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INNOVATION IN JUVENILE PROCEDURE

by Elizabeth Price
Special Projects Coordinator, TMCEC

Municipal courts have been called the "shadow courts" when it comes to juveniles, overshadowed by designated juvenile courts in the county that are well known for their jurisdiction over juveniles. The fact that municipal courts handle so many juveniles is not as widely known. But that does not diminish their power and their importance in affecting juveniles in the vital early stages of their interaction with the law.

Because of the size differences in municipal courts across Texas, there is no single standard for handling juveniles and their cases. In some larger cities, there is a separate juvenile court on the municipal level, with one judge and prosecutor dedicated only to the purposes of that court. In other cities, there are juvenile programs or at least juvenile procedures that judges and other court personnel utilize. However, each court faces many of the same challenges: dealing with distraught parents and belligerent or apathetic children, getting information or records on juveniles, communicating clearly with other law enforcement agencies and schools, arranging for effective court time for appearances, and knowing what judgment and sentence to hand down.

This juvenile-focused issue of the *Municipal Court Recorder* addresses many of these problems, offering information, resources, and the approaches that some municipalities have used in dealing with the problems. This article highlights innovative juvenile procedures that some Texas municipal courts have implemented. While some of these may be familiar to you, maybe even in use in your municipality, hopefully some will provide you with ideas for improvement or enhancement.

Greater Clarity/Communication

One of the basic procedures some courts have set in motion seeks to achieve greater clarity with the schools

INNOVATION continued on page 14

LAGO VISTA PREVAILS

In a case eagerly anticipated by law enforcement, legal scholars, and courts of limited jurisdiction throughout the country, the U.S. Supreme Court affirmed the 5th Circuit Court of Appeals holding of *Atwater v. City of Lago Vista*. In a 5-4 decision announced April 24th, 2001, the Court ruled that the Fourth Amendment does not forbid a warrantless arrest for a minor criminal offense, such as a misdemeanor seatbelt violation punishable only by a fine. In a majority opinion written by Justice David Hackett Souter that relies on *Whren v. United States*, 517 U.S. 806 (1996), the Court explained that, although the

Fourth Amendment generally requires a balancing of individual and governmental interests, the result is rarely in doubt where an arrest is based on probable cause. The arrest was not unreasonable for Fourth Amendment purposes because no one disputed that Lago Vista Police Officer Bart Turek had probable cause to arrest local resident Gail Atwater, and because there was no evidence that the arrest was conducted in an extraordinary manner, unusually harmful to Atwater's privacy interests. In an opinion written by Justice Sandra Day O'Connor, the dissent maintained that arrests for minor traffic infractions may potentially serve as an excuse for harassment and that fine-only misdemeanors may be enforced in an arbitrary manner.

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Texas Municipal Courts Education Center

1609 Shoal Creek Boulevard, Suite 302
Austin, Texas 78701
512/320-8274 • Fax: 512/435-6118
or 800/252-3718

Web page: <http://www.tmcec.com>

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nator

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AROUND THE STATE

BAILIFFS/ WARRANT OFFICERS SCHOOL

The revival of the TMCEC Bailiffs/
Warrant Officers School was held
March 27-28 in Houston. Not since
1992 has TMCEC offered education to
this group on how better to do their
duty inside and outside the courtroom.
Considering what an important role
bailiffs and warrant officers play in the
essential functions of a municipal court,
the Center decided to bring the pro-
gram back. Jo Dale Bearden, TMCEC
Program Coordinator, is heading up the
new program. TMCEC's goal is to
provide education that the officers don't
get in other peace officer training.
Bailiff/Warrant Officer Rick Kovalchuk
of Galveston said of the school's con-
tent, "This is pinpointed to what we're
doing." Mario Gonzales, a bailiff from
Texas City, agreed, saying the program
was "more down to earth" and that in
the seminar there was "more personal
attention than in [the] Police Acad-
emy." The 16-hour program was
accredited for TCLEOSE credit. There
will be another Bailiffs/Warrant Officers
School offered June 18-19 in Addison.

TEXAS TEEN COURT CONFERENCE

Texas Teen Court Association's 2001
Conference will be held November 7-9,
2001 in Lubbock, Texas. The program

is open to anyone interested in Teen
Court or in juvenile law in Texas.
Robert O. Dawson, a recognized
authority on juvenile law in Texas, will
present the legislative changes in
juvenile law. Attorney General John
Cornyn will address the issue of gangs,
and Karen Laird, president of the New
Mexico Teen Court Association, will
talk on starting and maintaining a teen
court. Other program tracks include
dealing with substance abuse in juve-
niles, preventing burn-out in adult
staff, and recruiting and keeping
volunteer staff. A block of rooms has
been reserved at the Holiday Inn Civic
Center in Lubbock at \$55 for a single
and \$65 for a suite. Call Patsy Morgan
at the Holiday Inn at 806/763-1200
for room reservations, identifying
yourself as part of the Teen Court
Conference. For questions and registra-
tion information contact Ed Cooper at
806/775-2480, Lubbock Teen Court,
P.O. Box 2000, Lubbock, Texas,
79457, or ecooper@mail.ci.lubbock.tx.us.

SCENARIO SCHOOL

Houston provided the setting for the
first run of the TMCEC 12-Hour
Judges Scenario School, March 27-28.
Innovated by Ryan Turner, TMCEC
Program Attorney & Deputy Counsel,
the Scenario School uses wireless
polling remote controls called respon-
ders to allow participants to express their
opinions on the various scenarios set
before them by instructors. After all
participants have electronically re-
sponded, a graph showing the break-
down of the different responses appears,
and a discussion over the best answer
choice ensues. These discussions prove
lively as participants defend their
answers. The response graph provides
the immediate feedback that fuels
learning and thought. Judge Esmeralda
Garcia from Houston says, "Judges are
competitive, and we like to see how we
do." Other positive comments reflect

the innovation of this new instructional technology, which is similar to what is used on the popular TV program, *Who Wants to be a Millionaire*. "I fretted about it before I came, but this is fun. It keeps you on your toes," says Judge Frances Blanchard from Edna. Judge Don Byrnes from Houston comments, "I've been going to [continuing education programs] for 14 years. Anything that makes it new territory is appreciated."

There will be another 12-Hour Judges Scenario School offered June 18-19 in Addison.

SPECIALIZATION IN JUVENILE LAW APPROVED

by Darlene A. Whitten, Judge
County Court-At-Law No. 1, Denton
Chair of the State Bar Section
on Juvenile Law

The Texas Supreme Court approved the standards for specialization in juvenile law on January 8, 2001. The Texas Board of Legal Specialization (TBLS) then appointed the first set of examiners:

- Professor Robert O. Dawson, University of Texas School of Law, Austin
- James D. Bethke, Office of Court Administration
- Judge Enrique Pena, Retired, El Paso
- Professor Stephanie Stevens, St. Mary's Law School, San Antonio
- Neil Nichols, General Counsel, Texas Youth Commission

None of the examiners will be allowed to take the exam. They will draft the first exam as well as grade it. The

Board states that the exam will have three essays and 100 multiple-choice questions. Total examination length is six hours.

The exam will be administered in Austin on October 8, 2001. The law covered in the exam will be that which is in existence on the date of the exam. In other words, pay close attention to legislative changes and new case law.

Though the official application deadline has passed, interested applicants should call the Texas Board of Legal Specialization at 800/204-1454, extension 2222. The application process is not easy; it will depend upon excellent record keeping for the past several years. There are three categories of applicants. Do not overlook the third category that allows the applicant to claim a sort of equivalency of experience if he or she has not handled the requisite number of appeals and/or transfers to criminal court and/or determinate sentence cases. There is no way to shorten the time requirements, only the variety of experience requirements.

TBLS also appointed the first Juvenile Advisory Commission to review the applications. The appointees are:

- Judge Kent Ellis, Harris County
- Judge Jean Boyd, Tarrant County
- Judge Pat Garza, Bexar County
- Judge Darlene A. Whitten, Denton County
- Kris Moore, Juvenile Prosecutor, Harris County
- Vaughn Bailey, Attorney, Fort Worth
- Lisa Capers, Texas Juvenile Probation Commission
- Emily E. Helm, Texas Youth Commission
- Scott Stevens, Attorney, Killeen

Those who have been attending the annual juvenile law seminars for the past 14 years will have an advantage. For the past two years, as specialization loomed ever closer, the speakers were asked to focus their papers on the Juvenile Justice Code. The Juvenile Law Section will soon be posting the papers from the 2000 seminar on the website, www.juvenilelaw.org. The papers from the 2001 seminar will not be posted until sometime next summer.

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OCA ANNUAL REPORT

The *Annual Report* lists statistical information for cities alphabetically, then by population. Judges and court support personnel may find the data useful in comparing their court's performance with that of other courts of similar size. Copies of the *Annual Report* may be obtained at no charge by calling or writing the Office of Court Administration at 512/463-1625, 205 W.14th St., Suite 600, P.O. Box 12066, Austin, Texas 78711-2066.

Overview

During the state fiscal year 2000, municipal courts operated in 861 Texas cities. Section 71.035 of the Texas Government Code and Sections 171.1 and 171.2 of the Texas Administrative Code require each court to submit a monthly activity report to the Texas Judicial Council. Statewide, the Council received 9,333 reports out of a possible 10,332 for the year (a 90 percent reporting rate).

Revenue collected by the reporting courts totaled \$411,337,731 for the year, a one percent increase over the previous year. The amount of revenue per disposition averaged approximately \$57 dollars. The courts deposit this

revenue in the treasury of the city where the court has jurisdiction; however, certain court costs on each case are remitted to special funds of the State.

Cases Filed

In fiscal year 2000, there were 7,305,255 new cases filed, approximately the same number as filed in fiscal year 1999. As compared to 10 years ago, however, the total number of new cases filed during the fiscal year has grown substantially — by over 20 percent, or more than 100,000 cases per year.

Traffic Cases Continue to Dominate Dockets

Of the total cases filed, traffic cases accounted for 84 percent, and non-traffic criminal cases accounted for the other 16 percent of the cases filed. Non-parking misdemeanors accounted for 82 percent of all traffic misdemeanors filed, with the remaining 18 percent for parking violations. Parking misdemeanors accounted for 15 percent of all cases filed.

The actual docket composition for the municipal courts has not changed dramatically over the last decade; however, non-traffic misdemeanors do appear to be slowly becoming a larger part of the total caseload. Although the number of non-traffic misdemeanors filed in fiscal year 2000 decreased approximately 5 percent over 1999 filings, in comparison to 10 years ago, the number has increased by nearly 62 percent.

In fiscal year 2000, state law violations made up 78 percent of all non-traffic misdemeanors filed, with violations of city ordinances accounting for the remaining 22 percent. As compared to fiscal year 1999, the number of cases involving state law violations has decreased by 6 percent, while cases involving violations of city ordinances has decreased 3 percent.

Dispositions

The reporting municipal judges achieved a clearance rate (total cases

disposed/total cases added) of 98 percent. Total dispositions for traffic and non-traffic misdemeanors increased 4 percent to 7,183,748 for the year ended August 31, 2000, compared to the total 6,933,398 dispositions in fiscal year 1999.

Forty-five percent of dispositions in fiscal year 2000 occurred prior to trial. Most of these dispositions, 82 percent, were by payment of fine. Of the 1,201,965 cases that went to trial and were not dismissed, 99 percent were tried before a judge alone, and jury trials disposed of 5,057 cases. Of all cases actually receiving

a final judgment at trial, 97 percent resulted in a guilty verdict.

Appeals Continue to Decrease

The number of appeals filed as a percentage of all cases disposed at trial for fiscal year 2000 remained very low at 1.2 percent, a slight decrease from the previous year.

In accordance with the trend of past years, the total number of appeals filed has been decreasing while the number of cases disposed of at trial has been steadily increasing. The

Total of Reported Activity for the Year Ended August 31, 2000

90 Percent Reporting Rate 9,333 Reports Received Out of a Possible 10,332					
	TRAFFIC MISDEMEANORS		NON-TRAFFIC MISDEMEANORS		REPORTED TOTALS
	Non-Parking	Parking	State Law	City Ordinance	
CASE DOCKET ACTIVITY:					
NEW CASES FILED	5,108,255	1,065,599	884,112	247,289	7,305,255
Dispositions Prior to Trial:					
Deposit Forfeited	53,526	518	16,038	2,357	72,439
Fined	1,664,498	684,898	257,824	67,247	2,674,467
Cases Dismissed	324,061	46,838	86,908	37,769	495,576
Dispositions at Trial:					
Trial by Judge					
Guilty	860,337	15,627	229,219	58,232	1,163,415
Not Guilty	25,000	875	4,862	2,756	33,493
Trial by Jury					
Guilty	2,496	56	560	480	3,592
Not Guilty	856	54	399	156	1,465
Dismissed at Trial	652,042	7,118	194,103	67,002	920,265
Cases Dismissed After:					
Driving Safety Course	441,542				441,542
Deferred Disposition	461,427	1,262	47,620	18,061	528,370
Proof of Financial Respons.	475,016				475,016
Compliance Dismissal	374,108				374,108
TOTAL DISPOSITIONS	5,334,909	757,246	837,533	254,060	7,183,748
COMMUNITY SVC ORDERED	89,363	429	23,371	4,640	117,803
CASES APPEALED	12,487	90	1,466	410	14,453
JUVENILE ACTIVITY:					
Alcoholic Beverage Code Offenses Filed					41,013
DUI of Alcohol Offenses Filed					2,898
Health & Safety Code Offenses Filed					15,331
Transportation Code Offenses Filed					121,167
Truancy or Failure to Attend Hearings					5,957
All other Non-Traffic Fine-Only Offenses					103,929
Waiver of Jurisdiction of Non-Traffic cases					7,354
Education Code Violations Filed					8,598
Warnings Administered					5,419
Statements Certified					1,777
OTHER ACTIVITY:					
Safety Responsibility and Driver's License Suspension Hearings Held					6,027
Search Warrants Issued					4,608
Arrest Warrants Issued					1,944,174
Magistrate Warnings Given					186,679
Emergency Mental Commitment Hearings Held					746
Emergency Protective Orders					4,731
TOTAL REVENUE					\$411,337,731

14,453 cases appealed in 2000 was a decrease of 20 percent from the number of cases appealed in fiscal year 1999. In comparison to 1993, the number of cases appealed has decreased by 80 percent, while the number of cases disposed at trial has increased over 40 percent.

HIGHLIGHTS

- The state had an average clearance rate (total cases disposed/total cases added) of 98%.
- Only 1.2% of the cases disposed at trial resulted in appeals, down from 12% in 1986.
- 45% of all dispositions occurred prior to trial. Most of these dispositions, 82%, were by payment of fine.
- Of the 1,201,965 cases that went to trial and were not dismissed, 99% were tried before a judge alone.
- Of all cases actually receiving a final judgment at trial, 97% were awarded a guilty verdict.
- Municipal courts issued an arrest warrant approximately every 15.8 seconds.
- In regards to juvenile activity, there were 121,167 Transportation Code offenses, 41,013 Alcoholic Beverage Code offenses, and 2,898 DUI of alcohol offenses filed.

OTHER ACTIVITY

During fiscal year 2000, there were 1,944,174 arrest warrants issued, 4,608 search warrants issued, and 4,731 emergency protective orders given. Safety responsibility and driver's license suspension hearings were held 6,027 times.

In regards to juvenile activity, there were 121,167 Transportation Code offenses, 41,013 Alcoholic Beverage Code offenses, and 2,898 DUI of alcohol offenses filed. Non-traffic fine-only offenses accounted for 103,929 of the juvenile cases filed.

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COMMON JUVENILE DISORDERS

by J. Randall Price, Ph.D. and Antoinette R. Cicerello, Ph.D.

Based on the TMCEC presentation in Corpus Christi in October of 2000 and at the 2001 Joint Juvenile Justice Conference in Galveston, the following are brief descriptions of juvenile mental disorders most likely to affect or be of issue in municipal court cases. If further information is needed, consult *The Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)*, published by the American Psychiatric Association, 1994, 4th Edition.

- **Attention Deficit Hyperactivity Disorder (ADD/ADHD)**—These juveniles have trouble paying attention to details and listening when they are spoken to. They are disorganized, lose things, and are unable to sit still. They often interrupt others. They are impulsive and may act out. Often, learning problems may further increase their frustration. This disorder must be seen in more than one setting and be evident before the child is seven years of age. Many mental health professionals believe this disorder is over-diagnosed and that the treatment (pharmacological stimulants) is inappropriate. These youngsters may often appear more able to concentrate when they are interested and/or when the consequences are very clear and the setting is highly structured.
- **Oppositional Defiant Disorder (ODD)**—Juveniles with this disorder engage in a pattern of negative, hostile, and defiant behavior. They lose their temper easily, argue with adults, deliber-

ately annoy others, then blame someone else for all their troubles. The prognosis for these juveniles is not good as their attitude often leads to misbehavior and ultimately to illegal actions.

- **Conduct Disorder**—These juveniles often have an oppositional defiant disorder, but they display a repetitive and persistent pattern of behavior in which social norms and the rights of others are violated. They are often aggressive to animals as well as people, destructive of property (including firesetting), deceitful, and truant. If immediate and clear consequences are not implemented early on, their pattern may lead to an antisocial personality disorder and involve a life of crime.
- **Mental Retardation**—Although juveniles with mental retardation may find themselves in trouble, their difficulties are more likely to lie in their lack of understanding and the ability to act responsibly due to low intelligence (IQ < 70) and deficits in adaptive behavior.
- **Learning Disorders**—These juveniles have average or above average intelligence, but nevertheless have difficulty learning a basic academic skill (such as reading, math, or spelling). Misbehavior or acting out may be

NOTE: Municipal judges, prosecutors, court support and any other interested persons are encouraged to submit articles relating to municipal court practice and proceedings. TMCEC reserves the right to publish and edit any materials submitted. Statements, points of view or opinions expressed in this newsletter do not necessarily represent the position of TMCEC/TMCA. Information dealing with specific legal issues should be researched in original sources of authority.

related to frustration or embarrassment. Special education classes may remedy these difficulties.

While the symptoms described often correlate to a disorder, they do not necessarily indicate a disorder.

KEYS TO SUCCESSFUL COMMUNITY SERVICE PROGRAMS

by Jo Dale Bearden
Program Coordinator, TMCEC

As public sentiment towards juvenile offenders has become more punitive, community service as an alternative for discharging a fine has become more popular. Historically, parents, although not required to, paid their children's fines. Municipal court judges, however, have expressed the sentiment that if a juvenile's parent pays the fine there is no lesson learned. Using Article 45.049, Code of Criminal Procedure, which provides that judges may require fines and costs to be discharged by community service if a defendant fails to pay a fine or is indigent, judges are requiring juvenile defendants to be responsible for the judgment against them by using community service as a means of paying the fine.

Not only is community service used to discharge fines, some offenses require courts to assess upon conviction community service as a sanction. Examples of this are the Alcoholic Beverage Code offenses under Chapter 106. Also, if there is no tobacco awareness program available in a community, the court must require tobacco-related community service in lieu of the awareness program. (See

page 8 of this newsletter.) If a child is charged with the Class C misdemeanor offense of failure to attend school, the court may require community service as a sanction using the provisions under section 54.021(d) of the Family Code. This statute provides sanctions for truancy. A lesser-known statute allowing courts to require community service upon conviction of a juvenile for any non-traffic offense is Family Code, Section 54.022. This statute also provides courts with authority over parents to require them to refrain from an act that will not help a child to comply with the orders of the court. As with adults, the court may, under Article 45.051, Code of Criminal Procedure (the general deferred statute), impose "any reasonable condition," presumptively including community service.

It appears that the Texas Legislature has recognized that children, "juveniles," should be involved in the community and responsible for their acts, and thus perform community service as a type of rehabilitation. In principle, community service is a great tool, but putting it into practice proves difficult for some cities. To develop a program that benefits the community, the parents, and the juveniles takes time and personnel, as well as frequent evaluation.

Some basic principles of effective community service programs have been identified by the American Youth Policy Forum (AYPF) in its publication, *MORE Things That DO Make a Difference for Youth: A Compendium of Evaluations of Youth Programs and Practices, Volume II*. AYPF found that community service programs lead to positive outcomes if they incorporate the following objectives:

- Parent/guardian participation
- Community involvement
- Youths as resources for community
- High standards and expectations

- Caring, knowledgeable adults
- Work-based learning
- Quality of implementation

Some cities have evaluated their options and resources, and developed community service programs that are notable for incorporating the principles and objectives of the American Youth Policy Forum. Presented here is information about such programs in Corpus Christi, Midland, Baytown, and San Angelo.

Parent/Guardian Participation

Judge Rudy Tamez from the Corpus Christi Municipal Court refers juveniles to *Project JumpStart*, a program of the Volunteer Center of the Coastal Bend. The program has one crucial element that keeps Judge Tamez sending juvenile offenders there: a parent or guardian must bring the juvenile to the orientation session and sign forms allowing the juvenile to participate in community service that fulfills the requirements issued by the court. Once at the site, the parents are given the option of attending a parenting group called *Common Sense Parent Discussion Group*. The parenting group is run by two certified parenting facilitators and incorporates instruction and group participation. Gilma Nance, Executive Director of the Volunteer Center, reports that half the parents who drop their children off stay. She says that most are happy to hear from other parents and, in discussion, she often hears, "I'm glad to know that I am not the only one." After the orientation, parents are given information on more parenting classes that take place in the community.

Community Involvement

Building the necessary relationships with community organizations takes time and dedication. Many courts do not have the resources available to build the type of relationship needed to make continuous referrals for

community service. Corpus Christi has sidestepped the question of how to get involved with the community by the partnership they have with the Volunteer Center. As referenced above, once Judge Tamez requires a juvenile to discharge a fine by community service, that juvenile is given information on the Volunteer Center and asked to attend an orientation. The Center has been active in the community since 1997 and, throughout that time, they have made partnerships with over 250 non-profit organizations to which they can refer participants. Acting as a liaison, a referral center, and a training center, the Volunteer Center assists juveniles in finding community service and following through with the court orders.

Youths as Resources

A community service program has a greater chance of being successful if the participants feel that their hours are spent improving the community. In Midland, Judge Robin Smith, with the assistance of the Court Administrator Shona Bohon, uses community service in various city departments as a way for juvenile offenders to “pay back” the City of Midland. Through the volunteer effort of city employees, juvenile offenders are supervised at sites such as the *Keep Midland Beautiful Litter Control Program*, as well as in clean-up of city parks. The City of Baytown uses a Juvenile Accountability Incentive Block Grant from the Criminal Justice Division of the Governor’s Office to implement a similar program cleaning up graffiti and picking up trash.

High Standards and Expectations

In general, most people perform better when they know what is expected of them; juveniles are no different. Citing Corpus Christi again, once juveniles have been referred to the Volunteer Center they must attend an orienta-

tion in which the expectations of the court, the Volunteer Center, and the volunteer site are clearly stated. The orientation session, which lasts two hours, consists of a discussion of participants becoming heroes in their communities and a lesson on proper attire, behavior, and attitude at the community service site. The Volunteer Center believes that, through the high expectations they set and the instruction they give to meet those expectations, juveniles will be successful at the site at which they choose to complete the required hours.

Caring, Knowledgeable Adults

Who will supervise the community service? What impact will that person have on the juveniles? In San Angelo, Judge Allen Gilbert, City Marshal John Gonzales, and municipal court clerks all interact with the juveniles while the community service is taking place. Students from San Angelo State University, primarily athletes who are recognizable in the community, also volunteer their time to assist and supervise the community service. Through leadership, role modeling, and interaction, the juveniles are inundated with positive reinforcement while completing community service hours.

Work Based Learning

To have a constructive impact, community service should be of beneficial use to both the community and the juvenile. An important benefit to the juvenile is learning something valuable. An example of this type of community service is San Angelo’s Juvenile Community Service Garden where juveniles fertilize, plant, clean, pick, weed, and donate fruits and vegetables that they grow. Many of the juveniles know little or nothing about gardening, so they have the opportunity to learn skills while paying their debt to the city. From the garden,

15,000 pounds of vegetables were donated last year to the Salvation Army and other soup kitchens. The garden has the support of the community who donates seed, tools, and even manure for fertilizing.

Quality of Implementation

A quality program would be a program that is respected by both the participants and the community. In order to maintain respect, a program should contain procedures for accountability. The Volunteer Center in Corpus Christi monitors the time sheets of the juveniles and assists them in preparing a packet to return to the court for final disposition; the Center transmits the completed time electronically to the court. In San Angelo, the clerks schedule the times for the juveniles and check them in and out on site. If a juvenile is scheduled and does not show up, City Marshal John Gonzales goes to the juvenile’s home to bring him or her to the garden. Midland uses time sheets that have to be signed by the site supervisor upon check-in and check-out.

As noted in this article, many options are available for community service. Each city should evaluate its resources to see what type of program meets its needs. The principles from the American Youth Policy Forum are a good starting place for developing a program or evaluating an existing program.

To obtain a copy of *MORE Things That DO Make a Difference for Youth: A Compendium of Evaluations of Youth Programs and Practices, Volume II*, send \$10 (which includes postage and handling) or \$17.50 for both volumes to American Youth Policy Forum, 1836 Jefferson Place NW., Washington, DC 20036-2505. To obtain prices for bulk orders or for more information, call 202/775-9731.

TOBACCO COMMUNITY SERVICE

Minors found possessing or purchasing tobacco products must attend a tobacco awareness program or do community service. Failure to attend the tobacco awareness program or do the community service may result in a suspension of the minor's driver's license. A tobacco violation is punishable by a fine not exceeding \$250. Upon producing evidence of attending a tobacco awareness program or doing the community service, the charge must be dismissed, except in the case of repeated offenses (Section 161.252-254, Health and Safety Code).

According to Barry Sharp from the Office of Tobacco Prevention and Control, TPC prefers that juveniles attend a tobacco awareness program, but because such a program must have a certified instructor, that is not always practical. If community service is then the consequence, TPC has a preferred service list:

Examples of Tobacco-Related Community Service

- Collect materials and donations for or volunteer your services at the American Cancer Society, American Heart Association, American Lung Association, or the local or county health department.
- Provide services at local respiratory clinics, hospitals, or hospices.
- Participate in community clean-up efforts.
- Prepare a heart and lung health exhibit for local malls, supermarkets, or health fairs.

- Provide tobacco awareness and prevention presentations to local schools or community groups.
- Assist the school nurse or teachers in putting up posters and displaying literature about lung cancer, emphysema, and/or heart disease.
- Secure tobacco awareness and prevention literature to place in local businesses to promote a smoke-free environment, *i.e.*, doctor clinics, dentist offices, restaurants, and blue-collar worksites.
- Conduct local surveys and write a report on tobacco billboard advertising in neighborhoods to compare target marketing of tobacco products to lower socio-economic neighborhoods.
- Help conduct a local public awareness campaign on the health effects and dangers of tobacco use.
- Work with local service organizations or high schools to establish youth coalitions addressing heart and lung health activities.
- Participate in local fun-runs, *i.e.*, 5k or 10k, and walk-a-thons.
- Participate in local tobacco retailer compliance inspections in collaboration with local law enforcement personnel to ascertain the rate of youth access to tobacco products.
- Implement a pro-health message poster contest for elementary school classrooms.
- Help start an "Adopt a Store" program to provide retailer education about refusing to sell tobacco products to minors.
- Start a mentoring program to keep younger youth from tobacco use.
- Participate in the local distribution of smoke-free restaurant and smoke-free worksite surveys, compile data and present to local businesses, promoting which businesses are smoke-free in the local community.
- Research local nonsmoking ordinances in your county and write a report comparing your local ordinances with state, regional, national, and model ordinances to give recommendations on strengthening your local nonsmoking ordinances.
- Write and produce a one-page newsletter on the dangers of tobacco use that can be distributed to schools, worksites, restaurants, and community groups.
- Survey magazines and movies to count the number of tobacco advertisements and images. Write magazine editors and movie producers asking them to not place tobacco advertisements and images in places highly visible to youth.

LAW DAY ACTIVITIES ACROSS TEXAS

Several communities in Texas celebrated Law Day with community events. While the official date was May 1, other dates were used when more conducive to local plans. Most Law Day activities were sponsored by the local bar association, but many entities were often involved, including municipal judges. Three state-wide contests for students were sponsored jointly by the Texas Young Lawyers Association and the State Bar of Texas: a photo contest, an essay

contest, and a poster contest. The State Bar's Annual Law Day program took place this year on May 4 at the Texas Law Center in Austin. Activities included tours of the Texas Supreme Court and the Capitol, a Law Day skit, an awards ceremony, and an address by guest speaker, Honorable Sharon Keller, Presiding Judge, Court of Criminal Appeals.

Austin

Also in Austin, the Travis County Bar Association, the Austin Chamber of Commerce, three attorneys from Brobeck, Phleger, & Harrison, and Johnston High School joined forces to throw a Law Day program April 4 that provided an all-day education in the law to 200 high school students specially selected to come to the Texas Law Center for the event. The students got doses of criminal law, civil litigation, corporate/transactional law, public service/government, law school, family law, and sports/entertainment law in break-out sessions that allowed the students opportunity to ask questions of public officials. Judge Elisabeth Earle of Downtown Austin Community Court (a separate court established on the municipal court level) was one of the participants. Attorney David Whittlesey, one of the organizers, says, "The law will impact them no matter what they grow up to be, and we try to teach them about how the law will impact their lives."

San Antonio

In San Antonio, the Criminal Justice Explorer Post #787 hosted a Law Day Conference on May 5 at Ronald Reagan High School in conjunction with Tsakopoulos, Brown, Schott, & Anchors and Parker & Wood. The one-day conference was open to all high school students and offered 15 different sessions dealing with topics such as domestic violence, juvenile law, mock trials, search and seizure, criminal justice, and government given by

members of local and federal law enforcement agencies, judges, prosecutors, and defense attorneys. Job and college recruiters were also present.

Dallas

The Dallas Bar Association (DBA) had a plethora of activities and programs stretching over the week of April 23-27, creating Law Week. During the course of the week, approximately 100 lawyers were paired with teachers to design an hour-long classroom presentation or school assembly on law-related topics and the experience of being a lawyer. Two municipal court judges, Judge Frieda Fiske and Judge Vonciel Jones Hill, participated in this "Lawyers in the Classroom" program. Each day during the week, high school classes were invited to come down to the criminal courthouse to take part in a mock voir dire. Judges, DAs, and defense attorneys led the students through the process and answered questions about their jobs. Also during the week, the DBA board members spoke to jury pools each day about justice and the importance of citizen participation in the legal system. In the month of April, each Dallas I.S.D. elementary school library received a copy of "Lone Star Waves Proudly," a law-related education publication from the State Bar of Texas. This large picture book, with text in English and Spanish, can be used by teachers or by lawyers on visits to elementary schools. The book tells the story of the six flags that have flown over the State of Texas, as well as U.S. and Texas flag codes and etiquette. The week ended with an awards luncheon honoring the local judiciary, lawyers, and student winners from Law Day-themed poster and essay contests. Michael Bradford, U.S. Attorney for the Eastern District of Texas, was speaker at the luncheon.

Fort Worth

The Tarrant County Bar Association of Fort Worth hosted a law-themed essay

contest and poster contest. The winners were awarded monetary prizes at the Law Day dinner on May 1. Guest speaker for the dinner was Honorable Harriet O'Neill, Texas Supreme Court Justice.

Houston

The Houston Bar Association (HBA) celebrated Law Week, April 30-May 4, with a number of events for the public. As an early kick-off at the International Festival, April 21-22, the HBA had its first interactive Law Week booth where people tested their knowledge of the Constitution for a prize drawing. A "Java with the Judges" was held the morning of May 3 in three Harris County courthouses: the Civil Courts Building, the Family Center, and the Criminal Justice Center. All Harris County court personnel were invited to have coffee and donuts with the judges and learn more about Law Week and the HBA.

During Law Week, the HBA teamed with the Houston Public Library to present a Law Week Library Speakers Program at seven branch libraries throughout Houston. Volunteer attorneys spoke on topics selected by library patrons, such as small business issues, estate planning, child support, wills and powers of attorney, and immigration law. Volunteers from the HBA Lawyers for Literacy Committee read law-related stories to children at 17 branch libraries during storytimes, then helped the kids do a related craft.

Poster contests were held in elementary and middle schools, with essay contests in high schools. Cash prizes were awarded to honor the winners at the Law Day Luncheon on May 1 at the Four Seasons Hotel. The Houston Young Lawyers Association hosted the luncheon for various award winners and for keynote speaker, Honorable Harriet O'Neill, Texas Supreme Court Justice. A Voir Dire Program for high school students was held on May 4.

Students from local high school government classes traveled to Harris County courtrooms, where the judge appointed a prosecutor and defense attorney to take the students through the voir dire process, selecting a jury from the student group, and explaining why the jurors were selected.

Also, an extended 'Legal Line' program was held May 2, with volunteers answering calls from noon - 9:00 pm. The public was invited to call the HBA to ask simple legal questions, receive brief legal advice, and get referrals to other resources.

TEXAS TEEN COURTS

The following is a working list of teen courts in Texas active on the municipal level, provided by the Texas Teen Court Association (TTCA). Contact Elizabeth Price at TMCEC with additions or deletions (512/320-8274).

If you are looking to start a teen court, copies of "How to Start a Teen Court" can be ordered from the Texas Teen Court Association. The book is available for \$20 as pre-punched loose sheets (ready for you to insert in a binder). This price includes postage, as well as a disk with all the information for the convenience of converting the forms to your court's use. To order, contact TTCA treasurer, Tammy Hawkins, at 915/335-3352, fax 915/335-3316, or thawkins@ci.odessa.tx.us.

Abilene Teen Court
Allen Teen Court
Amarillo Teen Court
Arlington Teen Court
Austin Teen Court
Azle Teen Court
Beaumont Teen Court
Boerne Teen Court
Cedar Hill Teen Court
College Station Teen Court

Coppell Teen Court
Crowley Teen Court
Dallas Teen Court
Denton Teen Court
Dimmitt Teen Court
Duncanville Teen Court
Edinburg Teen Court
Fort Worth Teen Court
Freer Teen Court
Georgetown Teen Court
Grand Prairie Court
Harker Heights Teen Court
Hedwig Village Teen Court
Hurst-Eules-Bedford Teen Court
Houston Teen Court
Irving Teen Court
Killeen Teen Court
Lewisville Teen Court
Longview Teen Court, Inc
Lubbock Teen Court
McAllen Teen Court
Midland Teen Court
North Richland Hills Teen Court
Odessa Teen Court
Palmview Teen Court
Perryton Teen Court
Plainview Teen Court
Plano Teen Court
Richland Hills Teen Court
Texarkana Teen Court
Tyler Teen Court

JUVENILE AGE

by W. Clay Abbott, General Counsel
and Margaret Robbins, Program
Director, TMCEC

Anyone who has spent much time studying the law related to juveniles has noticed the complications associated with multiple codes having contradictory age specifications. Another complication is that the term "juvenile" does not appear in the law, but the terms "child" and "minor" do.

The accompanying chart identifies the sections of the law dealing with age specifications. One must determine what offense or procedural

mandate is being considered to then determine the appropriate age specification.

The Penal Code establishes the age of criminal responsibility at age 17; the Transportation Code follows by defining a minor as any person under the age of 17. The Alcoholic Beverage Code defines a minor as under age 21. It does have special provisions in Sections 106.11 and 106.115 concerning the parents of defendants under the age of 18. Jurisdiction of the Education Code has a separate minimum and maximum that are modified by the age of enrollment in and graduation from school. The tobacco provisions of the Health and Safety Code applies to persons under age 18. Truancy under the Family Code applies only to persons ages 10-16.

Persons 10 to 16 and persons under 18 who committed the offense before turning 17 are covered by the procedural safeguards of the Family Code and Article 45.050 of the Code of Criminal Procedure, which refers to the Family Code. Article 45.0215, Code of Criminal Procedure requires both the child and parent's appearance in court proceedings of persons younger than age 17 and not removed from the disabilities of minority.

CASE LAW UPDATE

Compiled by Ryan Kellus Turner
Program Attorney & Deputy
Counsel, TMCEC

The following summaries of federal and state case law address issues pertinent to municipal courts and magistrates. Preceding many of the summaries is a cursory phrase in quotes that highlights the impact and importance of a case.

JUVENILE AGE DESCRIPTIONS

CODE	DEFINED AGE
ALCOHOLIC BEVERAGE CODE/DUI Sec. 106.01 Definition	<i>Under age 21</i>
CODE OF CRIMINAL PROCEDURE Art. 45.0215 Plea by a Minor	<i>Younger than age 17, and has not had the disabilities of minority removed</i>
EDUCATION CODE Sec. 25.085 Compulsory School Attendance	<i>Under age 6, if previously enrolled in 1st grade. At least age 6 and has previously enrolled in 1st grade, and who has not yet reached his or her 18th birthday (See Sec. 25.086 for exemptions)</i>
FAMILY CODE (Truancy and General Juvenile Provisions) Sec. 51.02(2) Definitions	<i>Age 10 or older, but under age 17, or 17 and under 18 if found to have engaged in delinquent conduct in need of supervision as a result of acts committed before becoming 17.</i>
HEALTH AND SAFETY CODE (Tobacco) Sec. 161.252 Possession, Purchase, Consumption, or Receipt of Cigarettes or Tobacco Products by Minors Prohibited	<i>Under age 18</i>
PENAL CODE Sec. 8.07 Age Affecting Criminal Responsibility	<i>Under age 17</i>
TRANSPORTATION CODE Sec. 729.001 Operation of Motor Vehicle by Minor	<i>Under age 17</i>

FEDERAL CASE LAW

A. United States Supreme Court

“Miranda Lives”

Dickerson v. U.S., 120 S.Ct. 2326 (6/26/00) Reaffirming the holding of *Miranda v. Arizona* and its applicability to both the federal and state courts, the Court explained that the holding in *Miranda* stems from the U.S. Constitution and thus cannot be overruled by an Act of Congress.

“Unprovoked Flight/Stop and Frisk”

Illinois v. Wardlow, 120 S.Ct. 673 (1/12/00) Holding that unprovoked flight from the police, when considered in conjunction with other factors,

can be an element of the “reasonable suspicion” required to conduct a brief investigatory stop.

B. Federal District Court

“Validity of Firework/Nuisance Regulation Ordinance by a Home-Rule Municipality in its Extraterritorial Jurisdiction”

PPC Enterprises, Inc. v. Texas City, Texas, 76 F.Supp.2d (S.D. Tex. 1999) Texas law characterizes fireworks as a public nuisance, and the law vests home-rule cities with the power to regulate nuisances up to a distance of 5,000 feet from city limits. Texas City was justified in the enforcement of its ordinance banning

fireworks within 5,000 feet of city limits in areas that overlapped extra-territorial jurisdiction of a neighboring municipality pursuant to a valid interlocal agreement with the neighboring municipality. The Court held that the plaintiff’s due process rights were not violated by the ordinance and that the ordinance was not unconstitutionally vague.

TEXAS CASE LAW

A. Texas Court of Criminal Appeals

(1) Arrest, Search, and Seizure

“The Community Caretaking Function”

Wright v. State, 7 S.W.3d 148 (Tex. Crim. App. 1999) A peace officer may stop an individual whom a reasonable person, given the totality of the circumstances, would believe is in need of help. Only in the most unusual of circumstances, however, will warrantless searches of private, fixed property or stops of persons located upon such property be justified under the community caretaking function. In determining whether a police officer acted reasonably in stopping an individual to determine if he needed assistance, as required under the community caretaking exception to the warrant requirement, the following factors, among others, are relevant: (1) nature and level of distress exhibited by the individual, (2) location of the individual, (3) whether or not the individual was alone or had access to assistance independent of that offered by the officer, and (4) to what extent the individual, if not assisted, presented a danger to himself or others.

“Objective Justification for Terry Search”

O’Hara v. State, 27 S.W.3d 548 (Tex. Crim. App. 2000) While conducting a pat-down as a matter of routine is an unjustified search under the Fourth Amendment, the validity of a *Terry*

search must be analyzed by determining whether the facts available at the time of the search would warrant a reasonable, cautious person to believe that the search was appropriate, regardless of whether the police officer conducting the stop was afraid for his own personal safety.

“The ‘Plain Feel’ Doctrine”

Carmouche v. State, 10 S.W.3d 323 (Tex. Crim. App. 2000) Officer’s seizure of money from the defendant’s pocket during a pat-down search for weapons fell within the “plain feel” exception to the Fourth Amendment’s warrant requirement, and no privacy interest in addition to that already implicated by the pat-down frisk was infringed upon, where the officer testified that he immediately recognized a bulge in the defendant’s pocket as money. However, subsequent consent to search was, if given at all, not free and voluntary, where on the side of a darkened highway, the defendant was closely surrounded by four police, backed up against the hood of the car, and told to turn around and put his hands on the car. Only after the defendant had assumed such position, and as the officer was reaching for the defendant’s pants, did the officer say, “mind if I pat you down again.” Judgment of the Court of Appeals was vacated and remanded.

(2) Jury Service

Mayo v. State, 4 S.W.3d 9 (Tex. Crim. App. 2000) Statutory requirement that a juror be a county citizen (Government Code, Section 62.102(1)) is not an absolute requirement that cannot be waived by failing to assert a challenge for cause under Article 35.16(a)(1) of the Code of Criminal Procedure.

(3) Jury Charge

Paulson v. State, 28 S.W.3d 570 (Tex. Crim. App. 2000) (J. Keasler) Criminal respondent was tried for misdemeanor theft. The trial court did not

give the jury the reasonable doubt definition required by appellate precedent. Respondent neither requested the jury instruction defining reasonable doubt, nor objected to its omission at trial. Respondent was convicted and appealed. On appeal, he argued appellate precedent required reversal. The appellate court agreed. It remanded his case for a new trial. The State petitioned for discretionary review. The Court reversed the appellate court’s decision and affirmed the trial court’s judgment. The Court held that the part of *Geesa v. State*, 820 S.W.2d 154 (Tex. Crim. App. 1991) that made giving a reasonable doubt definition mandatory was overruled because it was poorly reasoned, as the U.S. Constitution did not require such an instruction so long as the jury was informed that a defendant’s guilt had to be proven by a reasonable doubt. In so holding, the Court also announced it was overruling, in its entirety, *Reyes v. State*, 938 S.W.2d 718 (Tex. Crim. App. 1996), the case that held that failure to give the *Geesa* instruction was automatic reversible error.

B. Court of Appeals

In utilizing case law from the intermediate appellate courts, remember that the issued opinions are only binding on the counties and municipalities within each court’s designated district. Opinions from different intermediate appellate courts may vary. Additionally, note that opinions from the Court of Appeals can be appealed, then reversed or affirmed by the Court of Criminal Appeals.

(1) Arrest, Search, & Seizure

“Shortcut Affidavit Preparation”

Boley v. State, 16 S.W.3d 95 (Tex. App. Houston (1st Dist) 2000) Defendant was convicted of possession of less than a gram of cocaine. On appeal, the defendant argued that the trial court erred in denying his motion

to suppress the evidence of cocaine because the magistrate was limited only to the facts contained within the complaint to determine probable cause. The State argued the complaint, together with the other attachments, was sufficient information upon which the magistrate could have relied to form the basis of probable cause. The court found that the only reference to any attachment was in the witness name slot on the complaint form. Thus, it was unclear what was attached. Thus, the affidavit was insufficient to support the arrest warrant. The Court of Appeals held that the trial court erred in denying the defendant’s motion to suppress the cocaine because the affidavit was insufficient to support the arrest warrant. The judgment of the trial court was reversed.

“Jurisdictional Limitations on Investigatory Stop”

Yeager v. State, 23 S.W.3d 566 (Tex. App. Waco 2000) Absent probable cause to arrest, a city police officer may conduct an investigatory stop only within his or her jurisdiction. The scope of an officer’s jurisdiction must be found in a statute or be controlled by common law. There are no Texas statutes specifically controlling the jurisdiction of a police officer of a Type “B” municipality. Therefore, the jurisdiction of a Type “B” municipality police officer is controlled by common law. Under common law, a city police officer’s authority to conduct an investigatory stop ends at the city limits.

(2) Trial Issues

“The Right to Pro Se Representation”

Birdwell v. State, 10 S.W.3d 74 (Tex. App. Houston (14th Dist) 1999) Once the right to self-representation has been asserted in a timely manner, namely, before the jury is impaneled, the trial judge is obliged to make the accused aware of the consequences of

self-representation; thereafter, if the accused maintains his desire to proceed *pro se*, he should be allowed to do so as long as the assertion of his right to self-representation is unconditional and not asserted to disrupt or delay trial proceedings. Although an exercise of the right of self-representation may cause some inconvenience or even disruption in proceedings, so long as it is not a calculated obstruction, this delay cannot be used to deny the accused of the right to self-representation. A defendant's clear and unequivocal request for self-representation, followed by an unmistakable denial of that right, is sufficient to preserve the alleged error.

"Jury Service"

Cagle v. State, 23 S.W.3d 566 (Tex. App. Ft. Worth 2000) Juror convicted of issuance of a bad check was not convicted of theft and thus not disqualified from jury service.

"Limiting Voir Dire"

Tamez v. State, 27 S.W.3d 668 (Tex. App. Waco 2000) The trial court did not abuse its discretion by denying counsel additional time after 90 minutes of voir dire.

"Improper Argument"

Gilcrease v. State, 32 S.W. 3d 277 (Tex. App. San Antonio 2000) In light of the weight of the evidence, the trial court's judgment was affirmed because the State's use of the word "bastard" to describe the defendant during closing arguments had not caused a wrongful verdict to be rendered.

Bryant v. State, 25 S.W.3d 924 (Tex. App. Austin 2000) Court of Appeals ruled that the prosecutor's comment about a black male impregnating a second "white girl" served to aggravate any lingering prejudices against interracial couples among the jury. Despite an admonishment from the trial judge, the Court of Appeals held

that the trial court abused its discretion by overruling a motion for a mistrial.

(3) Municipal Court-Related Appellate Issues

"Limitations on Appellate Jurisdiction"

Boyd v. State, 11 S.W.3d 324 (Tex. App. Houston (14th Dist) 1999) The Court of Appeals lacked jurisdiction over an appeal from the county court at law affirming the conviction and \$100 fine in a municipal court for the offense of offering to sell a ticket to a professional basketball game without a valid itinerant vendor's license, where issues presented involved the legal and factual sufficiency of the evidence, not the constitutionality of the ordinance, and the fine imposed did not exceed \$100 exclusive of costs.

Montpass v. State, 997 S.W.2d 650 (Tex. App. Dallas 1999) Court of Appeals lacked jurisdiction to hear appeal of conviction for driving a vehicle with expired registration, absent any claim that statute on which conviction was based was unconstitutional, where case was first appealed from a municipal court to a county criminal court, and the county criminal court imposed a fine of \$1.

"Constitutionality of City Ordinance Regulating Sexually Oriented Business"

Haddad v. State, 9 S.W.3d 454 (Tex. App. Houston (14th Dist) 1999) Appellant contended that the city's ordinance regulated expression beyond the scope permitted by Chapter 243 of the Texas Local Government Code. Specifically, she argued that Chapter 243 permits the regulation of sexually oriented businesses, not the conduct of their employees. The Court noted, however, that Chapter 243 states that "this chapter does not diminish the authority of a local government to regulate sexually oriented businesses with regard to *any matters*" (emphasis added). Accordingly, the conduct of

individual employees, as it relates to activities of the sexually oriented business, falls within the ambit of "any matters" and that the city's ordinance was not unconstitutional.

(4) Procedural Issues

"Requisite Prosecutor's Motion to Dismiss"

State v. Gonzales, 26 S.W.3d 919 (Tex. App. Austin 2000) In absence of a specific statutory authority, a trial court cannot dismiss a prosecution except on the motion of a prosecuting attorney.

"DL Suspension for Failure to Maintain Financial Responsibility"

Sparkman v. State, 997 S.W.2d 660 (Tex. App. Texarkana 1999) Section 601.233 of the Transportation Code provides that when a police officer writes a citation for driving without proof of financial responsibility, the citation must warn that a second conviction for driving without proof of financial responsibility will result in the suspension of the driver's license. Section 601.233 also requires the judge presiding at the trial at which a person is convicted of driving without proof of financial responsibility to warn the person that a subsequent conviction for the same offense will result in the suspension of his driver's license. Appellant asserted that his driver's license had been illegally revoked because his first citation for driving without proof of financial responsibility (received in 1982, prior to the enactment of Chapter 601) did not contain the warning, and that the judge presiding at his trial did not notify him of the consequences of a second conviction. The Court of Appeals held that as a matter of law, the appellant was not entitled to a warning in 1982 that a subsequent conviction of driving without proof of financial responsibility would result in the suspension of his driver's license.

that file school attendance cases. In Denton, Judge Robin Ramsay and other court personnel meet with school officials at the beginning of the year to stress the need for the school to update and maintain current addresses and telephone numbers for students and their parents. This becomes crucial in locating these students if they fail to appear when called to court. Judge Ramsay makes sure school officials understand the forms and procedures to file truancy petitions or failure to attend complaints. Judge Anne Puidk Horan of Quinlan and Caddo Mills makes clear to schools the advantages and disadvantages of filing under the Family Code or the Education Code, strongly encouraging them to file under the Education Code because of its greater efficacy.

Greater Convenience

Many courts see their juvenile cases after school hours, making it easier for both students and their parents to appear. Judge Rosaura Tijerina of Laredo ensures that all hearings and trials for failure to attend cases are scheduled for evening hours. Corpus Christi Municipal Court holds court at several area high schools to improve court attendance. In Fort Worth, finding greater access for and to juveniles has been taken to a new level with the creation of a School Attendance Court at the municipal level, located in an adjacent building on the school grounds of a local high school. The idea for the court was prompted by the Fort Worth School District, out of frustration with the length of time it took some local courts to hear the cases (typically two months or more), and the inconsistent punishment handed down by those courts. So the City of Fort Worth and the Fort Worth I.S.D. cooperated to form this court, funded entirely by the School District. Judge Jennifer Rymell

hears cases ten days to two weeks after the cases are filed. There is a relief judge, a clerk, and a caseworker to assist in hearing four dockets a day, an average of 50 students and parents, from 8-5 every weekday. The caseworker functions almost like a probation officer as she explains the judgment handed down and monitors the completion of any of the judge's orders, such as tutoring, counseling, and community service.

Greater Information Sharing

In Dallas County, an Internet-based information-sharing system called the Juvenile Information System (JIS) has recently been implemented. The primary purpose of the system is to create a centralized repository of informational juvenile records that can be used by all juvenile justice entities. Within each municipality, JIS has been designed to include law enforcement, municipal courts, justice of the peace courts, juvenile district court, county juvenile district attorney, county juvenile department, and school attendance officers. Because of this consolidation of information, users of JIS will be able to see a complete history of the juvenile, and add any details that are missing. For the municipal court, seeing this history is invaluable in determining jurisdiction. Judge Deanna Burnett and Court Administrator Vicki Madaras of the Carrollton Municipal Court were instrumental in determining the municipal court data elements and their use within JIS. The JIS website is at www.jisinformation.dallascounty.org

Corpus Christi has established the ongoing sharing of juvenile information between the municipal court and the county's juvenile court. This paper record exchange allows both entities to take more appropriate action. Soon, the city plans to put these records online, allowing access by other entities, such as school attendance officers. Within the municipal court, all juvenile case

information is available in Court Specialist, Incorporated (CSI) software. Judges, prosecutors, and clerks can simultaneously review and create court documents online using another software called Visiflow. This networked environment allows judges and court personnel to work cases through with greater competence and efficiency.

This discussion is obviously limited in its references. Please let TMCEC know what your court has implemented to better deal with juveniles and their cases. Other courts could greatly benefit from the knowledge.

**JUVENILE
CASES IN
YOUR COURT**

TMCEC would like to know about juvenile programs and procedures in your court.

Have you separated out your juvenile cases into any sort of specially created court, such as a municipal level juvenile court, a family court, or a truancy court?

Do you do anything different or innovative in your handling of juveniles and their cases?

Please respond to Elizabeth Price at the Center:

512/320-8274
price@tmcec.com

FOR YOUR COURT

NATIONAL CRIMINAL JUSTICE REFERENCE SERVICE

National Criminal Justice Reference Service (NCJRS) is one of the most extensive sources of information on criminal justice in the world. It is the definitive source for publications and services offered by the various Office of Justice Programs, and the Office of National Drug Control Policy. NCJRS provides publications and a wealth of other information online at www.ncjrs.org. Major headings include juvenile justice, courts, corrections, crime prevention, criminal justice research, drugs and crime, law enforcement, reference and statistics, victims, and violence. The *NCJRS Catalog* is sent free to all registered users. To become a registered user, contact NCJRS at P.O. Box 6000, Rockville, MD, 20849-6000, or 800/851-3420.

In the January/February 2001 *NCJRS Catalog*, a variety of publications listed under Juvenile Justice could be of interest to municipal court judges:

Co-Occurrence of Delinquency and Other Problem Behaviors

Employment and Training for Court-Involved Youth

Increasing School Safety Through Juvenile Accountability Programs

The Nurturing Parenting Programs

These publications are distributed by the Office of Juvenile Justice and Delinquency Prevention, which provides national leadership, coordination, and resources to prevent and treat juvenile delinquency; improve effectiveness and fairness of the juvenile justice system; and address the problem of exploited and missing children. To ask questions and receive mailings from this office, call 800/638-8736.

FOLLOW JUVENILE LEGISLATION

The Texas Juvenile Probation Commission has a legislative home page on its website, www.tjpc.state.tx.us. This site provides a topical list of bills currently being debated in the Legislature that may be of interest to juvenile justice practitioners. The list of bills is inconclusive, and the bills are merely reported, not interpreted or explained. However, keep an eye out for TMCEC's legislative update edition of the *Municipal Court Recorder* in which TMCEC will summarize all relevant legislation that passes — juvenile and non-juvenile related. Expect that newsletter late this summer.

NATIONAL YOUTH COURT CENTER & NEWSLETTER

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) established the National Youth Court Center (NYCC) in 1999 at the American Probation and Parole Association in Lexington, Kentucky. The NYCC serves as an information clearinghouse and provides training, technical assistance, and resource

materials to assist jurisdictions in developing and operating effective youth court programs. In addition, the NYCC produces a free quarterly newsletter, *In Session*, with relevant articles, write-ups, resources, and upcoming events. The newsletter is available online or by request. Contact the NYCC with any of your questions or to be added to the mailing list: 859/244-8001, www.youthcourt.net, National Youth Court Center, c/o American Probation and Parole Association, P.O. Box 11910, Lexington, KY 40578-1910.

JUVENILE LAW SECTION AND MUNICIPAL JUDGES SECTION - STATE BAR OF TEXAS

Both attorneys and non-attorneys may join the Juvenile Law Section of the State Bar of Texas by paying the annual \$20 fee and registering online at www.texasbar.com/attnyinfo, under the "Sections" heading or calling the State Bar at 800/204-2222. If you haven't already, you can also join the Municipal Judges Section of the State Bar of Texas for an annual fee of \$15, using the same methods. These and various other sections publish and circulate newsletters and reports covering current topics, pending and adopted legislation, and recent updates on cases.

FINES COLLECTION

The Governmental Collectors Association of Texas was formed by professionals from across Texas responsible for

the collection of funds for the governmental entities at which they are employed. It is a non-profit association that recognizes, supports, and serves governmental collection programs in Texas, seeking to enhance the collection of revenue for governmental entities by promoting innovation, information, and education within its membership. The 2001 Governmental Collectors Association Conference will be held in Corpus Christi on May 30 and 31. For more information, contact Jim Lehman at 512/936-0991 or jim.lehman@courts.state.tx.us. For access to the association, go to www.govcat.net or call Russ Duncan, president, at 800/792-2205.

TYLA JUVENILE VIDEO

The Texas Young Lawyers Association (TYLA), in association with Municipal Court Judge Jennifer Rymell of Fort Worth, has produced a video for adolescents on various offenses relevant to juveniles. *Crossing the Line* covers truancy, criminal mischief, alcohol, curfew, tobacco, drugs, arson, theft, weapons, assault and disorderly conduct, discrimination and sexual harassment, and graffiti. Chapters on gangs, failure to report, and evading arrest will be added soon. In the video, brief scenarios set the stage for discussion, then Judge Rymell discusses the legal consequences of certain actions. By the end of the fiscal year, a companion video called *Borders and Boundaries* that covers parental liability on juvenile offenses will also be available. Some courts have used the viewing of *Crossing the Line* in alternative sentencing. The full program of *Crossing the Line* includes a video, a curriculum guide, and a student book, and can be ordered for \$25 (extra student books are \$.70). Call TYLA at 800/204-2222, extension 6429, for

more information and to order. Check TYLA's website at www.tyla.org for other useful resources on law-related education.

www.ShopliftersAlternative.org

This site bills itself as "The World's Leader in Shoplifter Rehabilitation." Providing information on the problem itself and ways to handle it, both for sufferers and those who suffer as a result of it (*i.e.*, retailers and the public at large), it seeks to use education to combat the problem. It is a non-profit agency associated with Shoplifters Anonymous, Inc. The "Information for Courts" area of the site is especially useful. Call 888/466-2299 with questions.

www.2young2drink.com

The Alliance Against Underage Drinking, which includes the Texas Youth Commission, designed this site to serve as a resource for anyone hoping to access the most recent statistics on underage drinking or solutions for treating or preventing it. The site was launched in September 2000, the same time as the release of new statistics from the 2000 Texas School Survey which showed student alcohol use was not declining as fast as the use of illicit drugs and tobacco. Call 800/832-9623, extension 6610, with questions.

FROM THE CENTER

REMAINING TMCEC PROGRAMS FOR FY2001

12-HOUR JUDGE AND CLERK PROGRAM

June 7-8, 2001
Hilton Midland Towers
117 West Wall Avenue
Midland, TX 79701
915/683-6131
Registration Deadline: 5/23/01

32/24-HOUR PROGRAM FOR NEW NON-ATTORNEY JUDGES AND CLERKS

July 9-13, 2001 Judges
July 10-13, 2001 Clerks
Holiday Inn Austin South
3401 South IH-35
Austin, TX 78741
512/448-2444
800/465-4329
Registration Deadline: 6/14/01

WE'RE MOVING!

As of June 1, TMCEC will have a new home:

1609 Shoal Creek Boulevard, Suite 302

Austin, Texas 78701



We believe our telephone number will stay the same.

16-HOUR BAILIFFS/WARRANT OFFICERS PROGRAM

June 18-19, 2001
Crowne Plaza North Dallas/Addison
14315 Midway Road
Addison, TX 75001
972/980-8877
Registration Deadline: 5/23/01

12-HOUR SPECIAL PROGRAM FOR JUDGES

June 18-19, 2001 *Judges Scenario School*
Crowne Plaza North Dallas/Addison
14315 Midway Road
Addison, TX 75001
972/980-8877
Registration Deadline: 5/23/01

12-HOUR PROSECUTORS/COURT ADMINISTRATORS PROGRAM

June 28-29, 2001
Harvey Hotel Plano
1600 N. Central Expressway
Plano, TX 75074
972/578-8555
Registration Deadline: 6/1/01
Registration Fee for Prosecutors:
\$250 with housing/\$100 without housing
\$300/\$150 for non-municipal prosecutors

LEGISLATIVE UPDATE PROGRAM

July 27, 2001
Doubletree Hotel Austin
6505 IH-35 North
Austin TX 78752
512/454-3737
Registration Deadline: 7/1/01
\$50 Registration Fee

August 6, 2001
Omni Dallas Hotel Park West
1590 LBJ Freeway
Dallas, TX 75234
972/869-4300
Registration Deadline: 7/6/01
\$50 Registration Fee

LEVEL III ASSESSMENT CLINIC FOR CLERK CERTIFICATION

May 18-20, 2001
Nassau Bay Hilton
3000 NASA Road One
Houston, Texas 77058
281/333-9300
Registration Deadline: 5/2/01
\$100 Program Fee

TMCEC PROGRAM AUDIOTAPES



The following are audiotape recordings from TMCEC's 12-hour Judges Program held in Austin in October of 2000. Duplicates are available through the Center for \$6 each. Postage is \$4, regardless of the number of tapes ordered. Orders must be prepaid. Checks made payable to TMCEC must accompany your order form.

- ___ *Outside Chapter 45: Municipal Court Dilemmas in the Code of Criminal Procedure* - W. Clay Abbott, General Counsel, TMCEC
- ___ *Silent Justice: Communication Barriers in the Court* - Elaine Roberts, Attorney at Law, Bruckner Burch PLLC, Houston
- ___ *Attorney General Opinion Update* - Jeff Moore, Assistant Attorney General
- ___ *Case Law Update* - Ryan K. Turner, Program Attorney & Deputy Counsel, TMCEC
- ___ *Civil Collection of Fines after Judgment* - Robert C. Richter, Presiding Municipal Court Judge, Missouri City
- ___ *Complaints* - Joseph Varela, Municipal Court Judge, Houston
- ___ *Animal Control Issues* - Brian S. Holman, Presiding Municipal Court Judge, Lewisville
- ___ *Ethics* - L. Scott Mann, Commission Member, State Commission on Judicial Conduct, Lubbock
- ___ *Magistrate Duties and the Mentally III* - Stanley M. Kerr, Mental Health Attorney, Travis County Probate Court, Municipal Court Judge, Austin
- ___ *Court Costs & Financial Management* - Rene Henry, Collections Project Manager, Research & Court Services Section, Office of Court Administration
- ___ *Court Technology* - Robert Barfield, Municipal Court Judge, Pasadena
- ___ *Metropolitan Issue: Tow Hearings* - W. Clay Abbott, General Counsel, TMCEC
- ___ *Contempt* - Robert Anchondo, Municipal Court Judge, El Paso
- ___ *Court Security* - Richard Carter, Attorney at Law, Arlington
- ___ *School Search and Seizure* - Ryan Turner, Program Attorney & Deputy Counsel, TMCEC
- ___ *Dealing with Pro Se Defendants* - C. Victor Lander, Municipal Court Judge, Dallas

___ Total number of tapes requested X \$6.00 per tape = \$_____00

Add shipping charges + 4.00

TOTAL AMOUNT DUE: \$_____00

Make check payable to TMCEC and mail with order to 1609 Shoal Creek Blvd. #302, Austin, TX 78701.

Name: _____

Title: _____

Court: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____

TMCEC LEGISLATIVE UPDATE SEMINARS

What: A six-hour seminar on recent legislative changes of importance to the municipal courts. (Does not qualify for mandatory judicial credit for judges, but does qualify for credit in the clerk certification program.). Six hours MCLE credit for attorneys is anticipated.

Hotel rooms are available for \$70 (single) a night. Please make overnight reservations directly with hotel; TMCEC will NOT pay for hotel accommodations. The number of rooms at the special state rate are limited, so please book your room early.

Who: Municipal Court Judges, Clerks, Court Administrators, Prosecutors, Bailiffs, and Warrant Officers

Cost: \$50 (includes course materials and lunch). Checks only - no cash. Make checks payable to TMCEC.

Program: New laws from the 77th Legislative Session affecting municipal court practice and procedural and court costs will be discussed. Emphasis will be on changes made to the Code of Criminal Procedure, the Penal Code, and the Transportation Code. Magistrate issues and the processing and handling of juvenile offenders in municipal court will also be covered.

Questions: Call the Texas Municipal Courts Education Center (1-800-252-3718).

TMCEC LEGISLATIVE UPDATE REGISTRATION FORM

July 27, 2001
Doubletree Hotel Austin
6505 IH-35
Austin, TX 78741
Telephone Number: 512/448-3737
Register By: July 1, 2001

August 6, 2001
Omni Dallas Hotel Park West
1590 LBJ Freeway
Dallas, TX 75234
Telephone Number: 972/869-4300
Register By: July 6, 2001



Name (please print legibly): _____

Street: _____ City: _____ Zip: _____

Office Telephone #: _____ Court #: _____ FAX: _____

Primary City Served: _____ Other Cities Served: _____

E-mail address: _____

- Check all that apply:** Attorney Non-Attorney Full Time Part Time
- Presiding Judge Associate/Alternate Judge Mayor Justice of the Peace
- Court Clerk Deputy Clerk Court Administrator Bailiff/Warrant Officer
- Prosecutor Other: _____

I certify that I am currently serving as a municipal court judge, city prosecutor, or court support personnel in the State of Texas. I understand that I will be responsible for making my own hotel reservations. Payment is required for this program; payment of \$50 is due with registration form. The \$50 is refundable if the Center is notified of cancellation in writing two weeks prior to the seminar.

Participant Signature Date

TMCEC • 1609 Shoal Creek Boulevard, Suite 302 • Austin, TX 78701 • FAX 512/435-6118

**TEXAS MUNICIPAL COURTS EDUCATION CENTER
2000-2001 REGISTRATION FORM**

Program Attending: _____ Program Dates: _____

Judge Clerk Court Administrator Bailiff/Warrant Officer Prosecutor

TMCEC computer data is updated from the information you provide. Please print legibly and fill out form completely.

Last Name: _____ First Name: _____ MI: _____

Social Security #: _____ Male/Female: _____

Date Appointed/Elected/Hired: _____ Years Experience: _____

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 all seminars: four nights at the 32-hour seminars, three nights at the 24-hour seminars/assessment clinics and two nights at the 12-hour and 16-hour seminars. 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 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.

Arrival date: _____ Smoker Non-Smoker

COURT MAILING ADDRESS

It is TMCEC policy to mail all correspondence directly to the court address.

Street: _____ City: _____ Zip: _____

Office Telephone #: _____ Court #: _____ FAX: _____

Primary City Served: _____ Other Cities Served: _____

Attorney Non-Attorney Full Time Part Time

Status: Presiding Judge Associate/Alternate Judge Justice of the Peace Mayor Bailiff
 Court Clerk Deputy Clerk Court Administrator Warrant Officer
 Prosecutor (A registration fee of \$250/\$100 must accompany registration form.)
 Other: _____

I certify that I am currently serving as a municipal court judge, city 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 ten (10) working days prior to the seminar. If I have requested a room, I certify that I live at least 30 miles from or must travel at least 30 minutes to the seminar site. Payment is required ONLY for the Prosecutors Program, Joint Juvenile Conference, Assessment Clinics, and Legislative Updates; payment is due with registration form.

Participant Signature _____

Date _____

TMCEC • 1609 Shoal Creek Boulevard, Suite 302 • Austin, TX 78701 • FAX 512/435-6118

USEFUL WEB SITES

Texas Judiciary Online
(Office of Court Administration)
www.courts.state.tx.us

American Bar Association
www.abanet.org

National Criminal Justice Reference
Service
www.ncjrs.org

Texas Juvenile Probation Commission
www.tjpc.state.tx.us

National Youth Court Center
www.youthcourt.net

State Bar of Texas
www.texasbar.com

Governmental Collectors Association
www.govcat.net

Texas Young Lawyers Association
www.tyla.org

Alliance Against Underage Drinking
www.2young2drink.com

Shoplifter Rehabilitation
www.shopliftersalternative.org

Submissions?

Comments?

Questions?

Suggestions?

**TMCEC takes these
year-round for the
Municipal Court Recorder.
Submissions are highly en-
couraged and appreciated.
Please direct responses to
Elizabeth Price at TMCEC:**

512/320-8274

price@tmcec.com

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

**Bulk Rate
U.S. Postage
Paid
Taylor, TX
Permit No. 8**

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