



Issue:

Understanding the implications in “Alternative Payment Procedures” for Capias Pro Fines.¹

Procedure: If the court chooses to adopt such a procedure, a peace officer who executes a capias pro fine shall inform the defendant of the possibility of making immediate payment by credit card, and of the “defendant’s available alternatives to making immediate payment.”² If the defendant chooses the payment option, the peace officer may accept, on behalf of the court, payment by credit or debit card, and may then release the defendant.

Considerations

New laws adopted by the 84th legislature allow a court to adopt this alternative procedure for collecting capias pro fine warrants. A city or police department may not adopt this procedure. If the court, having weighed the pros and cons, decides not to implement such a procedure, and decides that it does not further justice, that judge may be faced with an unpopular decision.³

When instituting a system involving officers take payments by the side of the road, the court must be careful to avoid the appearance of impropriety.⁴

This practice has become inextricably tied with automatic license plate readers (ALPRs). One company will provide ALPRs and card readers for free, in exchange for ongoing access to the data obtained.⁵ If the payments are licensed to a private company which also provides Automated License Plate Readers, that company will have access to much of the personal information stored in the court’s files. Although most court records are public under the Rules of Judicial Administration, warrant information⁶ is specifically exempted, as is most personal information.⁷

Authority

1. 84th Legislature, Regular Session, H.B. 121 (2015)
2. Art. 103.0025, Code of Criminal Procedure.
3. Code of Judicial Conduct, Canon 3B(2), “...A judge shall not be swayed by partisan interests, public clamor, or fear of criticism.”
4. Code of Judicial Conduct, Canon 2, “A judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”
5. Dave Maas, “No Cost” License Plate Readers Are Turning Texas Police into Mobile Debt Collectors and Data Miners, Electronic Frontiers Foundation (January 26, 2016). <https://www.eff.org/deeplinks/2016/01/no-cost-license-plate-readers-are-turning-texas-police-mobile-debt-collectors-and>
6. Rule 12.3(c), Rules of Judicial Administration.
7. Rule 12.4(d), Rules of Judicial Administration.