

Municipal Court Recorder

Volume 14

MARCH 2005

No. 3

©2005 Texas Municipal Courts Education Center, Austin. Funded by a grant from the Court of Criminal Appeals.

Military Service and Municipal Courts

By Antonio L. Kosta, Jr., Municipal Judge, Harker Heights

As Operation Iraqi Freedom continues, an increasing number of reserve and National Guard units are being activated for duty in Iraq. As a result, municipal courts must deal with issues relating to active duty military personnel. While those municipal courts located near or adjacent to military bases are familiar with issues pertaining to active duty military personnel, municipal courts not located near military bases are now having to address issues relating to military personnel with which they may not be familiar.

Service Members Civil Relief Act

Since the Civil War, the federal government has provided legislative relief from civil actions for active duty military personnel. On December 19, 2003, President Bush signed into law

HR 100, the Servicemembers Civil Relief Act (SCRA).¹ This completely rewrote the Soldiers' And Sailors' Civil Relief Act of 1940 and provides civil relief for active military personnel relating to rental agreements, security deposits, prepaid rent, eviction, installment contracts, credit card interest rates, mortgage interest rates, mortgage foreclosures, civil judicial proceedings, and income tax payments. By definition, the SCRA does not apply to criminal proceedings.²

Arguably, those civil proceedings conducted by municipal courts would fall under the provisions of the SCRA and in those cases the SCRA should be reviewed as to its applicability. Essentially, the SCRA requires that such proceedings be delayed until the

servicemember's military service will allow attendance at the proceedings.

In at least one case, the SCRA provides protection for certain non-military personnel. Under the SCRA, bail bonds may not be enforced when military service by the principal would prevent the surety from obtaining the attendance of the principal.³ The Act provides the court with the option of discharging the surety and exonerating the bail before or after the period of the military service of the principal.

10 U.S.C. 982

Title 10, United States Code, Section 982, exempts certain active duty military personnel from performing jury duty, if serving on a state or local

Military continued on page 4

But I Already Paid My Fine! An Introduction to DPS Points and Surcharges

By Tiffany Dowling, TMCEC Program Attorney

In 2003, the Texas Legislature enacted the Driver Responsibility Program, now codified in Chapter 708 of the Texas Transportation Code. The Driver Responsibility Program creates a system of both points and surcharges for conviction of certain offenses. In general, a person accumulates points when he or she is convicted of a moving violation. Once a person accumulates six points, a surcharge is

assessed. Some offenses result in automatic surcharges without regard to the number of points a person has accumulated.

POINTS

When are points assessed?

Points are added to a driver's license when a person is convicted of a moving

Points continued on page 5

INSIDE THIS ISSUE

Military Service and Municipal Courts
by Antonio L. Kosta, Jr. 1

But I Already Paid My Fine!
by Tiffany Dowling 1

Features

Around the State 2
Clerk's Corner 14
Collections Corner 15
Court Technology 7
From the Center 17
From the General Counsel 3
Legislative Update 24
Resources for Your Court 12

**Texas Municipal Courts
Education Center**

1609 Shoal Creek Boulevard, Suite 302
Austin, Texas 78701
512/320-8274 or 800/252-3718
Fax: 512/435-6118
Website: www.tmcec.com

Fair and Impartial Justice for All

**FY05
TMCA/TMCEC Officers**

President: Dan Francis, Robinson
President-Elect: Steve Williamson, Fort Worth
1st V.P.: Robert Doty, Lubbock
2nd V.P.: Daniel J. Simms, Houston
Secretary: Luane Petrash, Webster
Treasurer: Robert C. Richter, Missouri City
Past-President: Sharon Hatten, Midland

Directors

Jan Matthews, Lubbock • Ninfa Mares, Fort Worth • Vicki Gerhardt, New London • Robin Smith, Midland • George Bill Robinson, Yorktown • Robin A. Ramsay, Denton • Robert Barfield, Pasadena • Walter Dick Kettler, Beverly Hills • Donna Starkey, Alvin

Staff

- Hope Lochridge, Executive Director
- Ryan Kellus Turner, General Counsel
- Margaret Robbins, Program Director
- Tiffany Dowling, Program Attorney/Deputy Counsel
- Jo Dale Bearden, Program Coordinator
- Margaret Danforth, Admin. Director
- Patricia Russo, Program Assistant II
- Rey Guzman, Multimedia Specialist
- Beatrice Flores, Registration Coordinator
- Lidia Ball, Research Assistant
- Carrie Harper, Communications Assistant

Published by the Texas Municipal Courts Education Center through a grant from the Texas Court of Criminal Appeals. Subscriptions are free to all municipal judges, clerks, prosecutors, and support personnel employed by the municipal court. Others may purchase an annual subscription for \$50.

Articles and items of interest not otherwise copyrighted may be reprinted with attribution as follows: "Reprinted from the *Municipal Court Recorder* with permission of the Texas Municipal Courts Education Center."

The views expressed are solely those of the authors and are not those of the TMCA Board of Directors or the staff of TMCEC.

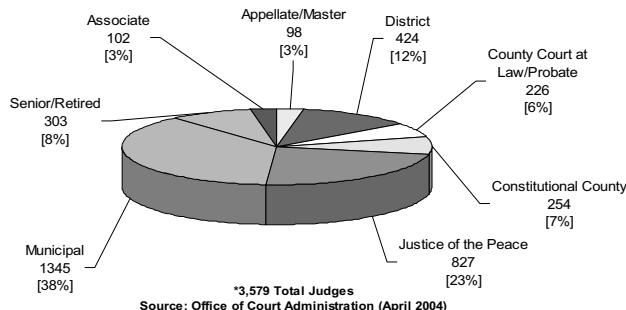


AROUND THE STATE

**Annual Report from the State
Commission on Judicial Conduct**

Overall, Texas municipal judges have once again done well statistically in terms of ethics, as measured by the number of complaints filed with the State Commission on Judicial Conduct. According to the *2004 Annual Report of the State Commission on Judicial Conduct*, municipal judges hold 38 percent of the State's

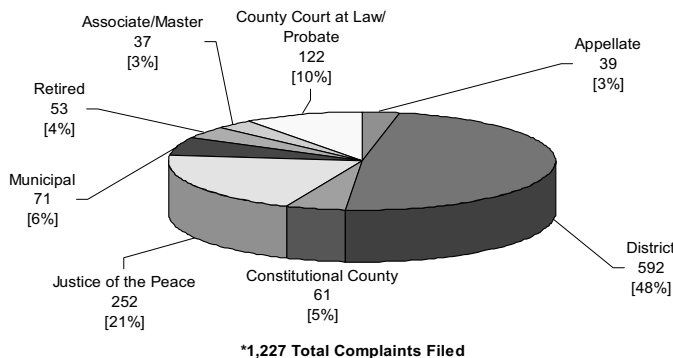
Fig. 1 Total Number of Texas Judges



judicial offices and received only six percent of the complaints. Justices of the peace make up 23 percent of the Texas judiciary and received 21 percent of the complaints. District judges received the highest number of complaints (48 percent) and only comprise 12 percent of the Texas judiciary.

If you are interested in reading the entire report, it may be viewed or downloaded from the Commission's website: www.scjc.state.tx.us/.

Fig. 2 Number and Percentage of Cases filed by Judge Type





FROM THE GENERAL COUNSEL

Ryan Kellus Turner

New Attorney, State's Attorneys and Out-of-State Attorneys

Meet and Greet

On January 3, 2005, Tiffany Dowling officially began her duties as Program Attorney and Deputy Counsel at TMCEC. Tiffany was raised in Amarillo and graduated from Tascosa High School. (Go Rebels!) She received her undergraduate degree and *juris doctor* from the University of Texas at Austin. We are very excited about having Tiffany on board. If you haven't had an opportunity to meet her, please call, introduce yourself and congratulate her. We all look forward to working with her.

Identifying Attorneys for the State

Question: When does the law require a city attorney to favor interests other than that of the city?

Answer: When a city attorney is prosecuting in a municipal court.

Just like a county or district attorney, city attorneys who prosecute represent the State of Texas. Because district and county attorneys are elected, it is relatively easy to ascertain who represents the State. Such is not always the case in municipal court. While the legal duty to prosecute in municipal court may belong to the city attorney or a deputy city attorney, the reality is that the public, especially in low volume courts and small towns, has no practical or public way to know who represents the State in criminal prosecutions. The public has a right to know and, it should go without saying, so does the State of Texas.

On January 3, 2005, the Office of Court Administration (OCA) requested that municipal court clerks assist OCA in updating the Texas

Judicial System Directory for 2005. In addition to asking for new information pertaining to judges, at the request of the Texas Judicial Council, OCA included a survey pertaining to prosecutions in municipal court. Specifically, municipal courts are asked to provide the names and contact information of the attorney(s) who represent(s) the State of Texas in prosecutions conducted in court as required by Article 45.201 of the Code of Criminal Procedure. Clerks are also asked to indicate whether the attorney is the city attorney, assistant or deputy city attorney, an attorney with a private law firm, or a solo practitioner.

Prosecutors play a critical, yet sometimes misunderstood, role in the administration of justice in municipal court. Due to a high volume of *pro se* defendants in municipal court, and in light of the court's obligation (which encompasses both the judge and clerk) to remain neutral, the perception of justice in your court greatly depends on the professionalism and practices of the attorney who prosecutes in your court. Article 45.201 expressly states, "it is the primary duty of a municipal prosecutor not to convict, but to see that justice is done."

If your city has not yet submitted the name and requested information relating to your court's "justice doer," TMCEC requests that you respond as soon as possible by either fax or mail. The questionnaire along with other information has been reproduced on page 12 in this newsletter.

Out-of-State Attorneys

While the vast majority of defendants

in municipal court appear *pro se*, there is anecdotal proof that the number of defendants invoking the assistance of counsel is on the rise. In the last month, TMCEC received a telephone call that poses a unique but important question: What if a defendant wants to be represented by an attorney who is not licensed to practice in Texas?

While the question came from a judge in central Texas, municipalities located near the border of other states are probably more likely to encounter out-of-state attorneys. After researching the issue, here is what I learned.

The Latin term "*pro hac vice*," in a legal context, means: "for this occasion." Any attorney not licensed to practice in Texas may seek to represent a defendant *pro hac vice*, but there are specific rules and procedures that must be followed.

First, as provided by Rule XIX Sections (a)(2) and (b) of the Rules Governing Admission to the Bar of Texas, a non-resident attorney is required to be associated with a Texas attorney (a sponsorship of sorts). The sponsoring attorney must have an active law license and be authorized to practice in Texas.

Second, with the exception of federal court, Rule XIX applies to all Texas courts even in instances where the attorney may not be required to make a physical appearance in court.

Third, non-resident attorneys wanting to appear *pro hac vice* should be prepared to break out their wallets. Pursuant to Section 82.0361 of the Government Code, attorneys are required to pay an application fee of

\$250 for each case in which the attorney is requesting to participate. Furthermore, if attorneys appeal and want to represent defendants on appeal, they are required to pay a separate application fee. Now for some bitter irony: The whole notion of an application fee is relatively new. It became law September 1, 2003, the same day that our courts began collecting what is now known as the State Traffic Fine (STF). Unlike the STF, however, a non-resident attorney may qualify for a fee waiver by seeking to represent an indigent person on *pro bono* basis.

Fourth, assuming that the application is not deemed defective and returned unprocessed, the attorney still has to make a sequentially proper motion to your court. The Board of Law


Examiners does not advise that a motion to a court be filed simultaneously with the application to the Board. Rather, as a “mandatory first step,” the application for *pro hac vice* admission and (surprise) the fee are to be filed in the Board’s office. (I called, and they gladly accept cash, check or money orders.) The Board will process the application and send an acknowledgment letter for the specific case described in the application. The acknowledgement letter must accompany a written motion.

Here is the kicker. After jumping through the above-described hoops, the out-of-state attorney has earned (read: “paid for”) nothing more than the opportunity to properly request to appear *pro hac vice*. The court in which

the attorney requests to appear *pro hac vice* ultimately determines whether the attorney will observe the ethical standards required of Texas attorneys and whether the attorney has been engaging or will engage in the unauthorized practice of law in Texas. For these reasons or if other good cause exists, the motion may be denied by the Texas court in which it is filed.

In the event that the court denies the motion, is the attorney entitled to apply for a refund of the application fee?

If you answered “yes,” I’ll give you one more chance to guess the correct answer.

For more information visit:
www.ble.state.tx.us/atty_us/faq_prohac.htm 

Military continued from page 1

jury would interfere with the performance of the member’s military duties or would adversely affect the readiness of the service.⁴

While the implementation of 10 U.S.C. 982 is left to each service, they are similar, if not identical. The United States Army provides a blanket exemption for general officers, commanders, trainees, and soldiers assigned overseas or to tactical operating forces. Other soldiers may be exempted from jury duty if the special court-martial convening authority (or higher-level commander who has reserved exemption authority) determines that jury service would unreasonably interfere with the performance of the soldier’s military duties or adversely affect the readiness of the soldier’s unit.⁵

The above exemptions do not apply to dependents that meet minimum jury duty requirements for the court in question. Military dependents living temporarily in Texas while their sponsor is assigned to Texas are

considered Texas citizens for the purpose of jury duty.

Texas Transportation Code

The Texas Transportation Code addresses specific issues that relate to active duty military drivers in the State of Texas as follows.

1. Driver’s Licenses: Resident Military

Texas law provides that a driver’s license held by a person who is on active duty in the Armed Forces of the United States, and who is absent from this state, is valid even if expired, provided that it has not otherwise been suspended, canceled or revoked as provided by law. When that person is discharged, the person’s license is valid until the 91st day after the date of discharge or the date on which the person returns to this state, whichever comes first.⁶

A person who is on active duty in the Armed Forces of the United States, who holds a Texas driver’s license that has expired and who has been absent from this state, has 45 days after

returning to this state to renew his or her driver’s license.⁷

2. Driver’s Licenses: Non-Resident Military

Texas law exempts non-residents on active duty with the Armed Forces of the United States⁸ and their spouses and dependent children⁹ from the requirement of acquiring a Texas driver’s license, provided that they hold a valid driver’s license issued by the person’s state or Canadian province of residence.

A listing of the driver’s license requirements for the 50 states can be accessed at <http://jagcnet.army.mil/legal>.¹⁰

3. Automobile Registration: Resident Military

Persons on active duty with the Armed Forces of the United States who own vehicles registered in the State of Texas must comply with the same rules and regulations as any other Texas resident. No special provisions are provided, with the following exception:

A resident of this state who is on

active duty in the Armed Forces of the United States, is stationed in or has been assigned to another nation under military orders, has registered the vehicle or been issued a license for the vehicle under the applicable status of forces agreement, and said license has not been suspended, canceled or revoked, may operate the vehicle in this state under that registration for a period not to exceed 90 days after the date the vehicle returns to this state.¹¹

4. Automobile Registration: Non-Resident Military

Non-resident military personnel, to include the servicemember's spouse, may operate personal motor vehicles under license of their state of legal residence or current license from the state of their last duty station. If the license is issued from their state of legal residence, when that license expires, it must renew with the state of legal residence or the person must obtain registration from the State of Texas. If the license is from the state of their last duty station, when the license expires, servicemembers must

obtain a license from the State of Texas.¹²


*Military personnel returning to Texas for separation from military service must obtain a Texas registration within 10 days following the effective date of such separation.*¹³

Non-resident military personnel have the same 90 days as residents to reregister vehicles that were registered under the status of forces agreements while assigned on military orders to another nation. Vehicles may be registered in Texas or their state of legal residence.¹⁴

The vehicle registration requirements for other states may be accessed at <http://www.usps.com/moversnet/motor.html>.

5. Safety Inspection

Texas law does not specifically address military personnel with regard to motor vehicle inspections. The Transportation Code does provide that a vehicle must be registered in the

State of Texas before the vehicle is required to receive a state inspection.¹⁵ 

¹ 50 U.S.C. App 501 *et seq.*

² 50 U.S.C. App. 501 § 102.

³ 50 U.S.C. App. 501 § 103(c).

⁴ 10 U.S.C. 982.

⁵ Army Regulation 27-40 (19 September 1994).

⁶ Tex. Transp. Code Ann. § 521.028.

⁷ Tex. Admin. Code Title 37(I)(15)(B).

⁸ Tex. Transp. Code Ann. § 521.027(3).

⁹ Tex. Transp. Code Ann. § 521.027(4).

¹⁰ <http://jagcnet.army.mil/legal->Automobiles->Registration/licensing->Servicemembers Civil Relief Act>.

¹¹ Tex. Transp. Code Ann. § 502.0025.

¹² Summary of Reciprocity Agreements between Texas and Other Jurisdictions, "Operation of Vehicles by Military Personnel," p.124, November 2002.

¹³ Summary of Reciprocity Agreements between Texas and Other Jurisdictions, "Operation of Vehicles by Military Personnel," p.124, November 2002.

¹⁴ Summary of Reciprocity Agreements between Texas and Other Jurisdictions, "Operation of Vehicles by Military Personnel," p.124, November 2002.

¹⁵ Tex. Transp. Code Ann. § 548.051.

Points continued from page 1

violation that occurred on or after September 1, 2003.¹ Points accumulate on the date that the conviction is recorded by the Texas Department of Public Safety (DPS).²

How are points assessed?

Each conviction for a moving violation results in two points being attached to the driver's license.³ Each conviction for a moving violation resulting in an accident adds three points to the driver's license.⁴ Points are assessed for convictions in Texas and in any other state.⁵

Under what circumstances are points NOT assessed?

Points are not assessed for speeding when the person was driving less than 10 percent above the posted speed limit.⁶ For example, if a person was

going 70 miles per hour in a 65 mile per hour zone and was convicted of speeding, points would not be added to that person's driver's license. However, points are assessed for *any* conviction stemming from speeding in a school zone.⁷ Points are also not assessed for seatbelt convictions.⁸ Also, a moving violation that is dismissed following the successful completion of either a driver safety course or deferred disposition will not result in the accumulation of any points.⁹ Finally, points are not assessed for conviction of an offense that has an automatic surcharge.¹⁰

What is a moving violation?

DPS designates, by rule, the offenses that constitute a moving violation.¹¹ The Texas Administrative Code defines moving violation as "an act committed in connection with the

operation of a motor vehicle on a public street or highway, which constitutes a hazard to traffic and is prohibited by state law or city ordinance."¹² The Administrative Code also provides a list of 178 offenses that constitute moving violations for which points are assessed.¹³ The complete list may be found on the Texas Secretary of State's website at http://info.sos.state.tx.us/fids/37_0015_0089-1.html.

How do drivers know if they have any points on their license?

Drivers may be aware of the number of points on their license if they are cognizant of their own traffic convictions. For those drivers who don't keep up with their own points, a notice will be sent to the last known mailing address of the person holding the driver's license when five points

have accumulated against the driver's license.¹⁴

What does it mean to have points on a driver's license?

Each year DPS will determine how many points have accumulated against the driver's license. Any person who has accumulated six or more points in the past 36 months will be assessed a surcharge.¹⁵ The surcharge will be \$100 for the first six points and \$25 for each additional point.¹⁶ Points remain on the driver's license for three years.

SURCHARGES

Conviction of certain offenses results in an immediate surcharge rather than the assessment of points. These surcharges are paid annually for three years.¹⁷ These traffic offenses and surcharges appear in Sections 708.103 and 708.104 of the Texas Transportation Code:

- Driving while License Invalid¹⁸ – \$250
- Operation of a Motor Vehicle in Violation of Motor Vehicle Liability Insurance Requirements; Offense¹⁹ – \$250
- License Required²⁰ – \$100

Surcharges are assessed automatically for certain offenses involving the operation of a motor vehicle while intoxicated, as defined by Section 49.09 of the Texas Penal Code. The offenses and surcharges are:

- Driving while Intoxicated 1st – \$1000
- Intoxication Assault 1st – \$1000
- Intoxication Manslaughter 1st – \$1000
- Driving while Intoxicated 2nd – \$1500
- Intoxication Assault 2nd – \$1500
- Intoxication Manslaughter 2nd – \$1500
- Driving while Intoxicated with Blood Alcohol Content of .16 or greater – \$2000

- Intoxication Assault with Blood Alcohol Content of .16 or greater – \$2000
- Intoxication Manslaughter with Blood Alcohol Content of .16 or greater – \$2000

How do drivers know they owe a surcharge?

DPS notifies a driver that a surcharge has been assessed. The notice is sent via first class mail to the last known address of the driver.²¹ The notice must give the deadline for paying the surcharge and explain the consequences of not paying the surcharge.²²

What happens if a driver doesn't pay the surcharge?

If a driver fails to pay the surcharge or enter an installment agreement to pay the surcharge before the 30th day after the notice is sent, the driver's license is automatically suspended.²³ The person's license remains suspended

until the surcharge and any related costs are paid.²⁴ 

¹ See Tex. Transp. Code Ann. §§ 708.051, 708.052 (Vernon Supp. 1999).

² Tex. Transp. Code Ann. § 708.052(a).

³ Tex. Transp. Code Ann. § 708.052(b).

⁴ *Id.*

⁵ *Id.*

⁶ Tex. Transp. Code Ann. § 708.052(d).

⁷ See *Id.*

⁸ See 37 Tex. Admin. Code § 15.89 (Supp. 2004)(Texas Department of Public Safety, Moving Violations).

⁹ Tex. Transp. Code Ann. § 708.052(e).

¹⁰ Tex. Transp. Code Ann. § 708.051.

¹¹ Tex. Transp. Code Ann. § 708.052(c).

¹² 37 Tex. Admin. Code § 15.89(a).

¹³ 37 Tex. Admin. Code § 15.89(b).

¹⁴ Tex. Transp. Code Ann. § 708.055.

¹⁵ Tex. Transp. Code Ann. § 708.053.

¹⁶ Tex. Transp. Code Ann. § 708.054.

¹⁷ Tex. Transp. Code Ann. §§ 708.102,

708.103, 708.104.

¹⁸ Tex. Transp. Code Ann. § 521.457.

¹⁹ Tex. Transp. Code Ann. § 601.191.

²⁰ Tex. Transp. Code Ann. § 521.021.

²¹ Tex. Transp. Code Ann. § 708.151.

²² *Id.*

²³ Tex. Transp. Code Ann. § 708.152(a).

²⁴ Tex. Transp. Code Ann. § 708.151(b).

DPS Codes

The following codes have been added by the Texas Department of Public Safety since the 1998 book, entitled *Uniform Traffic Conviction Reporting*, was printed. Please hold onto your 1998 DPS publication. TMCEC will notify you (via this newsletter) when a new version is published.

3323	Open Container	PC 49.031
3023	Boating while Intoxicated	PC 49.06
3027	Flying while Intoxicated	PC 49.05
3029	Amusement Ride Intoxication	PC 49.065
3206	Motor Vehicle Fuel Theft	PC 31.03 / CCP 42.019
3202	Violate Operating Hours – Minor	TRC 545.424
3201	Operate Vehicle with More than One Passenger – Minor	TRC 545.424
3204	Passing Authorized Emergency Vehicle	TRC 545.157
3409	Motorcycle Safety Course	CCP 45.0511
3586	Speeding <10% above Posted Limit	TRC 708.052
3596	Speeding in a School Zone	TRC 541.302



Regional Databases - Not Just a Warrant List

By Charlie Rogers, City Marshal, City of La Marque/Acting President, Texas Marshal Association

Regional databases are often considered warrant depositories—a place for cities to list outstanding warrants in hopes that officers in adjoining jurisdictions would check the violators with whom they came into contact.

My court, for example, lists our warrants in the Harris County Justice Information System Southeast Texas Crime Information Center database, commonly referred to as SETCIC. (The formal title is too hard to say, much less remember!) Member agencies are divided into two categories: full-service and inquiry-only. Full-service agencies enter their warrants in the database and, therefore, are charged an annual fee, plus monthly charges based on their level of activity—such as number of warrants added and number of warrants cleared. Inquiry-only agencies are restricted to just inquiry—checking subjects for warrants listed in the database. However, there are no fees for inquiry-only agencies. As of September 2000, there were over 40 full-service agencies and over 80 inquiry-only agencies. This includes all of the surrounding county jails, the DPS and the FBI. Entering my warrants into SETCIC has extended my reach as a warrant officer, especially with all the inquiry-only agencies having access to my warrant list.

The process works like this:

- As new warrants are issued by the court, they are entered into the database. The wanted person's name, address, date of birth, physical descriptors, and at least one unique numerical identifier (such as a driver's license number,

DPS identification number, social security number or alien registration number) are listed. In addition, the charges cited in the warrant are listed. The wanting agency and telephone number is identified.

- Agencies inquiring the database typically utilize a modification to the Texas Crime Information Center and National Crime Information Center (TCIC/NCIC) wanted person inquiry on Texas Law Enforcement Telecommunications System (TLETS).
- Once a hit is obtained, the unique numerical identifiers are used to ascertain that the person contacted is the person listed in the database.
- Direct contact via telephone or teletype is then made with the agency issuing the warrant to confirm it and arrange transportation for the subject. Quite often in the case of adjoining jurisdictions where the agency initially arresting the wanted person has no other charges against him/her, the two agencies will agree to meet somewhere midway and exchange custody of the subject.
- The arresting agency then places a "locate" tag on the warrant in the database so that, if the subject posts bond or is otherwise released from custody prior to the originating agency's opportunity to clear the warrant from the database, he or she is not subject to being re-arrested on the same warrant.

I see SETCIC hits resulting from three types of inquiries.

1. Traffic Stops – At a traffic stop, the officer has the dispatcher check a violator's driver's license through TLETS, and the hit shows up.
2. Jails (Release) – When jails check the subject through TLETS prior to his/her release from jail on other charges.
3. Jails (Visitors) – When jails check inmate visitor's identification through TLETS.

Personally, SETCIC has been priceless. I have located and arrested subjects I had warrants on by studying the information contained in the entries of other agencies that also had warrants listed in the database on the subject. I have even had probation officers from other counties call me for copies of my warrants to utilize in revocation hearings to prove unauthorized travel outside of the probationer's home county. The emphasis prior to 9/11 was on the warrant aspect of the databases. Post 9/11, more attention is being placed on the wealth of intelligence and identification information contained in the database entries.

For more information on Harris County Justice Information Management Systems, they are located at 406 Caroline, Suite 210, Houston, TX 77002, telephone 713/755-6929 and fax 713/755-8895.

For information on the Dallas County Juvenile Information System (JIS) see "Justice Information Systems," *The Recorder*, March 2002, pgs. 30-31 or visit www.jisinformation.dallascounty.org.



The Municipal Courts

(Excerpt from 2004 Annual Report of the Office of Court Administration. Used with permission.)

Cases Filed – In FY 2004, municipal courts and municipal courts of record operated in 894 cities in the state – 11 more cities than in FY 2003. The eight most populous of these cities – Houston, Dallas, San Antonio, Austin, El Paso, Fort Worth, Arlington, and Corpus Christi – accounted for 46.8 percent of the total new filings (7,629,203) in the municipal courts reporting court activity in FY 2004.¹ Houston alone handled nearly 16.6 percent of those new cases.

The number of new cases entering the municipal court system in FY 2004 was consistent with the gradual increase over the past ten fiscal years in the annual number of new filings in the municipal courts and was above the average (7,516,223) for the prior five-year (FY 1999 – FY 2003) period. It should be noted, however, that the increase in new cases reflects to some extent the fact that the number of municipal courts and judges has also increased over the years. In FY 2004, there were 116 more judges than there were in FY 1999, and 40 more municipalities with courts. Not surprisingly, traffic cases – both non-parking and parking – made up the great majority – 83.9 percent – of all new filings in the municipal courts, close to the 84.5 percent average for the prior ten-year (FY 1994 – FY 2003) period.

Dispositions – The reporting municipal courts disposed of 7,463,869 cases in FY 2004 – well above the prior five-year (FY 1999 – FY 2003) average of 7,224,721 cases. The FY 2004 number reflected the upward trend in the number cases disposed in municipal courts over the past decade, congruent with the increase in new filings during that period. Traffic cases accounted for 86 percent of all dispositions – a percentage that has varied little over the past ten fiscal years.

Nearly 45 percent of all dispositions occurred prior to trial. Nearly all – 96.3 percent – of parking violations and 38 percent of non-parking offenses were disposed prior to trial, the great majority of these dispositions (84.7 percent) involving the payment of a fine. The percentage of non-traffic cases – 46.4 percent – disposed prior to trial was the same as the percentage disposed at trial. Of all cases brought to trial (2,035,586 cases), just over 40 percent (820,070 cases) were dismissed at trial. Of the remaining cases not dismissed (1,215,512 cases) nearly 99.7 percent were bench trials, with only a small fraction of one percent (4,207 cases) being trial by jury. Guilty findings were made in over 98 percent of the bench trials, as compared to guilty verdicts in approximately 75 percent of the cases tried by jury – percentages largely unchanged over the past ten years.

In FY 2004, the average municipal court clearance rate (total number of cases disposed divided by the total number added) was 97.8 percent – well above the prior five-year (FY 1999 – FY 2003) average of 96.1 percent

HIGHLIGHTS

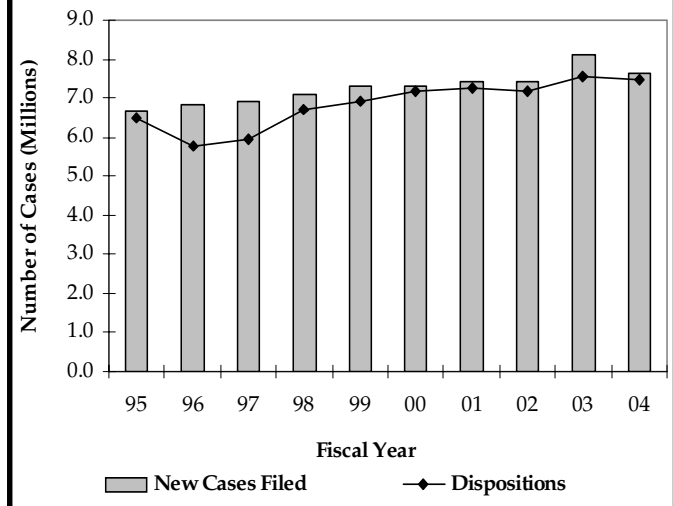
◆ Reporting municipal courts had a clearance rate (total cases disposed/total cases added) of 97.8 percent in FY 2004, compared to 93.4 percent in FY 2003.

◆ Nearly 45 percent of all cases were disposed before trial. Most of these dispositions – approximately 84.7 percent – involved payment of a fine.

◆ Just over 40 percent of cases brought to trial were dismissed at trial, and of the ones not dismissed, 99.7 percent were tried before a judge alone. There was a finding of guilt in over 98 percent of bench trials and in approximately 75 percent of jury trials.

◆ In juvenile activity, reporting municipal courts dealt with 171,756 transportation code offenses – an increase of 56.7 percent over FY 2003 – and 39,655 Alcoholic Beverage Code offenses – a decrease of 45 percent over such filings in FY 2003.

Cases Filed and Disposed: FY 1995 - 2004



¹ At the time of preparation of this report not all municipal courts in the state had provided monthly activity reports for the fiscal year. Nonetheless, the courts that did submit reports – 86.4 percent of all municipal courts – represent the most populated metropolitan areas in state and, thereby, provide a statistically reliable basis for analyzing court activity and identifying historical trends in that activity.

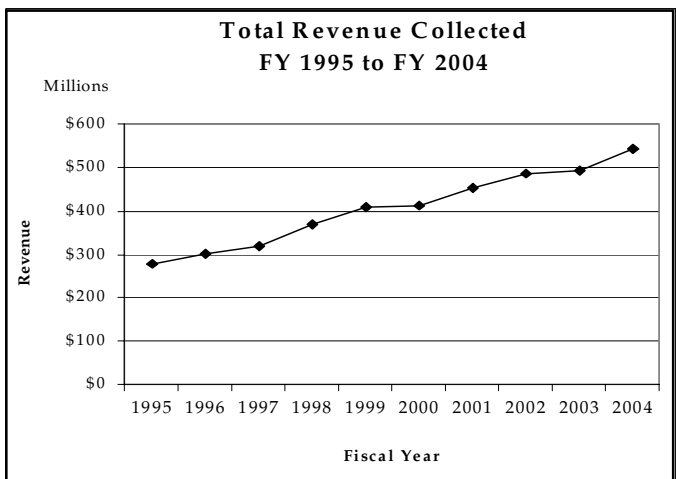
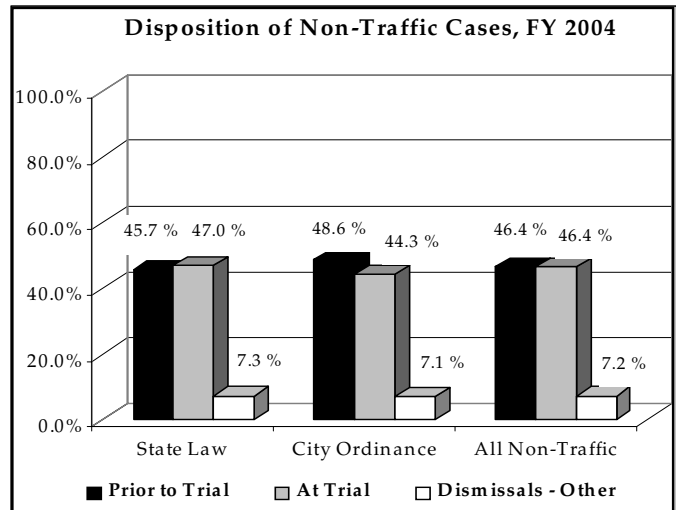
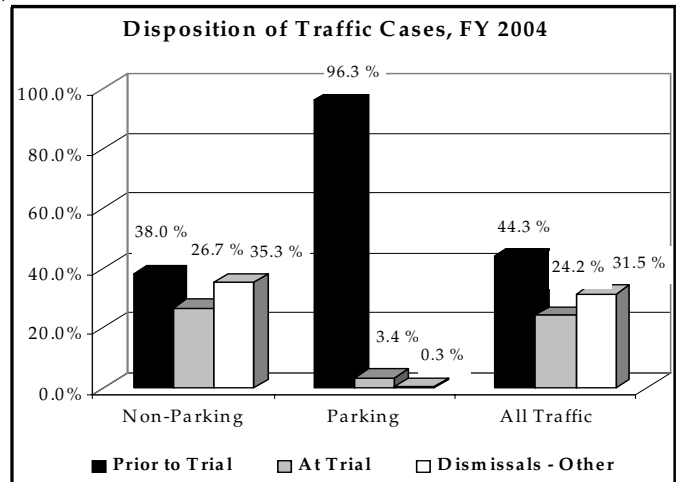
and significantly greater than the prior ten-year (FY 1994 – FY 2003) rate of 93.1 percent.

The number of appeals filed (16,473) represented approximately 1.4 percent of all cases in which there was a finding of guilt, whether by bench or jury trial. This is the same as the average percentage of cases appealed in the prior five-year (FY 1999 – FY 2003) period and represents a stabilization of the sharp decline in appeals that began in the mid-1980s when appeals to higher courts were made in 13 percent of cases.

Juvenile Case Activity – Juvenile case activity in the municipal courts was at a record high in FY 2004. Some 384,779 juvenile-related matters were handled by the courts – or 44,834 more than in FY 2003, which itself was a record setting year. The greatest increase was in the number of Transportation Code cases filed. In FY 2004, 171,756 such cases were filed, compared to 109,595 cases in FY 2003 – a 56.7 percent increase over FY 2003. By contrast, the number of non-driving Alcoholic Beverage Code cases filed in FY 2004 – 39,655 cases – represented a decrease of 45 percent over FY 2003 during which a record 72,466 cases were filed but was more in line with the FY 2002 number of 40,344 case filings. The number of non-traffic fine-only cases (100,771 cases) increased by 11.7 percent over the number of such cases filed in FY 2003 and a 27.3 percent increase over the number filed in FY 2000 but actually decreased by 3 percent as compared with FY 2000.

Other Activity – In FY 2004, the reporting courts issued 5,937 search warrants, 6,908 magistrate orders for emergency protection, 235,459 magistrate warnings in felony and Class A and B misdemeanors, and 2,172,620 arrest warrants for felonies and misdemeanors, continuing the upward trend in these areas of court activity over the past five fiscal years.

Court Revenues – Total revenues collected by the reporting municipal courts were in excess of \$542 million – a 94 percent increase since FY 1995. Excluding cases dismissed prior to trial or at trial, the amount of revenue collected per disposition averaged approximately \$88.50 – an increase of nearly 11 percent over the average in FY 2003. Except for certain court costs on each case remitted to the state government, this revenue becomes part of the treasury of the municipality collecting it.



The following cities did not submit any municipal court monthly activity reports to the Office of Court Administration during FY 2004.

Alice	Collinsville	Enchanted Oaks	La Villa	Quinlan	Wheeler
Anthony	Como	Evant	Lacy-Lakeview	Rising Star	Whitewright
Archer City	Crane	Gainesville	Lakewood Village	San Augustine	Windthorst
Bells	Danbury	Garrison	Maypearl	Santa Rosa	Winona
Big Lake	Dayton Lakes	Grapeland	Milford	Somerset	Wolfe City
Bracketville	Dimmitt	Groesbeck	Munday	Texhoma	Woodbranch
Brownfield	Dripping Springs	Iraan	Town of New Hope	Valley View	
Center	Driscoll	Italy	Paradise	Vinton	
Cockrell Hill	Edgewood	Joaquin	Pernitas Point	Westminster	

Activity Report for Municipal Courts

September 1, 2003 to August 31, 2004

86.4 Percent Reporting Rate

9,232 Reports Received Out of a Possible 10,680

	<u>Traffic Misdemeanors</u>		<u>Non-Traffic Misdemeanors</u>		REPORTED TOTALS
	Non - Parking	Parking	State Law	City Ordinance	
NEW CASES FILED	5,458,043	940,208	953,016	278,562	7,629,829
DISPOSITIONS:					
Dispositions Prior to Trial:					
<i>Bond Forfeitures</i>	38,043	1,802	11,346	2,390	53,581
<i>Fined</i>	1,793,279	617,631	275,931	71,689	2,758,530
<i>Cases Dismissed</i>	345,433	51,348	76,120	44,636	517,537
Total Dispositions Prior to Trial	2,176,755	670,781	363,397	118,715	3,329,648
Dispositions at Trial:					
<i>Trial by Judge</i>					
Guilty	890,768	16,302	226,235	56,539	1,189,844
Not Guilty	14,595	330	4,188	2,348	21,461
<i>Trial by Jury</i>					
Guilty	2,250	81	509	298	3,138
Not Guilty	627	40	252	150	1,069
<i>Dismissed at Trial</i>					
	622,031	6,857	142,383	48,803	820,074
Total Dispositions at Trial	1,530,271	23,610	373,567	108,138	2,035,586
Cases Dismissed After:					
<i>Driver Safety Course</i>	454,539	—	—	—	454,539
<i>Deferred Disposition</i>	611,559	2,128	57,766	17,425	688,878
<i>Proof of Financial Responsibility</i>	513,377	—	—	—	513,377
<i>Compliance Dismissal</i>	441,841	—	—	—	441,841
Total Cases Dismissed After	2,021,316	2,128	57,766	17,425	2,098,635
TOTAL DISPOSITIONS	5,728,342	696,519	794,730	244,278	7,463,869
COMMUNITY SERVICE ORDERED	157,236	967	34,827	9,864	202,894
CASES APPEALED	13,422	147	2,499	405	16,473
JUVENILE ACTIVITY:					
Transportation Code Cases Filed					171,756
Non-Driving Alcoholic Beverage Code Cases Filed					39,655
DUI of Alcohol Cases Filed					4,099
Health & Safety Code Cases Filed					10,859
Failure to Attend School Cases Filed					22,481
Education Code Cases Filed					13,803
Violation of Local Daytime Curfew Ordinance Cases Filed					6,771
All Other Non-Traffic Fine-Only Cases Filed					100,771
Waiver of Jurisdiction of Non-Traffic Cases					3,828
Referred to Juvenile Court for Delinquent Conduct					487
Held in Contempt, Fined, or Denied Driving Privileges					5,703
Warnings Administered					3,333
Statements Certified					1,233
OTHER ACTIVITY:					
Parent Contributing to Nonattendance Cases Filed					5,522
Safety Responsibility and Driver's License Suspension Hearings Held					1,062
Search Warrants Issued					5,937
Arrest Warrants Issued					
Class C Misdemeanors					2,100,392
Felonies and Class A and B Misdemeanors					72,228
<i>Total Arrest Warrants Issued</i>					2,172,620
Magistrate Warnings Given					
Class A and B Misdemeanors					157,694
Felonies					77,765
<i>Total Magistrate Warnings Given</i>					235,459
Emergency Mental Health Hearings Held					987
Magistrate's Orders for Emergency Protection					6,908
TOTAL REVENUE					\$542,165,109

Profile of Appellate and Trial Judges*

(as of September 1, 2004)

	Supreme Court	Court of Criminal Appeals	Court of Appeals	District Courts	Criminal District Courts	County Courts at Law	Probate Courts	County Courts	JP Courts	Municipal Courts
NUMBER OF JUDGES:										
Number of Judge Positions	9	9	80	414	10	211	17	254	827	1345
Number of Judges	9	9	80	414	10	210	17	254	826	1343
Number of Vacant Positions	0	0	0	0	0	1	0	0	1	2
Number of Municipalities w/ Courts	--	--	--	--	--	--	--	--	--	894
Cities with No Courts	--	--	--	--	--	--	--	--	--	258
AGE OF JUDGES:										
	(n = 9)	(n = 9)	(n = 78)	(n = 405)	(n = 10)	(n = 179)	(n = 15)	(n = 208)	(n = 627)	(n = 852)
Mean	51	61	56	53	50	58	63	55	59	56
Oldest	61	71	73	74	61	80	73	78	92	88
Youngest	41	51	38	34	39	36	53	32	26	23
RANGE OF AGE:										
Under 25	0	0	0	0	0	0	0	0	0	1
25 through 34	0	0	0	3	0	0	0	3	8	19
35 through 44	3	0	8	55	2	43	0	8	54	107
45 through 54	3	2	33	178	5	72	2	54	169	254
55 through 64	3	6	31	144	3	48	10	96	246	274
65 through 74	0	1	6	26	0	12	3	40	115	135
75 through 84	0	0	0	0	0	4	0	7	33	58
Over 85	0	0	0	0	0	0	0	0	2	4
GENDER OF JUDGES:										
	(n = 9)	(n = 9)	(n = 80)	(n = 414)	(n = 10)	(n = 210)	(n = 17)	(n = 254)	(n = 809)	(n = 1284)
Males	7	5	47	308	7	146	14	230	547	879
Females	2	4	33	106	3	64	3	24	262	405
ETHNICITY OF JUDGES:										
	(n=9)	(n=9)	(n=80)	(n=405)	(n=9)	(n=176)	(n=10)	(n=220)	(n=559)	(n=694)
African-American	2	0	2	11	2	5	0	1	19	15
American Indian or Alaska Native	0	0	1	2	0	0	0	0	1	5
Asian or Pacific Islander	0	0	1	1	0	0	0	0	0	2
Hispanic/Latino	0	0	12	48	1	30	1	17	87	80
White (Non-Hispanic)	7	9	64	340	6	139	9	199	451	590
Other	0	0	0	4	0	2	0	3	1	2
LENGTH OF SERVICE:										
	(n=9)	(n=9)	(n=80)	(n=414)	(n=10)	(n=189)	(n=15)	(n=238)	(n=694)	(n=795)
Average	6 Yr 4 Mo	5 Yr 5 Mo	6 Yr 6 Mo	8 Yr 4 Mo	7 Yr 3 Mo	8 Yr 9 Mo	13 Yr 5 Mo	6 Yr 6 Mo	8 Yr 5 Mo	9 Yr 11 Mo
Longest	16 Yr 8 Mo	11 Yr 8 Mo	20 Yr 10 Mo	35 Yr 10 Mo	14 Yr 4 Mo	28 Yr 5 Mo	23 Yr 0 Mo	33 Yr 8 Mo	39 Yr 3 Mo	48 Yr 4 Mo
RANGE OF SERVICE ON THIS COURT IN YEARS:										
Under 1 Year	2	0	16	61	2	38	0	73	148	99
1 through 4	4	3	25	103	3	39	0	77	157	170
5 through 9	2	4	30	131	4	63	4	90	232	149
10 through 14	0	1	12	60	3	26	6	29	181	137
15 through 19	2	0	2	67	0	30	3	18	52	101
20 through 24	0	0	1	28	0	7	2	2	33	50
25 through 29	0	0	0	3	0	1	0	5	16	23
30 through 34	0	0	0	0	0	0	0	1	1	11
35 through 39	0	0	0	1	0	0	0	0	1	4
40 through 44	0	0	0	0	0	0	0	0	0	2
Over 45	0	0	0	0	0	0	0	0	0	1
FIRST ASSUMED OFFICE BY:										
	(n=9)	(n=9)	(n=80)	(n=414)	(n=10)	(n=190)	(n=15)	(n=237)	(n=690)	(n=842)
Appointment	4 (44%)	1 (11%)	39 (49%)	179 (43%)	4 (40%)	60 (32%)	8 (53%)	37 (16%)	115 (17%)	824 (98%)
Election	5 (56%)	8 (89%)	41 (51%)	235 (57%)	6 (60%)	130 (68%)	7 (47%)	200 (84%)	575 (83%)	18 (2%)
EDUCATION:										
HIGH SCHOOL:	(n=9)	(n=9)	(n=79)	(n=408)	(n=10)	(n=183)	(n=15)	(n=223)	(n=630)	(n=767)
Attended	--	--	--	--	--	--	--	--	33 (5%)	22 (3%)
Graduated	--	--	--	--	--	--	--	--	591 (94%)	729 (95%)
COLLEGE:										
Attended	0 (0%)	0 (0%)	0 (0%)	7 (2%)	0 (0%)	5 (3%)	0 (0%)	39 (17%)	149 (24%)	95 (12%)
Graduated	9 (100%)	9 (100%)	78 (99%)	394 (97%)	10 (100%)	176 (96%)	14 (93%)	138 (62%)	195 (31%)	466 (61%)
LAW SCHOOL:										
Attended	0 (0%)	0 (0%)	0 (0%)	1 (0%)	0 (0%)	2 (1%)	0 (0%)	0 (0%)	5 (1%)	7 (1%)
Graduated	9 (100%)	9 (100%)	79 (100%)	404 (99%)	10 (100%)	181 (99%)	15 (100%)	32 (14%)	45 (7%)	350 (46%)
LICENSED TO PRACTICE LAW:										
Number Licensed	9 (100%)	9 (100%)	80 (100%)	412 (100%)	10 (100%)	209 (99%)	17 (100%)	31 (12%)	45 (5%)	394 (29%)
Mean Year Licensed	1980	1974	1978	1978	1981	1980	1972	1978	1980	1978
RANGE OF YEAR LICENSED:										
Before 1950	0	0	0	2	0	0	0	52	33	107
1950 through 1954	0	0	0	0	0	2	1	0	0	3
1955 through 1959	0	1	2	4	0	3	0	1	1	7
1960 through 1964	0	0	3	12	0	3	2	2	0	22
1965 through 1969	0	1	4	34	1	12	1	6	6	42
1970 through 1974	3	2	13	75	1	23	5	5	7	53
1975 through 1979	1	3	21	104	1	37	6	2	6	85
1980 through 1984	2	2	23	91	3	47	2	5	10	72
1985 through 1989	2	0	8	55	2	54	0	4	4	43
1990 through 1994	1	0	6	32	2	25	0	4	8	41
1995 through 1999	0	0	0	5	0	3	0	2	3	24
Since 2000	0	0	0	0	0	0	0	0	0	1
ORIGINALLY CAME TO THIS COURT FROM:										
Attorney Private Practice	2 (22%)	0 (0%)	21 (26%)	--	--	--	--	--	--	--
Judge of Lower Court	4 (44%)	2 (22%)	13 (16%)	--	--	--	--	--	--	--
Legislative Service	0 (0%)	0 (0%)	3 (4%)	--	--	--	--	--	--	--
Other Governmental Service	0 (0%)	0 (0%)	0 (0%)	--	--	--	--	--	--	--
PREVIOUS EXPERIENCE:										
Prosecutor	1 (11%)	6 (67%)	19 (24%)	191 (46%)	8 (80%)	92 (44%)	4 (24%)	11 (4%)	--	--
Attorney Private Practice	5 (56%)	9 (100%)	49 (61%)	352 (85%)	9 (90%)	157 (74%)	15 (88%)	27 (11%)	--	--
Judge of Lower Court	5 (56%)	2 (22%)	16 (20%)	86 (21%)	0 (0%)	38 (18%)	5 (29%)	21 (8%)	--	--
County Commissioner	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	0 (0%)	20 (8%)	--	--
MAYOR SERVING AS JUDGE:										
	--	--	--	--	--	--	--	--	--	20 (1%)

* Data may be incomplete, as this chart includes only information reported to OCA.



RESOURCES FOR YOUR COURT

Pro Se Defendants

A new website has been developed to help those working with *pro se* defendants: www.selfhelpsupport.org. It contains a large online library of resources collected from *pro se*/legal service programs around the country. The site is designed to be a virtual meeting place for people working with *pro se* defendants or self-help programs. Through the website, participants can find and share information, create listservs, send out mass mailings, and network with other professionals in the field. To access the site, a user must become a member. Membership is free.

Browsing this website is recommended for clerks in the larger

courts who work at information counters, as customer service representatives or handle telephone inquiries from the public. All judges and court support personnel in smaller cities may find the website helpful in answering questions frequently asked by the public, defendants and parents.

Race & Ethics Fairness Website

A new website (www.ncsconline.org/Projects_Initiatives/REFI/reb.htm) contains the work of 29 task forces and commissions that have studied racial and ethnic bias in the past 20 years. The extensive database can be searched by state, topic or a

combination of the two. Topics include access to justice, judicial selection and discipline, juries, and hiring and promotion practices. The information is available at no charge. Sponsors of the website include the National Center for State Courts and the National Consortium on Racial and Ethnic Fairness.

For further information contact, Madelynn Herman at mherman@ncsc.dni.us. The website is a collaborative effort of the National Center for State Courts, the State Justice Institute, Legal Services Corporation, the American Ad Judicature Society, Zorza Associates, and *Pro Bono* Net.

Identifying Attorneys for the State of Texas Questionnaire

The Texas Judicial Council has asked Office of Court Administration (OCA) to obtain information about the attorney(s) that represent the State of Texas in each municipal court. Please complete the survey and return it to OCA with your municipal court information. Should you have any questions about the survey, please call Elizabeth Kilgo or Randall Hansen at 512/463-1625. Surveys should be mailed or faxed to: Office of Court Administration, Attention: Sandra Mabbett, P.O. Box 12066, Austin, TX 78711-2066, fax 512/463-1648.

Please provide the name(s) and contact information for the attorney(s) who represent(s) the State of Texas in prosecutions conducted in your court as required by Article 45.201 of the Code of Criminal Procedure. Indicate whether such attorney is the city attorney, assistant or deputy city attorney, the county attorney, an attorney with a private law firm, or a solo practitioner.

Name	Attorney Type <i>(see above)</i>	Address	Telephone
-----	-----	-----	-----
-----	-----	-----	-----
-----	-----	-----	-----

Interesting Seminars

Shown below are interesting seminars on topics related to municipal court offered by national providers of continuing education.

Court Performance Standards

March 9-11, 2005
Denver, Colorado
Registration Fee: \$750
Register by February 14, 2005 (Call NCSC to see if still open and hotel rooms available)
Sponsor: National Center for State Courts (NCSC)
Call: 888/450-0391 or website: www.ncsconline.org/Schedule/index.htm

Lifesavers Conference 2005

March 13-15, 2005
Charlotte, North Carolina
Registration Fee: \$300
Register up to March 13 (onsite)
Sponsor: National Conference on Highway Safety Priorities
Call: 703/922-7944 or website: www.lifesaversconference.org

Managing Court Financial Resources

March 14-16, 2005
Denver, Colorado
Registration Fee: \$750
Register by February 14, 2005 (call NCSC to see if still open and hotel rooms available)
Sponsor: National Center for State Courts (NCSC)
Call: 888/450-0391 or website: www.ncsconline.org/Schedule/index.htm

Evidence in a Courtroom Setting

March 19-24, 2005
Key West, Florida
Registration Fee: \$1,195 tuition + \$230 conference fee
Sponsor: National Judicial College
Call: 800/25-JUDGE or website: www.judges.org/courses

32nd National Conference on Juvenile Justice

March 20-23, 2005
Orlando, Florida
Registration Fee: \$375-399
Register by March 20th
Sponsor: National Council of Juvenile and Family Court Judges and the National District Attorneys Association
Call: 703/549-9222 or website: www.ndaa-apri.org (events)

Youth Courts: An Implementation Training Seminar

May 2-4, 2005
Anaheim, California
Registration Fee: \$100
Register by March 28th
Sponsor: National Youth Court Center
Call: 859/244-8193 or email: nycc@csg.org

The U.S. Constitution and the Development of American Law

April 2-7, 2005
Carmel, California
Registration Fee: \$1,195 tuition + \$230 conference fee
Sponsor: National Judicial College
Call: 800/25-JUDGE or website: www.judges.org/courses

Basic Skills for Disseminating Court Public Information

April 18-20, 2005
Reno, Nevada
Registration Fee: \$675 tuition + \$150 conference fee
Sponsor: National Judicial College
Call: 800/25-JUDGE or website: www.judges.org/courses



Driver's License Suspensions

By Margaret Robbins, Program Director, TMCEC

Reporting driver's license suspensions and denials is a difficult job because it requires manual reporting. The reports are made on the DIC-15, DIC-81 and DIC-21 forms and are used to notify the Texas Department of Public Safety (DPS) of the court's orders. Before the reports are sent to DPS, however, certain things must happen. In some instances, there must be a conviction. In other instances, the defendant fails to comply with court orders. In most cases, before the clerk can report to DPS, the court must order the suspensions or denials of the driver's license.

The most common offenses that clerks report suspensions or denials of driver's licenses involve Alcoholic Beverage Code offenses. Upon conviction of an Alcoholic Beverage Code offense, except for driving under the influence (DUI), the court must order the suspension or denial of the driver's license for a period of 30 days that is effective the 11th day after the date of judgment. After the judge signs the judgment ordering the suspension or denial of issuance of the driver's license, the clerk reports the court's order on the DIC-15 form.

If a defendant fails to complete an alcohol awareness program— another sanction required in the court's judgment of Alcoholic Beverage Code offenses and also when the court orders deferred disposition— the court is required to order DPS to suspend or deny issuance of a driver's license for a period not to exceed six months. After the judge orders this suspension or denial, the clerk reports the order to DPS on the DIC-15 form.

Another occasion in which the court is required to order DPS to suspend or deny issuance of the driver's license is when a defendant fails to complete a court ordered tobacco awareness program. The judge must order the suspension or denial for a period not to exceed 180 days. After the judge signs the order, the clerk notifies DPS of the order by sending in the DIC-15 form.

If a defendant under age 17 is charged with a traffic offense and fails to appear, Section 729.003, Transportation Code, requires the court to report the failure to appear to DPS. If the offense is a non-traffic offense, the court may report the failure to appear to DPS. The court must use the DIC-81 form to report failure to appear.

Section 521.201(7), T.C., provides that DPS may not issue a license to a person who has been reported by a court for failure to appear under Section 729.003, T.C. Subsection 521.201(8), T.C., provides that DPS may not issue a license in any case where a person under the age of 17 failed to appear and has been reported to DPS. Section 521.294, T.C., provides that DPS shall revoke a license of a person who has been reported under Section 729.00, T.C., for failure to appear. The defendant may not obtain a license or have the suspension lifted until the court reports on the final disposition of the case.

The law is unclear whether a court is required to order the suspension or denial when a juvenile fails to appear before the clerk notifies DPS. It appears, however, that all the court must do is report the failure to appear.

Hence, the clerk would automatically report juvenile failure to appear. Since this suspension or denial of issuance lasts until the defendant disposes of the case, the clerk would notify DPS after disposition by sending them another copy of the DIC-81.

A juvenile's failure to pay, on the other hand, is handled differently from a juvenile's failure to appear. Article 45.050, C.C.P., requires courts to conduct a contempt hearing to provide the juvenile an opportunity to tell the court why he or she did not pay the fine and costs or did not comply with a non-monetary component of the court's order. If the juvenile does not appear or appears and does not have a good reason for not paying, the court can find the juvenile in contempt. The judge can fine the defendant up to \$500 for contempt and/or order DPS to suspend or deny issuance of the driver's license. If the judge orders the suspension or denial, the clerk reports the court's order to DPS on the DIC-81 form. This suspension or denial lasts until the juvenile disposes of the case. After disposition, the court notifies DPS of the disposition with the DIC-81.

Another instance in which the court may order a driver's license suspension or denial of issuance is under Article 45.054, C.C.P. This statute, which contains the proceedings for the offense of failure to attend school, permits the court to order DPS to suspend or deny issuance of a driver's license or permit. The suspension or denial cannot exceed 365 days.¹ The court must use DPS form DIC-15 to report the order of driver's license suspension. The report

should be submitted as soon as possible after the order of suspension or denial.

There is another case in which DPS automatically suspends the driver's license upon conviction. This conviction must be reported on the DIC-21 form. The offense is charged under Section 521.453, T.C., which provides that a person under the age of 21 commits an offense if the person possesses a document that is deceptively similar to a driver's license or a personal identification certificate that does not display the statement "NOT A GOVERNMENT DOCUMENT" diagonally printed clearly and indelibly on both the front and back of the document in solid red capital letters at least one-quarter inch in height and using the document with intent to represent the person as 21 years of age or older. This offense is a Class C misdemeanor, which means that the maximum penalty is \$500.

DPS will automatically suspend the driver's license of a person convicted of an offense under Section 521.453, T.C., upon receiving a report of the conviction from the court.² Section 521.346, T.C., provides that the period of suspension shall be for not less than 90 days or more than one year. If the court does not set the suspension, DPS shall suspend the license for one year. Although Section 521.453, T.C., does not provide authority for the court to order the suspension of the driver's license, Section 521.346 appears to contemplate the court setting the suspension period. The report of the conviction must be made on the DPS form DIC-21, which is used to report any offense that carries an automatic driver's license suspension.

The court in which the person is convicted of an offense under Section 521.453, T.C., may require the surrender

to the court of all driver's licenses held by the person.³ If the court requires a defendant to surrender his or her driver's license, the clerk must send the license with a report of the conviction to DPS by the 10th day after the license is surrendered.⁴

As clerks can see, they should be familiar with the required forms for reporting court orders and should know when to report to DPS. The *TMCEC Forms Book* contains the DPS forms mentioned in this article. It also contains sample judgment forms and court orders for judges to use to order driver's license suspensions and denials of issuance. 📌

¹ Article 45.054(f), C.C.P.

² Tex. Transp. Code Ann. § 521.453.

³ Tex. Transp. Code Ann. § 521.347.

⁴ Tex. Transp. Code Ann. § 521.347.



COLLECTIONS CORNER

The Collections Process: Bad Addresses

By Jim Lehman, Collections Specialist, and
Don McKinley and Russ Duncan, Assistant Collections Specialists, Office of Court Administration

A common problem faced by courts is defendants with bad addresses. Usually, this problem results in the clerk filing away a notice returned due to a bad address. A telephone call may be made, but only if you have a good telephone number for the defendant. Admittedly, this can be frustrating. What can be done when you find a defendant with both a bad address and telephone number? The answer might be to skip trace the defendant. "Skip tracing" is a collections industry term for attempting to locate people (in our case, defendants) who seem to have disappeared.

A skip trace situation exists when there is no way to establish contact with an individual. For example, mail is returned, the telephone is disconnected or telephone numbers are incorrect. When this occurs, what can you do? Issue a warrant? File the case with Omnibase? File the case away and hope law enforcement can eventually locate the individual? These options no longer need to be the end of the road. Equipped with the right connections and tools, just about anyone can be located.

First, carefully review the case record

and citation to see if there are any different telephone numbers (including cell phone numbers) or other contact information listed. Develop a good relationship with local law enforcement, and use them as a resource to assist in clearing warrants. City and county law enforcement databases may provide information that will help locate someone. Establish contacts with utility departments for current addresses or telephone numbers. In addition, the local county tax assessor-collector is often a good source for information.

Second, look for employment information. If an employer or company name is available, a quick search may be possible using the telephone directory. If you have an individual's social security number, you can get employment information from the Texas Workforce Commission for a small fee. The Texas Workforce Commission may be contacted by mail at 101 East 15th Street, Austin, Texas 78778, or by telephone at either 512/463-2748 or 512/463-2423.

Third, another possible source of information is the local cable company. Video stores may also be a good source of information for addresses and telephone numbers, and usually customers need a credit card to open an account. If you know the defendant has an account, it may be a good assumption that he or she has credit available.

Lastly, in addition to addresses and telephone numbers, an individual's social security number is invaluable for skip tracing. With a social security number, just about anyone can be located. With the Internet and a little money, you can usually find an individual's address, telephone number and other personal information.

The Internet offers sites that are free and sites with various fee structures. It is important to know how much money has been allocated in the budget for skip tracing. The old adage "it takes money to make money" generally holds true for Internet searches.

One court experienced a return of \$4 back for every \$1 spent on Internet searches. In some cases, the return is even higher. Using the Internet when skip tracing can also result in lower costs for postage, supplies and labor due to the reduction in the amount of mail returned from bad addresses.

Some Internet sites of interest are listed below. [The Office of Court Administration (OCA) does not recommend or endorse any of the sites listed.]

Free Sites:

- www.anywho.com
- www.555-1212.com
- www.switchboard.com
- http://ssdi.rootsweb.com/cgi-bin/ssdi.cgi (social security death index)

Sites Charging a Fee:

- www.classmates.com
- www.worlddetective.com
- www.freality.com
- www.publicdata.com
- www.pac-info.com
- www.theultimates.com (be sure to type in "theultimates"; "theultimate" is a completely different website).
- www.accurint.com

These sites can help you locate individuals. If you need to verify an address or zip code, verify the status of a post office box or standardize an address in the correct format for mailing a letter, check with your local U.S. Post Office (USPS). For more information, contact your local post office or go to www.usps.com. On

the USPS website, locate the "find a zip code" tab and Address Information System (AIS) products, as they can be useful with your skip tracing efforts. Larger municipal courts, or those courts that experience a mail return rate over 40 percent, may want to consider contracting their outgoing mail with an outside vendor or working with a licensed National Change of Address Provider. At last count, over 48 licensed providers have contracted with the USPS.

Remember, people usually pay by contact, not by contract. In other words, a signed contract does not guarantee payment. Locating an individual and making contact (by telephone or by mail) may generate revenue for the court and provide a way to resolve a case. Skip tracing is an important step in any successful collections program. If you would like additional information, the OCA is available to help. Contact one of OCA's collections specialists at the telephone numbers listed below.

Continued best wishes! 📧

- Jim Lehman 512/936-0991
- Russ Duncan 512/936-7555
- Don McKinley 512/936-7557

TMCEC Legislative Update


Houston
August 8, 2005
Omni Houston Westside

Lubbock
August 11, 2005
Holiday Inn Towers

Austin
August 16, 2005
Hyatt Regency Austin

Registration Fee: \$50*

Register to attend using the Legislative Update Registration Form on page 21. If a hotel reservation is required, you must contact the hotel directly. TMCEC will not pay the cost of lodging.



Payment is due with your registration.

*\$100 registration fee for non-municipal court participants. \$2 will be charged per registration if paying with credit card.

