

# The Recorder

The Journal of Texas Municipal Courts

Volume 20

July 2011

No. 4

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## CIVIL COURT ENFORCEMENT OF PROPERTY ORDINANCE CASES

### WHY ISN'T MY CITY DOING THIS?

By Aaron S. Kaufman  
Judicial Hearing Officer, Dallas

This article discusses an alternative system to handle property ordinance cases through a civil administrative hearing process, such as are handled in the Dallas Civil Adjudication Court. The primary purposes and goals are to promote code compliance and code enforcement, while improving the administration of justice by more efficiently disposing of cases.

In 2005, the City of Dallas created a Civil Adjudication Court for various ordinance cases, treating them as an administrative matter, rather than as a Class C criminal misdemeanor case.<sup>1</sup> This pioneering court is the first in Texas. It has been a high-volume court, efficiently and effectively disposing of more than 68,000 cases on the docket and conducting more than 22,000 hearings that otherwise would have burdened already

crowded municipal court criminal docket.<sup>2</sup> From its inception, this civil process has achieved goals of (1) promoting and verifying code compliance; (2) providing speedy, fair, and impartial hearings with respect for the rule of law; (3) increasing communication and public awareness of code standards; (4) increasing revenues for the city; and (5) funding the Dallas Tomorrow Fund, a charitable fund for people

*Civil Court Enforcement continued pg 10*

#### I. History

## TEXTING WHILE DRIVING- MOBILE DEVICES---THE LAW IN TEXAS R\_U\_N\_IDIOT?

By Cathy Riedel  
Program Director, TMCEC

Studies consistently confirm that a person is 2300 percent more likely to be involved in a crash when texting and driving. As the numbers of injuries and deaths attributable to this behavior accumulate, the message is getting through to many. The message is expressed many ways: e.g., "TXTING IS 2 DIE 4!"; or "No Text is Worth Dying For."<sup>2</sup> However expressed, the meaning is clear.

This relatively recent behavior of texting while driving is not a nationwide problem—it is a worldwide threat to public safety. In 2010, the United Nations and international officials launched a global effort to end distracted driving. Noting that with approximately 600 million passenger cars on the road today and 4.6 billion (4,600,000,000) cell phone

*Mobile Devices continued pg 7*

#### INSIDE THIS ISSUE

|  |       |
|--|-------|
| FY 12 Schedule .....                     | 29    |
| Judicial Profile .....                   | 17    |
| Judge & Clerk of the Year .....          | 2     |
| Legislative Preview .....                | 3     |
| Order Form for <i>The Recorder</i> ..... | 25    |
| QR Codes .....                           | 16    |
| Registration Forms .....                 | 30-31 |
| Senior Drivers .....                     | 18    |

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Published by the Texas Municipal Courts Education Center through a grant from the Texas Court of Criminal Appeals. An annual subscription is available for \$35.

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**AROUND THE STATE**

**TMCA JUDGE & CLERK OF THE YEAR**



The Texas Municipal Courts Association announced its 2010-2011 Outstanding Judge and Outstanding Court Support Personnel Awards. The Outstanding Judge Award went to The Honorable Gary Ellsworth of the Municipal Court of Spearman, Texas and the Outstanding Court Support Personnel Award went to Ronda Scarborough of the Municipal Court of Conroe, Texas.

The Outstanding Judge Award is given each year to a judge who demonstrates excellence in the administration of justice. Judge Gary Ellsworth has served as a municipal judge for the City of Spearman since 1993. Judge Ellsworth participates in the Partners in Education program for the 4th grade at Spearman Elementary. There he teaches the Junior Judges curriculum which focuses on making good choices. In 2001, he served as a judicial mentor for the State Commission on Judicial Conduct. He has also served on the board of directors for the Texas Municipal Courts Education Center and is a faculty member for the Education Center, teaching various courses in a small court curriculum. Judge Ellsworth is recognized for his patience and communication of the law to not only citizens before him but also to clerks and judges in other small courts. For more on Judge Ellsworth, turn to page 17 of *The Recorder*.

The Outstanding Court Support Personnel Award is given each year to a court support person who has demonstrated excellence in the administration of justice in support of municipal courts. Ronda Scarborough began her career as a clerk in the Conroe Municipal Court in 1980, was promoted to Court Administrator in 1986, and has continued to serve in that capacity to present day. Ms. Scarborough is a Level II certified clerk with the Texas Municipal Courts Education Center and is also a Certified Court Manager with the National Center for State Courts. She was recognized by the Texas Court Clerks Association in 2009 with the Extraordinary Achievement Award and by the Texas Department of Public Safety with the Traffic Safety Award. Her leadership skills are evidenced not only in Conroe but also recognized by the Texas Municipal Courts Association.

The Texas Municipal Courts Association (TMCA) is an organization dedicated to the education and support of municipal court personnel in order to provide a fair and impartial administration of justice in the municipal courts of Texas. TMCA is proud to recognize Judge Gary Ellsworth as the Outstanding Judge and Ronda Scarborough as the Outstanding Court Support Personnel for the year 2010-2011.

- Submitted by the TMCA Annual Meeting Committee.

**TMCEC Legislative Updates**

**Lubbock, August 10, 2011, Overton Hotel, 806.776.7000**  
**Houston, August 16, 2011, Omni Houston Riverway, 713.871.8181**  
**Austin, August 19, 2011, Omni Southpark, 512.448.2222**



**A PREVIEW OF LEGISLATION FROM 82<sup>ND</sup> SESSION**

By R. Christopher Baker  
Legislative Law Clerk, TMCEC

The 82nd Regular Texas Legislature has concluded. In 140 days, almost 5,800 bills were introduced. Over 4,500 resolutions were made. State lawmakers debated issues both great and small, and grappled with the consequences of a struggling economy in trying to pass a state budget which would serve the people of Texas for the next two years.

It was a busy time as well for TMCEC. During the legislative session, we closely followed approximately 800 bills which promised to affect the operations of municipal courts in Texas. Most of those bills did not make it through the legislative process; however, some have already been enacted into law, and we expect more to come in the next few weeks.

Of the 800 bills we followed at the end of May, almost 200 of the bills passed through both houses of the Legislature. By mid-June, only 25 of them had yet been signed into law by the Governor. Shortly thereafter, another 140 bills were signed into law and three vetoed, including the ban on texting while driving. Of the bills that were recently signed, some will take effect immediately upon signature by Governor Perry; most will be effective by September 1.

Because these bills represent substantial changes which will soon alter many important facets of the law, we wanted to give you a sneak preview of some of the bills which have already become law and which are most likely to have an immediate impact on Texas municipal courts.

The next issue of *The Recorder* will

contain extensive coverage of new legislation with commentary from the TMCEC staff attorneys.

**Subject: Disqualification and Recusal of Municipal Judges H.B. 3475**

**Date Effective: June 17, 2011 (see, S.B. 480 below)**

The area of judicial disqualification and recusal has been of much concern recently, with contradictory provisions being applied or promoted in application to municipal judges. The Legislature responded by creating a new Subchapter A-1 in Chapter 29 of the Government Code to resolve this conflict. The new provisions specifically describe a procedure for seeking recusal or alleging disqualification of a municipal judge as follows:

- A party in a municipal court or municipal court of record may file a sworn motion with the clerk of the court stating grounds for the recusal or disqualification of a judge. The motion must state the alleged grounds for recusal with particularity and be based upon either the personal knowledge of the affiant or based upon specifically stated grounds for belief in the truth of the allegations.
- A motion for recusal or disqualification must be filed at least 10 days before the date of a hearing or trial, except that if a judge is assigned to the case less than 10 days before the hearing or trial, then the motion must be filed at the earliest practicable time.
- Copies of the motion must be served on all other parties or their counsel, along with a notice that the movant

expects the motion to be heard three days after filing, unless there is a ruling otherwise.

- Parties may file statements with the clerk of the court that oppose or concur with the motion for recusal at any time prior to the motion being heard.
- Upon receiving a motion for recusal or disqualification, a municipal judge shall either immediately recuse himself or herself or request that the regional presiding judge assign a judge to hear the motion.
- A judge may also recuse or disqualify himself or herself without a motion being filed, if the judge believes such a measure is warranted. In such a case, the judge shall enter an order of recusal and request that the presiding judge assign another judge to hear the case.
- If the recusing judge is the presiding judge for the municipality, or the only judge in the municipality, then the judge shall ask the regional presiding judge to assign a judge from another municipality in the same county.
- If a judge recuses himself or herself, then the judge must take no further action in the proceeding after requesting assignment of a replacement judge. If a judge does not voluntarily recuse himself or herself, then the judge shall take no further action in the case until a recusal hearing is held. The only exceptions are for actions taken for good causes which are specifically stated in the order for the action. What constitutes a good cause is not defined, but actions following recusal or a motion for recusal should be reserved for situations requiring a compelling necessity of immediate action. Any

action taken following a motion for the recusal of a judge is subject to charges of improper conduct, and any action taken following the disqualification of a judge is also legally invalid.

- After a judge grants a motion for recusal, or if following a hearing, a motion for recusal is granted, then another judge will be assigned from the same municipality, or from another municipality in the same county, or if necessary, from a municipality in another county.
- If a motion for recusal is denied in a case in a municipal court of record, then following the rendering of a final judgment, the party filing the motion may appeal the denial of the motion as an abuse of the court's discretion. A granted motion for recusal is not appealable.

The language of the bill was duplicated in S.B. 480, which was signed by the Governor on June 17, 2011 with immediate effect. Therefore, although this bill would not have gone into effect until September, all of its provisions are already enacted through S.B. 480.

**Subject: Sealing of Juvenile Criminal Records**  
**H.B. 961**  
**Date Effective: June 17, 2011**

This bill makes a criminal conviction of a child for a fine-only misdemeanor that is not a moving traffic violation automatically confidential and mandates that it may not be disclosed except to a small list of authorized entities.

(Those who were following S.B. 1752 will recognize the provisions of that bill here. Although the Senate bill had wider support, it was caught in the House calendar after H.B. 961 had already favorably cleared the Senate Committee, making it more certain of eventual passage.)

**Subject: Refund of Bail Bonds**  
**H.B. 1658**  
**Date Effective: September 1, 2011**

Current law is silent regarding to whom a cash bond should be refunded to once the conditions of the bond have been discharged. It is currently possible that a third party could post a bond on behalf of an individual who would then be able to claim that money at a later date. The bill adds new language clarifying that a party whose name appears on a bond receipt is the party entitled to receive the proceeds from a bond. A defendant may still claim the deposited funds if no party can produce a receipt, but the bill is silent on how long a court must wait for a receipt to be produced before dispensing the funds to a defendant.

**Subject: Municipal Court Building Security Funds**  
**S.B. 1521**  
**Date Effective: June 17, 2011**

The bill adds warrant officers and related equipment to the list of authorized expenses for which the Municipal Court Building Security Fund may be utilized. Effective immediately, a court may authorize expenditures to support these personnel and purchase equipment for the performance of their duties from the court's building security fund.

**Subject: Juvenile Case Managers**  
**S.B. 61**  
**S.B. 209**  
**Date Effective: S.B. 61 June 17, 2011; S.B. 209 September 1, 2011**

The Legislature passed two bills pertaining to juvenile case managers and the authorities that employ them. S.B. 61 now permits the use of a juvenile case manager fund to cover training, travel, and other necessary expenses of the juvenile case manager position as well as salary and benefits. The bill also requires that a governing

body adopt and implement rules to govern juvenile case managers by December 1, 2011. The rules pertain to educational qualifications for the position, a code of ethics for those persons serving as juvenile case managers, and guidelines for the training of juvenile case managers.

S.B. 209 principally concerns the roles and responsibilities of a juvenile case manager and a judge working with a juvenile case manager. New language is added to Article 45.056 of the Code of Criminal Procedure, which defines specific responsibilities of a juvenile case manager as providing timely reports and recommendations to the assigned or presiding judge in order to assist them in making decisions in the best interest of the child. The new provisions also require an assigned judge to consult with the juvenile case manager supervising a case regarding the child's home environment; mental, educational, and developmental status; prior criminal history; and regarding what actions the court might take to further the best interests of the child.

**Subject: Corporal Punishment of School Children and In-School Offenses**  
**H.B. 359**  
**Date Effective: September 1, 2011**

The use of corporal punishment in schools has been debated for many years with parents and educators attempting to balance competing interests of school discipline with parental responsibility. H.B. 359 attempts a middle road by allowing school districts to adopt an "opt-out" policy concerning corporal punishment.

If the trustees of a school district adopt a policy which permits students to be disciplined through the use of corporal punishment, then that district must also permit the parents

of students to submit a written form in which they can prohibit the use of corporal punishment on their child. A parent may withdraw their objection to the use of corporal punishment at any time; however, the bill leaves it to the individual school district to adopt the policies on when or how far in advance a parent must file their objection to the use of corporal punishment.

At the same time the bill grants educators wider latitude in applying corporal punishment, it similarly restricts the scope of criminal penalties that may apply. The penalty of Class C misdemeanors for disruption of classes or school transportation is eliminated for students below the seventh grade. Many categories of disorderly conduct, as defined in Section 42.01 of the Penal Code are similarly exempted for children in the sixth and lower grades.

The bill also adds a definition of law enforcement duties to Section 37.0021 of the Education Code and clarifies the application of the section as it pertains to peace officers. Under the new text, police officers employed by a school district or providing an ongoing police presence on a school campus are subject to the provisions of the section regarding the use of confinement, restraint, and other means of seclusion. Furthermore, school districts are now required to file a report concerning any use of

restraint that occurs on the campus or in connection with school-sponsored activities.

**Subject: Discharge of Juvenile Fines**  
**H.B. 350**  
**H.B. 1964**  
**Date Effective: September 1, 2011**

In enacting these house bills, the Legislature created an alternative disposition option for juveniles under age 17 who are convicted of a Class C misdemeanor. Both bills add identical language to Article 45.092 of the Code of Criminal Procedure granting a judge the discretion to assign community service in lieu of all or part of the fines and court costs arising from a conviction. The community service must be performed for a governmental entity or nonprofit organization for up to 16 hours per week and immunizes law enforcement officials from negligence damages arising from a court-ordered community service. H.B. 350 adds more qualifications on the organizations that may participate in such a program and sets a compensation base of at least \$50 discharged for every eight hours of service.

H.B. 1964 also adds language that gives municipalities the option of approving and funding diversionary or training programs for children and their parents and permitting a municipal judge to order participation

in those programs where it would serve the best interests of the child.

**Subject: Duration of Search Warrants for Contents of Electronic Devices**  
**H.B. 1891**  
**Date Effective: September 1, 2011**

Search warrants are generally valid for three days, however when data retrieval from an electronic object such as a computer is involved, especially if that device is password-protected or encrypted, it can take much longer for the information to be retrieved. H.B.1891 addresses this technological hurdle by creating a special exception to this time limitation. Under the bill, if a search warrant is validly served prior to its expiration, and data is subsequently retrieved from the seized device after the warrant expires, then the recovered information is considered to have been obtained during the period covered by the warrant. Presumably this would apply to information retrieved from a digital image of such a device, even if the physical device itself had already been returned to its owner.

**Subject: Electronic Issuance of Summonses and Warrants**  
**H.B. 976**  
**Date Effective: June 17, 2011**

Technology has changed and, for the most part, improved the means by which we communicate. We can



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**tmcec@tmcec.com**

get updates on our friends' activities through various portals and even track their whereabouts through some social media sites. Moreover, we are no longer limited to text or voice communication any longer; the proliferation of video chat and wireless access has meant that we can be face-to-face with virtually anyone, anywhere, anytime.

H.B. 976 translates this technological progress to the virtual courtroom by making it possible to conduct the process of obtaining a warrant through secure video conferencing. Under the new provisions added to Article 15.03 of the Code of Criminal Procedure, a person may make a video appearance before a magistrate for the purpose of obtaining a warrant. While the text calls for bidirectional communication for purposes of the virtual hearing, visual transmission is only required of the appearing party. The new provisions also require that the proceeding be recorded and preserved until an acquittal or all appeals resulting from the issuance of the warrant are exhausted with copies to be made available to the defendant if requested.

**Subject: Appeals from Municipal Courts of Record**  
**S.B. 480**  
**Date Effective: June 17, 2011**

This bill provides for expanded jurisdiction in the courts of appeal for misdemeanor offenses in which the penalty imposed is a fine of \$100 or less, provided that the sole issue being appealed is the constitutionality of the statute or ordinance which was the basis for the conviction.

The bulk of this bill, which is drawn from H.B. 3475, concerns the standards for recusal and disqualification of municipal judges and is textually identical with the previously described language in H.B. 3475. However,

H.B. 3475 was passed to become effective September 1, 2011 while S.B. 480 became effective immediately upon the Governor's signature.

**Subject: Time to File Motion for New Trial**  
**S.B. 519**  
**Date Effective: September 1, 2011**

Under current law, a defendant who is convicted in municipal court of a criminal offense has but a single day in which to file a motion for a new trial. This contrasts with five days permitted for civil petitions for new trial in justice court or 30 days granted to defendants in other criminal courts.

S.B. 519 provides some uniformity to the court process by extending the window for filing a motion for new trial from one to five days following rendition of judgment. The change will be effective with judgments entered after September 1, 2011.

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### HEAR YE, HEAR YE

The Office of Court Administration wants to remind you that the new monthly reporting form goes into effect September 1, 2011.



You will find all the information you need (forms, instructions, etc.) at the following link under the heading "Changes to Justice and Municipal Court Monthly Case Activity Reports Effective September 1, 2011":

<http://www.courts.state.tx.us/oca/required.asp>

If you have not already done so, the information here will assist you in preparing for and making the necessary changes in your court.

If you have any other questions, please do not hesitate to contact us.

The Judicial Information Department:  
reportingsection@courts.state.tx.us  
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### Mobile Devices continued from pg 1

subscriptions worldwide, drivers that talk and text while driving are becoming a growing public safety threat. Road crashes claim 1.3 million lives each year, the equivalent of one death every 30 seconds. By 2030, the World Health Organization projects that traffic crashes will climb from the ninth leading cause of death worldwide to the fifth leading cause. U.S. Ambassador Susan Rice summed up the issue, "Texting while driving isn't a harmless little habit. It's a killer. It affects every nation on Earth. The suffering it causes is terribly direct and immediate—lives lost for no reason, futures shattered in an instant. But its toll is truly global."<sup>3</sup>

### R.I.P. HB 242

More than 32 countries, including Russia, Brazil, Jordan, Spain, New Zealand, India, and the United Kingdom have passed laws restricting driver's use of mobile devices. In the United States, in 2010 alone, 12 states banned texting while driving, bringing the total to 34 states heeding the call that texting while driving is unacceptable and unlawful.<sup>4</sup> Texas was poised to become number 35 after the Texas 82nd Regular Legislature passed H.B. 242, which would have banned texting while driving in the State. However, on June 17, 2011, Governor Rick Perry vetoed the bill. He said,

I support measures that make our roads safer for everyone, but House Bill 242 is a government effort to micromanage the behavior of adults. Current law already prohibits drivers under the age of 18 from texting or using a cell phone while driving. I believe there is a distinction between the overreach of House Bill 242 and the government's legitimate role in establishing laws for teenage

drivers who are more easily distracted and laws providing further protection to children in school zones.

The keys to dissuading drivers of all ages from texting while driving are information and education. I recommend additional education on this issue in driving safety and driver's education courses, public service ads, and announcements, and I encourage individuals and organizations that testified in favor of the anti-texting language included in this bill to work with state and local leaders to educate the public of these dangers.

### Surviving Legislation-HB 1899

One bill regarding the use of mobile devices did pass this year and should bring some relief to cities that have enacted ordinances regulating the use of cell phones. H.B. 1899 relates to the requirement that signs be posted in school crossing zones announcing the prohibition of use of wireless communication devices while driving. The sponsor of the bill noted in the statement of intent that the Transportation Code currently requires political subdivisions that want to enforce the prohibition of the use of wireless communication devices within a school zone to post signs at the entrance of each school crossing zone. The sponsor noted that for the City of El Paso, which has an ordinance banning the use of cell phones within the entire city limits, the expense of installing these redundant signs at school zone entrances was more than \$1,200 per school, and resulted in an unfunded mandate from the State. H.B. 1899 amends Section 545.425 by providing that when a city, county, or other political subdivision, by ordinance, prohibits the use of cell phones while operating a motor vehicle throughout the entire jurisdiction, then that city is not required to post signs at the

entrance of each school crossing zone. The law is further amended to provide that the affirmative defense available in Subsection (d)(2) of Section 545.425 is not available when the city has an ordinance prohibiting the use of cell phones by drivers in the entire jurisdiction. Signage is required by the city at each point at which a state highway, U.S. highway, or interstate highway enters the city. The sign must state that the operator is prohibited from using a wireless communication device, but that the operator is subject to a fine if the operator does indeed operate said wireless communication device. The sign must be readable to an operator traveling at the applicable speed limit and the costs of the signage are to be borne by the city.

Note: The law has not changed for cities that do not have an ordinance further restricting the use of cell phones—the signage requirements at the entrance to the school zone remain intact.

For a look at Section 545.425 of the Transportation Code as it will exist on September 1, 2011, see the text box on page 8 of this issue of *The Recorder*.

### Other Regulation in Texas

Texas now regulates the use of wireless communication devices in three areas: (1) the state-wide ban on using a hand-held wireless communication device in a school zone, (2) the restrictions on use by novice drivers, and (3) the restrictions on use by bus drivers. As provided in Section 545.424(a) (2) of the Transportation Code, a person under 18 years of age may not operate a vehicle while using a wireless communication device, except in case of an emergency. Inexplicably, the age restriction for motorcycle or moped drivers is 17 rather than 18. [Section 545.424(b) (2).] Enforcement of the restriction



SECTION 545.425, TRANSPORTATION CODE AS EFFECTIVE SEPTEMBER 1, 2011

Use of Wireless Communication Device; Offense.

- (a) In this section:
- (1) "Hands-free device" means speakerphone capability or a telephone attachment or other piece of equipment, regardless of whether permanently installed in the motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands.
  - (2) "Wireless communication device" means a device that uses a commercial mobile service, as defined by 47 U.S.C. Section 332.
- (b) Except as provided by Subsection (c), an operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone, as defined by Section 541.302, Transportation Code, unless:
- (1) the vehicle is stopped; or
  - (2) the wireless communication device is used with a hands-free device.
- (b-1) Except as provided by Subsection (b-2), a municipality, county, or other political subdivision that enforces this section shall post a sign that complies with the standards described by this subsection at the entrance to each school crossing zone in the municipality, county, or other political subdivision. The department shall adopt standards that:
- (1) allow for a sign required to be posted under this subsection to be attached to an existing sign at a minimal cost; and
  - (2) require that a sign required to be posted under this subsection inform an operator that:
    - (A) the use of a wireless communication device is prohibited in the school crossing zone; and
    - (B) the operator is subject to a fine if the operator uses a wireless communication device in the school crossing zone.
- (b-2) A municipality, county, or other political subdivision that by ordinance or rule prohibits the use of a wireless communication device while operating a motor vehicle throughout the jurisdiction of the political subdivision is not required to post a sign as required by Subsection (b-1) if the political subdivision:
- (1) posts signs that are located at each point at which a state highway, U.S. highway, or interstate highway enters the political subdivision and that state:
    - (A) that an operator is prohibited from using a wireless communication device while operating a motor vehicle in the political subdivision; and
    - (B) that the operator is subject to a fine if the operator uses a wireless communication device while operating a motor vehicle in the political subdivision; and
  - (2) subject to all applicable United States Department of Transportation Federal Highway Administration rules, posts a message that complies with Subdivision (1) on any dynamic message sign operated by the political subdivision located on a state highway, U.S. highway, or interstate highway in the political subdivision.
- (b-3) A sign posted under Subsection (b-2)(1) must be readable to an operator traveling at the applicable speed limit.
- (b-4) The political subdivision shall pay the costs associated with the posting of signs under Subsection (b-2).
- (c) An operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped.
- (d) It is an affirmative defense to prosecution of an offense under this section that:
- (1) the wireless communication device was used to make an emergency call to:
    - (A) an emergency response service, including a rescue, emergency medical, or hazardous material response service;
    - (B) a hospital;
    - (C) a fire department;
    - (D) a health clinic;
    - (E) a medical doctor's office;
    - (F) an individual to administer first aid treatment; or
    - (G) a police department; or
  - (2) a sign required by Subsection (b-1) was not posted at the entrance to the school crossing zone at the time of an offense committed in the school crossing zone.
- (d-1) The affirmative defense available in Subsection (d)(2) is not available for an offense under Subsection (b) committed in a school crossing zone located in a municipality, county, or other political subdivision that is in compliance with Subsection (b-2).
- (e) This section does not apply to:
- (1) an operator of an authorized emergency vehicle using a wireless communication device while acting in an official capacity; or
  - (2) an operator who is licensed by the Federal Communications Commission while operating a radio frequency device other than a wireless communication device.
- (f) Except as provided by Subsection (b-2), this section preempts all local ordinances, rules, or regulations that are inconsistent with specific provisions of this section adopted by a political subdivision of this state relating to the use of a wireless communication device by the operator of a motor vehicle.

on cell phone use by novice drivers is secondary rather than primary, meaning that the peace officer may not stop the vehicle or detain the operator for the sole purpose of determining whether the operator has violated this provision. The stop must be initiated initially by the observation of another offense.<sup>5</sup> Lastly, the operator of a passenger bus with a minor on board may not use a wireless communication device unless stopped. [Section 545.425(c).]

Information and Education

Even as Texas bucks the trend in regulating the use of mobile devices while driving, distracted driving continues to be the leading cause of traffic crashes. Distracted driving is defined as any non-driving activity that a person engages in while driving, including conversing with passengers, eating, smoking, manipulating dashboard controls, reaching for something in the vehicle, and texting or talking on the cellphone. There are many driving distractions, yet cell phone use is one of the most common and major causes of traffic crashes and fatalities related to distracted driving. The National Highway Traffic Safety Administration (NHTSA) reports that at any given moment during daylight hours, 672,000 vehicles are being driven by persons using hand-held phones. In 2009, cell phone use in Texas caused 3,308 crashes and 41 fatalities.

Texting has increasingly become the way many people communicate. American teens send and receive an average of 3,339 text messages per month.<sup>6</sup> Sending text or email messages while driving is extremely dangerous, as it draws a driver's eyes, mind, and hands away from the road. On average, texting causes drivers to look away from the road for 4.6 seconds of every six seconds. At 55 mph, the vehicle travels the length of an entire football field while the

driver isn't looking.

Drivers that text while driving not only display slower reaction times and have difficulty staying in their lane, but also are less likely to see:

- High and low relevant objects
- Visual cues, and
- Exits, red lights, and stop signs.

Governor Perry has stated that the solution to the problem is more education and information. Perhaps the role of the municipal court will be more important than ever as the hundreds of thousands of texters appear in municipal courts in the State. There are excellent resources available to courts that are interested in educating defendants in the dangers of these distracted driving habits, and some videos which might be compelling to a young person satisfying the conditions of a deferred disposition. The Texas Department of Transportation has recently launched a campaign in April titled, "TalkTextCrash."

Another valuable resource for education and information is [www.focusdriven.org](http://www.focusdriven.org). Focusdriven.org was founded by Linda Doyle after her mother was killed by another driver distracted on his cell phone. She and other victims and the families and friends of victims are working to educate the public about the dangers of cell phone-distracted driving and support victims and their families. The Department of Transportation also has invaluable resources available at [www.distracted.gov](http://www.distracted.gov). The TMCEC website for the Driving on the Right Side of the Road project offers information sheets and other resources on distracted driving: [www.tmcec.com/DRSR/Information\\_Sheets](http://www.tmcec.com/DRSR/Information_Sheets).

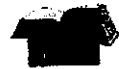
<sup>1</sup> A graphic four-minute PSA produced by the Gwent Police Department in the UK.  
<sup>2</sup> ATT ad campaign.  
<sup>3</sup> See <http://usun.state.gov/documents/organization/142201.pdf>.

<sup>4</sup> See <http://www.distracted.gov/state-laws/>  
<sup>5</sup> Section 545.424(e), Texas Transportation Code.  
<sup>6</sup> See <http://technology.msnbc.msn.com/news/2010/10/14/5290191-average-american-teen-sends-and-receives-3339-texts-a-month>.  
<sup>7</sup> See <http://www.dot.state.tx.us/safety/distracted.htm>.

Funds Available for Court Training

Seemingly, no municipal court in the state is immune from the current "budget-crunch." If your court is looking for ways to fund continuing education for court personnel, be sure not to overlook three specific court costs that can help.

Cities are entitled to keep \$12.50 of the time payment fee under Section 133.103 of the Local Government Code. Ten percent (or \$2.50) shall be used for the purpose of improving the efficiency of the administration of justice, and the city shall prioritize the needs of the court in spending that money. The judicial support fee, pursuant to Section 133.105 of the Local Government Code, allows for sixty cents (\$.60) of each conviction to go into the city's general fund to "promote the efficient operation" of the court. Lastly, the court security fund statute, Article 102.0169 of the Code of Criminal Procedure, allows for the municipal court building security fund to be used for the continuing education on security issues for court personnel and security personnel.



who have low income to repair substandard property. Ultimately, case by case, this court has served to improve the quality of life with a cleaner, safer, and more attractive city.<sup>3</sup>

## II. Jurisdiction

Section 30.00005(d) of the Government Code, in the Uniform Municipal Courts of Record Act in the Government Code provides that

The governing body of a municipality by ordinance may provide that the court has: (1) civil jurisdiction for the purpose of enforcing municipal ordinances enacted under Subchapter A, Chapter 214, Local Government Code.

Local Government Code, Section 54.044 provides the required procedure for administrative adjudication of health and safety ordinances. (For the text of the statute, see page 11). Dallas Ordinance No. 25927 tracks the language of the enabling provisions of Section 54.044 of the Local Government Code.

## III. Types of Cases Handled

Like all municipal courts in Texas, the Civil Administrative Court is a court of limited jurisdiction. In Dallas, the ordinance cases handled through the civil adjudication court are limited to: Chapter 7A litter violations; Chapter 18 violations that include solid wastes, high weeds, overgrown vegetation (in alley, street, or sidewalk), and junked motor vehicle violations; and Chapter 27 urban rehabilitation standards violations, covering a variety of substandard conditions in single-family and multi-tenant residential and commercial properties. Common cases for

residential single-family homes range from litter violations, violation of the city's bulky trash pickup deadlines, failure to keep exterior wood surfaces of houses and garages maintained and painted, sub-standard fence violations, weather-tight and water-tight violations (which may be any exterior openings from broken windows to a substandard roof or other openings in the structure), open and vacant buildings, and failure to register a rental residence. For multi-tenant properties, typical cases involve rotting wood, unpainted wooden exteriors, defective roofs, broken windows, unsafe premises conditions, substandard air-conditioning, substandard hot water, substandard electrical systems, unregistered multi-tenant properties, or violations for failure to attend an annual multi-tenant safety seminar.

## IV. Court Officials and Staff

The Civil Administrative Court is operated effectively with a minimal amount of staffing. In Dallas, the court operates with one judicial hearing officer and one clerk.

*Judicial Hearing Officer:* The duties and powers of the hearing officer are enumerated in Dallas Code Sec. 27-16.17(c). They include jurisdiction to: (1) administer oaths to witnesses or an interpreter; (2) hear and determine contested cases of premises and property ordinances; (3) issue orders compelling the attendance of witnesses and the production of documents; (4) assess administrative penalties and the Dallas Tomorrow Fund fee; (5) question witnesses and examine evidence; (6) suspend payment of administrative penalties pending a specific compliance hearing date; (7) make findings as to the financial inability of a person found liable to pay a penalty and comply or refer that person to potential sources of funding to assist the person with compliance; and (8) make a finding as to the financial inability of a person

found liable to pay for a transcript or to post an appeal bond. The findings of the hearing officer are reflected in a written administrative order with a copy given to the defendant.

*Clerk:* The court clerk maintains file jackets with citations, prepares the dockets, and handles all communication with the court (including mail, fax messages, and telephone calls) such as scheduling of hearings, requests for a rehearing, or appeals.

## V. Procedure: From Citation to Disposition at Hearing

*Issuance of Citation:* The process starts with the issuance of a citation by the Code Enforcement Inspector. The requirements of the administrative citation are to give the defendant notice: (1) of the right to a hearing; (2) of the time and place of the hearing; (3) of the nature, date, and location of the violation; (4) of the amount of the administrative penalty for which the person may be liable; (5) of the right to have the inspector who issued the citation present at the hearing by making a written request at least five days before the hearing or the right is waived; (6) that failure to appear at the hearing is considered an admission of liability for the violation charged; and (7) must contain a return of service indicating how the citation was served on the person charged.

This administrative citation serves both as the summons with notice of a specific court setting and as the allegation or pleadings for the violation charged. The same formal pleading requirements of a criminal complaint do not apply. Generally, if the citation contains the name of the defendant, a brief or general description of the violation, and the time and date of the violation and the hearing, the citation itself and

Civil Court Enforcement continued pg 13

## Local Government Code, Section 54.044. Alternative Procedure for Administrative Hearing.

- (a) As an alternative to the enforcement processes described by this subchapter, a municipality by ordinance may adopt a procedure for an administrative adjudication hearing under which an administrative penalty may be imposed for the enforcement of an ordinance described by Section 54.032 or adopted under Section 214.001(a)(1) (dangerous structures).
- (b) A procedure adopted under this section must entitle the person charged with violating an ordinance to a hearing and must provide for:
  - (1) the period during which a hearing shall be held;
  - (2) the appointment of a hearing officer with authority to administer oaths and issue orders compelling the attendance of witnesses and the production of documents; and
  - (3) the amount and disposition of administration penalties, costs, and fees.
- (c) A municipal court may enforce an order of a hearing officer compelling the attendance of a witness or the production of a document.
- (d) A citation or summons issued as part of a procedure adopted under this section must:
  - (1) notify the person charged with violating the ordinance that the person has the right to a hearing; and
  - (2) provide information as to the time and place of the hearing.
- (e) The original or a copy of the summons or citation shall be kept as a record in the ordinary course of business of the municipality and is rebuttable proof of the facts it states.
- (f) The person who issued the citation or summons is not required to attend a hearing under this section.
- (g) A person charged with violating an ordinance who fails to appear at a hearing authorized under this section is considered to admit liability for the violation charged.
- (h) At a hearing under this section, the hearing officer shall issue an order stating:
  - (1) whether the person charged with violating an ordinance is liable for the violation; and
  - (2) the amount of a penalty, cost, or fee assessed against the person.
- (i) An order issued under this section may be filed with the clerk or secretary of the municipality. The clerk or secretary shall keep the order in a separate index and file. The order may be recorded using microfilm, microfiche, or daa processing techniques.
- (j) An order issued under this section against a person charged with an ordinance violation may be enforced by:
  - (1) filing a civil suit for the collection of a penalty assessed against the person; and
  - (2) obtaining an injunction that:
    - (A) prohibits specific conduct that violates the ordinance; or
    - (B) requires specific conduct necessary for compliance with the ordinance.
- (k) A person who is found by a hearing officer to have violated an ordinance may appeal the determination by filing a petition in municipal court before the 31<sup>st</sup> day after the date the hearing officer's determination is filed. An appeal does not stay enforcement and collection of the judgment unless the person, before filing the appeal, posts a bond with an agency designated for that purpose by the municipality.

(Added by Acts 2001, 77<sup>th</sup> Leg., ch. 413, Sec. 9, effective Sept. 1, 2001.)

**Initiation of Case<sup>1</sup>**

**Issuance of a Citation**

- Personal service or service by posting on property and mail<sup>2</sup>
- Pleadings in case-verified<sup>3</sup>
- Rebuttable proof of offense<sup>4</sup>
- Notice of date and time of hearing<sup>5</sup>

**Defendant's Response<sup>4</sup>**

**Pay Mail-In Penalty<sup>2</sup>**

- Admission of liability
- Citation not contested

**Appear for Hearing<sup>6</sup>**

- Rebut citation

**Written Response<sup>7</sup>**

- Must still appear for hearing

**Defendant Does Nothing<sup>8</sup>**

- Failure to appear for hearing

**Original Hearing<sup>9</sup>**

**Not Liable<sup>10</sup>**

**Liable<sup>11</sup>**

- Penalty assessed

**Liable, but Penalty Suspended<sup>12</sup>**

- Reset for compliance hearing

**Non-Suit**

- Case dismissed on motion of city attorney

**Default Judgment<sup>13</sup>**

- Final in 31 days if no motion for rehearing or appeal perfected by defendant

**Compliance Hearing<sup>14</sup>**

**Compliance<sup>15</sup>**

- Penalty reduced at discretion of judge

**Not in Compliance<sup>16</sup>**

- Original penalty assessed, OR
- May be reset for final compliance hearing if good faith effort toward compliance

All references are for Dallas City Code, Ordinance No. 25927

<sup>1</sup> Sec. 27-16.12  
<sup>2</sup> Sec. 27-16.13  
<sup>3</sup> Sec. 27-16.14  
<sup>4</sup> Sec. 27-16.15  
<sup>5</sup> Sec. 27-16.15(b)(1)  
<sup>6</sup> Sec. 27-16.15(b)(2)

<sup>7</sup> Sec. 27-16.15(b)(3)  
<sup>8</sup> Sec. 27-16.16(a)  
<sup>9</sup> Sec. 27-16.18  
<sup>10</sup> Sec. 27-16.18(f)(2)  
<sup>11</sup> Sec. 27-16.18(f)(1)  
<sup>12</sup> Sec. 27-16.17(c)(6)

<sup>13</sup> Sec. 27-16.16(c)(2)  
<sup>14</sup> Sec. 27-16.18(f)(3)  
<sup>15</sup> Sec. 27-16.18(f)(3)(B)  
<sup>16</sup> Sec. 27-16.18(f)(3)(C)

any supporting photographs will be sufficient to support a default judgment.

**Service of Citation:** There are two methods by which a defendant may be properly served an administrative citation. The preferred method is by personal service, either by hand delivery to the person charged or to a person at the defendant's usual place of residence with receipt by a person who is 16 years of age or older. If personal service fails, then the alternative method of service of an administrative citation is by posting the citation on the front door of the premises or a placard staked to the yard in a location visible from a public street or alley, together with mailing a copy of the citation to the last known address of the defendant by regular U.S. Mail. In practice, most of the administrative citations are served by the combined posting and mailing method.

**Due Process Requirements:** Valid service of citation is required to comply with minimum standards of procedural due process and to support a valid default judgment.<sup>4</sup> In addition to fair notice of the hearing, fundamental procedural rights encompassed by Constitutional due process include the right to present evidence and argument, the right to rebut opposing evidence and argument, and the right to a fair and impartial decider of the facts and the law, in this case the judge of the Civil Adjudication Court.

**Representation by Counsel:** Defendants may be represented by an attorney, but as in criminal cases in municipal court, there is no right to court-appointed counsel. In practice, most defendants appear pro se to contest their administrative citations. The City of Dallas, as the plaintiff in the case, is represented by a city attorney.

**Responding to an Administrative Citation:** When a citation is received, a defendant may respond in one of three ways: (1) pay the mail-in penalty amount, which constitutes an admission of liability and disposes of the case without a hearing<sup>5</sup>; (2) contest the case by appearing in court at the designated hearing date and time, either in person or through a person who has personal knowledge of the condition of the property or by counsel, and have a hearing; or (3) file an answer or other written response, although filing an answer does not dispense with the requirement to appear at the hearing setting that is stated in the written citation.

**Formal Objections to the Citation or Motions to Quash:** In this informal administrative procedure, there are no pleading requirements other than the required elements of the citation required by the ordinance. If a defendant or counsel for defendant makes an objection to a defect of form in the pleading, the complaint is not subject to being quashed as in criminal cases.<sup>6</sup>

**Failure to Appear at an Administrative Hearing:** A person issued an administrative citation in due and proper form who fails to appear at the designated hearing is deemed to have admitted liability and a written default judgment is ordered, finding the defendant liable and assessing the appropriate penalty and fee. In Dallas, any defendant found liable is assessed, in addition to any penalty, a mandatory \$36 fee for the Dallas Tomorrow Fund, a charitable fund for repair of property of the poor. There are no additional fees or court costs assessed for these civil cases.

**Recording the Hearing:** Only municipal courts of record may conduct civil administrative hearings. Hearings are recorded by an electronic recording device,

as allowed by Section 30.00010 of the Government Code. As a matter of practice, all civil administrative hearings in Dallas are recorded by an electronic recording device, from which a transcript can be made in the event of an appeal.

**The Hearing:** When a defendant appears in court to contest the case, the hearing is informal. Formal rules of evidence expressly do not apply, and any relevant evidence is admitted without authentication or other formal predicate.

The city is the plaintiff in the case and goes first, having the burden of proof and persuasion by a preponderance of the evidence. The plaintiff's case in chief usually consists of the presentation of the written administrative citation, which is rebuttable proof of the violation, and any photographs or notices issued by the inspector. The inspector is not required to appear in court to testify in person, unless a timely written request is made by the defendant at least five calendar days before the hearing.<sup>7</sup>

The defendant has the right to rebut the alleged violation. The hearings do not involve many witnesses. Usually, only the defendant or defendant's representative testifies as a live witness, presenting the evidence in rebuttal informally. The ordinance does not specifically mention defenses and fails to define what constitutes rebuttal evidence, so possible defenses may consist of negating any element of the alleged offense, for example, lack of ownership and possession of the property or that the defendant did not actually commit the alleged violation or permit it to be done as alleged. In addition, possible affirmative defenses may include the following non-exclusive list: mistake of fact, mistake of law, justification, public duty, necessity or emergency, death of the named defendant or other defect

of parties, or bankruptcy.

There is no right to a jury in the Civil Adjudication Court. It is exclusively within the province of the hearing officer, as the sole judge of the facts, to weigh the evidence to determine the credibility of any witnesses or exhibits and whether the evidence submitted is competent, reliable, and truthful. As a fair and impartial judge of the facts and the law, the hearing officer alone keeps an open mind and waits until all of the evidence is presented from both sides, and then decides each case based on a preponderance of the evidence.

Section 27-16.18 of the Dallas City Code provides that

the hearing officer may examine any witness and may consider any evidence offered by a witness or person charged with a violation, giving due weight to all testimony and evidence offered.

There is case law in Dallas to support the proposition that the hearing officer may consider post-violation compliance by the defendant in a hearing to determine liability and penalties.<sup>8</sup>

*Disposition of Case at the Hearing.* After hearing the evidence presented and any argument, the judge of the Civil Adjudication Court enters a judgment finding the defendant either: (1) Not liable, (2) Liable, and assessing a penalty, or (3) Liable, and assessing a penalty, but suspending the payment of the penalty and resetting the case for a compliance hearing.

At a compliance hearing, the sole issue is whether or not the property is in compliance with the applicable ordinance, and the burden of proof is on the defendant. If the defendant presents satisfactory proof of compliance by photos or other evidence, then the penalty

may be reduced at the discretion of the hearing officer. On the other hand, if the defendant fails to prove compliance with the applicable ordinance, then the penalty originally ordered is assessed or an extension for a final compliance hearing may be granted, if the defendant has made a good faith effort to comply.

*Motion for Rehearing:* The hearing officer has plenary jurisdiction to modify an order within 31 days of the date of signing a final administrative order. The defendant's written request for rehearing is forwarded to the city attorney for recommendation and then to the judge for decision. The decision to grant a rehearing is at the sound discretion of the municipal judge,<sup>9</sup> with or without a showing of good cause, and is, generally, not reviewable on appeal.<sup>10</sup>

*Grounds for Appellate Review:* A dissatisfied defendant may appeal a final administrative order to the

municipal court on the following six grounds: if it is (1) in violation of a constitutional or statutory provision; (2) in excess of the hearing officer's statutory authority; (3) made through unlawful procedure; (4) affected by another error of law; (5) not reasonably supported by substantial evidence in the record; or (6) apparent that the administrative decision was arbitrary or a clear abuse of discretion. [Dallas City Code Section 27-16.20(d).] This is a difficult burden for a party desiring an appeal to meet and very few civil administrative court cases are appealed.

#### VI. Benefits of a Civil Administrative Court

1. *Speed up the Disposition of Cases:* Delays in the disposition of property ordinance cases impede code enforcement. Over 99% of all cases in the Civil Adjudication Court are disposed of within 31 to 60 days from the issuance of the citation.<sup>11</sup> By comparison, criminal cases in Dallas have a backlog of four months or more.

2. *Save Time and Expenses:* Code compliance inspectors are generally not required to be in attendance at the hearing, saving time and costs. Rather, the sworn citation issued by the code inspector is rebuttable proof of the alleged violation and supports a finding of liability at the hearing or a default judgment where the defendant fails to appear. It is more cost-effective for the city to have inspectors spend their time in the field dealing with complaints, investigating violations, writing citations, and promoting code compliance in the neighborhoods rather than waiting to testify in court.

3. *Handle a High Volume of Cases with Minimal Waiting for Hearing:* In Dallas, up to six dockets a day are set with no more than 15-20 cases set on each docket. In most cases there

is no wait at all or a wait of no more than 10 to 30 minutes. By contrast, in the criminal courts in Dallas, it is customary to have a wait of more than an hour to have docket call, to route the officers, to speak to the city attorney about plea offers, and then to have a further wait if a trial is needed. Defendants like to dispose of their cases by prompt hearings without delay.

4. *Procedural Advantages for City:* It is easier for a city attorney to prosecute code cases with the civil administrative process that has less formal requirements for written pleadings and proof. The code enforcement officer is generally not required to attend the hearing or to identify the defendant in court. The burden of proof is by a preponderance of the evidence, not proof beyond a reasonable doubt. A defendant does not have the same right as in criminal cases to remain silent and not be compelled to testify. Instead, a defendant needs to rebut the alleged offense at the hearing.

5. *Achieve Better Code Compliance and Code Enforcement:* For defendants who appear for hearings, the court gets to verify the condition of the property, educate defendants and the public on code requirements, and reinforce the importance of code compliance. Case by case, this promotes code compliance and ultimately the attractiveness and safety of neighborhoods.

6. *Increased Revenues for the City:* Based on experience, the handling of property ordinance cases with the Civil Adjudication Court in Dallas has resulted in payments of penalties substantially greater than the fines that would have been paid if handled as criminal offenses. Cases do not get dismissed for failure of the officer to appear in court or identify the defendant, and cases do not go to warrant status for failure of the defendant to appear. Instead,

an enforceable default judgment is entered. An added benefit is that all of the Dallas Tomorrow Fund fees are attributable to the operation of the civil court.

*Aaron S. Kaufman, University of Texas J.D. '74, presides over the Civil Adjudication Court for the City of Dallas and may be contacted at aaron.kaufman@dallascityhall.com.*

*Matt Grossman, Emory Law J.D. Candidate '13, participated in the preparation of this article.*

<sup>1</sup> The Dallas City Council passed Ordinance No. 25927 on March 9, 2005, effective April 1, 2005.

<sup>2</sup> At the end of April 2011, the Dallas Civil Adjudication Court had disposed of 68,436 property ordinance cases on the docket, conducted 22,208 hearings, and assessed total penalties in excess of \$10,000,000.

<sup>3</sup> This useful civil process can be adopted by cities of any size, as long as they have a municipal court of record. Taylor, Texas, a city of around 14,000 people, has become a court of record and now operates a civil ordinance court. Houston, the largest city in Texas, also now operates a civil court for various ordinances. Other cities in Texas have contacted Dallas to study the operation of their Civil Adjudication Court for possible implementation.

<sup>4</sup> On the other hand, if a defendant or representative makes an appearance in court by showing up for a hearing, notice of the hearing is presumed, and any formal defects in a citation are waived.

<sup>5</sup> On occasion, the mail-in penalty is paid and someone shows up for the hearing to contest the citation. Unlike some procedures, there is no provision in the applicable ordinance for paying the penalty under protest and reserving the right to contest the case at a hearing. To the contrary, the language of the ordinance states that paying the applicable penalty constitutes an admission of liability, so the citation may not be disputed, whether on the date of the hearing or anytime thereafter.

<sup>6</sup> For example, a defendant may object that "weather-tight/water-tight" or "failure to protect exterior surfaces" is vague and general and does not give fair notice of the alleged violation. If the objection is overruled, then the hearing proceeds with the presentation of the case and rebuttal evidence of the defendant. If the objection is sustained, then the plaintiff city should be granted leave to amend and the case reset for a new hearing date. In practice,

Comparison of Processing Code Complaints in Criminal vs. Civil Cases in Dallas Civil Adjudication Court

|   | Criminal Trial  | Civil Administrative Hearing  |
|---|---|---|
| <b>Number of Hearings</b>                                   | Low Volume of Hearings. Many criminal cases are dismissed, or defendants enter a plea and take deferred disposition Waiver of right to trial. | High Volume of Hearings. Since 2005, over 68,000 cases disposed by written orders; Over 22,000 hearings, more than 32% of docketed cases. |
| <b>Time for Disposition</b>                                 | Backlog of 4 months or more for trial setting.  | >99% disposed of within 31-60 days. Less than 1% of cases reset from date assigned in citation.   |
| <b>Type of Hearing</b>                                      | Jury trial or trial by court. Formal trial procedure; Rules of Evidence apply.  | Administrative Hearing. Simplified and informal procedure; Rules of Evidence do not apply.  |
| <b>Pleadings</b>  | Strict requirements for complaint; Subject to motion to quash.  | Pleading by sworn citation; Not subject to motion to quash.   |
| <b>Burden of Proof</b>                                      | Beyond a Reasonable Doubt. Problem of proof if can't identify defendant.  | Preponderance of the Evidence. Proof of violation by sworn citation, rebuttable by defendant.   |
| <b>Is the Code Compliance Inspector Required to Attend?</b> | Yes; unavailable witness results in dismissal.  | No, unless timely written request. Inspectors spend more time in the field, and rarely are in court.                                      |
| <b>Failure of Defendant to Appear</b>                       | Results in arrest warrant, time and expense of police to arrest and put in jail custody.  | Results in default judgment.  |
| <b>Court Costs</b>  | Yes, shared with State.   | None, but \$36 fee for Dallas Tomorrow Fund.  |



no defendant has wanted to have to come back for a hearing at a later date.

<sup>7</sup> In practice, it is rare that a timely request for the inspector to appear is made by a pro se defendant or an attorney. Most likely, in these few instances, a defendant requests the inspector to appear under the misconception that the case will be dismissed if the officer fails to appear, as occurs in criminal cases.

<sup>8</sup> In *City of Dallas v. Almond Johnson* (PCA-00002 Dallas Municipal Court No. 9, Feb. 28, 2006), in affirming a decision of the hearing officer, the reviewing municipal court on appeal held that such testimony and evidence offered may be related to the issue of liability and also civil penalties, if any, and the amount thereof. The evidence at a hearing may show a relatively minor degree of severity of the non-compliant condition of the property, or the cooperation and

promptness of the defendant in making the repairs necessary to bring the property into compliance, or some indication of whether the violation is likely to recur. The court's opinion also noted in a footnote that during City Council deliberations following presentation of the proposed ordinance by the former City Attorney, the issue of the importance of having a hearing officer that not only followed the law, "but also had a heart," was discussed in detail.

<sup>9</sup> Policy considerations favor granting timely requests for a rehearing following a default judgment. The right to a hearing is a critical component of due process. Conducting a hearing promotes compliance, not just for the individual case, but as an opportunity to educate the public and reinforce the health and safety requirements of city ordinance standards. Granting a rehearing cures any defect in service of citation or notice of hearing,

making moot any attack of a default judgment based on improper service of citation. Ultimately, granting a rehearing allows greater access to the court and the fair hearing process, which promotes respect for the rule of law.

<sup>10</sup> Only a handful of appeals from the Civil Adjudication Court have been perfected by defendants in over five years of operation involving more than 22,000 hearings. Virtually all of the cases are resolved with a final judgment at an original or compliance hearing.

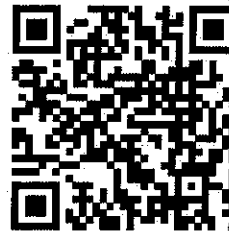
<sup>11</sup> The Dallas ordinance requires that the hearing be held no sooner than 31 days following the issuance of the administrative citation. At the time the citation is issued, the code inspector calls in and gets the next available hearing date after the required 30-day waiting period.

## MUNICIPAL COURT USE OF QUICK RESPONSE (QR) CODES

By Kevin Madison

Presiding Judge, Lakeway, Horseshoe Bay, and Briarcliff

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



Scan this image with a smart phone

You have probably seen them in magazine advertisements and in local businesses that are electronically "hip." I am talking about "QR" Codes. A QR code (short for *Quick Response*) is a specific matrix barcode (two-dimensional code), readable by dedicated QR barcode readers and camera phones. The code consists of black modules arranged in a square pattern on a white background. The information encoded can be text, URL, or other data. Users with a camera phone equipped with the correct reader application (e.g., Google Goggles, App. World, ZXing, Kaywa, and Red Laser) can scan the image of the QR code to display text, contact information, connect to a wireless network, or open a web page in the phone's browser. This act of linking from physical world objects is termed "hardlinking" or object "hyperlinking."

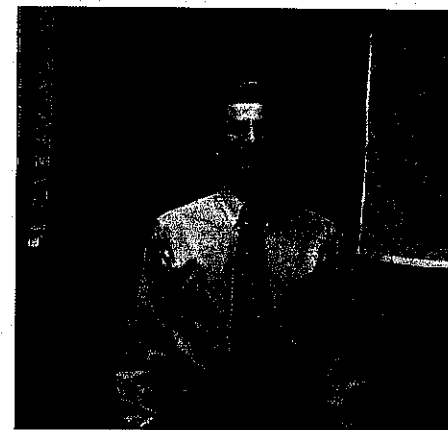
In June 2011 the Lakeway Municipal Court began posting Quick Response "QR" codes at the Lakeway Municipal Court Building and in City Hall. Citizens who have iPhones or Smart phones (Droid) can scan the QR Code and will be automatically linked to Lakeway Municipal Court's primary website. Our website has important information pertaining to the court's address, telephone number, fax number, rules of court, and how to handle different matters including: driver safety course dismissal of citation; registration and inspection citation dismissals; deferred disposition probation program; and court procedures. We have also placed QR Codes for our primary court website and our court payment website on all electronic citations issued to drivers by our police department.

How do you begin the process of obtaining a QR Code? It is quite a simple process. Copy your website URL and go to <http://qrcode.kaywa.com>. This website is one of many QR Code generators. You simply type in or paste your department's website URL (web address) into the QR generator. It creates the QR Code image, which is basically a bar code image. You can take this image and get it printed onto vinyl stickers that adhere to glass or other surfaces. At the Court, we placed QR Code stickers on our front door and at each clerk's window. We also have a QR sticker on our brochure rack in the lobby at City Hall. You can use the QR code image on department correspondence, billings, and brochures.

## JUDICIAL PROFILE

### MAKING A DIFFERENCE: JUDGE GARY L. ELLSWORTH

By Hong Escobar  
TxDOT Grant Administrator, TMCEC



Municipal judges are uniquely situated to provide education and outreach about traffic safety issues to civic groups, churches, and schools. Aware that municipal judges are highly visible government representatives, Judge Gary L. Ellsworth, who serves as the Presiding Judge for the City of Spearman's Municipal Court, has promulgated the message about traffic safety through active engagement in his community.

Since 1997, Judge Ellsworth has participated in the Partners in Education program with a local elementary school. One of his main goals is to encourage students to become responsible decision-makers. Judge Ellsworth often starts his presentations with the quote, "no man is an island," to remind students that even day-to-day decisions almost always affect others. Using the context of traffic safety, his presentations emphasize that it takes everyone (drivers and passengers) working together to make a community safe for everyone to enjoy.

By empowering youth with knowledge, Judge Ellsworth hopes to drive home the point that decisions have consequences, regardless of who's driving. Judge Ellsworth said, "all we can do is give them the facts, laws, and possible outcomes. They are the decision makers."

Understanding that technology is a useful way to engage students, along with an acute awareness that youth often believe they are invincible to harm, Judge Ellsworth has used several multimedia approaches to support his traffic safety presentations. For instance, Judge Ellsworth has combined the Driving on the Right Side of the Road (DRSR) resources and videos about traffic safety to teach youth about the importance of their decisions with regard to traffic safety. He has used the DRSR online games and maps to engage fourth graders in a discussion about traffic issues. Fourth graders, Judge Ellsworth noted, are usually 10 years old, and that is when an individual can be held accountable for criminal offenses. When working with middle school aged students, Judge Ellsworth points out that they are nearing the age where they will obtain their driver's license, and he explains the impact of choices passengers and new drivers make when behind the wheel. Noting that in 2009, 2,336 Texan drivers age 15-20 were killed in motor crashes,<sup>1</sup> Judge Ellsworth believes that communities should be concerned about the number of teen drivers killed each year. Crashes among young drivers are preventable. To

reinforce this belief, Judge Ellsworth has shown the Jacqui Saburido DVDs to high school aged students, which vividly illustrate the dangers of driving while impaired.

Traffic safety is a quality of life issue that affects the entire community. Without traffic laws and traffic safety, the streets would be less safe for children to play in and for cars to drive on. Thanks to Judge Ellsworth, more students will think more carefully about the impact of the decisions they make with regard to traffic safety.

Note: Judge Ellsworth recently received the TMCA Judge of the Year Award - see page 2.

<sup>1</sup> NHTSA, Traffic Safety Facts, Young Drivers, DOT HS 811 400.

#### Important FY 12 Dates

Traffic Safety Conference  
March 19-21, 2011  
Crowne Plaza Hotel  
Addison

New Deadline:  
Traffic Safety Awards  
December 31, 2011

Both are subject to  
continued funding from  
TxDOT

From the ABA and The National Highway Traffic Safety Administration

## AGING BABY BOOMERS AND AT-RISK DRIVING

The Honorable Peggy Fulton Hora (Ret.)  
Judicial Outreach Liaison Region 9,  
Walnut Creek, California

Mary, Linda, James, and Robert<sup>1</sup> are Baby Boomers and they are aging. About 2.8 million people will turn 65 this year according to the Census Bureau, and the Pew Research Center reports 10,000 people a day will turn 65 for the next 19 years. In 20 years about 42.5 million drivers will be over the age of 65 and will represent 25% of the total driving population.<sup>2</sup> Aging brings its own set of issues related to driving safety. This article will examine some of those issues and discuss some of the current prevention measures and strategies that have been developing (and are being developed) to address this serious, intensely personal, and growing traffic safety issue.

For example, the average 65-year-old is on five prescription medications, many of which can affect a senior's ability to drive. Not all older people, of course, show an effect on driving due to their age but, over time, aging can cumulatively put older drivers in jeopardy. Research on the aging, known as "at-risk, mature drivers" considers the effects of aging on driving abilities.

According to AOL Health, of the changes that come with age, vision is the most important. That's because 85% of the information used in driving comes through the eyes. Aging affects vision in several ways:

- **Light.** The older you are, the more light you need to drive. To see well, a 60-year-old needs 10 times as much light as a 19-year-old. This is why it's a good idea to avoid driving at night if you can.
- **Focus.** How well your eyes can change focus declines as you age. Younger drivers need only about two seconds to adjust their focus from near to far, such as looking from the dashboard to the road ahead. Drivers over age 40 need three seconds or more. The older you are, the more time your eyes need.
- **Colors.** Colors, especially red, get harder to see as you age. Some older drivers take twice as long to see the flash of brake lights as younger drivers.
- **Depth perception.** As you age, your vision gets weaker. You may not have good side vision or depth perception. This makes it harder for you to judge how fast other cars are moving.

This problem came to the forefront when 86-year-old George R. Weller hit the gas instead of the brakes and crashed into the Santa Monica farmer's market in 2003, killing 10 people and injuring more than 50 others. According to the National Highway Traffic Safety Administration (NHTSA), in 2008 older people accounted for 15 percent of all traffic fatalities and 18 percent of all pedestrian fatalities. People age 70 and older are more likely to crash than any other age group besides drivers age 25 and under. And because older drivers are more

fragile, they are more likely to get hurt in these crashes. Older people are also four times more likely to die in crashes.

According to the Alzheimer's Association, some signs that it may be time to stop driving include:

- Getting lost while driving in a familiar location;
- Taking longer than usual when driving alone to and from familiar places, and then denies being lost;
- Driving at inappropriate speeds;
- Failing to observe traffic signs and signals;
- Becoming angry, frustrated, or confused when driving;
- Getting involved in or causing accidents including "fender benders" or "close calls";
- Other drivers honking at the elder driver.

"Driving Safely While Aging Gracefully" is a brochure available from NHTSA which will help an older person assess whether he or she should still be driving.<sup>3</sup> There is also a "Drive Well Toolkit" online<sup>4</sup> and "Getting Around: Alternatives for Seniors Who No Longer Drive" is another brochure designed to help families cope with a senior who should not be driving.<sup>5</sup>

Current prevention measures have focused on education and public information campaigns and are

usually limited to self-assessment and reports or renewal applications through the Department of Motor Vehicles (DMV). The DMV can do vision testing and interventions during the renewal process but this is inexact. Assessment instruments that relate to crash data are not very reliable.

No state uses age alone as a disqualifier for license renewal. One requires submission of a doctor's report when applying for renewal after a certain age; some require an in-person application. Many states reduce the time a license is valid, forcing older persons to renew more often. Crashes may trigger an evaluation of fitness, whereas some states rely on reports from others such as a physician or family member. Older persons may decide to stop driving after one too many close calls or may limit their driving to daytime hours, city streets, driving only in good weather, and avoiding the use of freeways. However, according to NHTSA, most traffic fatalities involving older drivers occurred during the daytime (80%), occurred on weekdays (72%), and involved other vehicles (69%), so it's hard to tell whether this is a valuable strategy.

Families are often left with the task of "taking Dad's keys" and they may turn to his doctor to send a letter to the DMV recommending suspension. The driving privileges of the older driver are subject to cancellation (or denial of renewal), after he or she is afforded due process, in virtually all states, pursuant to a medical review procedure which assesses the driver's ability to continue driving in a safe and responsible manner. This process may be initiated by law enforcement authorities after the older driver is involved in a crash or stopped for some other traffic offense, but is often initiated by the driver's physician or a family member who is concerned that the older person is no longer able to drive

in a safe and responsible manner. This has significant psychological consequences, as the ability to drive is inexorably intertwined with one's sense of independence. Stopping driving has other major consequences besides loss of autonomy. The older person's ability to conduct the business of daily living is impaired as is their ability to participate in social integration activities. Social isolation is likely to occur as the senior can no longer drive to see friends, engage in social activities or volunteer tasks. The senior's family is also negatively impacted as they are expected to fill in many of the gaps that will be left with the older person's inability to drive.

So what can be done? The Florida At-Risk Driver Council's suggested programs for older drivers include development of skill-based assessment tools, a referral system to needed services, and realistic mobility options for the population of drivers who can no longer safely drive themselves.<sup>6</sup>

Professor Bruce J. Winick proposed establishing Safe Driving Centers (SDC) "as a model that integrates public safety and therapeutic jurisprudence. [A SDC] would combine screening and assessment, remedial/rehabilitation interventions, education and training, individual and family counseling, and a comprehensive community-based approach for dealing with the problem preventatively. Whenever possible, the center will seek to persuade impaired older drivers voluntarily to cease or restrict their driving by offering inducements and alternative transportation solutions."<sup>7</sup>

Based on this "Social Ecology of Health" framework, Winick says these solutions must include interventions designed to:

- reduce the risky behavior of older drivers;
- restructure the relationship of the older

- driver's families and support network;
- improve the older driver's relationship with health providers;
- involve institutions, organizations, and the community; and
- alter legal, social, and cultural policies.

The SDC is envisioned to supply "one stop shopping" for these evidence-based interventions. Referrals would come from all the places they do now but self-referral would include incentives. The model would be interdisciplinary and involve all stakeholders. The psychological outcomes for the aging impaired driver would be increased under this model because it would employ procedural justice as well as resources without shame or blame.

As more and more Baby Boomers become "at-risk, mature drivers" the problems caused by aging drivers will increase. We should start a creative planning process now in order to meet the need. I respectfully suggest that the interventions discussed here are an important beginning in that process.

<sup>1</sup> The top baby names in 1946.

<sup>2</sup> <http://www.nhtsa.gov/people/injury/olddrive/Driving%20Safely%20Aging%20Web/index.html>.

<sup>3</sup> *Ibid.*

<sup>4</sup> <http://www.nhtsa.gov/Driving+Safety/Driver+Education/Senior+Drivers/Drive+Well+Toolkit:+Promoting+Older+Driver+Safety+and+Mobility+in+Your+Community>.

<sup>5</sup> [www.getting-around.org/tools/for\\_family\\_resources.cfm](http://www.getting-around.org/tools/for_family_resources.cfm).

<sup>6</sup> <http://www.flhsmv.gov/ddl/atriskdriver.pdf>.

<sup>7</sup> Winick, Bruce J. with Alina M. Perez, "Aging, Driving, and Public Health: A Therapeutic Jurisprudence Approach," XI Florida Coastal LR 189 (2010).

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# TRAFFIC SAFETY NEWS YOU CAN USE

## TEXAS LAWS REGARDING SENIOR DRIVERS

The Department of Public Safety (DPS) has broad discretion to revoke an individual's license to operate a motor vehicle for safety or medical reasons as well as for administrative cause.

Under Section 521.294 of the Transportation Code, the department shall revoke the person's license if the department determines that the person:

- 1) is incapable of safely operating a motor vehicle;
- 2) has not complied with the terms of a citation issued by a jurisdiction that is a party to the Nonresident Violator Compact of 1977 for a traffic violation to which that compact applies;
- 3) has failed to provide medical records or has failed to undergo medical or other examinations as required by a panel of the medical advisory board;
- 4) has failed to pass an examination required by the director under this chapter;
- 5) has been reported by a court under Section 521.3452 for failure to appear unless the court files an additional report on final disposition of the case;
- 6) has been reported within the preceding two years by a justice or municipal court for failure to appear or for a default in payment of a fine for a misdemeanor punishable only by fine, other than a failure reported under Section 521.3452, committed by a person who is at least 14 years of age but younger than 17 years of age when

the offense was committed, unless the court files an additional report on final disposition of the case; or 7) has committed an offense in another state or Canadian province that, if committed in this state, would be grounds for revocation.

Section 521.221(a) of the Transportation Code also authorizes the DPS to impose reasonable restrictions or endorsements upon a person's ability to operate a motor vehicle, such as:

- limits on the type of vehicle that may be operated;
- restrictions on what areas or types of roads the driver may operate a vehicle on;
- limitations on the time of day in which a driver may operate a motor vehicle;
- requirements for the inclusion of mechanical assistive devices, either on the vehicle or to aid the driver; or
- any other condition appropriate to ensure the safe operation of a motor vehicle.

The provisions of Texas law concerning senior drivers were revised by Katie's Law (H.B. 84) enacted by the 2007 Legislature:

- Generally, personal driver's licenses are valid for six-year terms. [Section 521.271(a)(1), Transportation Code.]
- Licenses issued to drivers who are 85 years of age or older are only valid for two years. [Section 521.2711, Transportation Code.]
- Drivers under age 79 may renew their licenses by mail. [Section 521.274(b)(3), Transportation Code.]

- After reaching age 79, a driver may only obtain or renew a license in person at a DPS office. [Section 521.274(b)(3), Transportation Code.]
- The fee for a driver under age 85 to obtain a personal license valid for six years is \$24. [Section 521.421(a), Transportation Code.]
- After reaching age 85, drivers pay \$8 to obtain a personal driver's license valid for two years. [Section 521.421(i), Transportation Code.]
- Commercial driver's licenses cost \$60 for a five-year license issued to a driver under age 85 and \$25 for a two-year license issued to a driver age 85 or older. [Section 522.051(a), 522.029(a)(i), and 522.054, Transportation Code.]
- A person may not obtain a driver's license or operate a motor vehicle if there is a court determination that the person is totally incapacitated or incapable to act as the operator of a motor vehicle. [Section 521.319(a)(2), Transportation Code.]

There is no specific provision in Texas which provides for the revocation of a person's driving license because of age. However, a driver's license may be suspended regardless of their age if the driver:

- Is responsible for an accident causing serious personal injury. [Section 521.292(a)(7), Transportation Code.]
- Commits multiple violations of a restriction on a driver's license. [Section 521.292(a)(6), Transportation Code.]
- Is found responsible for committing four or more moving traffic violations within a 12-month period or seven or more violations in a 24-month

interval. [Section 521.292(a)(3), (b), Transportation Code.]

The procedure which the DPS must follow in suspending or revoking a motor vehicle operator's license is clearly defined:

- If DPS determines that a person's license to drive should be suspended or revoked, DPS must provide notice of that decision to the person by first-class mail. [Section 521.295, Transportation Code.]
- Suspension or revocation of a license takes effect 40 days after the person receives notice of DPS's determination. [Section 521.297, Transportation Code.]
- If, within 15 days of notice, the driver makes such a request, then a court hearing to review DPS's determination shall be held. [Section 521.298,

Transportation Code.]

- The hearing shall be conducted in a municipal court or justice court in the county in which the driver resides. [Section 521.300(a), Transportation Code.]
- The hearing shall be held as soon as is practical, but in any event no earlier than 11 days after notice of the hearing is provided to the driver requesting the hearing. [Section 521.299(a), Transportation Code.]
- At the hearing, DPS must prove by a preponderance of the evidence that its determination to suspend or revoke a driver's license is supported by adequate grounds. [Section 521.301(a), Transportation Code.]

The Medical Advisory Board (MAB) is the board of physicians who make recommendations to DPS regarding the medical condition of driver

licensees/candidates and/or the sound judgment status of concealed handgun licensees/candidates:

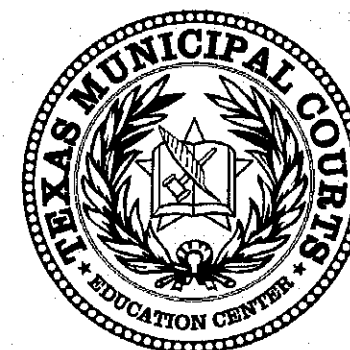
- Persons applying for or holding a Texas driver license and having a physical or mental condition, the extent of which cannot be determined by the department, are referred to the Medical Advisory Board for further evaluation. [Section 15.58, Transportation Code.]
- In its deliberations, the MAB panel may examine any medical records or reports containing material which may be relevant to the ability of the licensee or applicant to operate a motor vehicle safely. [Section 15.58, Title 37, Texas Administrative Code.]

**For More Information:**  
[www.dmv.com/tx/texas/senior-drivers](http://www.dmv.com/tx/texas/senior-drivers)  
[www.libertymutual.com/seniordriving](http://www.libertymutual.com/seniordriving)

## REMEMBER TMCEC

TMCEC Board of Directors and staff members hope that you will consider making a contribution to the TMCEC 501(c)(3) foundation. These funds will be used to support judicial education for municipal judges and court support personnel in Texas.

TMCEC is a 501(c)(3) non-profit organization. Contributions are tax deductible on the donor's federal income tax return. TMCEC received a "Letter of Determination" in 2006, after making application to become a 501(c)(3). If you wish to contribute, please send checks payable to the Texas Municipal Courts Education Center, 1609 Shoal Creek Blvd., Suite 302, Austin, Texas 78701. Please indicate in the bottom left hand corner of the check, or in a cover letter, that this is a contribution to the 501(c)(3). Thank you.



# SENIOR DRIVING ASSESSMENT

Rider/Assessor \_\_\_\_\_ Date \_\_\_\_\_ Time \_\_\_\_\_

If you are concerned about an older driver's safety on the road, the best way to evaluate his or her driving ability is to ride along. Use the checklist below to record your observations **after** (not during) your ride. If you can, ask several people to take rides at different times of the day.

| ✓ |  | Comments/Notes |
|---|--|----------------|
|   | Ran a red light  |                |
|   | Ignored or misinterpreted traffic lights, stop signs, and/or yield signs   |                |
|   | Did not appear to notice other vehicles, pedestrians, bicycles, or road hazards  |                |
|   | Had a near miss  |                |
|   | Had difficulty physically while driving (did not look over shoulder or to the rear when appropriate, or had trouble turning the wheel) |                |
|   | Did not look or yield when pulling out of parking space or driveway  |                |
|   | Crossed into other lanes when driving straight   |                |
|   | Drove too close to the car ahead   |                |
|   | Did not stay in lane when turning  |                |
|   | Drove aggressively   |                |
|   | Drove too slowly   |                |
|   | Stopped inappropriately  |                |
|   | Did not signal correctly   |                |
|   | Did not anticipate potential danger or changing traffic conditions (slowing down when brake lights appeared ahead)                     |                |
|   | Ran over a curb  |                |
|   | Asked passengers whether the road was clear  |                |
|   | Became frustrated or irritated   |                |
|   | Appeared confused or frightened  |                |
|   | Parked inappropriately   |                |

If you checked any of the six items in the "Red Zone" (shaded area) your older driver should be prevented from driving, at least temporarily while you further investigate.

1. Have your older driver's vision and hearing tested.
2. Schedule a complete physical examination where the doctor will pay particular attention to physical reflexes and any medications which might be contributing to confusion or drowsiness.
3. If you are certain that your driver is a danger behind the wheel and should not be driving, as a last resort you can make a report to the Medical Advisory Board of the Texas Department of Public Safety. Anyone can make a report, including physicians, family, friends, and acquaintances. Your report must be in writing. In your report you must identify the Texas driver with full name and date of birth or Texas driver license number.

These reports may be kept confidential, unless the subject requests the document through an open records request. All records are subject to becoming open records if the person requests an administrative hearing, which is unlikely but not impossible.

Send your written concern to Texas Department of Public Safety:

P.O. Box 4087  
Austin, TX 78773-0320  
Attention: Driver Improvement Bureau

For more information visit the Texas Department of Public Safety website at [http://www.txdps.state.tx.us/administration/driver\\_licensing\\_control/dic.htm](http://www.txdps.state.tx.us/administration/driver_licensing_control/dic.htm).

Source: © 2007 Texas Aging Network. Used with permission. [www.texasagingnetwork.com](http://www.texasagingnetwork.com)



# INFORMATION SHEET: PEDESTRIAN SAFETY

## JUST THE FACTS

### NATIONALLY:

- 4,092 pedestrians died as a result of a car crashes in 2009.<sup>1</sup>
- Nearly 20% of all children ages 5-9 were pedestrians killed in traffic crashes.<sup>2</sup>
- Children age 14 and younger accounted for 244 (6%) were pedestrian fatalities in the US in 2009.<sup>3</sup>
- 25% of all pedestrians injured in traffic crashes involved children age 15 and younger.<sup>4</sup>

### TEXAS:

- In Texas, 344 pedestrians died in traffic crashes in 2009. 8% of pedestrian fatalities occurred in Texas.<sup>5</sup>

## IT'S THE LAW

- A traffic control signal displaying green (go), red (stop), and yellow (caution) lights or lighted signal applies to pedestrians unless otherwise directed by a special pedestrian control signal.<sup>6</sup>
- Pedestrians should use crosswalks and cross at corners whenever possible.<sup>7</sup>
- Pedestrians should stay on the right-hand side of crosswalks within the crosswalk lines.<sup>8</sup>
- Drivers must yield to a pedestrian at marked crosswalks.<sup>9</sup>
- Pedestrians should yield to vehicles on the roadway if crossing the street at a place other than a marked crosswalk, pedestrian tunnel or crossing.<sup>10</sup>
- If a sidewalk is provided and accessible to the pedestrian, the pedestrian should not walk along or on a roadway.<sup>11</sup>
- If a sidewalk is not available, a pedestrian may walk along and on a highway facing highway traffic (left-hand side or on the shoulder).<sup>12</sup>

## KEEP IT SAFE

- Always cross at intersections. If the "Don't Walk" signal is flashing, pedestrians may finish crossing the street. Pedestrians may not begin crossing the street when the "Don't Walk" signal is flashing.
- Before crossing the street, make sure the street is clear by looking left- then right- then left again.
- Children under age 10 should hold hands with an adult or older sibling when crossing the street or in a parking lot.
- Be careful around parked cars or school buses by keeping an eye out for traffic or for cars turning and backing up. Even if the child can see the driver, the driver may not see the child.
- Do not run into the street, even to chase a friend, pet, or toy.

## Additional Resources:

*Safety Tips: Pedestrians and School Buses*, Texas Department of Transportation:

<http://www.dot.state.tx.us/safety/tips/pedestrians.htm>

*Pedestrian Safety Fact Sheet*, Texas AgriLife Extension Service:

[http://fcs.tamu.edu/safety/passenger\\_safety/pdf/pedestrian\\_safety\\_fact\\_sheet.pdf](http://fcs.tamu.edu/safety/passenger_safety/pdf/pedestrian_safety_fact_sheet.pdf)

*Pedestrian Crash Facts*, Pedestrian and Bicycle Information Center: <http://www.walkinginfo.org/facts/facts.cfm>

*Texas Drivers Handbook*, Texas Department of Public Safety, revised October 2008:

<http://www.txdps.state.tx.us/DriverLicense/documents/DL-7.pdf>

For more information: [www.tmcce.com/mtsi](http://www.tmcce.com/mtsi), [www.drsrcr.info](http://www.drsrcr.info), or [www.texaslr.org](http://www.texaslr.org)

*Pedestrian Safety continued pg 32*



**JUST THE FACTS**

**NATIONALLY**

- 5,290 motorcyclists were killed in traffic crashes (on average, over 14 motorcyclists died each day) and 96,000 motorcyclists injured in 2008.<sup>1</sup>
- NHTSA estimates that helmets saved the lives of 1,829 motorcyclists in 2008; if all motorcyclists had worn helmets, an additional 823 lives could have been saved.<sup>2</sup>
- Helmets are highly effective in preventing head injuries, which often require extensive treatment and may result in lifelong disability. Unhelmeted motorcyclists are three times more likely to suffer traumatic brain injuries than helmeted motorcyclists.<sup>3</sup>

**TEXAS:**

- 480 motorcyclists were killed in 2008; 62% did not wear helmets. 9% of the motorcyclist fatalities happened in Texas.<sup>4</sup>
- In 2009, Texas had 426 motorcyclist fatalities, where nearly 65% (275) victims failed to wear a helmet.<sup>5</sup>

**IT'S THE LAW**

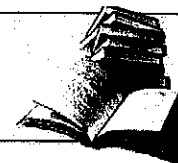
- Motorcyclists and their passengers may only ride on permanent and regular seats firmly attached to the motorcycle.<sup>6</sup>
- Motorcyclists and passengers who are under 21 must wear helmets when operating a motorcycle.<sup>7</sup>
- Riders over 21 may ride without a helmet only if they have a completed a motorcycle safety course or are covered by a health insurance plan providing the person with medical benefits for injuries incurred from a motorcycle accident.<sup>8</sup>
- The penalty for not wearing a helmet is a fine of up to \$50 plus court costs.<sup>9</sup> A person operating a motorcycle commits an offense if they are carrying a passenger who is not wearing approved safety headgear.<sup>10</sup>
- A person under 17 who holds a restricted motorcycle or moped license, during the 12-month period following issuance of the license, may not operate a motorcycle or moped between midnight and 5 a.m. unless:
  - The person is in sight of a parent or guardian, or
  - The operation of the vehicle is necessary for the operator to attend or participate in an employment or school-related activity, or because of a medical emergency,<sup>11</sup> or
- A person under 17 may not operate a motorcycle or moped while using a wireless communication device, except in case of emergency.<sup>12</sup>
- A person may operate a motorcycle with a regular Class M license or restricted Class M license. A person is eligible for a restricted motorcycle license if they:
  - Are between the ages of 15 and 18,
  - Have completed and passed an approved motorcycle operator training course, and
  - Have had their application signed by a parent or guardian or appropriate substitute.<sup>13</sup>

**KEEP IT SAFE**

**Responsible motorcyclists should:**

- Turn on their headlights and ride defensively.<sup>14</sup>
- Avoid the center of the lane where debris and oil build up.<sup>15</sup>
- Ride at a safe speed and never ride if you've been drinking.<sup>16</sup>
- Take a course to learn or reinforce safe riding techniques.<sup>17</sup>
- Wear protective gear.<sup>18</sup>
- Become familiar with the motorcycle by checking the motorcycle equipment.<sup>19</sup>

For more information: [www.tmcec.com/mtsi](http://www.tmcec.com/mtsi), [www.drsr.info](http://www.drsr.info), or [www.texaslr.org](http://www.texaslr.org)



**RESOURCES FOR YOUR COURT**

**DPS CITATION COURT INFO ONLINE**

The Texas Department of Public Safety says court-related information on highway patrol-issued citations is now available online. Drivers can now get court contact details on citations issued within the last two years. The site can help drivers who misplaced tickets before paying them or who want to make arrangements to contest the citations. A driver must provide a license or identification card number, date of birth, plus the full name as listed on the license. DPS says the agency's search results will include the name, address, and contact information for the court where the ticket was filed.

Online:  
<https://www.txdps.state.tx.us/HighwayPatrol/Citations/>

**COLLECTIONS CONFERENCE**

On September 19 - 21, 2011 at the Golden Nugget Casino in Las Vegas, the National Governmental Collectors Association will host its annual conference.

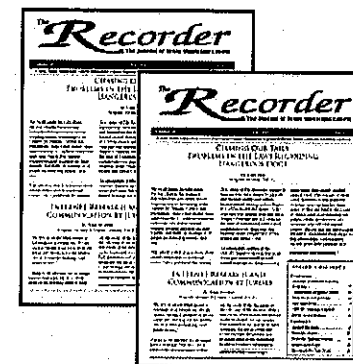
Registration is \$429.99 for members with hotel rates of \$49/\$59/\$79 per night. For further information, contact Nadine Jenkins at 832.296.4602 or Nadine.jenkins@ngcagov.org, or go to [www.ngcagov.org/](http://www.ngcagov.org/).

**TMCEC LEGISLATIVE UPDATES**

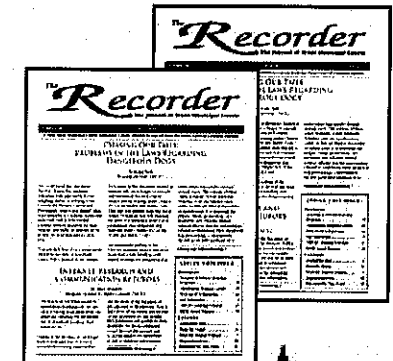
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8/16/11 • Houston • Omni Houston Riverway, 713.871.8181  
8/19/11 • Austin • Omni Southpark, 512.448.2222

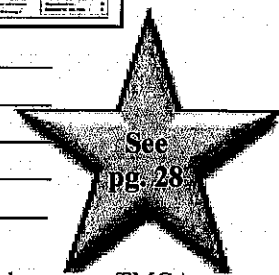
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Note: Order now. Your subscription will be for September 1, 2011 to August 31, 2012.

## DRIVING ON THE RIGHT SIDE OF THE ROAD WORKSHOPS

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

### Region 1 Edinburg

Date: August 12, 2011

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

### Region 4 Houston

Date: Monday, July 18, 2011

Location: TxDOT Houston District-Traffic Safety, 7600 Washington Avenue, Houston, TX 77007

### Region 16 Amarillo

Date: Friday, June 24, 2011

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

### Region 18 Midland

Date: Monday, July 25, 2011

Location: Education Service Center Region XVIII, 2811 LaForce Boulevard Midland TX, 79706

Registration is free and each workshop is from 9:00 am to 4:00 pm with lunch on your own.

Driving on the Right Side of the Road is a series of lessons for elementary, middle, and high school levels that focus on citizenship education and traffic safety. These lessons provide the opportunity to utilize judges and court support personnel as resource persons in classrooms. Resource persons can bring the lessons alive by providing real life or hypothetical examples, accurate descriptions of what the law requires, and serve as positive role models for students. The DRSR materials are an excellent resource to use with children who come to court for a visit or those who are coming to court due to a citation. These materials can also help you prepare if you are asked to speak in a school or setting where children will be in attendance.

If you have any questions or if you would like to attend any of the upcoming DRSR workshops contact Lisa Robinson at [robinson@tmcec.com](mailto:robinson@tmcec.com).

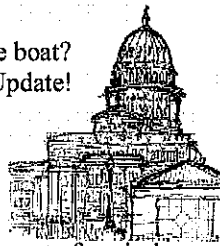
## What Just Happened?

- Did you know that the Legislature created new procedures for seeking recusal or alleging disqualification of a municipal judge? A new subchapter in Chapter 29 of the Government Code has been added giving specific provisions on what to do when a judge is disqualified or asked to recuse him or herself.
- Do you remember the headaches of nondisclosure from last session? Come hear how the Legislature has attempted to fix the problems with nondisclosure by making records related to juveniles convicted of non-traffic fine-only misdemeanors confidential only upon satisfaction of the judgment.
- Have you heard about the changes to the juvenile case manager position? Now the juvenile case manager fund can be used to pay for training, travel, and other necessary expenses of the juvenile case manager position, as well as salary and benefits. The Legislature also defined specific responsibilities of a juvenile case manager, such as providing timely reports and recommendations to the assigned or
- Did you know that Texans now have a law telling them not to tow a boat on highway with kids riding in the boat? Come hear about all the relevant changes made by the 82nd Legislature at this year's TMCEC Legislative Update!

**Lubbock**  
August 10, 2011  
Overton Hotel

**Houston**  
August 16, 2011  
Omni Riverway

**Austin**  
August 19, 2011  
Omni Southpark



Course lasts from 9:00 a.m. to 4:00 p.m. with an optional Q&A from 4:00-5:00 p.m. The program counts for six hours of CLE and clerk certification credit. Registration is \$100 (CLE credit is an additional \$50). Download the brochure and registration form for more information from the TMCEC website. REGISTER NOW!

More information and to register: <http://www.tmcec.com/public/files/File/2011/LegislativeUpdateBrochure.pdf>.



## FROM THE CENTER

### NEW CLERKS PROGRAM

TMCEC is again offering its New Clerks program on September 12-15, 2011 in Austin at the Omni Southpark. The registration fee is \$200. Although not required, TMCEC recommends that clerks have been on the job at least six months so that they have some familiarity with municipal court processes. Topics include Ethics, Authority & Duties, Overview of Processing Cases, Traffic, DSC & Deferred, Juveniles, and more. There is often a wait list for these programs, so please register early – a registration form is found on the TMCEC website: <http://www.tmcec.com/Programs/Clerks/>.

### TRAFFIC SAFETY INFORMATION SHEETS

Speaking to a group of students or citizens? On the TMCEC DRSR page at [www.tmcec.com](http://www.tmcec.com), there are over 19 information sheets that will provide the speaker with background information or can be used as a handout with the group. Topics include those listed below and more are planned:

- Aggressive Driving
- Bicycle Safety
- Cell Phones & Texting
- Distracted Driving
- Driving While Intoxicated & Driving Under the Influence
- Drowsy Driving
- Ignition Interlock Devices
- In-Line Skating
- Motorcycles
- Passenger Safety
- Pedestrians
- Pets & Driving
- Railroad Crossings
- School Buses & School Zones
- Seat Belt & Child Restraints
- Skateboarding
- Things With Wheels
- Turn Around, Don't Drown
- Young Drivers

To access these, go to [http://www.tmcec.com/DRSR/Information\\_Sheets](http://www.tmcec.com/DRSR/Information_Sheets). Permission is granted to reprint these materials. Two sample information sheets are found on pages 23 and 24 of this issue of *The Recorder*.

*New Edition with CD-ROM!*

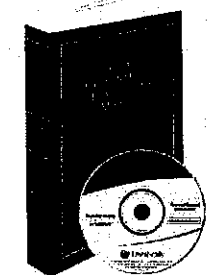
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## CERTIFICATION RENEWAL

All clerks and court administrators who are certified at Level I and II are reminded to submit to TMCEC a renewal application with certificates showing at least 12 hours of continuing education in 2010-2011. Those certified at Level III must submit documentation of 20 hours of education each academic year. The renewal application may be downloaded from [www.tmcec.com/Programs/Clerks/Annual\\_Renewals](http://www.tmcec.com/Programs/Clerks/Annual_Renewals).

## TMCEC PRODUCTS ONLINE

TMCEC t-shirts, totes, caps, koozies, books, videos, and ties may now be purchased by mail. An order form may be downloaded from the TMCEC web site: [www.tmcec.com/store](http://www.tmcec.com/store).

## TMCEC GOES GREEN!

In order to conserve funds, TMCEC is planning on greatly reducing its reliance on paper copies in FY 12. Please make sure that TMCEC has your correct email address. Promotional materials for seminars, reminders, confirmation letters, and issues of *The Recorder* will now be sent by email, rather than U.S. Mail. See page 25 for purchasing a subscription to *The Recorder* and continue receiving it by U.S. Mail.

Send your correct email address to [tmcec@tmcec.com](mailto:tmcec@tmcec.com).

## I'M A SAFE KID!

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

## THANK YOU, MUNICIPAL JUDGES SECTION!

In cooperation with the Texas Municipal Courts Association, the Municipal Judges Section of the State Bar of Texas co-sponsored several of the hospitality hours at the TMCEC regional judges and clerks programs in FY 11. We greatly thank Judge Aaron Kaufman of Dallas for his leadership and the Municipal Judges Section for their generosity.

The Municipal Judges Section is composed of lawyers serving as municipal judges throughout Texas. The Section is designed to offer closer association between the lawyers engaged in this specialized field of law, thus providing the opportunity to share professional knowledge and experiences. The Section also provides a forum for issues of mutual interest to be considered and for appropriate action to be taken. For more information, visit [www.texasmunicipaljudges.com/section](http://www.texasmunicipaljudges.com/section).

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

Save a Life. Save a Video.

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

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

You are ready for a booster when...

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

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

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

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

## 2011 - 2012 TMCEC Academic Schedule At-A-Glance

| Seminar  | Date(s)                     | City            | Hotel Information  |
|--|-----------------------------|-----------------|--|
| New Clerks Seminar   | September 12-15, 2011       | Austin          | Omni Southpark<br>4140 Governor's Row, Austin, TX                          |
| New Judges and Clerks Orientation  | October 19, 2011            | Austin          | TMCEC<br>1609 Shoal Creek Blvd. Ste. 302, Austin, TX                       |
| Regional Judges Seminar  | October 24-26, 2011         | Tyler           | Holiday Inn<br>5701 South Broadway, Tyler, TX                              |
| Regional Clerks Seminar  | October 26-28, 2011         | Tyler           | Holiday Inn<br>5701 South Broadway, Tyler, TX                              |
| Regional Judges and Clerks Seminar   | November 7-9, 2011          | Austin          | Omni Southpark<br>4140 Governor's Row, Austin, TX                          |
| New Judges Seminar   | December 5-9, 2011          | Austin          | Omni Southpark<br>4140 Governor's Row, Austin, TX                          |
| New Clerks Seminar   | December 5-8, 2011          | Austin          | Omni Southpark<br>4140 Governor's Row, Austin, TX                          |
| Regional Judges and Clerks Seminar   | January 9-11, 2012          | San Antonio     | Omni San Antonio at the Colonnade<br>9821 Colonnade Blvd., San Antonio, TX |
| Level III Assessment Clinic  | January 23-26, 2012         | Austin          | Doubletree Hotel<br>6505 North IH-35, Austin, TX                           |
| Texas Association of Counties: Courts & Local Government Technology Conference | January 31-February 2, 2012 | San Marcos      | Embassy Suites<br>1001 McCarty Lane, San Marcos, TX                        |
| Regional Judges and Clerks Seminar   | February 6-8, 2012          | Addison         | Crowne Plaza Addison<br>14315 Midway Road, Addison, TX                     |
| Regional Clerks Seminar  | February 8-10, 2012         | Addison         | Crowne Plaza Addison<br>14315 Midway Road, Addison, TX                     |
| New Judges and Clerks Orientation  | February 15, 2012           | Austin          | TMCEC<br>1609 Shoal Creek Blvd. Ste. 302, Austin, TX                       |
| Regional Judges Seminar  | February 26-28, 2012        | Galveston       | San Luis Resort and Spa<br>5222 Seawall Blvd., Galveston, TX               |
| Regional Judges and Clerks Seminar   | March 4-6, 2012             | Houston         | Omni Westside Hotel<br>13210 Katy Freeway, Houston, TX                     |
| Traffic Safety Conference  | March 19-21, 2012           | Addison         | Crowne Plaza Addison<br>14315 Midway Road, Addison, TX                     |
| Prosecutors Seminar  | March 25-27, 2012           | Houston         | Omni Westside Hotel<br>13210 Katy Freeway, Houston, TX                     |
| Regional Judges and Clerks Seminar   | April 9-11, 2012            | Lubbock         | Overton Hotel<br>2322 Mac Davis Ln, Lubbock, TX                            |
| Regional Clerks Seminar  | April 29-May 1, 2012        | S. Padre Island | Isla Grand Beach Resort<br>500 Padre Blvd., South Padre Island, TX         |
| Regional Attorney Judges Seminar   | May 6-8, 2012               | S. Padre Island | Isla Grand Beach Resort<br>500 Padre Blvd., South Padre Island, TX         |
| Regional Non-Attorney Judges Seminar   | May 8-10, 2012              | S. Padre Island | Isla Grand Beach Resort<br>500 Padre Blvd., South Padre Island, TX         |
| New Judges and Clerks Orientation  | May 16, 2012                | Austin          | TMCEC<br>1609 Shoal Creek Blvd. Ste. 302, Austin, TX                       |
| Regional Clerks Seminar  | May 20-22, 2012             | Galveston       | San Luis Resort and Spa<br>5222 Seawall Blvd., Galveston, TX               |
| Regional Bailiffs/Warrant Officers Seminar                                     | June 4-6, 2012              | Addison         | Crowne Plaza Addison<br>14315 Midway Road, Addison, TX                     |
| Regional Judges and Clerks Seminar   | June 11-13, 2012            | El Paso         | Wyndham El Paso Airport<br>2027 Airway Blvd., El Paso, TX                  |
| Prosecutors & Court Administrators Seminar                                     | June 24-26, 2012            | Austin          | Omni Southpark<br>4140 Governor's Row, Austin, TX                          |
| New Judges Seminar   | July 9-13, 2012             | Austin          | Omni Southpark<br>4140 Governor's Row, Austin, TX                          |
| New Clerks Seminar   | July 9-12, 2012             | Austin          | Omni Southpark<br>4140 Governor's Row, Austin, TX                          |

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

Register Online: [register.tmcec.com](http://register.tmcec.com)

**TEXAS MUNICIPAL COURTS EDUCATION CENTER  
FY12 REGISTRATION FORM:**

**Regional Judges & Clerks, Assessment Clinic, Court Administrators, and Traffic Safety Conferences**

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

Check one:

- |   |  |
|---|--|
| <input type="checkbox"/> Non-Attorney Judge (\$50)<br><input type="checkbox"/> Attorney Judge <b>not-seeking CLE credit</b> (\$50)<br><input type="checkbox"/> Attorney Judge seeking CLE credit (\$150)<br><input type="checkbox"/> Clerk/Court Administrator (\$50) | <input type="checkbox"/> Traffic Safety Conference - Judges & Clerks (\$50)<br><input type="checkbox"/> Assessment Clinic (\$100)<br><input type="checkbox"/> Court Administrator Seminar - June (\$100) |
|---|--|

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

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

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

TMCEC will make all hotel reservations from the information you provide on this form. TMCEC will pay for a **double occupancy room at all regional judges and clerks seminars, the level III assessment clinic, the court administrators conference, and the traffic safety conference:** To share with a specific seminar participant, you must indicate that person's name on this form.

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

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

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

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

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

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

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

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

Amount Enclosed: \$ \_\_\_\_\_ Registration/CLE Fee + \$ \_\_\_\_\_ Housing Fee = \$ \_\_\_\_\_

- Check Enclosed (Make checks payable to TMCEC.)  
 Credit Card

Credit Card Payment: \_\_\_\_\_  
 Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Credit card type: \_\_\_\_\_ Amount to Charge: \$ \_\_\_\_\_  
 MasterCard  
 Visa  
 Name as it appears on card (print clearly): \_\_\_\_\_  
 Authorized signature: \_\_\_\_\_

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

**TEXAS MUNICIPAL COURTS EDUCATION CENTER  
FY12 REGISTRATION FORM:**

**New Judges & New Clerks, Bailiffs & Warrant Officers, and Prosecutors Conferences**

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

Check one:

- |   |  |
|---|--|
| <input type="checkbox"/> New, Non-Attorney Judge Program (\$200)<br><input type="checkbox"/> New Clerk Program (\$200)<br><input type="checkbox"/> Bailiff/Warrant Officer* (\$150)<br><input type="checkbox"/> Non-municipal prosecutor seeking CLE credit (\$500) | <input type="checkbox"/> Prosecutor not seeking CLE/no room (\$200)<br><input type="checkbox"/> Prosecutor seeking CLE/no room (\$300)<br><input type="checkbox"/> Prosecutor not seeking CLE/with room (\$350)<br><input type="checkbox"/> Prosecutor seeking CLE/with room (\$450) |
|---|--|

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

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

**HOUSING INFORMATION**

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

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

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

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

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

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

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

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

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

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

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

- Check Enclosed (Make checks payable to TMCEC.)  
 Credit Card

Credit Card Payment: \_\_\_\_\_  
 Credit Card Number \_\_\_\_\_ Expiration Date \_\_\_\_\_

Credit card type: \_\_\_\_\_ Amount to Charge: \$ \_\_\_\_\_  
 MasterCard  
 Visa  
 Name as it appears on card (print clearly): \_\_\_\_\_  
 Authorized signature: \_\_\_\_\_

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



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

### TMCEC MISSION STATEMENT

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

## Change Service Requested

### *Pedestrian Safety continued from pg 23*

- <sup>1</sup> NHTSA, Traffic Safety Facts: 2009 Data, Pedestrians, DOT HS 811394.
- <sup>2</sup> *Id.*
- <sup>3</sup> NHTSA, Traffic Safety Facts: 2009 Data, Children, DOT HS 811387.
- <sup>4</sup> NHTSA, Traffic Safety Facts: 2009 Data, Pedestrians, DOT HS 811394.
- <sup>5</sup> NHTSA Traffic Safety Facts, Texas 2005-2009, [http://www.nrd.nhtsa.dot.gov/departments/nrd-30/ncsa/STSI/48\\_TX/2009/48\\_TX\\_2009.htm](http://www.nrd.nhtsa.dot.gov/departments/nrd-30/ncsa/STSI/48_TX/2009/48_TX_2009.htm).
- <sup>6</sup> Section 552.001, Transportation Code, (Traffic Control Signals).
- <sup>7</sup> *Safety Tips: Pedestrians and School Buses*, Texas Department of Transportation, <http://www.dot.state.tx.us/safety/tips/pedestrians.htm>.
- <sup>8</sup> *Id.*
- <sup>9</sup> Section 552.003, Transportation Code, (Pedestrian Right-of-Way at Crosswalk).
- <sup>10</sup> Section 552.005, Transportation Code, (Crossing at Point Other Than Crosswalk); *Safety Tips Pedestrians and School Buses*, Texas Department of Transportation, <http://www.dot.state.tx.us/safety/tips/pedestrians.htm>.
- <sup>11</sup> Section 552.006, Texas Transportation Code, (Use of Sidewalk).
- <sup>12</sup> *Id.*; *Safety Tips Pedestrians and School Buses*, Texas Department of Transportation, <http://www.dot.state.tx.us/>

[safety/tips/pedestrians.htm](http://www.dot.state.tx.us/safety/tips/pedestrians.htm).

### *Motorcycle Safety continued from pg 24*

- <sup>1</sup> NHTSA, Traffic Safety Facts: 2008 Data, Motorcycles, DOT HS 811159.
- <sup>2</sup> *Id.*
- <sup>3</sup> NHTSA, Traffic Safety Facts, Laws: Motorcycle Helmet Use Laws, Jan. 2008, DOT HS 810887W.
- <sup>4</sup> NHTSA, Traffic Safety Facts: 2008 Data, Motorcycles, DOT HS 811159.
- <sup>5</sup> NHTSA Traffic Safety Facts, Texas 2005-2009, [http://www.nrd.nhtsa.dot.gov/departments/nrd-30/ncsa/STSI/48\\_TX/2009/48\\_TX\\_2009.htm](http://www.nrd.nhtsa.dot.gov/departments/nrd-30/ncsa/STSI/48_TX/2009/48_TX_2009.htm).
- <sup>6</sup> Section 545.416, Transportation Code, (Riding on Motorcycle).
- <sup>7</sup> *Motorcycle Safety*, Texas Department of Transportation: <http://www.txdot.gov/safety/tips/motorcycles.htm>.

- <sup>8</sup> Section 661.003, Transportation Code, (Offenses Relating to Not Wearing Protective Headgear).
- <sup>9</sup> Section 661.003(h), Transportation Code.
- <sup>10</sup> Section 661.003(b), Transportation Code.
- <sup>11</sup> Section 545.524 (b)(2), Transportation Code.
- <sup>12</sup> Section 545.424(b)(1) Transportation Code.
- <sup>13</sup> Section 521.224(c), Transportation Code.
- <sup>14</sup> *Motorcycle Safety*, Texas Department of Transportation: <http://www.txdot.gov/safety/tips/motorcycles.htm>.
- <sup>15</sup> *Id.*
- <sup>16</sup> *Id.*
- <sup>17</sup> *Id.*
- <sup>18</sup> Department of Public Safety, Motorcycle Operator's Manual: <http://www.txdps.state.tx.us/InternetForms/Forms/DL-8.pdf>.
- <sup>19</sup> *Id.*

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