



Issue:

Mitigation Docket and Compliance Court: Walk-In Court for Order Modification and Uncontested Pleas

Procedure: The court makes a judge available during specified hours for any defendant with a pending case to appear without prior scheduling. The judge can hold uncontested hearings (like indigency or show cause), dispose of uncontested cases, set cases for contested hearings, recall warrants, and hear uncontested motions to modify, for example, payment plans and extensions to pay.

Considerations

- A court considering use of a walk-in docket should also consider instituting a no-arrest policy at the courthouse for defendants with active warrants. This is important if for no reason other than avoiding the appearance that the docket is used as bait to lure in recalcitrant defendants.¹
- All prosecutions in municipal court must be conducted by the city attorney or by a deputy city attorney.² Not having a prosecuting attorney present will limit the kinds of hearings which may be held. Dismissals (other than compliance dismissals³) would require the prosecution to move for dismissal.⁴ A judge should not hear any evidence or testimony, sworn or otherwise, in a case that has not been adjudicated.⁵ Sentencing hearings may be ex parte⁶, but trials require an attorney for the state be present.
- In addition to the judge, courts need to factor in the costs of scheduling a clerk, prosecutor, and bailiff at the walk-in docket. For cities without in-house prosecutors, this could entail a review of any agreements with attorneys. Courts should also be aware of related staffing issues such as overtime and other potential human resources issues for court personnel.
- Judges and clerks at such dockets must take care that no plea is taken from a person who was a juvenile at the time the offense was alleged, unless that person's parent is present.⁷ A judge should exercise caution, and verify that any underage defendant is accompanied by either a parent or a legal guardian, or that the case be reset to give notice.

Authority

1. Tex. Code of Jud. Conduct, Canon 2(A) (A judge... should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.)
2. Art. 45.201, Code of Criminal Procedure.
3. See TMCEC Compliance Dismissal chart: http://www.tmcec.com/files/7814/3939/6436/Compliance_Dismissals.pdf
4. Art. 32.02, Code of Criminal Procedure.
5. Tex. Code of Jud. Conduct, Canon 6(C)(2).
6. TMCEC Bench Book, *Sentencing*, Page 189 (2015).
7. Art. 45.0215, CCP.