas law. Unless immediacy is the primary concern (as often the case in magistrate duties), some delay might be more appropriate than the use of an uncertified interpreter via the telephone.

The right to an interpreter is both constitutional and statutory. Failure to provide an interpreter—or certified interpreter where required—is a failure to comply with the law under Canon 2A of the Code of Judicial Conduct. Such a clear violation of a defendant's constitutional rights could also lead to lawsuits and removal of the judge by the city's governing body. A violation of the right to an interpreter might also result in the case being overturned on appeal or by writ of habeas corpus.

Texas law also holds the interpreter accountable. The interpreter's license may be suspended or revoked if the individual made a material misstatement in an application for a license; willfully disregarded or violated a provision in Subchapter C, G.C., or a rule adopted under the subchapter; has been convicted of a felony or of any crime in which an essential element of the offense is misstatement, fraud, or dishonesty; or engaged in dishonorable or unethical conduct likely to deceive, defraud, or harm the public or a person for whom the interpreter interprets. (Section 57.048, G.C.) If a person violates a provision of Subchapter C or a rule adopted under the subchapter, he or she commits a Class A misdemeanor. (Section 57.050, G.C.)

TMCEC recommends adopting ethical guidelines for interpreters working in your court, such as those listed below which are excerpts from the *Model Code of Professional Responsibility for Judicial Interpreters* on the website of the National Center for State Courts (NCSC): www.ncsconline.org/wc/publications/

Res_CtInte_ModelGuideChapter9Pub.pdf

- *Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance or bias. Interpreters shall disclose any real or perceived conflict of interest.*
- *Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.*
- *Interpreters shall protect the confidentiality of all privileged and other confidential information.*
- *Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.*
- *Interpreters shall limit themselves to interpreting or translating, and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating while serving as interpreters.*

The NCSC website includes other canons that are not listed in this article due to space limitation but refer to accuracy of the interpretation, representation of their certifications, training and licensing, professional development, and the duty to report ethical violations.

Other recommended procedures for working with court interpreters include:

- Hold orientation and other training workshops for interpreters who work in your court.
- Instruct interpreters not to leave the courtroom until proceedings have ended or until the judge excuses them.
- Develop an atmosphere of trust and cooperation with your court interpreters so that they are not

afraid to ask questions.

- Remind interpreters to avoid unnecessary contact with witnesses, defendants and their families, and have no contact with jurors.

The court interpreters need not be hidden and should be positioned to assure proper communication, but should not obstruct the view of the judge, jury, or counsel. The interpreter should be positioned so that the person receiving interpretations can hear and see everything the court interpreter says or signs and so that the interpreter can hear or see everything that is said or signed during the proceedings. The interpreter should not simplify statements for a person receiving interpretations even when the interpreter believes that the defendant or witness cannot understand. Instead, the non-English speaker should request an explanation or simplification from the judge, counsel, or the prosecutor. The interpreters are not to summarize court proceedings at any time unless instructed to do so by the judge. Instead, the interpreter should interpret the exact response of a witness or speaker, even if it is non-responsive.

TMCEC is often asked if a court proceeding can be held entirely in Spanish if all parties agree. While TMCEC has found no authority for doing so, it has been reported that this occurs in many bench trials across Texas. TMCEC cautions judges who decide to hold court in Spanish to be sure to document the agreement of all parties. Many have raised concerns that this practice may violate the public's right to access the court under the doctrine of open courts. Courts should assure that no one is excluded from the court process regardless of the language used.

One of the most evident characteristics of Texas municipal courts is the language diversity of the defendants and witnesses that appear in our courts. Judges and court support personnel

should anticipate how they would meet the needs of non-English speakers whether they appear on a regular or irregular basis in your community. Like so many procedures in our courts, the law requires a standard of service that in many cases is not practical in every incident. For example, the TDLR database only show three licensed

Russian interpreters and no Polish interpreters in the entire state. Judges and court support personnel are reminded to do their best in complying with the law. Several courts have reported that they have asked local high school, college, and university language instructors for assistance. →

FAQs

What is the difference between interpretation and translation?

Translation usually refers to written materials while interpretation is spontaneous oral translation, from spoken word to spoken word.

Does TDLR have a set amount to pay certified interpreters?

No, TDLR only licenses court interpreters. It has no guidelines or rules related to compensation. The federal courts increased the daily pay for translators in 2000 to \$305. Article 38.30, C.C.P., however, states that a county commissioners court may set a payment schedule in excess of the daily amount of not less than \$15 or more than \$100. Cities may set their own rates.

How do I find a licensed court interpreter?

The TDLR's web site has a database listing every licensed court interpreter and their language endorsement(s): <http://www.license.state.tx.us/LicenseSearch>.

Can I get one license to cover everyone in my court?

No. The license is only for individuals, not for organizations. Each person practicing as a licensed court interpreter needs to hold a separate license.

Is there a constitutional right to an interpreter?

Although the U.S. and Texas Constitutions do not explicitly provide for the right to an interpreter, the individual rights and liberties guaranteed to all individuals under the 4th, 5th, 6th, 8th, and 14th Amendments to the U.S. Constitution are essentially meaningless to non-English speakers. In *United States ex rel Negron v. New York* (434 F.2d 386, 1970), a Spanish speaking defendant's murder conviction was overturned on constitutional grounds as the defendant was provided only periodic summaries during breaks, rather than an ongoing interpretation of the proceedings.

What are the fees to get licensed as an interpreter by TDLR?

The application fee is \$175 and the exam fees are two parts: \$100 for the written exam and \$300 for the oral exam.

How do I file a complaint?

To file a complaint about a licensed court interpreter, contact the Texas Department of Licensing & Regulation at (512) 463-6599 or visit their website at: complaints@license.state.tx.us.

COLLECTIONS CORNER

Each month look for an exciting article on ways to improve your collections effort at your municipal court. The Office of Court Administration was established in 1977 and is a state agency that provides administrative support and technical assistance to all courts in Texas. The Collections Services Unit can assist you in establishing your in-house collections program at **no charge**.

It is estimated that an amount between \$300 million to more than \$400 million in court-ordered fines, fees, and court costs go uncollected in the State of Texas each year. If collected and distributed evenly, that would be enough money to write a check annually to every city and county in Texas for as much as \$350,000.

The issue is more than lost revenue. The issue is a lack of compliance with court orders issued by judges and ignored by lawbreakers. While the amount of dollars is significant, the greater damage is inflicted from the loss of respect for our judicial system.

Some courts, cities, and counties have recognized the problem and implemented programs designed to correct it. These collections programs, utilizing basic private sector collections techniques and procedures, have produced tremendous results and have seen an increase in revenues by 51.6 percent in FY 2001.

OCA can:

- assist you in evaluating your needs;
- make a formal collections presentation to interested city officials;
- assist you with general as well as individual program development and training; and

Collections continued on page 28



COURT SECURITY

Courtroom Security - A Matter of Communication

Andy Kerstens, Bailiff, Webster Municipal Court

Security: precautions taken to guard against crime, sabotage, etc.

Communication: the imparting or interchange of thoughts, opinions or information by speech, writing, or signs.

After attending the TMCEC Bailiff/Warrant Officer Focus Group, I find the problem of bailiffs/warrant officers and judges communicating about courtroom security still present. There are various reasons presented for the lack of communication, such as "We have always done it that way, why change?" and "I am the judge and this is my courtroom." I am sure that last one gets a little over exaggerated when being told by the bailiff. I am not an expert on courtroom security or how to communicate with people, but I wanted to share some ideas that may help all of us.

It is very disturbing to talk to bailiffs and judges and learn they disagree on security issues. Yes Judge, it is your courtroom and as bailiffs we respect that. But, as bailiffs, we are charged with making sure you, the clerks, and everyone in the courtroom are safe. Sometimes we may suggest changes that will help us accomplish this goal. We are not trying to disrupt your courtroom or takeover, we just want to make sure you are safe. I am sure there are many judges out there who are just as concerned with security as we are, but many people do not like change.

Judges, talk to your bailiff. They are there for your protection. Many people have the mindset that something will never happen in their court. Please don't be one of these. Something can

happen any where, any time. Felons and career criminals all start out seeing a judge in municipal or justice court; this has been repeated in numerous articles and is true. Also, a lot of people who we still see in municipal or justice court have been involved in much more serious crimes than we see in our court. And let's not forget the family violence cases we hear. That is one of the most volatile type of case that could be heard anywhere and usually starts out in our courts. Bailiffs should not be used to run files or perform the duties of a clerk. I have done that and probably will again, if needed, as we are all short handed at times, but try not to make it a habit. People watch for gaps in your security; they study you and your courtroom to look for ways to accomplish their goal, whether it be to disrupt the proceedings or harm you or someone in your courtroom. Encourage your bailiff to share with you what he or she has learned from the schools they attend, from talking with other bailiffs, and from their experience. Be open to suggestions and make some of your own. It has been brought up that some instructors will tell the judges one thing then tell the bailiff something completely different. Don't let this flaw in training be detrimental to your safety. Talk to your bailiff and your court administrator to find out how to make your courtroom a safe one.

Bailiffs, you must learn to work with your judges. The judge is the one person in the courtroom that has the final say so. You have to remember they have probably been in the

courtroom longer than you have and are used to doing things a certain way. Times change, trends change, and we must learn to adapt to these changes. People are always coming up with new ways of concealing weapons and causing harm to persons they see as a threat. We go to school to learn about these new tactics and collect valuable information to bring back to our job. To accomplish **our job**, which is courtroom security, we must learn to present the things we learn to our judges in a manner that will best be received. There is no set in stone, perfect way to talk to each judge. Some judges are open to new suggestions and encourage your input. Other judges don't like change and have to be shown the reason for the change. You learn how to talk to defendants using verbal judo and conversational skills to get what you want, do the same with your judge. Don't scream and yell at them though; that won't get you far! Don't tell your judge you are going to do something. Instead, suggest the change, discuss the reason for the change, and encourage their input.

You must learn what your judge is like. That may take some effort on your part. Spend time with your judge, either before or after court. If your judge is the judge at another court, go there and see how things work. You may be able to capitalize on something you learn. Ask your judge questions to find out if there is something in the courtroom he or she would like to see changed. They may just be waiting for


Security continued on page 4

provide ongoing administrative/technical support and assistance.

How do you begin?

The most important step is the first step. Contact Jim Lehman, Russ Duncan, or Don McKinley at 512/463-1625.

Cities such as Austin, College Station, and Longview have implemented successful in-house collections programs. Many other cities have also started or have expressed an interest in starting up their own in-house collections programs.

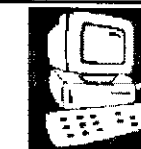
Be sure to watch for future articles with tips, suggestions, and ways you may improve the collection efforts at your court. The OCA Collections Services Unit is available to help you at no cost; all you need to do is give them a call. We wish you success in your efforts. 

TMCEC FY04 Academic Calendar

Dates	School	Hotel/City	Address & Telephone
1/6-7/04	12-Hour Regional Judges/Clerks	Adam's Mark San Antonio	111 Pecan Street East 78205 210/354-2800
1/15-16/04	12-Hour Special Topics Judges (Evidence)/Prosecutors	Omni Dallas Parkwest	1590 LBJ Freeway 75234 972/869-4300
1/27-28/04	12-Hour Low Volume Judges/Clerks	La Posada Laredo	1000 Zaragoza Street 78040 956/722-1701
2/3-4/04	Court Administrators/Bailiffs and Warrant Officers	San Luis Resort & Conference Center Galveston	5222 Seawall Boulevard 77551 409/744-1500
2/19-20/04	12-Hour Regional Judges/Clerks	Doubletree Lincoln Centre Dallas	5410 LBJ Freeway 75240 972/934-8400
2/25-27/04	Level III Clerk Certification Assessment Clinic	San Marcos Holiday Inn Select/Aquarena Springs Meeting Center	108 IH35 North 78666 512/754-6621
3/10-11/04	12-Hour Low Volume Judges/Clerks	The Fredonia Hotel Nacogdoches	200 N. Fredonia Street 75961 936/564-1234
3/24-25/04	12-Hour Regional Judges/Clerks	Sofitel Houston	425 N. Sam Houston Pkwy 77060 281/445-9000
4/7-8/04	12-Hour Regional Judges/Clerks	Ambassador Hotel Amarillo	3100 I-40 West 79102 806/358-6161
5/4-5/04	12-Hour Prosecutors	Radisson Resort South Padre Island	500 Padre Blvd. 78597 956/761-6511
5/6-7/04	12-Hour Clerks	Radisson Resort South Padre Island	500 Padre Blvd. 78597 956/761-6511
5/10-11/04	12-Hour Attorney Judges	Radisson Resort South Padre Island	500 Padre Blvd. 78597 956/761-6511
5/12-13/04	12-Hour Non-Attorney Judges	Radisson Resort South Padre Island	500 Padre Blvd. 78597 956/761-6511
6/15-16/04	Special Topics Judges (Magistrate)/Court Administrators	Hyatt Regency Austin	208 Barton Springs 78704 512/477-1234
6/24-25/04	Bailiffs and Warrant Officers	Inn of the Hills Kerrville	1001 Junction Highway 78028 830/895-5000
7/6-7/04	12-Hour Regional Judges/Clerks	Camino Real El Paso	101 S. El Paso Street 79901 915/534-3000
7/19-23/04	32-Hour New Judges/Clerks	Lakeway Inn Austin	101 Lakeway Drive 78734 512/261-6600
7/30-8/1/04	Level III Clerk Certification Assessment Clinic	Doubletree Dallas Campbell Centre	8250 North Central Expsrwy 75206 214/691-8700



2004 COURTS AND LOCAL GOVERNMENT TECHNOLOGY CONFERENCE



The Courts and Local Government Technology Conference brings local government policy makers and IT professionals together to exchange lessons learned in buying, supporting, and managing IT systems. Held in conjunction with the prestigious Government Technology Conference (GTC), attendees will learn about interfaces to data and services; software to serve government and the public; the untethered world of wireless technologies and more. The measurable benefits highlighted below are just the tip of the iceberg and do not include the full conference program, the GTC vendor exhibition and the receptions.

Conference Highlights:

- Our pre-conference program features two concurrent information technology tracks on Monday and Tuesday at the new Hilton Austin.
- *Courtroom 21* - A special demonstration featuring the paperless courtroom of the future. It's not as far away as you may think.
- Win approval for your technology investments after hearing "Educating Purse String Holders of IT Needs and Writing Effective RFPs."
- Save months of research by learning how to find software vendors and prepare purchasing specifications.
- Cut down on hours of manual research by attending the Lexis Nexis or Westlaw On-line Legal research training.
- Learn the basics of common software, e-mail, and much more.
- Avoid future problems by learning the laws that affect your use of technology.

Who Should Attend

- All court personnel and staff interested in technology.
- Local government information technology staff.

Locations of Classes

The pre-conference classes on January 26th and 27th will be held at the Hilton Austin Downtown (500 East 4th Street). Classes on the 28th and 29th will be held at the Austin Convention Center.

Registration Fee

Registration fee, including two days of pre-conference training, is \$100 before January 1 and \$125 after January 1. For those interested in pre-conference training only, the cost is \$100. Registrations are transferable. Requests for refunds (less \$10 admin. fee) must be received in writing by January 1. Administration fees after that date are one-half of registration fee.

Accommodations

The new Hampton Inn and Suites Downtown is located at 200 San Jacinto in Austin. Participants are responsible for their accommodations. For reservations call 512/472-1500 and request space in the "Texas Municipal Courts Education Center Room Block". Only a limited number of rooms at the government rate of \$80 are available; make your reservation as soon as possible. The reservation deadline is January 12, 2004. (Note: There is also a charge for parking per day at the Hampton.)

Co-Sponsors

Texas Association of Counties • Texas Municipal Courts Education Center • Texas Center for the Judiciary • Texas Justice Court Training Center • Judicial Committee on Information Technology • Texas Judicial Academy

2004 COURTS AND LOCAL GOVERNMENT TECHNOLOGY CONFERENCE JANUARY 28 & 29, 2004 (PRE-CONFERENCE TRAINING JAN. 26 & 27)

REGISTRATION FORM
Registration Fee: \$100 / \$125 after Jan. 1

- I will be attending both the Courts and Local Government Technology Conference and the 2 days of pre-conference training.
- I will only be attending the Conference.
- I will only be attending the 2 days of pre-conference training.

Name: _____
 Title: _____
 Court: _____
 Address: _____ City: _____ Zip: _____
 Telephone: _____ Fax: _____
 E-mail: _____

(Please make checks payable to Texas Municipal Courts Education Center)

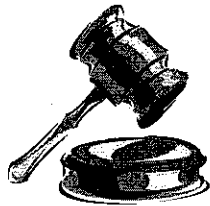
Mail to: Texas Municipal Courts Education Center, 1609 Shoal Creek Blvd. Suite 302, Austin, Texas 78701
 Fax to (512) 435-6118.

Notes:

- Does not fulfill mandatory annual requirements for municipal judges for judicial education.
- Attendance does count towards hours for the clerks' certification program. Exact number of hours to be determined.
- Participants are responsible for all hotel and meal expenses.
- An informational brochure will be mailed to the courts in late November.
- For more information on the GTC conference, see their website at www.govtech.net.

Held Over!!

Low Volume Courts Series for Judges & Clerks



Since 1999, TMCEC has offered a series of continuing judicial education programs for non-attorney judges and their clerks. Known as the *Low Volume Court Program*, these seminars offer an opportunity for judges and clerks to collectively examine issues and problems commonly experienced in smaller courts. (Judges can attend with more than one clerk, but teams may be limited to three persons per court, depending on the number of participants.)

This year's program will address the following issues that were first presented in FY03:

- *The Importance of Court Decorum and Improvement Strategies*
- *The Judge and Clerk Working as a Team*
- *Common Magistrate Questions*
- *Common Traffic Questions*
- *Common Juvenile Questions*

What Participants Say:

- Great speakers and interactions.
- Small class, relaxed atmosphere, and class participation.
- Perfect school.
- Loved the informal atmosphere while doing some serious teaching!
- Great seminar! Small courts really need this.

This program will require group participation.

The faculty will be selected from full-time and part-time judges, from mid-size and low volume courts that have practical experience, and TMCEC staff members. There will be ample opportunity for questions and answers. Enrollment is limited to 40 at these sessions so that there can be more involvement by attendees. So come prepared to participate. Just as with the Regional 12-hour TMCEC programs, the low volume program begins at 8:00 a.m. on Day 1 and ends at 12:00 noon on Day 2.

Laredo
 January 27-28, 2004 (T-W)
 La Posada Hotel
 1000 Zaragoza Street
 Zip Code: 78040
 956/722-1701
Register By: January 2, 2004

Nacogdoches
 March 10-11, 2004 (W-Th)
 The Fredonia Hotel
 200 N. Fredonia Street
 Zip Code: 75961
 936/564-1234
Register By: February 13, 2004

NOTES:

- These seminars are for non-attorney judges and clerks who have previously completed the first year's training.
- As with the other 12-hour programs, the grant will pay for housing for up to two nights, two breakfast meals, and one lunch.
- These seminars do fulfill the mandatory judicial education for municipal judges. They, however, do **not** offer MCLE credit to attorney judges.
- Enrollment is limited to 40 participants for each seminar, and will be on a first-come, first-served basis, with a waiting list in case of cancellations. So register early!
- Judges and clerks who attended this program in FY03 (2002-2003) cannot attend this year (2003-2004).
- On-site seminar registration begins at 7:00 a.m. of Day 1. There are no pre-conferences scheduled.

TMCEC 2003-2004 REGISTRATION FORM

Program Attending: _____ [city] Program Dates: _____

- I will attend the pre-conference class on *Bond Forfeitures*. I will attend the *New Prosecutor Trial Advocacy* track at the Prosecutor Skills Seminar.
- Judge Clerk Court Administrator Bailiff/Warrant Officer* Prosecutor

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

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

HOUSING INFORMATION

TMCEC will make all hotel reservations from the information you provide on this form. TMCEC will pay for a single occupancy room at all seminars: four nights at the 32-hour seminars and two nights at the 12-hour seminars. To share with another seminar participant, you must indicate that person's name on this form.

- I need a private, single-occupancy room.
- I need a room shared with a seminar participant. Please indicate roommate by entering seminar participant's name: _____ (Room will have 2 double beds.)
- I need a private double-occupancy room, but I'll be sharing with a guest. (I will pay additional cost, if any, per night.)
 I will require: 1 king bed 2 double beds
- I do not need a room at the seminar.

Date arriving: _____ Smoker Non-Smoker

COURT MAILING ADDRESS

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

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

Attorney Non-Attorney Full Time Part Time

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

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

Judge's Signature _____ Date: _____
 Municipal Court of _____

I certify that I am currently serving as a municipal judge, city prosecutor, or court support personnel in the State of Texas. I agree that I will be responsible for any costs incurred if I do not cancel five (5) working days prior to the seminar. If I have requested a room, I certify that I live at least 30 miles from the seminar site and have read the cancellation and no show policies in the General Seminar Information section located on pages 16-17 in the Academic Schedule. Payment is required ONLY for the assessment clinics; payment is due with registration form. Participants in the assessment clinics must cancel in writing two weeks prior to seminar to receive refund.

Participant Signature _____

Date _____

***Faculty Appreciation continued from
page 22***

Ms. Diana Vaughn, CPA – Internal Auditor, City of Carrollton
Mr. Ben Venable – Instructor, Del Mar Regional Police Academy
Ms. Rebecca Vinson, Teen Court Coordinator, City of North Richland Hills
Mr. Bob Warneke – Staff Attorney, Commission on Judicial Conduct, Austin

Mr. Mark Warren – Training Coordinator, Texas Association of Counties, Austin
Mr. Alan C. Wayland – Assistant City Attorney, City of Argyle
Ms. Kathryn Wells-Vogel – Court Administrator, City of Victoria
Mr. Ron White – City Marshal, City of Westlake
Mr. Robert Williams – Consultant, ASTEP Seminars, Austin
Mr. Dan Williams – Police Academy Coordinator, Navarro College

Honorable Steve Williamson – Municipal Judge, City of Fort Worth
Ms. Seana Willing – Interim Executive Director, Commission on Judicial Conduct, Austin
Honorable Edward Winfrey – Municipal Judge, City of Decatur
Mr. Ted Wood – Special Counsel for Trial Courts, Office of Court Administration, Austin
Mr. John Young – Warrant Officer, City of Midland
John Zervopoulos, Ph.D. – Forensic Psychologist & Attorney-at-Law, Dallas

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