

# 2012-2013 Regional Judges Course Descriptions

## Optional Pre- or Post-Conference

### Tools for Effective Court Administration

More than seven million criminal cases are filed in Texas municipal courts each year. This sheer volume of cases presents courts—from the city that last year filed just 11 new cases to the city that filed 1.1 million—with a multitude of opportunities for frustration and “log jams.” Judges are entrusted with judicial authority, which carries with it certain duties, powers, and limitations. The clerk plays an integral role in maintaining the effective administration of the court and, too, should be aware of the limits on their authority. This session will begin by discussing the judge and clerk’s authority, and discuss the use of standing orders to confer otherwise judicial functions onto court staff in an effort to increase court efficiency.

Like the old adage says: A chain is only as strong as its weakest link. So too is a court only as efficient as the procedures it employs. While ideally, defendants would always comply with their legal obligation to appear and later satisfy the courts’ judgments and orders, the reality is that the percentage of cases involving non-compliant defendants hinders the rule of law and the administration of justice. Depending on the circumstances, Texas law provides different statutory procedures, both prior to and after judgment is entered, to assist the court in enforcing compliance with its orders to appear or satisfy a judgment. This session will provide a brief overview of those enforcement options under state law, as well as provide participants an opportunity to brainstorm and share practical solutions to combat inefficiency and improve the court’s effectiveness.

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

1. Explain the authority that law enforcement, prosecutors, judges, and clerks have with regard to the types of duties with which they are tasked;
2. Describe circumstances that could benefit from the utilization of standing orders;
3. Identify the statutory procedures available for the enforcement of court orders;
4. List three practical tools available to courts that could increase the effectiveness of court administration;
5. Assess local court procedures and identify sources of inefficiency; and
6. Develop a plan to implement techniques to improve court efficiency.

**Time: 3.5 hours CLE (1 hour ethics)**

## **Day 2: General Session**

### **Things with Wheels**

Golf carts, motorized scooters, electric bicycles, Segways, mini-motorbikes... We have seen them in advertisement, on television, and increasingly on our roadways. Increasingly, municipal judges have to deal with criminal allegations stemming from transportation devices that did not exist in the last century.

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

1. Define key terms from the Transportation Code including traffic, vehicle, motor vehicle, motorcycle, passenger vehicle, and highway;
2. Apply those definitions to the elements of moving violations, driver's license violations, registration violations, and insurance violations; and
3. Categorize differing mechanical devices to the appropriate Transportation Code grouping.

**Time: 1.25 hours MCLE**

### **Judicial Demeanor**

To the public, the judge is the personification of legal order, and as important as it is that people should get justice, it is ever more important that they be made to feel and see that they are getting it. While much ethical training focuses on what not to do as judges, it should be stressed that judges have some responsibilities to do things, as well. Specifically, Canon 3 of the Code of Judicial Conduct tells us that judges shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control. This session aims to stress that with proper judicial demeanor, judges can uphold their ethical responsibilities while avoiding ethical pitfalls.

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

1. Describe appropriate judicial demeanor;
2. Identify ethical traps for judges;
3. Apply strategies to avoid or minimize ethical traps; and
4. Recognize and address the consequences of ethical traps.

**Time: 1.0 hour CLE (1 hour ethics)**

### **Case Law and Attorney General 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 hours CLE (.25 hours ethics)**

### **Day 2 Track A**

#### **Scenarios and Solutions**

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: 1 hour CLE (.25 hours ethics)**

#### **Taking Juvenile Statements**

In fiscal year 2011, there were close to 40,000 juvenile cases involving delinquent conduct or conduct indicating a need for supervision on the dockets of Texas courts. Municipal judges are often involved as magistrates when they are called upon to give statutory warnings to a child giving a written or oral confession. This course is designed to make judges acting in their capacity as magistrate aware of the complex legal requirements pertaining to confessions made by juveniles while in custody. Particular emphasis shall be placed on Section 51.095 of the Family Code and decisions of the Texas Court of Criminal Appeals.

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

1. Describe the unique characteristics of youth in the justice system;
2. Identify the procedures applicable to juvenile magistrations; and
3. Analyze the various methods of capturing juvenile statements.

**Time: .75 hour CLE**

### **School Attendance**

This session will provide judges with a detailed overview of the Class C misdemeanor offenses of Failure to Attend School and Parent Contributing to Non-Attendance. Attendees will engage in discussions regarding these types of offenses and the advantages (or disadvantages) of handling these cases in municipal court. Attendees will also analyze the various statutes contained in the Education Code and the Code of Criminal Procedure pertaining to these offenses and learn how to apply this knowledge their court cases. Additionally, participants will examine recent legislative enactments impacting this area of the law.

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

1. Summarize the Texas compulsory attendance laws;
2. Identify appropriate complaints for a) Failure to Attend School and b) Parent Contributing to Nonattendance; and
3. Interpret the statutory sanctions and apply them to the student and parent.

**Time: .75 hour CLE**

### **Guaranteed Improved Performance Through Wellness: Texas Lawyer's Assistance Program**

Judges occupy a unique and powerful place within the legal profession. They see attorneys in action and can quickly identify an attorney who may be impaired. As such, judges are in a position to act to promote positive change in the lives and careers of lawyers in crisis. Judges are also among the few who are positioned to help other judges who may be challenged by substance use and mental health disorders. This session aims to assist judges interest in providing or in need of receiving peer support to in times of crisis.

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

1. Describe symptoms of lawyers and judges suffering stress, anxiety, depression, or chemical dependency;
2. Identify 3 resources available to provide support to lawyers and judges experiencing stress, anxiety, depression, or chemical dependency; and
3. List three strategies to increase mental wellness that can improve performance of lawyers and judges;

**Time: 1 hour CLE (1 hour ethics)**

## **Day 2 Track B**

### **Magistrate's Orders of Emergency Protection**

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.

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

1. Identify and contrast the different protective order statutes;
2. Access and utilize available resources and referrals; and
3. Combine and apply tools available to deter further violence.

**Time: 1 hour CLE**

### **Ordinances Overview**

Municipalities have legislative authority, or police power, to enact ordinances with the full force and effect of law. A municipality's authority under its police power is broad with the ultimate purpose of safeguarding the health and general welfare of its citizenry. It is not, however, without limits – regulations must have a rational basis and reasonably promote the intended purpose. This session will familiarize you with the basic statutory and local requirements relative to ordinances including zoning ordinances, housing codes, nuisance abatement and health and safety violations, and is intended to be a practical legal overview to code enforcement and a general understanding of your role in the legal process.

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

1. List at least three areas in which a city council can legislate conduct;
2. Identify the elements and structure of an ordinance and why they matter; and
3. Distinguish between a city's criminal and civil authority.

**Time: .75 hour CLE**

### **Citations and Complaints**

There are two types of charging instruments in municipal court: citations and complaints. A complaint is an official charging instrument, and it both notifies the defendant of the charges and

initiates proceedings in the court. What is far more common, however, in municipal courts is for cases to be initiated by citation that has been issued by a peace officer and filed with the court. Citations can in many instances serve as the complaint, but judges need to be aware of the differences between the two instruments and exactly when a citation is required.

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

1. Determine whether a citation meets the requirements imposed by Texas law; and
2. Assess the sufficiency of a formal complaint filed with the Court.

**Time: .75 hour CLE**

### **Court Decorum**

Ethically, all Texas judges are required to “maintain order and decorum in proceedings before the court.” All Texas courts are legally required to conduct proceedings with dignity and in an orderly and expeditious manner, assuring that justice is done. In complying with the objectives of the Code of Criminal Procedure, municipal and justice courts are specifically required to “ensure appropriate dignity in court procedure without undue formalism.”

What is “appropriate dignity in court procedure”? What constitutes “undue formalism”? The law provides little guidance. Consequently, the task of finding a balance between “appropriate dignity” and “undue formalism” belongs to each municipal judge. Court decorum is a utility that creates an optimal climate for the administration of justice. Municipal judges must be aware of the importance of court decorum.

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

1. Recognize that decorum can improve the court experience for participants;
2. Create a balance between formality and practicality in courtroom policies; and
3. Identify and address situations in the court experience that create a lack of confidence.

**Time: 1 hour CLE (.25 ethics hours)**

## **Day 2 Track C**

### **Foreign Language Interpreters**

Court interpreters provide an essential connection between foreign language speakers and their access to the judiciary. Equal protection and the right to confrontation mandate that defendants who do not speak or understand English be accommodated. The same is true when a non-English speaking witness testifies in court. Accordingly, courts are required to appoint an interpreter when a defendant or witness does not understand the English language. As the Court of Criminal Appeals explained in *Garcia v. State*, 149 S.W.3d 135 (Tex. Crim. App. 2004), “One is not necessarily competent to translate legal proceedings because he or she is bilingual. On the contrary, courtroom interpretation is a sophisticated art, demanding not only a broad vocabulary,

instant recall, and continuing judgment as to the speaker's intended meaning, but also the ability to reproduce tone and nuance, and a good working knowledge of both legal terminology and street slang.”

The need for an interpreter may be raised by a party or on the court's own motion, and the laws vary on what kind of interpreter must be appointed; one must consider the court the proceeding is in, the language needing interpretation, and the availability of licensed interpreters within a specific radius, etc. One thing is clear, however: the law requires the court to appoint one.

The laws for foreign language interpreters can be found in Article 38.30 of the Code of Criminal Procedure, Chapter 57 of the Government Code, and case law. Violation of these laws carries criminal penalties and raises serious ethical concerns. This session will discuss the laws, logistics, resources, and ethics of using foreign language interpreters in municipal courts.

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

1. Identify the laws pertaining to the use of foreign language interpreters in municipal court;
2. List three resources available to municipal courts regarding the use of foreign language interpreters; and
3. Discuss the ethical and legal implications of using unlicensed/unqualified interpreters in court proceedings.

**Time: 1 hour CLE (.5 hours ethics)**

### **Talking to Your Town (DRSR)**

A court's involvement in their community is often reactive—that is, the court becomes involved only after a case is filed charging a citizen with a criminal offense. Municipal judges and court personnel are in the unique position, however, to be proactive when it comes to addressing those behaviors in their community that could precipitate criminal charges. The Code of Judicial Conduct allows judges—and by extension, court staff—to speak on issues concerning the law. Through the Driving on the Right Side of the Road grant from TxDOT, judges and clerks have at their disposal resources to engage in this proactive outreach in their community. This session will look at the benefits of and resources for judges and court staff to talk to their town about issues of public and traffic safety.

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

1. List the benefits of proactive outreach for municipal judges and court personnel;
2. Identify available Driving on the Right Side of the Road resources; and
3. Explain ways to expand their court's outreach program.

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

### **Understanding 3<sup>rd</sup> Party Collections**

Article 103.0031 of the Code of Criminal Procedure allows cities to enter into a contract with a private attorney or public or private vendor for collection services for debts and accounts receivable such as unpaid fines, fees, court costs, forfeited bonds, or restitution ordered by a court. The statute also allows these contracts to cover the amounts that would be acceptable to the court on those cases in which a defendant has failed to appear. Specific rules govern the timeline in which a case may be turned over to collections, the fee that may be charged for these collection services, and how the unpaid amounts may be collected. This session will take an in-depth look at the authority for a city to enter into a collection contract under Article 103.0031, respond to some of the myths or criticisms about collection contracts, and help participants decide whether such a contract would work in their city.

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

1. Identify the laws governing third party collection contracts for courts;
2. Describe the interplay between a third party collection agency and other enforcement options available to the court; and
3. Explain the legitimate role of a third party collection agency in collecting court debts.

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

### **Alive @ 25**

The 82nd Legislature amended Section 45.051 of the Code of Criminal Procedure (Deferred Disposition) allowing a judge to order a defendant under the age of 25, who is charged with a moving violation, to—in addition to taking the mandatory “traditional” driving safety course—take an additional driving safety course specifically geared toward younger drivers. This course, generally termed Alive @ 25 but called the Young Driver Ticket Dismissal Program in Texas, is a 4 hour live class developed by the National Safety Council. The program focuses on good decision-making while the driver or passenger in a motor vehicle and is one more tool that municipal courts can use to influence young drivers.

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

1. Describe the Texas Young Driver Ticket Dismissal program;
2. Discuss Texas’ young driver problem using NHTSA (National Highway Traffic Safety Administration) and GHSA (Governors’ Highway Safety Association) data; and
3. Explain how local governments can implement the Texas Young Driver Ticket Dismissal program.

**Time: 1 hour CLE**



## Day 3 Track A

### The Silver Tsunami: Courts and the Growing Elder Population

Americans over 80 represent the fastest-growing segment of the U.S. population. Half of this over 80 segment have a neurodegenerative disorder. America is aging, and as it does municipal courts will face increasing numbers of elderly defendants. Judges must ensure that they are aware of the various issues that come with an older offender—from physical challenges to mental incapacity to major life and social changes. This session aims to examine those issues and assist judges in developing a plan to appropriately address those defendants' individual situations.

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

1. Describe the phenomenon known as the Silver Tsunami;
2. Analyze the impact that an aging America will have on traffic safety; and
3. Develop a plan to address criminal defendants who may be suffering from decreased mental capacity, limited physical abilities, and a dearth of financial resources.

**Time: 1 hour CLE**

### Immunity

Judicial immunity protects judges and others employed by the judiciary from lawsuits brought against them for judicial actions. This protection frees judges to act fairly and justly without regard to the possible repercussions they might otherwise face outside the scope of their judicial work. This immunity is not without limits, however, and it is also not the only type of immunity that judges and their cities should be aware of. Case law is fraught with instances of judges, clerks, and city officials being sued for the deprivation of a litigant or defendant's rights. These people may be entitled to sovereign, judicial, quasi-judicial, or derived judicial immunity depending on the actions taken. This session will navigate the maze of immunity, looking at real examples of cases where immunity was or was not afforded.

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

1. Identify the different types of immunity;
2. List the elements necessary to qualify for each;
3. Define the scope of each type of immunity and the liability for exceeding the scope; and
4. Describe the elements of a Section 1983 claim.

**Time: 1.25 hour CLE (.5 ethics hours)**

## **Day 3 Track B**

### **Introduction to Tablets**

Although the origins of tablet computers can be traced back to the late 1960s, tablet computing has seen an explosion of popularity in the last few years bridging the gap between the mobility and connectivity of a smart phone and the stunning visuals and computing power of larger laptops and desktop computers. It is now reported that 31% of U.S. internet users have a tablet. Primarily, tablets are used for consuming published content such as video and news, but tablets offer many uses for court personnel including courtroom presentation tools, project management software, and audio and video recording capabilities. This session will cover the basic setup and usage of tablets, from viewing email and the web, to mobile video conferencing, and even payment processing and administration. Additionally, we will discuss the flood of different product options and features to better help you choose the right tablet computing solution for your needs.

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

1. Describe the technology commonly referred to as tablet computers;
2. Navigate a tablet and locate resources related to traffic safety and judicial education; and
3. Recognize the usefulness of tablets as tools for the courtroom, judicial education, public outreach, and office work.

**Time: 1.25 hours of Judicial Education (No CLE hours)**

## **Day 3 General Session**

### **Fine by Me: A Judicial Primer on the Law and Social Science Relating to the Imposition of Fines in Criminal Cases**

Fines are the most common form of punishment utilized for violations of criminal laws. Ironically, despite the frequency of their use and their application throughout history, the underpinnings of fines are rarely independently examined outside the context of other legal issues. This presentation provides judges and criminal law practitioners with an overview of information relating to fines utilizing an interdisciplinary approach while emphasizing federal and Texas law.

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

1. Distinguish “fines” from similar legal constructs involving the payment of monies;
2. Describe what social science tells criminal justice practitioners about the efficacy of fine; and
3. Identify constitutional, statutory, and case law constraints relating to the imposition of fines.

**Time: 1.25 hours CLE (.25 hours ethics)**