

2014-2015 Regional Judges Course Descriptions

Pre- or Post-Conference

Implementing Juvenile Justice

Several pieces of legislation came out of the 83rd Legislature making major changes to the ways that school based offenses are charged and the ways that cases involving children are processed. This session will examine those changes with particular emphasis on implementation.

By the end of this clinic, participants will be able to:

1. Explain the application of Subchapter E-1 of Chapter 37 of the Education Code;
2. Describe how the charging requirements for Subchapter E-1 of Chapter 37 of the Education Code vary from other Class C misdemeanors;
3. Identify ways that cases can be diverted from court without formal adjudication;
4. Apply new procedural and substantive laws relating to age affecting criminal responsibility and fitness to proceed; and
5. Explain how the IDEA relates to child welfare.

Time: 3.5 hours CLE (2 hours of training related to child welfare and the IDEA)

Day 2: General Session

Disturbing Trends in Alcohol and Drug Abuse*

Alcohol and drug use has profound effects on individuals and communities. Underage alcohol and drug abuse are especially dangerous as young people often embrace new and disturbing methods of using alcohol and drugs. Proactive enforcement, community education, and zero tolerance laws can all be effective methods for reducing the negative consequences of underage impaired driving. This course aims to provide an overview of current trends in alcohol and drug abuse and their effects on municipal courts and public safety.

By the end of the session, participants will be able to:

1. Recognize unique challenges related to underage drinking and substance abuse;
2. Recognize substances, effects, and methods of use;
3. Demonstrate techniques of verifying authenticity of driver's licenses and identification cards; and
4. Summarize investigative techniques frequently used to combat underage drinking.

Time: 1.25 hours CLE

Wearing Many Hats: Conflicts of Interest and Dual Office Holding Concerns⁺

The great majority of Texas cities, in addition to some counties, have a population of fewer than 5,000 residents. Therefore, it is not surprising that, when individuals are actively involved in their communities, they are often asked not only to hold one public office but to serve in several different public capacities. However, in certain situations, state law does not permit dual office holding. It is important that local officials understand in which circumstances they can agree to serve in another public office. Municipal judges particularly need to understand the limits of dual office holding as well as be aware of potential conflicts of interest as most municipal judges serve part time, yet hold other leadership positions in the community and local business. This session explores dual office holding, conflicts of interest, and the appearance of impropriety under the Code of Judicial Conduct.

By the end of this session, participants will be able to:

1. Define dual office holding;
2. Identify conflicts of interest through hypotheticals; and
3. Analyze arguments for and against an appearance of impropriety through the use of hypotheticals.

Time: 1 hour CLE (1 hour ethics)

Case Law Update^{+*}

This course is designed to keep municipal judges apprised of recent events in case law and to identify opinions of interest issued by the Office of the Texas Attorney General.

By the end of this session, judges will be able to:

1. Explain how recent federal and state court decisions affect procedural and substantive legal issues in municipal courts;
2. Explain how recent federal and state court decisions affect procedural and substantive legal issues pertaining to state magistrates;
3. Summarize Texas Attorney General Opinions of interest to municipal courts; and
4. Describe the ethical implications of select case law and Attorney General opinions.

Time: 1.25 hour CLE (.25 hour ethics)

Day 2 Track A

Drones

In 2013, H.B. 912 created the Texas Privacy Act, adding Chapter 423 to the Government Code, regulating the use of unmanned aircraft to capture images (i.e., sound waves, thermal, infrared, ultraviolet, visible light, or other electromagnetic waves, odor, or other conditions existing on or about real property or a person on that property). Due to the rapidly expanding use and

capabilities of these aircraft (commonly referred to as “drones”), the Legislature believed it necessary to establish proper purposes and manners in which these aircraft may be used, as well as establish necessary privacy provisions for individuals.

By the end of this session, participants will be able to:

1. Describe the new criminal offenses created by the Texas Privacy Act;
2. Distinguish between the lawful and unlawful use of unmanned aircraft in Texas under Chapter 423 of the Government Code; and
3. Identify legal issues that may arise as a result of increased use by law enforcement.

Time: 1 hour CLE

Social Hosting Laws and Underage Drinking and Driving*

Social host liability is created by a statute or case law that imposes liability on social hosts as a result of their serving alcohol to adults or minors. Persons subject to social-host liability in criminal and civil actions are frequently those that provided alcohol to the obviously intoxicated or to minors who subsequently are involved in vehicle crashes or other activities causing death or injury to third parties, but these are not necessary conditions. A social host is most often a private individual who serves alcohol in a non-commercial setting.

This course is designed to introduce participants to the topic.

By the end of the session, participants will be able to:

1. Explain how social hosting ordinances may be used as a local measure to deter underage drinking and driving;
2. Discuss the pros and cons of adopting social hosting law; and
3. Potential problems for local governments considering implementation of social hosting laws.

Time: .75 hours CLE

Notice

Different types of notice exist in Texas law. These types include constitutional notice of the crime, notice of the charge, notice of statutory elements and notice of all hearings and proceedings. Notice can be tricky and often courts have questions on notice issues when a defendant comes in on a charge which is not typical or when the City Council adopts a new ordinance. While most notice issues are easy to cure or can be waived, judges must be aware of their existence.

By the end of the session, participants will be able to:

1. Distinguish three different types of notice existing in Texas law;

2. Define due process; and
3. Discuss the constitutional foundation of notice applicable to fine only misdemeanors in municipal court.

Time: .75 hours CLE

Scenarios IV⁺

More people come into personal contact with municipal courts than all other Texas courts combined. Municipal judges constitute 38 percent of the entire state judiciary. Accordingly, municipal judges occupy a unique and most important position in the Texas judicial system. Additionally, the role of municipal courts in city government has at times proven problematic for all parties involved. The Court of Criminal Appeals has consistently held that despite the fact that they exist in the context of city government, municipal courts are state trial courts and are governed by the same rules of practice as are other state courts. This often overlooked statement of law has long been the source of various intergovernmental problems that are unique to municipal courts. This session aims to prepare judges to develop solutions to common and uncommon potential scenarios that could arise due the incredible volume of persons that interact with the court as well as the unique role of municipal courts in local government.

By the end of the session, participants will be able to:

1. Apply ethical rules regarding judicial conduct and communication to potential situations both inside and outside the court;
2. Identify and avoid potential problems involving conflicts of interest as a result of activities outside of the court; and
3. Devise solutions to maximize the efficiency and effectiveness of the court amidst workplace conflict and/or local political controversy.

Time: .75 hours CLE (.25 hours ethics)

Day 2 Track B

Taking Bail

Pretrial release is an important aspect of the Texas and American criminal justice system. For people accused of a crime generally should have the merits of their case adjudicated before a incarceration is imposed, and people should have every opportunity to prepare a defense. Bail is security that is used to ensure the accused will appear as required, yet allows for the accused's release pending trial. Setting and taking bail poses some challenges, however. This session will focus on the process of fixing and taking bail with a special focus on the role of law enforcement in the process.

By the end of this session, participants will be able to:

1. Define bail;

2. Contrast “taking bail” and “fixing bail;” and
3. Discuss the limits of peace officer involvement in the area of taking bail.

Time: 1 hour CLE

MOEPs and TCIC Reporting

After an arrest involving family violence, stalking, sexual assault, or aggravated sexual assault, a magistrate may enter a magistrate’s order of emergency protection. A magistrate’s order of emergency protection is an extraordinary remedy issued by a magistrate, who reasonably believes that a suspect may commit future acts of violence or engage in threatening conduct unless ordered to refrain from such contact. The violence alleged in the probable cause affidavit, the defendant’s criminal history, any threats made by the defendant against the alleged victim, and the explanation offered by the defendant, if any, should all be considered by the magistrate. Magistrate’s Orders of Emergency Protection should be reported to the state through TCIC.

By the end of this session, participants will be able to:

1. Identify obstacles and best practices in protective order reporting;
2. Describe basic dynamics of family violence using the power and control wheel;
3. Discuss potentially negative outcomes of failure to report protective orders in TCIC; and
4. List at least three of the participants in the reporting process.

Time: .75 hours CLE

Judicial Trial Skills

The vast majority of cases filed in municipal court do not culminate in trial. However, due to the volume of cases filed, municipal courts conduct more jury trials than all other Texas trial courts combined. The vast majority of municipal judges in Texas do not preside in court on a daily basis. Depending on the volume of case filings, trials may seldom occur or occur daily. By breaking the jury trial process into three distinct stages (Pre-Trial, Jury Management, & Jury Trial), participants will have an opportunity to study pertinent procedural law, engage in hands-on exercises, and engage their peers in practical dialog.

By the end of the session, participants will be able to:

1. List sources for venire;
2. Define terminology unique to jury selection;
3. Describe the role of the judge as it relates to the mechanics of jury selection;
4. Identify the stages and sequence of trial;
5. Describe the role of the judge as it relates to trial proceedings; and,
6. Discuss legal issues pertaining to evidence management, jury charges and juror conduct

Time: 1.75 hours CLE

Day 2 Track C

Jury Charges

Jury charges are a necessary and useful part of the jury trial process. In this session, judges will explore the legal requirements of the jury charge under the Code of Criminal Procedure and learn of resources for sample and template jury charges.

...[I]n each misdemeanor case tried in a court of record, the judge shall, before the argument begins, deliver to the jury... a written charge distinctly setting forth the law applicable to the case; not expressing any opinion as to the weight of the evidence, not summing up the testimony, discussing the facts or using any argument... calculated to arouse the sympathy or excite the passions of the jury.

-Article 36.14, Code of Criminal Procedure

By the end of this session, participants will be able to:

1. Define what a jury charge is;
2. Identify the seven different parts of a jury charge;
3. Differentiate between a complete and an incomplete jury charge; and
4. List at least three resources for jury charge samples, templates, and assistance.

Time: 1 hour CLE

Observe a Trial: State v. Young*

Outside Texas' largest metropolitan areas, trials can be a rare occurrence. This session affords attendees the opportunity to observe a mock trial. Municipal court personnel from across Texas will serve as the judge, prosecutor, defense attorney, defendant, and witnesses in State v. Young. Created by TMCEC, State v. Young is a fictional texting while driving case where a pickup truck driver hits and kills an oncoming motorcyclist. Attendees will serve as the jury and experience first-hand the nature of jury deliberations. Free materials offered by TMCEC, including the State v. Young script, will also be introduced.

By the end of this session, participants will be able to:

1. Develop an outreach program to educate schools and community groups about municipal courts; and
2. Conduct a mock trial for students or citizens utilizing TMCEC mock trial books.

Time: .75 hours CLE

Court Security: Cyber Security

This course provides an overview of cyber security threats facing courts and other organizations today. Court Personnel are often the target of these threats as well as the organization's first line of defense against them. Threats endanger the confidentiality, integrity, and security of your court and court records, as well as your computer systems. This course presents information on how court personnel can contribute to the security of the court's personnel and records.

By the end of this session, participants will be able to:

1. Identify cyber risks and vulnerabilities facing the court; and
2. Develop relevant and needed security skills and competency for improving workplace security.

Time: .75 hours CLE

Indigence: Can't Pay or Don't Wanna Pay?

The Code of Criminal Procedure contains safeguards that should prevent indigent individuals from wrongfully being incarcerated. Judges who are unfamiliar with these safeguards and leading case law could feasibly commit a defendant to jail without having ever considered whether the defendant was indigent. This class is designed to inform judges of the proper procedures for contemplating indigency as well as the legal consequences and ethical issues that could arise upon the wrongful incarceration of indigent persons.

By the end of this session, participants will be able to:

1. Define indigency as it relates to judges and clerks in municipal courts;
2. Identify statutes on indigency that judges, clerks, and defendants must comply with;
3. Examine requirements of two types of indigency hearings; and
4. Apply information from this discussion to scenarios to determine indigent qualifications.

Time: 1 hour CLE

Day 3 Track A

Administrative Search Warrants

Administrative search warrants are issued to a fire marshal, health officer, or code enforcement officer for the inspection of premises to determine the presence of fire or health hazards; unsafe building conditions; or a violation of any statute, ordinance, or fire, health, or building regulation. In *Camara v. Municipal Court of the City and County of San Francisco*, 387 U.S. 523 (1967), the U.S. Supreme Court held that administrative searches trigger Fourth Amendment

interests because submitting or refusing to submit may result in criminal prosecution. The Court also held that probable cause is required for issuance of a warrant for an administrative search, but the standard is lower than for issuance of a search warrant for fruits or instrumentalities of crime. In issuing administrative search warrants, magistrates should distinguish their function from that of issuing a search warrant. Administrative search warrants are for the inspection of premises, not the seizure of items. Administrative search warrants relate to preliminary inspection powers and should not be confused with the power of municipal courts of record to issue destruction orders to enforce provisions of Chapter 214, L.G.C., and Chapter 683, T.C. See Sec. 30.00005, G.C.

By the end of this session, participants will be able to:

1. Define administrative search warrant;
2. Identify the statutory authority for administrative search warrants;
3. Identify the procedural steps and required documents to issue an administrative search warrant; and
4. Analyze pitfalls in issuing administrative search warrants.

Time: 1.25 hours CLE

Blood Warrants and Children: Blood from a Child*

A search warrant for a sample of the suspect's blood to insure that evidence of the suspect's guilt or innocence doesn't disappear. They are required when suspects refuse to provide a breath sample or blood sample that law enforcement feels is important evidence in the case. The Family provides authorization to take a child's breath or blood specimen, if the person taking the child into custody has reasonable grounds to believe that the child has been operating a motor vehicle in a public place while having "any detectable amount of alcohol" in the child's system. This session will explore the unique challenges of blood warrants when applied to children and the interaction of the Code of Criminal Procedure and the Family Code in the process.

By the end of this session, participants will be able to:

1. Define "child";
2. Discuss the statutory authority for blood warrants;
3. Contrast the procedural requirements for issuing a blood warrant for adults versus issuing a blood warrant for a child; and
4. Analyze problems related to blood warrants on children.

Time: 1 hour CLE

Day 3 Track B

Weight Violations

Commercial vehicle enforcement is the enforcement of laws and regulation that pertain to commercial vehicles, commercial owners and operators, and drivers. One of the primary modes of transport in America, it is important that goods must be transported efficiently and safely. One aspect of commercial vehicle enforcement is the use of fine only misdemeanors to regulate the weight of vehicles travelling on Texas roads. In 1964, American Association of State Highway and Transportation Officials (AASHTO) recommended that congress established a bridge formula table instead of a single gross weight limit for trucks. Bridge formula was enacted by U.S. congress to limit the weight-to-length ratio of heavy trucks and to protect roads and bridges from damages caused by the concentrated weight of shorter trucks

By the end of this session, participants will be able to:

1. Identify state and federal law that sets forth the weight standards to be followed by federal motor carriers;
2. Define basic terms necessary to apply weight law;
3. Apply the law to determine which violations have occurred; and
4. Restate the law and regulations relating to masking.

Time: 1.25 Hours CLE

Posttraumatic Stress Disorder

This class will outline the current state of diagnosis and research concerning posttraumatic stress disorder (PTSD). The class will highlight controversies in diagnosing the disorder across various clinical and non-clinical settings. In addition, the class will provide an overview of how PTSD may manifest as an important consideration in legal settings.

By the end of this session, participants will be able to:

1. Discuss current controversies related to PTSD diagnosis;
2. List common symptoms of PTSD; and
3. Recognize how an individual with a PTSD diagnosis may act when triggered in public.

Time: 1 hour CLE

Day 3 General Session

Rise of the Machines⁺

Technology continues to change nearly every facet of life. The law, like other social institutions, is experiencing dramatic changes due to the introduction of new technologies, the effects of which are far from settled. While new technologies solve age-old problems in the judicial system, they seem inevitably posed to create new problems. It also poses hard questions for the judicial system. Can automation be a threat to judicial discretion and judicial independence?

By the end of the session participants will be able to:

1. Describe how technology has changed the operation of courts;
2. Identify applicable law pertaining to technology and the operation of courts; and,
3. Explain potential legal and ethical dilemmas stemming from court-based technology.

Time: 1.25 hours MCLE (0.5 Ethics)