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DWI Blood Warrants

By W. Clay Abbott, DWI Resource Prosecutor, Texas District and County Attorneys Association

By last count, more than 40 Texas counties are using search warrants to obtain blood evidence in DWI and DWI-related offenses, and more are implementing such programs each month. They range from rural (Colorado County) to metropolitan areas (Harris, Tarrant, and Bexar Counties) and everything in between. The number is constantly on the rise. The use of this investigative tool is becoming more popular due to the enormous success of programs in many counties. With DWI suspects refusing breath tests in increasing numbers, prosecutors are excited about obtaining scientific evidence in

difficult DWI cases. Some jurisdictions have targeted certain offenders (Travis, Williamson, and Johnson Counties), while others focus on particular time periods, such as long holiday weekends, to obtain blood evidence in DWI cases (Bexar, Collin, Denton, Tarrant, and Harris Counties).

Inundated by “CSI”-type programs, jurors are increasingly expecting scientific evidence. In DWI cases the defendant typically chooses what evidence is available. Many repeat DWI offenders, having realized this fact, refuse to answer police officers’

questions, refuse to perform sobriety tests, or provide breath or blood samples, knowing full well that not cooperating with police means that they deny the future jury any concrete, tangible evidence of their intoxication. These “total refusal” cases are difficult to prosecute and are becoming the staple of DWI trials, especially with repeat offenders whose crimes have risen to felony level.

The blood search warrant turns these marginal cases into cases very easy to successfully prosecute. No

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Reconsidering *Allen*: DWLIs New Impact on Municipal Courts

By Lois Wright, TMCEC Program Director

Effective September 1, 2007, the offense of *driving while license invalid (DWLI)* was downgraded from a Class B to a Class C misdemeanor in some instances, abolishing the former framework established by municipal and county governments to handle these cases. This has re-opened a question that arose in the 2001 Court of Criminal Appeals case, *Allen v. State*.¹

The Case of *Allen v. State*

Jennifer Allen was arrested in Tyler, Texas in November 1996 for suspicion of driving while intoxicated.² While in custody, Ms. Allen was transported to the police station where she refused to submit to a Breathalyzer test. Instead, she signed a DWI Statutory Warning and

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AROUND THE STATE

Fall Conferences

Mark your calendars! There are several excellent conferences scheduled for this fall. The websites of each association contain more information about the programs and how to register.

Annual Meeting of the Texas Municipal Courts Association

September 11-13, 2008
Lakeway Inn, Lakeway (outside Austin)
www.txmca.com

Annual Conference of the Texas Court Clerks Association

October 4-8, 2008
Omni Hotel, Corpus Christi
www.texasclerks.org

2008 Texas Teen Court Conference

October 28-30, 2008
MGM Grande Hotel, Odessa
www.texasteencourt.com

Texas Municipal League

October 28-31, 2008
Henry B. Gonzalez Convention Center, San Antonio
www.tml.org

TMCEC Fall Seminars

September 22-26, 2008
32-hour New Clerks
Crowne Plaza, Austin

October 6-8, 2008
12-hour Regional Judges
Holiday Inn Select, Tyler

October 8-10, 2008
12-hour Regional Clerks
Holiday Inn Select, Tyler

November 5-7, 2008
12-hour Regional Judges & Clerks
Crowne Plaza, Austin

December 8-12, 2008
32-hour New Judges & Clerks
Crowne Plaza, Austin

For more information, go to www.tmcec.com.



FROM THE GENERAL COUNSEL

Ryan Kellus Turner

What the High Price of Gasoline May Mean to Local Trial Courts

As temperatures rise across the Lone Star State, so do prices at the pump. Headlines are replete with stories detailing how the price of oil is impacting food prices, utility costs, and consumer habits.

While most of the media focus on gas prices pertains to the impact on families and personal finance, government is not immune from pain at the pump.

Undoubtedly, soaring gas prices directly and indirectly affect the operation of courts. This is especially true in Texas municipal courts, courts that come into contact with more defendants than all other Texas courts combined.

Various self-help books remind readers that one cannot control what happens; but can only control how one responds.

How are some local governments in the United States responding to the rising price of gasoline? What can local trial courts anticipate?

Are Desperate Measures in Desperate Times Legal or Simply Desperate?

As the national average price of regular unleaded gasoline hit \$4.08 a gallon, in Georgia, the Holly Springs City Council made national headlines by voting to impose a \$12 fuel surcharge for “all traffic and vehicle violations or violation of the city codes and ordinances.”¹

According to most news reports, the idea for the fuel surcharge came

from Police Chief Ken Ball. With increased fuel costs having already consumed 60 percent of the police department’s fuel budget for 2008, Chief Ball expects the surcharge to generate between \$19,500 and \$26,000 a year for the town of a population of roughly 6,500.²

In a questionable effort to tear a page from the private sector’s efforts to deal with escalating costs, Ball is quoted as saying, “I was hearing that Delta (Airlines), pizza deliverers, florists were adding fuel charges to their services, and I thought, why not police departments?”³

Further blurring any meaningful difference between the imposition of a “fine” or “court cost” and the imposition of a “tax,” Holly Springs Mayor Tim Downing is quoted as saying, “This is a self-taxing system. If you don’t break the law, you don’t pay the tax.”⁴

Examination of Section 30-40 “Collection of Fine Amount for Fuel Costs” raises some issues that have not been covered by press. For instance, the ordinance only states that \$8.00 of the \$12.00 shall be allocated to pay for fuel costs for the police. Which raises the question: where is the remaining \$4.00 being allocated? The coffee, donut, and tire-replacement fund? The rising cost of oil has increased the cost of all three.

Which leads to another question: under what authority can a municipality in the State of Georgia create its own surcharge or court costs? Examination of state law suggests that court costs in Georgia, as in Texas, are set by state law. While it is easy to imagine that some municipalities in Texas, like other cities in Georgia (e.g., Atlanta)

may be tempted to jump on the bandwagon and pass on the cost of fuel, caution is strongly urged.

While court costs in Texas between 1965 and 2005 have increased a whopping 1860 percent, all of such court costs were authorized pursuant to state law.⁵ Today court costs are used to cover everything from the cost of security features in courthouses, mileage for peace officers to transport out-of county-prisoners, local roads, to the education

Other Ways the Price of Gasoline May Impact Municipal & Justice Courts

1. More cases involving alternative modes of transportation (bicycles, mopeds, motorcycles, golf carts, riding lawn mowers, and other “things with wheels”)
2. Increased pedestrian activity may translate into more local ordinances regulating pedestrians and enforcement of pedestrian-related offenses
3. Complaints alleging theft of gasoline (even though theft of more than \$50 is not a Class C misdemeanor)
4. More cases involving registration, inspection, driver’s licenses, and financial responsibility as pocket books are further strained
5. Increasing number of cases involving indigent defendants (more installment payment agreements and community service orders)
6. More payments of the state mandated time payment fee
7. Adjustments in traffic enforcement strategies by law enforcement
8. Increased numbers of unsatisfied judgments
9. Increased difficulties in enforcing final judgments
10. Higher operating costs for court operations (utilities, overhead, staffing, prisoner transport, etc.)

of criminal defense lawyers, prosecutors, and, yes, even to educate judges.

However, it's a mistake to confuse court costs with taxes. Furthermore, it's a mistake to believe that there are no limits on the types of costs that may be imposed as court costs. As the Court of Criminal Appeal explained in *Ex parte Carson*, constitutionally, there must be a rational basis that is not too attenuated.⁶

Though *Carson* was written before the modern age of court costs in Texas, certainly there are still limits as to what can and "what cannot be logically considered a proper item of cost in litigation, particularly in criminal cases."⁷ Without restraint and reasonable parameters for the creation and imposition of courts costs, the Court eluded to a slippery slope where court costs would be used to pay for the "the automobiles which officers use to apprehend criminals and even the roads upon which they ride."⁸

While it will be interesting to see how efforts in other states to pass on the cost of gasoline to defendants are ultimately received, Texas cities are urged to consult with their legal advisor before emulating such local ordinances. With the exception of costs expressly authorized by state law, municipal courts are reminded that Article 45.203(d), Code of Criminal Procedure states that "Costs may not be imposed or collected by municipal ordinance."

"Brother, Can You Spare a Dime" and Other Songs That May Be Sung by Local Finance Directors

On June 17th 2008, Michael Krause with the *Dallas Morning News* brought us the following headline "Dallas County commissioners ask judges to generate more revenue."⁹

Could municipal judges see similar requests from city councils? Have municipal judges already received similar messages in ways perhaps more subtle than a newspaper article with more than half a million subscribers?

The thinking is as follows. If municipalities cannot create their own court costs, then why not just ask judges to jack up the sum totals of fines imposed? Certainly, Your Honor, there remains some head room in your current fine schedule?

During difficult financial times it is understandable that governments are required to make hard choices about expenditures and funding of various programs, however asking judges to increase fines and hinting to a quid pro quo is inappropriate and most likely unethical. Once again the failure to appreciate the distinction between "fines" and "taxes" raises its ugly head. More often than not, a city's dependence on fine money is a barometer of poor economic vitality and potentially severe financial problems. Members of the judiciary know better than politicians the practical and legal complexities that come into play when using fines as a deterrent. Such rhetoric not only undermines the legitimate role of criminal courts to adjudicate offenses pertaining to public safety and quality of life, it reinforces the notion that when a criminal court judge imposes a fine, the judge is merely a debt collector in a robe.

Such requests not only call into question the neutrality of the courts, but the integrity of the entire local government.

When county commissioners and city council members are elected to office, are they provided any kind of education about the appropriate role of the judiciary? Should judges succumb

to local political pressures?

The answer to both questions is "no." The Preamble to the Code of Judicial Conduct begins with the following sentence: "Our legal system is based on the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us."¹⁰ Canon 1 in the Code of Judicial Conduct requires that all judges uphold the integrity and independence of the judiciary.

Did the authors of the Code of Judicial Conduct envision \$4.00 a gallon gasoline? No, however, they did anticipate influence peddling and bad politics. "A judge shall not be swayed by partisan interests, public clamor, or fear of criticism."¹¹

If society values a fair and impartial court system, members of the judiciary must be allowed to do their work without having to first look over their shoulders and count cash in the coffers. Fines are a byproduct of the criminal adjudication process. Fines and court costs, however, should never be perceived by anyone as the reason why our courts exist. The integrity of the entire judicial system hinges on judges throughout the State of Texas remembering that the people are "counting on them" in ways that, dare it be said, are more important than money.

¹ Holly Springs, Ga. Code Ordin. 30-40 (June 16, 2008).

² Larry Copeland, Speeders to pay for extra fuel, USA Today (Jun. 18, 2008), http://www.usatoday.com/money/industries/energy/2008-06-18-speedingticket_N.htm.

³ Id.

⁴ Id.

⁵ Dan Feldstein, Loser fees' taking place of new taxes, Houston Chronicle (Mar. 5, 2006) at A1.

⁶ 159 S.W.2d 126 (Tex. Crim. App. 1942).

⁷ Id.

⁸ Id.

⁹ <http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/061808dnmetcourts.12195b7a.html>.

¹⁰ Tex. Code Jud. Conduct, reprinted in Tex. Gov't Code Ann., tit. 2, subtit. G app. B (Vernon 1997).

¹¹ Tex. Code Jud. Conduct Canon 3(B)(2).

Making Sense of *Rothgery*: What the Most Recent Decision of the U.S. Supreme Court Regarding the Sixth Amendment Means to Magistrates in Texas

By Ryan Kellus Turner, General Counsel & Director of Education, TMCEC

What marks the initiation of adversarial judicial proceedings that trigger Sixth Amendment protections? Prior to the U.S. Supreme Court's 8-1 decision in *Rothgery v. Gillespie County*, No. 07-440 (6/23/08), the answer was widely believed to be the filing of formal charges by a prosecuting attorney. Thus all stages prior to the formal charging decision by prosecutors were not widely accepted as being a "critical stage" where the Sixth Amendment right to counsel attached. This included the presentation of the arrested person before a magistrate pursuant to Article 15.17, Code of Criminal Procedure – informally known in Texas law speak as "magistration" aka "Article 15.17 hearing."

Opinions from the U.S. Supreme Court are replete with complexities. The very nature of the issue presented in *Rothgery*, while ostensibly not as complex as other cases dealing with criminal procedure, contains multiple facets that will be studied in different ways by defense lawyers, prosecutors, civil liberty advocates, and members of the judiciary. Depending on one's prerogative, *Rothgery* raises additional questions that will inevitably be debated in the years to come.

This article is an initial attempt to frame the issues from the perspective of members of the judiciary who serve as the gatekeepers of the criminal adjudicatory process – the magistrates.

Background

The facts of *Rothgery* have proven to be the ideal vehicle for civil libertarians to present a case to the Supreme Court that advances understanding of the Sixth Amendment. The facts giving rise to the opinion, however, are unusual.

Relying on erroneous information, law enforcement in July 2002 arrested Rothgery for the offense of *felon in possession of a firearm*. While Rothgery, in fact, possessed a firearm, he was not as initially reported a felon by law enforcement in California. Following his arrest, pursuant to state law, he was brought before a justice of the peace acting as a magistrate for what the Court referred to as the "Article 15.17 hearing" (interestingly, the Court also noted the lack of a formal name for what they acknowledged as "magistration"). After the hearing, the magistrate committed Rothgery to jail, and he was released after posting a surety bond. While out of jail, Rothgery, who claimed to have no money for a lawyer, made several requests orally and in writing for a court appointed attorney. His requests for court appointed counsel were not granted.

In November 2002, six months after his initial arrest, Rothgery was indicted and rearrested, his bail was increased, and he was jailed when he could not post bail. Thereafter, Rothgery was assigned a lawyer, who documented that Rothgery was not, in

fact, a felon. The district attorney's office subsequently dismissed the indictment.

Pursuant to 42 U. S. C. §1983, Rothgery sued Gillespie County, claiming that if it had provided him a lawyer within a reasonable time after the Article 15.17 hearing, he would not have been indicted, rearrested, or jailed. Rothgery claimed that the County's unwritten policy of denying appointed counsel to indigent defendants out on bond until an indictment or information is entered (which is by no means unique to Gillespie County) violates his Sixth Amendment right to counsel.

The U.S. District Court granted the County's motion for summary judgment, and the Fifth Circuit affirmed, based on its own precedent stating that the right to counsel did not attach at the Article 15.17 hearing because the relevant prosecutors were not aware of, or involved in, Rothgery's arrest or appearance before the magistrate. Furthermore, no one involved with the magistration appearance had any power to commit the State to prosecute without a prosecutor's knowledge or involvement.

Rethinking 15.17: Yes and No

Until now the Article 15.17 hearing has been about the Fourth Amendment. When a person is arrested without a warrant, the individual is brought before a magistrate where a probable-cause

determination is made, assuming that probable cause exists, bail is set, and the suspect is formally apprised of the *accusation* against him. Though such individuals have not been formally *charged*, the formal filing of charges is no longer determinative of when the right to counsel attaches.

If you are a Texas magistrate, however, it cannot be emphasized enough that the U.S. Supreme Court *did not* rule that a person cannot be “magistrated” or that an Article 15.17 hearing cannot occur without the presence of counsel.

To the contrary, Justice Alito wrote a very important concurring opinion that was joined by Chief Justice Roberts and Justice Scalia:

“I join the Court’s opinion because I do not understand it to hold that a defendant is entitled to the assistance of appointed counsel as soon as his Sixth Amendment right attaches. As I interpret our precedents, the term ‘attachment’ signifies nothing more than the beginning of the defendant’s

prosecution. It does not mark the beginning of a substantive entitlement to the assistance of counsel.”

Alas, at least for the time being, the implications of the *Rothgery* decision on magistrates and the manner in which Article 15.17 hearings are conducted in Texas appear to be unchanged.

Conclusion

While *Rothgery* may not redefine the nature of the Article 15.17 hearing, it certainly has the potential to redefine what occurs subsequently. This may or may not impact judges acting in the role of a magistrate.

Depending on the county, a municipal judge or justice of the peace acting as a magistrate may play a primary or limited role in the appointment of counsel. All judges who perform magistrate duties should not only re-read their county’s local indigent defense plan but should be aware that such plan may be modified in light of *Rothgery*. Likewise, now is a good time to re-read Article 15.17 and

Article 1.051, Code of Criminal Procedure. *Rothgery* in effect nullifies Article 1.051(j) which states “Notwithstanding any other provision of this section, if an indigent defendant is released from custody prior to the appointment of counsel under this section, appointment of counsel is not required until the defendant’s first court appearance or when adversarial judicial proceedings are initiated, whichever comes first.” Article 1.051(j) is the provision that many counties have relied upon to legally delay the appointment of counsel for people who manage to post bond to get out of jail.

Rothgery will inevitably impact the conduct of law enforcement as it relates to the questioning of people who are under arrest. The invocation of the Sixth Amendment right to counsel at magistration will legally preclude further questioning by law enforcement. Thus, if a defendant is arrested and magistrated in El Paso for an offense alleged to have occurred in Tyler, there can be no questioning of the person by law enforcement during the long road trip to from west to east Texas.

Need More Training?

Judges and clerks often report on TMCEC evaluations that they would like additional judicial education. Did you know that you can access the webinars online? Go to www.tmcec.com/webinar.html. On this web page, there are audio files containing the presentations. These may be listened to online or downloaded to your computer or personal digital assistant. Also, the handouts, PowerPoint presentations, and forms are included. These materials are usually posted five days after the “live” program. Although “live” webinar programs offer CLE and certification credit, post-event viewings do not.

Sample programs from the last three years are listed below:

- *Crime Victims*
- *Juvenile Confessions*
- *Administrative Judge of Judicial Region*
- *Fatigued & Distracted Drivers*
- *Problem Solving Courts*
- *Hearsay Evidence*
- *Dual Office Holding Dilemmas*
- *What is a Crime?*
- *Trial 101*
- *Ethics: Dealing with Attorneys in Courts*
- *Enforcement Tools*
- *Jury Charges*
- *Blood Warrants in DWI Cases*
- *Points and Surcharges: Driver Responsibility*
- *Security & Technology Funds*
- *Juvenile FTA vs. Failure to Pay*

evidence is more capable of establishing guilt or innocence in a DWI case than a timely blood sample drawn in a legally and medically acceptable fashion. Several jurisdictions have reported average blood alcohol concentrations in the .20 range, which is more than twice the legal limit. Well-publicized blood warrant programs have also shown

Warrant Round-Up 2009

The 2009 Warrant Round-Up will begin on Saturday, March 7, 2009.

Courts are requested to send out notices at least three weeks prior to the event, giving individuals more time to make their payments. Therefore, the notices will be mailed February 13 through February 16, 2009.

Remember to include the Warrant Round-Up while preparing your budgets so that you will be able to participate in 2009. The key to this program is sending the special mailers that contain a list of all of the cities participating.

If you would like more information regarding the Warrant Round-Up, please contact Rebecca Stark at rebecca.stark@ci.austin.tx.us or Timothy Rich at trich@mckinneytexas.org.

local impact on the numbers of persons driving impaired on the highways. Warrant programs not only result in more evidence in DWI cases, but they also appear to reduce drunk driving and resulting drunk driving deaths. With results like these, you should expect this investigative tool to come to your own jurisdiction, if it is not there already.

The first jurisdiction to use blood warrants was Deaf Smith County in the Texas Panhandle. Forward-thinking prosecutors realized that search warrants for a suspect's blood, which had been used in sexual assault cases to obtain DNA evidence for years, can produce probative evidence in DWI cases too. Other jurisdictions both large and small began to follow suit.

The Texas Court of Criminal Appeals ruled that such blood draws were a permissible use of a search warrant. In *Beeman v. State*, 86 S.W.3d 613 (Tex.Crim.App. 2002), the court held that this evidence-gathering tool was available outside of the implied consent statute. The court held that the implied statute was not exclusive and that a warrant could be issued based on probable cause even after a suspect refused to cooperate. The warrant allows officers to compel the sample using reasonable force. Force in drawing a blood sample has been upheld by the court even in non-search warrant cases (see *Burns v. State*, 807 S.W.2d 878 (Tex.App.—Corpus Christi 1981, pet. ref'd)).

An officer making a DWI or DWI-related arrest may request "one or more specimens of the person's breath or blood for analysis to determine the alcohol concentration" pursuant to the implied consent statute found in Section 724.011 of the Texas Transportation Code.

Section 724.063, Transportation Code provides that blood evidence may be used to prove intoxication under the *per se* definition of "intoxication" in Section 49.01(2)(b) of the Texas Penal Code. If a defendant refuses to submit a sample, that refusal can be introduced as evidence of their intoxication under Section 724.061, Transportation Code. A refusal has both this evidentiary consequence and is the basis for driver's license revocation. The officer should always use implied consent and have the suspect refuse before resorting to a search warrant for blood. Because a refusal is proof at trial of intoxication (see *Standefer v. State*, 59 S.W.3d 177 (Tex. Crim. App. 2001)), it is also probable cause of intoxication.

Article 18.02, Code of Criminal Procedure allows a warrant to be issued for "property or items ... constituting evidence of an offense." This type of warrant is generally called an evidentiary search warrant. But evidence seized as "mere evidence,"⁴ such as the defendant's blood, must meet the specific limitations found in Article 18.01(c), Code of Criminal Procedure. Such warrants may be issued only if the magistrate finds that a particular person has committed a particular violation. In the case of DWI blood warrants, the magistrate must find probable cause that the defendant committed DWI. The magistrate must also find that the seized blood will be evidence of that offense. (As noted above, this finding is a matter of legislative mandate.) The magistrate must also find that the described evidence, in this case blood, is in the person to be searched. That one is pretty easy.

Much more relevant is that only certain magistrates may issue "mere evidence" warrants, such as the

warrant for blood. Judges of municipal courts of record may issue evidentiary search warrants. Municipal courts that are not courts of record may not. Remember also that proof that the magistrate was the judge of a municipal court of record could be required at a motion to suppress the blood draw evidence.

There is an exception for certain rural counties. Article 18.01(i), Code of Criminal Procedure provides that any magistrate (including any municipal judge) may sign an evidentiary search warrant if the county does not have a municipal court of record, a constitutional county judge that is a licensed attorney, or a county court at law.

Judges should consult with local prosecutors to make sure the exception applies before they begin signing blood warrants. This exception also creates issues for municipal judges in courts of record in rural areas. Along with the district judge, they could become the only judge with authority to sign blood search warrants.

This brings up the issue of the duty of the municipal court to be available 24 hours a day to sign warrants. What if your city does not pay for that service? What if you dearly love your beauty sleep? What if you don't think DWI is an issue worthy of your most precious time? Well ... tough. At least in this author's most humble (tongue-in-cheek) opinion. And the law agrees with me.

Let's explore the law. Article 2.10, Code of Criminal Procedure declares:

“It is the duty of every magistrate to preserve the peace within his jurisdiction by the use of all lawful means; to issue all process

intended to aid in preventing and suppressing crime; to cause the arrest of offenders by the use of lawful means in order that they may be brought to punishment.”

That sure sounds like the judge has to get up in the middle of the night to sign a warrant for blood. Canon 3B(9) of the Code of Judicial Conduct reads, “A judge should dispose of all judicial matters promptly, efficiently and fairly.” Again, the mandate is straightforward.

Judges should be compensated for their efforts, but the solution appears to be one that is resolved between the city and its judge, not by refusing to follow a judge's legal duty. If blood warrants have or might become part of a judge's workload, the time to broach the issue with the city is before that policy takes effect, not after the fact.

The time to work out logistical and procedural issues that surround presenting, reviewing, and issuing blood search warrants is in the calm light of day, not in the middle of the night while a suspect's liver is busy metabolising the very evidence sought. Time is simply not a luxury available in this case. With each passing moment, the suspect's liver is removing the relevant evidence from the suspect's body, and the longer the time between the defendant's arrest and the drawing of blood, the less relevant and accurate the evidence.

If your jurisdiction is going to use blood warrants, several parties must meet to hash out logistics and procedures. All police agencies, jail personnel, prosecutors, magistrates, and medical personnel should sit down to plan what works for everyone. The Texas District and

County Attorneys Association (TDCAA) can provide forms that have been employed across the state to local prosecutors' offices to be reviewed and modified to their specifications. On prosecutors' requests, TDCAA also provides local training to prosecutors and officers in using blood search warrants.

It seems irrefutable that more relevant and reliable evidence is better than less of such evidence. It seems equally clear that the innocent should not suffer nor the guilty escape justice. The Constitution wisely gives the many important decisions in evidence gathering to magistrates instead of officers. No one believes the public should be less safe from impaired drivers. No one should still believe it is not dangerous to drive with blood alcohol concentrations well above the statutory .08 BAC. That leaves only two real protests to blood search warrants: First, the complaint of the selfish and irresponsible law breakers refusing to be held accountable; Second, the complaint of criminal justice and law enforcement professionals that they don't want to make an effort. Neither complaint should carry much weight.

¹ 86 S.W.3d 613 (Tex. Crim. App. 2002).

² see *Burns v. State*, 807 S.W.2d 878 (Tex.App.—Corpus Christi 1981, pet. ref'd).

³ see *Standefer v. State*, 59 S.W.3d 177 (Tex. Crim. App. 2001).

⁴ “Mere evidence” generally refers to items that are not fruits or instrumentalities of a crime but are evidence of an offense or tend to show a particular person committed an offense.

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had her driver's license suspended for 90 days. Upon completion of that period, Ms. Allen failed to pay a \$100 reinstatement fee.³ During an unrelated traffic investigation nine months later, Jennifer Allen was arrested for driving while license suspended.

The Court of Appeals addressed whether a license suspension for refusing to give a breath specimen could be extended until the statutorily required license-reinstatement fee is paid. Analyzing the legislative history of the reinstatement fee, the court of appeals determined that the fee was intended to counter costs incurred by DPS in operating the suspension program, not in subjecting defendant's to compounding crimes as a result of their default in payment.⁴ A public policy concern addressed by the court aimed at preventing suspension periods from continuing indefinitely, contrary to the generally temporary nature of the denial of the person's license or privilege to operate a motor vehicle.

The Court of Appeals' judgment was affirmed on June 27, 2001 by the Court of Criminal Appeals after the State's petition for discretionary review.⁵ Judge Hervey wrote the Court's opinion stating that the particular suspension in question was not written to run indefinitely until payment of the administrative fee was received, and therefore nonpayment of the reinstatement fee did not continue the statutorily mandated suspension.⁶

License Suspensions Involving Reinstatement Fees

Licenses may be subject to suspensions and subsequent reinstatement fees for an array of offenses and sanctions, primarily

found in Chapter 521 of the Transportation Code. The *Allen* case involves a suspension as a result of failure to submit to a peace officer's request for a specimen.⁷ In that type of suspension, the peace officer must direct the person to sign a statement indicating that the person understands the consequences of refusing to give a specimen.

According to §724.036, Transportation Code, the peace officer must: (1) take any driver's license of the individual away, and (2) issue a temporary driving permit to the person which expires 41 days after the date of issuance, allowing time for the individual to request an administrative hearing regarding concerns such as the probable cause for the stop, the officer's proof of intoxication, and the procedures followed during the specimen request.⁸ For commercial drivers, the temporary driving permit does not become effective until 24 hours after the time of the arrest.⁹

After the 41st day expires, DPS suspends the driver's license for 180 days (formerly 90 days).¹⁰ Then, the defendant must pay a \$125 reinstatement fee (formerly \$100), which bars the individual's ability to obtain a license after the period of denial has ended.

A Longstanding Question

Which begs the argument: if Jennifer Allen and others like her are not subject to DWLI, what can they be charged with?

The Court found that Allen could have been charged with other offenses that were better suited to the facts of her individual case. Upon suspension, an officer is obligated to take the person's license away from them and issue a

temporary license. That license is not returned to them until reinstatement fees are paid, so she could have been charged with not displaying her license on demand to an officer, in violation of § 521.025, Tex. Transp. Code. Also, she failed to notify DPS of her change of address¹¹ and failed to surrender her license according to law.¹²

Rather than suffering indefinite suspension, a person whose license is suspended must pay the reinstatement fee before the expiration of the period of suspension or immediately lose his or her license. Although the court doesn't define this phenomenon exactly, it is referenced by the dissent as a revocation or termination of driving privileges, since it cannot be said to have expired on its own terms. Therefore, the proper offense may also be no driver's license.¹³ For out of state, invalid drivers' licenses if they have lived in the state for more than 30 days, they must seek a Texas driver's license, and therefore are in violation of §521.029, Tex. Transp. Code. What is made clear by the majority opinion of the Court is that the driver's license cannot be thought to still remain "invalid" beyond the established period of suspension.

Prosecutors across Texas have long-pondered whether the offense of *no driver's license* may be charged as a lesser-included offense to *driving while license invalid*. Historically, invalid licenses were filed under the "alternative theory" of No DL when officers did not have time or resources to conduct a full custodial arrest, or when county jails or district courts were unwilling to handle DWLI offenders. But with HB 1623, which reduced the penalty for §521.457 from a Class B, punishable by up to six months in jail, to a Class C misdemeanor, punishable by up to a

\$500 fine, and HB 1841 which allowed citations to be written for Class B DWLI, the practical issues surrounding the misfiling and mislabeling of these separate charges have largely been resolved.

Interpreting the Facts

So how can an officer recognize invalid versus valid licenses? When looking at the record print-out, or TLETS¹⁴ print out, begin at the alarm panel. If that says “Revoked” or “Denied/FTA” that is DWLI. If it says “Deny Renewal”, though, that is **not** DWLI. The “Reinstatement Fee Pending” status is what creates that “Denied Renewal” alarm, but sometimes it is hard to tell if that is the only status that applies to the license without confirming at the alarm panel. When the license expires, for instance, it won’t be

renewed by DPS until a fee is paid, so *expired driver’s license* charges could be in that person’s foreseeable future.

Commonly, there is confusion between the surcharges owed suspension, and the reinstatement fee suspension. Suspensions due to surcharges owed in the DPS Points & Surcharge Program are indefinite until compliance and will read “revoked.” Those are appropriately filed as *driving while license invalid*.

The following chart is a modification of a pocket chart carried by the College Station Police Department to inform officers on appropriate driver’s license offense procedures.

As a final note, remember that the Class C DWLI only applies to **first**

time DWLI-offenders. So a second or subsequent charge should still be treated as a Class B misdemeanor. Also, driving while subject to a suspension due to the operation of a motor vehicle while intoxicated is an automatic Class B misdemeanor.

¹ 48 S.W.3d 775 (Tex. Crim. App. 2001).
² Allen v. State, 11 S.W.3d 474 (1st Dist.—Houston 2000, pet. granted).
³ § 724.046, Tex. Transp. Code.
⁴ Allen v. State, 11 S.W.3d 474, 475.
⁵ Allen v. State, 48 S.W.3d 775 (Tex. Crim. App. 2001).
⁶ Id at 778.
⁷ §724.035, Tex. Transp. Code.
⁸ §724.042, Tex. Transp. Code.
⁹ §724.032(e), Tex. Transp. Code.
¹⁰ §724.035, Tex. Transp. Code.
¹¹ § 521.045, Tex. Transp. Code.
¹² § 521.451(a)(4), Tex. Transp. Code.
¹³ See Stautzenberger v. State, 232 SW3d 323 (14th Dist.—Houston 2007).
¹⁴ Texas Law Enforcement Telecommunications System.

Drivers License Suspension Offenses

| Reason License/ID Card is Not Clear | Arrest | Violation |
|---|--------|-------------------------------|
| Under active suspension, cancellation, or revocation under any law of this state | No | DWLI 521.457 Class C |
| Under active suspension due to operation of motor vehicle while intoxicated | Yes | DWLI 521.457 Class B |
| Under active suspension, cancellation, or revocation with a prior DWLI conviction | Yes | DWLI 521.457 Class B |
| License was suspended formerly, and a reinstatement fee is required | No | N/A (<i>Allen v. State</i>) |
| Deny Renewal—License has not expired | No | N/A (<i>Allen v. State</i>) |
| License expired during suspension period | No | DWLI 521.457 Class C |
| Suspended Out of State DL | No | No DL 521.021 Class C |
| Occupational License Issued, but not in possession/in violation of restriction | Yes | Occ. Lic. 521.253 Class B |

Performance Indicators on a Shoestring

By James A. Baker, Presiding Judge/Administrator, Rosenberg Municipal Court

- What is your court's ratio of cases disposed of to cases filed?
- What percentage of cases filed in your court are dismissed? When and why?
- What percentage of cases filed in your court are disposed of pre-trial? At trial?
- What is your revenue trend?
- Are your planning projections questioned or discounted by council?
- How does your court compare with courts similarly situated?
- How well does your court perform?

At a recent TMCEC court administrators' seminar, we were exposed to performance indicators and the powerful analysis toolset in *CourTools* from the National Center for State Courts (Google/Yahoo: NCSC/CourTools or www.ncsconline.org/). What struck me was the amount of resources needed to fully implement *CourTools* in order to determine court performance. It occurred to me that we needed a simple analysis using irrefutable yet easily obtained data to tell how our courts are doing before asking council for the resources to fix what may not be that broken.

Using the principles of KISS (Keep it simple, silly) and don't try to reinvent the wheel, begin with the understanding that council is not likely to challenge data from the agency charged with the responsibility of maintaining court data for the entire state. Go to the Texas Office of Court Administration (OCA) website (www.courts.state.tx.us) and look around. OCA has a user-friendly wealth of information in addition to lots of data. Using the state report format and data solely from the

OCA, I constructed and included with this article an Excel worksheet (See illustration on pages 12-13) combining historical and current data in order to produce the ten, five, and two-year averages and a current year projection together with rates of change for the same periods. This simple worksheet in considerable detail tells where you've been, where you are going, and how you are likely to get there. It takes about an hour to set up initially and a half an hour per month to maintain. But, this is only half the analysis.

How do you compare with other cities similarly situated? Comparison data can also be obtained from the OCA for any court for any period. Unless you have cities preselected for you by other city departments, go to OCA and download the "Case Activity by City" report/database in excel. Clean up the formatting to allow inserting total columns for cases filed and disposed of. Then sort by population, total cases filed, total cases disposed of, and revenue by selecting from the sorted database the cities that are close to your city in each sorted category.

Once you have your list of cities, access the OCA monthly report for each of those cities for comparable time periods. I recommend using the year-to-date data so the effects of individual monthly anomalies are minimized. I have included with this article a worksheet comparing year-to-date data for 10 cities, including an average for the compared cities and statewide data (See illustration on pages 14-15). This report takes about an hour a month to produce and gives a good comparison with similarly situated cities.

For an investment of a few hours of clerical time, you can obtain, compile, and analyze free data that will tell you the direction in which your court is moving, how rapidly change is coming, and how your court compares to other courts over time. If you don't like the direction you are going or how you compare, then maybe it's time to ask council to commit the resources and let *CourTools* tell you what you probably already suspect but can't prove. In any event you have the data to back up your request.

Ten Year Historical Performance

Average Performance

Rate of Change

Rosenberg Municipal Court

Complete Fiscal Years

| | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 | FY 04 | FY 05 | FY 06 | FY 07 | Oct 07 | Nov 07 |
|------------------------------------|-----------|-----------|-----------|-----------|-------------|-------------|-------------|-------------|-------------|-------------|-----------|-----------|
| Monthly Report Line Totals | | | | | | | | | | | | |
| New Cases Filed | 11626 | 8964 | 13697 | 17410 | 17317 | 18088 | 13665 | 14762 | 12214 | 12770 | 1468 | 1024 |
| Dispositions | | | | | | | | | | | | |
| Prior to Trial | | | | | | | | | | | | |
| Bond Forfeitures | 171 | 285 | 162 | 204 | 144 | 151 | 189 | 280 | 311 | 358 | 45 | 29 |
| Fined | 2130 | 3098 | 3014 | 3606 | 3791 | 4414 | 3558 | 2827 | 2729 | 3591 | 527 | 385 |
| Cases Dismissed | 1082 | 415 | 351 | 229 | 528 | 1300 | 1082 | 1330 | 541 | 423 | 49 | 118 |
| Total Prior to Trial | 3383 | 3798 | 3527 | 4039 | 4463 | 5865 | 4829 | 4437 | 3581 | 4372 | 621 | 532 |
| Dispositions at Trial | | | | | | | | | | | | |
| Trial by Judge | | | | | | | | | | | | |
| Guilty | 2141 | 3855 | 2261 | 2859 | 2083 | 4284 | 3362 | 2787 | 3142 | 2723 | 300 | 332 |
| Not Guilty | 51 | 22 | 31 | 3 | 17 | 13 | 1 | 3 | 0 | 1 | 1 | 0 |
| Trial by Jury | | | | | | | | | | | | |
| Guilty | 16 | 11 | 4 | 14 | 11 | 19 | 11 | 8 | 12 | 7 | 1 | 1 |
| Not Guilty | 2 | 0 | 2 | 4 | 3 | 3 | 5 | 4 | 1 | 6 | 1 | 0 |
| Dismissed at Trial | 307 | 646 | 1181 | 1107 | 819 | 1608 | 1222 | 1692 | 2073 | 1838 | 84 | 2 |
| Total Dispositions at Trial | 2517 | 4534 | 3479 | 3987 | 2933 | 5927 | 4501 | 4494 | 5228 | 4575 | 387 | 335 |
| Cases Dismissed After | | | | | | | | | | | | |
| Driver Safety Course | 917 | 762 | 578 | 1295 | 1194 | 990 | 875 | 507 | 443 | 603 | 48 | 44 |
| Deferred Disposition | 1120 | 1455 | 1531 | 2135 | 2172 | 2522 | 1908 | 1448 | 1287 | 1134 | 121 | 102 |
| Proof Financial Responsibility | 1167 | 732 | 951 | 1497 | 1597 | 1655 | 1012 | 1063 | 609 | 356 | 42 | 56 |
| Compliance Dismissal | 71 | 817 | 1031 | 2110 | 1719 | 1415 | 953 | 1073 | 557 | 372 | 63 | 91 |
| Total Cases Dismissed After | 3275 | 3766 | 4091 | 7037 | 6682 | 6582 | 4748 | 4091 | 2896 | 2465 | 274 | 293 |
| Total Dispositions | 9175 | 12098 | 11097 | 15063 | 14078 | 18374 | 14078 | 13022 | 11705 | 11412 | 1282 | 1160 |
| Community Service Ordered | 5 | 166 | 82 | 112 | 94 | 142 | 138 | 141 | 166 | 78 | 49 | 21 |
| Cases Appealed | 2 | 2 | 5 | 0 | 0 | 1 | 0 | 0 | 3 | 24 | 1 | 2 |
| Juvenile Activity | | | | | | | | | | | | |
| Transportation Code | 0 | 470 | 321 | 369 | 240 | 200 | 156 | 151 | 149 | 159 | 12 | 12 |
| Non-Driving Alcoholich Bev Code | 1 | 25 | 41 | 32 | 42 | 62 | 35 | 32 | 17 | 35 | 0 | 0 |
| DUI | 0 | 0 | 0 | 0 | 0 | 0 | 5 | 7 | 2 | 3 | 0 | 0 |
| Health and Safety Code | 5 | 55 | 75 | 65 | 49 | 42 | 19 | 32 | 38 | 27 | 0 | 1 |
| Failure to Attend School | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 15 | 0 | 0 | 0 | 0 |
| Eudcation Code | 0 | 39 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 |
| Violation of Local Daytime Curfew | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 66 | 59 | 50 | 9 | 12 |
| All Other Non-Traffic Fine Only | 0 | 489 | 921 | 634 | 627 | 576 | 473 | 527 | 637 | 737 | 90 | 108 |
| Waiver of Jurisdiction Non Traffic | 0 | 213 | 381 | 249 | 156 | 133 | 88 | 79 | 114 | 106 | 0 | 56 |
| Referred to Juvenile Court | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Held in Contempt | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Warnings Administered | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Statements Certified | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Juvenile Cases | 6 | 1291 | 1739 | 1351 | 1114 | 1017 | 778 | 911 | 1016 | 1117 | 111 | 189 |
| Other Activity | | | | | | | | | | | | |
| Parent Contrib Non Attendance | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Driver License Suspension | 51 | 19 | 17 | 0 | 3 | 4 | 11 | 0 | 6 | 5 | 1 | 1 |
| Search Warrants Issued | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 5 | 0 | 0 |
| Arrest Warrants Issued | | | | | | | | | | | | |
| Class C | 1039 | 7005 | 939 | 1202 | 843 | 2707 | 1388 | 1430 | 1651 | 1272 | 75 | 143 |
| Felony and Class A and B | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Arrest Warrants | 1039 | 7005 | 939 | 1202 | 843 | 2707 | 1388 | 1430 | 1651 | 1272 | 75 | 143 |
| Magistrate Warnings Given | | | | | | | | | | | | |
| Class A and B | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Felonies | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Warning Given | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Emergency Mental Health Hearing | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Magistrate's Orders for Emerg Pro | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Revenue | \$617,505 | \$638,691 | \$744,107 | \$966,721 | \$1,014,882 | \$1,193,252 | \$1,131,373 | \$1,173,582 | \$1,200,462 | \$1,457,010 | \$139,468 | \$127,531 |
| Disposition Rate | 78.92% | 134.96% | 81.02% | 86.52% | 81.30% | 101.58% | 103.02% | 88.21% | 95.83% | 89.37% | 87.33% | 113.28% |
| Pre Trial Disposition | 29.10% | 42.37% | 25.75% | 23.20% | 25.77% | 32.42% | 35.34% | 30.06% | 29.32% | 34.24% | 42.30% | 51.95% |
| Dismissed Pretrial | 9.31% | 4.63% | 2.56% | 1.32% | 3.05% | 7.19% | 7.92% | 9.01% | 4.43% | 3.31% | 3.34% | 11.52% |
| At Trial Disposition | 21.65% | 50.58% | 25.40% | 22.90% | 16.94% | 32.77% | 32.94% | 30.44% | 42.80% | 35.83% | 26.36% | 32.71% |
| Dismissed at Trial | 2.64% | 7.21% | 8.62% | 6.36% | 4.73% | 8.89% | 8.94% | 11.46% | 16.97% | 14.39% | 5.72% | 0.20% |
| Statutory Dismissals | 28.17% | 42.01% | 29.87% | 40.42% | 38.59% | 36.39% | 34.75% | 27.71% | 23.71% | 19.30% | 18.66% | 28.61% |
| Total Dismissals | 40.12% | 53.85% | 41.05% | 48.09% | 46.36% | 52.47% | 51.61% | 48.18% | 45.11% | 37.01% | 27.72% | 40.33% |

| Current Fiscal Year | | | | | | Average | | Projected | | Rate of Change | | | |
|---------------------|-----------|-----------|-----------|-----------|-----------|-------------|-------------|-------------|-------------|----------------|---------|---------|---------------------|
| Dec 07 | Jan 08 | Feb 08 | Mar 08 | Apr 08 | May 08 | 10 YR | 5 YR | 2 YR | FY 08 | 10 YR | 5 YR | 2YR | Two YR Projected |
| 905 | 1317 | 1090 | 1313 | 1382 | 1431 | 14051 | 14300 | 12492 | 14895 | 0.98% | -5.88% | 2.28% | 8.32% |
| 25 | 20 | 41 | 46 | 29 | 96 | 226 | 258 | 335 | 497 | 10.94% | 27.42% | 7.56% | 19.34% |
| 263 | 350 | 397 | 396 | 484 | 339 | 3276 | 3424 | 3160 | 4712 | 6.86% | -3.73% | 15.79% | 15.60% |
| 65 | 87 | 66 | 87 | 105 | 98 | 728 | 935 | 482 | 1013 | -6.09% | -13.49% | -10.91% | 69.68% |
| 353 | 457 | 504 | 529 | 618 | 533 | 4229 | 4617 | 3977 | 6221 | 2.92% | -5.09% | 11.04% | 21.14% |
| 280 | 202 | 216 | 187 | 262 | 207 | 2950 | 3260 | 2933 | 2979 | 2.72% | -7.29% | -6.67% | 4.70% |
| 0 | 0 | 0 | 0 | 0 | 0 | 14 | 4 | 1 | 2 | -9.80% | -18.46% | | 25.00% |
| 1 | 0 | 0 | 2 | 0 | 1 | 11 | 11 | 10 | 9 | -5.63% | -12.63% | -20.83% | 14.29% |
| 0 | 0 | 0 | 0 | 0 | 0 | 3 | 4 | 4 | 2 | 20.00% | 20.00% | 250.00% | -37.50% |
| 2 | 2 | 2 | 2 | 4 | 3 | 1249 | 1687 | 1956 | 152 | 49.87% | 2.86% | -5.67% | -45.88% |
| 283 | 204 | 218 | 191 | 266 | 211 | 4218 | 4945 | 4902 | 3143 | 8.18% | -4.56% | -6.25% | -15.66% |
| 59 | 58 | 69 | 90 | 49 | 49 | 816 | 684 | 523 | 699 | -3.42% | -7.82% | 18.06% | 7.96% |
| 80 | 93 | 102 | 142 | 189 | 122 | 1671 | 1660 | 1211 | 1427 | 0.13% | -11.01% | -5.94% | 12.90% |
| 21 | 39 | 35 | 40 | 38 | 40 | 1064 | 939 | 483 | 467 | -6.95% | -15.70% | -20.77% | 15.52% |
| 49 | 132 | 171 | 129 | 133 | 94 | 1012 | 874 | 465 | 1293 | 42.39% | -14.74% | -16.61% | 123.79% |
| 209 | 322 | 377 | 401 | 409 | 305 | 4563 | 4156 | 2681 | 3885 | -2.47% | -12.51% | -7.44% | 28.80% |
| 845 | 983 | 1099 | 1121 | 1293 | 1049 | 13010 | 13718 | 11559 | 13248 | 2.44% | -7.58% | -1.25% | 8.04% |
| 24 | 8 | 5 | 12 | 14 | 9 | 112 | 133 | 122 | 213 | 146.00% | -9.01% | -26.51% | 86.54% |
| 0 | 0 | 1 | 0 | 0 | 1 | 4 | 6 | 14 | 8 | 110.00% | 460.00% | 350.00% | -34.38% |
| 4 | 15 | 4 | 11 | 15 | 13 | 222 | 163 | 154 | 129 | | -4.10% | 3.36% | -9.43% |
| 6 | 0 | 0 | 3 | 1 | 8 | 32 | 36 | 26 | 27 | 340.00% | -8.71% | 52.94% | -11.43% |
| 0 | 0 | 0 | 0 | 1 | 0 | 2 | 3 | 3 | 2 | | | | |
| 0 | 1 | 1 | 20 | 2 | 2 | 41 | 32 | 33 | 41 | 44.00% | -7.14% | -14.47% | 25.00% |
| 0 | 0 | 0 | 0 | 0 | 0 | 2 | 3 | 0 | 0 | | | | |
| 0 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 0 | 0 | | | | |
| 3 | 7 | 25 | 13 | 16 | 19 | 18 | 36 | 55 | 156 | | 480.00% | -7.63% | 106.00% |
| 59 | 44 | 90 | 59 | 105 | 92 | 562 | 590 | 687 | 971 | | 5.59% | 7.85% | 15.84% |
| 20 | 17 | 30 | 15 | 16 | 17 | 152 | 104 | 110 | 257 | | -4.06% | -3.51% | 70.99% |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 92 | 84 | 150 | 121 | 156 | 151 | 1034 | 968 | 1067 | 1581 | 1851.67% | 1.97% | 4.97% | 20.77% |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 1 | 0 | 0 | 1 | 0 | 1 | 12 | 5 | 6 | 8 | -9.02% | 5.00% | -8.33% | 25.00% |
| 0 | 0 | 1 | 0 | 0 | 0 | 1 | 1 | 3 | 2 | | | | |
| | | | | | | 0 | 0 | 0 | 0 | | | | |
| 48 | 98 | 120 | 31 | 185 | 112 | 1948 | 1690 | 1462 | 1218 | 2.24% | -10.60% | -11.48% | -2.12% |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 48 | 98 | 120 | 31 | 185 | 112 | 1948 | 1690 | 1462 | 1218 | 2.24% | -10.60% | -11.48% | -2.12% |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | | | |
| \$103,104 | \$146,462 | \$176,338 | \$155,279 | \$147,527 | \$138,605 | \$1,013,759 | \$1,231,136 | \$1,328,736 | \$1,701,471 | 13.60% | 4.42% | 10.69% | 8.39% |
| 93.37% | 74.64% | 100.83% | 85.38% | 93.56% | 73.31% | 94.07% | 95.60% | 92.60% | 88.94% | 1.32% | -2.41% | -3.37% | -0.24% |
| 39.01% | 34.70% | 46.24% | 40.29% | 44.72% | 37.25% | 30.10% | 32.29% | 31.83% | 41.76% | 1.77% | 1.12% | 8.39% | 10.99% |
| 7.18% | 6.61% | 6.06% | 6.63% | 7.60% | 6.85% | 5.18% | 6.54% | 3.86% | 6.80% | -6.44% | -10.78% | -12.61% | 52.61% |
| 31.27% | 15.49% | 20.00% | 14.55% | 19.25% | 14.74% | 30.02% | 34.58% | 39.24% | 21.10% | 6.55% | 1.87% | -8.15% | -20.56% |
| 0.22% | 0.15% | 0.18% | 0.15% | 0.29% | 0.21% | 8.89% | 11.79% | 15.65% | 1.02% | 44.51% | 12.38% | -7.60% | -46.47% |
| 23.09% | 24.45% | 34.59% | 30.54% | 29.59% | 21.31% | 32.48% | 29.07% | 21.46% | 26.08% | -3.15% | -9.39% | -9.29% | 17.56% |
| 30.50% | 31.21% | 40.83% | 37.32% | 37.48% | 28.37% | 46.55% | 47.40% | 40.97% | 33.90% | -0.77% | -5.89% | -8.98% | -4.20% |

Ten City Comparison for 6 Months FY08

| Report Line Items | Rank | Alvin | Conroe | Deer Park | Huntsville | Katy |
|---|------|-----------|-----------|-----------|------------|-----------|
| Population | 7 | 22142 | 43402 | 30575 | 37537 | 13012 |
| New Cases Filed | 5 | 2478 | 9235 | 7780 | 3836 | 3270 |
| Dispositions | | | | | | |
| Prior to Trial | | | | | | |
| Bond Forfeitures | 1 | 173 | 1 | 0 | 0 | 0 |
| Fined | 3 | 295 | 414 | 1294 | 1206 | 575 |
| Cases Dismissed | 4 | 19 | 605 | 373 | 270 | 35 |
| Total Prior to Trial | 3 | 487 | 1020 | 1667 | 1476 | 610 |
| Dispositions at Trial | | | | | | |
| Trial by Judge | | | | | | |
| Guilty | 4 | 1286 | 5139 | 2012 | 279 | 1142 |
| Not Guilty | 8 | 4 | 6 | 6 | 0 | 3 |
| Trial by Jury | | | | | | |
| Guilty | 6 | 24 | 1 | 26 | 0 | 17 |
| Not Guilty | 5 | 2 | 0 | 1 | 0 | 2 |
| Dismissed at Trial | 8 | 86 | 1702 | 397 | 297 | 102 |
| Total Dispositions at Trial | 5 | 1402 | 6848 | 2442 | 576 | 1266 |
| Cases Dismissed After | | | | | | |
| Driver Safety Course | | 78 | 764 | 1158 | 186 | 104 |
| Deferred Disposition | | 68 | 333 | 1181 | 239 | 278 |
| Proof of Financial Responsibility | | 189 | 660 | 485 | 215 | 367 |
| Compliance Dismissal | | 84 | 545 | 628 | 132 | 281 |
| Total Cases Dismissed After | 5 | 419 | 2302 | 3452 | 772 | 1030 |
| Total Dispositions | 5 | 2308 | 10170 | 7561 | 2824 | 2906 |
| Community Service Ordered | 6 | 58 | 363 | 113 | 239 | 28 |
| Cases Appealed | 8 | 9 | 58 | 0 | 18 | 0 |
| Juvenile Activity | | | | | | |
| Transportation Code | | 44 | 123 | 321 | 23 | 50 |
| Non-Driving Alcoholich Bev Code | | 48 | 42 | 2 | 111 | 14 |
| DUI | | 0 | 2 | 3 | 46 | 1 |
| Health and Safety Code | | 28 | 6 | 0 | 18 | 17 |
| Failure to Attend School | | 0 | 0 | 0 | 62 | 0 |
| Eudcation Code | | 0 | 0 | 0 | 66 | 1 |
| Violation of Local Daytime Curfew | | 0 | 0 | 0 | 0 | 11 |
| All Other Non-Traffice Fine Only | | 39 | 35 | 12 | 60 | 61 |
| Waiver of Jurisdiction Non Traffic | | 0 | 0 | 0 | 44 | 0 |
| Referred to Juvenile Court | | 0 | 0 | 0 | 0 | 0 |
| Held in Contempt | | 0 | 0 | 0 | 0 | 0 |
| Warnings Administered | | 0 | 4 | 0 | 0 | 0 |
| Statements Certified | | 0 | 4 | 0 | 0 | 0 |
| Total Juvenile Cases | 2 | 159 | 216 | 338 | 430 | 155 |
| Other Activity | | | | | | |
| Parent Contrib Non Attendance | | 0 | 0 | 0 | 11 | 0 |
| Driver License Suspension | | 0 | 0 | 0 | 0 | 0 |
| Search Warrants Issued | | 0 | 0 | 0 | 0 | 0 |
| Arrest Warrants Issued | | | | | | |
| Class C | 10 | 847 | 5075 | 2889 | 1422 | 832 |
| Felony and Class A and B | | 0 | 0 | 0 | 0 | 0 |
| Total Arrest Warrants | | 847 | 5075 | 2889 | 1422 | 832 |
| Magistrate Warnings Given | | | | | | |
| Class A and B | | 0 | 0 | 0 | 0 | 235 |
| Felonies | | 0 | 0 | 0 | 0 | 0 |
| Total Warning Given | | 0 | 0 | 0 | 0 | 235 |
| Emergency Mental Health Hearing | | 0 | 0 | 0 | 0 | 0 |
| Magistrate's Orders for Emerg Pro | | 0 | 0 | 0 | 0 | 0 |
| Total Revenue | 6 | \$364,121 | \$961,319 | \$893,355 | \$526,881 | \$398,100 |
| Disposition Ratio | | | | | | |
| Disposition Ratio | 5 | 93.14% | 110.12% | 97.19% | 73.62% | 88.87% |
| Percentage Dispositioned Prior to Trial | | 19.65% | 11.04% | 21.43% | 38.48% | 18.65% |
| Percentage Dismissed Prior to Trial | | 0.77% | 6.55% | 4.79% | 7.04% | 1.07% |
| Percentage Dispositioned at Trial | | 56.58% | 74.15% | 31.39% | 15.02% | 38.72% |
| Percentage Dismissed At Trial | | 3.47% | 18.43% | 5.10% | 7.74% | 3.12% |
| Percentage Total Non Statutory Dismissals | | 4.24% | 24.98% | 9.90% | 14.78% | 4.19% |
| Percentage Statutory Dismissals | | 16.91% | 24.93% | 44.37% | 20.13% | 31.50% |
| Percentage Total Dismissed | 9 | 21.15% | 49.91% | 54.27% | 34.91% | 35.69% |

| Report Line Items | League City | Missouri City | Richmond | Rosenberg | Sugar Land | Mean Avg. | Statewide |
|---|-------------|---------------|-----------|-----------|-------------|-----------|---------------|
| Population | 57981 | 66587 | 13001 | 29470 | 75754 | 27764 | 4803/5478 |
| New Cases Filed | 7312 | 6538 | 2525 | 7117 | 11041 | 3453 | 3,481,659 |
| Dispositions | | | | | | | |
| Prior to Trial | | | | | | | |
| Bond Forfeitures | 3 | 91 | 0 | 206 | 14 | 31 | 26,021 |
| Fined | 3299 | 1403 | 843 | 2318 | 4440 | 1230 | 1,063,335 |
| Cases Dismissed | 555 | 1133 | 164 | 472 | 334 | 266 | 222,658 |
| Total Prior to Trial | 3857 | 2627 | 1007 | 2996 | 4788 | 1528 | 1,312,014 |
| Dispositions at Trial | | | | | | | |
| Trial by Judge | | | | | | | |
| Guilty | 180 | 1991 | 2 | 1517 | 342 | 403 | 551,573 |
| Not Guilty | 91 | 21 | 0 | 1 | 4 | 12 | 13,664 |
| Trial by Jury | | | | | | | |
| Guilty | 5 | 24 | 0 | 5 | 45 | 8 | 2,015 |
| Not Guilty | 0 | 7 | 0 | 1 | 4 | 1 | 818 |
| Dismissed at Trial | 386 | 42 | 0 | 94 | 168 | 69 | 318,956 |
| Total Dispositions at Trial | 662 | 2085 | 2 | 1618 | 563 | 493 | 887,026 |
| Cases Dismissed After | | | | | | | |
| Driver Safety Course | 963 | 438 | 86 | 638 | 2349 | 447 | 216,162 |
| Deferred Disposition | 602 | 166 | 299 | 640 | 453 | 216 | 247,931 |
| Proof of Financial Responsibility | 729 | 387 | 256 | 233 | 740 | 235 | 220,355 |
| Compliance Dismissal | 362 | 177 | 413 | 635 | 389 | 198 | 173,044 |
| Total Cases Dismissed After | 2656 | 1168 | 1054 | 1876 | 3931 | 1069 | 857,492 |
| Total Dispositions | 7175 | 5880 | 2063 | 6490 | 9282 | 3089 | 3,056,532 |
| Community Service Ordered | 196 | 93 | 184 | 119 | 337 | 93 | 67,657 |
| Cases Appealed | 38 | 24 | 7 | 4 | 5 | 8 | 6,026 |
| Juvenile Activity | | | | | | | |
| Transportation Code | 122 | 107 | 17 | 58 | 156 | 46 | 66,037 |
| Non-Driving Alcoholich Bev Code | 10 | 9 | 17 | 9 | 16 | 6 | 15,423 |
| DUI | 0 | 3 | 0 | 0 | 9 | 1 | 1,253 |
| Health and Safety Code | 5 | 4 | 4 | 5 | 17 | 4 | 4,068 |
| Failure to Attend School | 0 | 1243 | 0 | 0 | 431 | 167 | 13,535 |
| Eudcation Code | 0 | 0 | 0 | 0 | 0 | 0 | 4,835 |
| Violation of Local Daytime Curfew | 9 | 4 | 30 | 69 | 0 | 11 | 5,730 |
| All Other Non-Traffic Fine Only | 31 | 40 | 7 | 450 | 34 | 56 | 40,803 |
| Waiver of Jurisdiction Non Traffic | 0 | 0 | 0 | 138 | 0 | 14 | 2,767 |
| Referred to Juvenile Court | 0 | 0 | 0 | 0 | 0 | 0 | 673 |
| Held in Contempt | 75 | 0 | 0 | 0 | 0 | 8 | 3,218 |
| Warnings Administered | 2 | 0 | 0 | 0 | 0 | 0 | 1,079 |
| Statements Certified | 0 | 0 | 0 | 0 | 0 | 0 | 364 |
| Total Juvenile Cases | 254 | 1410 | 75 | 729 | 663 | 313 | 159,785 |
| Other Activity | | | | | | | |
| Parent Contrib Non Attendance | 0 | 5 | 0 | 0 | 0 | 1 | 5,182 |
| Driver License Suspension | 0 | 0 | 0 | 4 | 0 | 0 | 144 |
| Search Warrants Issued | 0 | 0 | 0 | 1 | 0 | 0 | 2,282 |
| Arrest Warrants Issued | | | | | | | |
| Class C | 1617 | 800 | 1230 | 515 | 2509 | 667 | 1,121,255 |
| Felony and Class A and B | 0 | 2 | 0 | 0 | 0 | 0 | 31,503 |
| Total Arrest Warrants | 1617 | 802 | 1230 | 515 | 2509 | 667 | 1,152,758 |
| Magistrate Warnings Given | | | | | | | |
| Class A and B | 182 | 0 | 0 | 0 | 0 | 18 | 62,868 |
| Felonies | 64 | 0 | 0 | 0 | 0 | 6 | 31,054 |
| Total Warning Given | 246 | 0 | 0 | 0 | 0 | 25 | 93,922 |
| Emergency Mental Health Hearing | 0 | 0 | 0 | 0 | 5 | 1 | 636 |
| Magistrate's Orders for Emerg Pro | 11 | 0 | 0 | 0 | 0 | 1 | 3,281 |
| Total Revenue | \$1,051,482 | \$863,078 | \$192,204 | \$848,182 | \$1,397,434 | \$435,238 | \$327,843,836 |
| Disposition Ratio | 98.13% | 89.94% | 81.70% | 91.19% | 84.07% | 89.45% | 87.79% |
| Percentage Dispositioned Prior to Trial | 52.75% | 40.18% | 39.88% | 42.10% | 43.37% | 44.23% | 37.68% |
| Percentage Dismissed Prior to Trial | 7.59% | 17.33% | 6.50% | 6.63% | 3.03% | 7.70% | 6.40% |
| Percentage Dispositioned at Trial | 9.05% | 31.89% | 0.08% | 22.73% | 5.10% | 14.28% | 25.48% |
| Percentage Dismissed At Trial | 5.28% | 0.64% | 0.00% | 1.32% | 1.52% | 2.00% | 9.16% |
| Percentage Total Non Statutory Dismissals | 12.87% | 17.97% | 6.50% | 7.95% | 4.55% | 9.70% | 15.56% |
| Percentage Statutory Dismissals | 36.32% | 17.86% | 41.74% | 26.36% | 35.60% | 30.94% | 24.63% |
| Percentage Total Dismissed | 49.19% | 35.84% | 48.24% | 34.31% | 40.15% | 40.64% | 40.19% |



COLLECTIONS CORNER

Collection Improvement Program Update

By Jim Lehman, OCA Collection Specialist

The Collection Improvement Program began over a decade ago as a voluntary model. In 2005 the Texas Legislature recognized the importance of enforcing the collection of court-ordered payments by adding a statute that requires the 54 counties with a population of 50,000 or greater and the 24 cities with a population of 100,000 or greater to implement a court collection improvement program. Approximately half of the mandated cities and counties were to implement the Office of Court Administration (OCA) model by April 1, 2006, with the remaining by April 1, 2007. As of July 2008, 74 of the 78 mandated cities and counties have at least partially implemented the model, resulting in approximately \$26 million in additional state revenue for the period from April 2006 through September 2007, and an estimated \$60 million in additional local revenue.

The OCA Collection Improvement Program is a set of principles and processes for managing cases when defendants are not prepared to pay all court costs, fees, and fines at the point of assessment and when time to pay is requested.

On August 31, 2007, OCA published notice in the *Texas Register* of proposed rules relating to the OCA Collection Improvement Program and the audit standards to be used by the Comptroller of Public Accounts for program implementation. On October 5, 2007, OCA held a public meeting in Austin to discuss the proposed rules and comments.

Based on the comments submitted and discussions held at the hearing, OCA revised the proposed rules. The final rules, as revised, were adopted and published in the *Texas Register* in December 2007. They may be found at 1 Texas Administrative Code Sections 175.1-175.7. The new rules were written to add more flexibility to the program requirements.

Essentially, the new rules divide the critical components of the Collection Improvement Program into two parts: program operation and defendant communications. The three components for program operation require a city to have each of the following:

1. Dedicated program staff.
2. Payment plan compliance monitoring.
3. Reporting of collection activity, including amounts assessed and collected.

The remaining seven critical components relate to how program staff communicate with defendants and document those communications. They require:

1. Defendants to complete an application for extension of time to pay court costs, fees or fines or to provide contact information.
2. Verification of contact information provided by defendants.

3. Interview of defendants to review the application and determine an appropriate plan or to review the terms of a judge-imposed payment plan.

4. Specific payment terms.

5. Telephone contact for past-due payments within a specific period.

6. Mail contact for past-due payments within a specific period.

7. If a *capias pro fine* will be sought, notice of intent to issue it must be sent within a specific period.

To be compliant, a city must be in substantial compliance with at least six of the seven communications components. To be in substantial compliance with a component, the requirement must be met for at least 80 percent of the cases at that stage of collection. If a city is in substantial compliance with only six of the seven communications components, then it must be partially compliant on the remaining component. To be in partial compliance, the requirement must be met for at least 50 percent of the cases at that stage of collection.

OCA staff will assist cities and counties interested in developing a Collection Improvement Program on a voluntary basis at no cost to the city or county time and resources permitting.

For further information, contact Jim Lehman at 512.936.0991 or jim.lehman@courts.state.tx.us.



RESOURCES FOR YOUR COURT

2008 National Court Collections Conference

September 22-24, 2008
Las Vegas, NV
Golden Nugget Hotel & Conference Center

The purpose of the National Court Collections Conference is to identify interest in improving court collections via education, training, techniques, technology, and developing standards by hosting a national focus event.

It is estimated that \$40 billion in delinquent debt is owed to local governments. Many cities, counties, and states will face budget deficits this year. Some are looking to curb spending by reducing services, cutting programs, and eliminating jobs. These uncollected dollars also represent millions of court orders, orders issued by judges, and ignored by lawbreakers. Ultimately taxpayers and citizens pay the price for this breakdown in the criminal justice process.

Conference Highlights:

- Examining court collection models from across the country
- A fine is punishment only if it is collected (Why collections are so important)
- A judge's view of court collections
- The law enforcement connection to collections
- Effective use of information technology
- Hiring and evaluating the perfect collections staff
- Obstacles to court collections (Interactive session)
- Integrating predictive dialer systems into court collections
- Inside the criminal court collections department (Tour Las Vegas Municipal Court)

Registration is \$429.99 for members and \$529.99 for non-members. For details please visit www.govcat.net. Online registration is available for both credit cards and checks, or make checks payable to Government Collectors Association of Texas (GCAT) and mail to:

GCAT
P.O. Box 2178
Conroe, Texas 77305

For additional details, contact Nadine Jenkins at 281.748.3484.

Accommodations:

The Golden Nugget Hotel. Please make your own room reservations no later than August 22, 2008 by calling 800.634.3454. Ask for the special GCAT Conference rate of \$79. One night advance deposit required.

2009 GCAT Conference

The annual conference of the Government Collectors Association of Texas (GCAT) is planned for May 18-20, 2009 in Galveston at the Hotel Galvez. For more information, visit the GCAT website: www.govcat.net.



Stop Take Notice

The Texas Municipal Courts Association Public Outreach Committee along with Texas Municipal Courts Education Center would like to encourage you to go out in your community and address the need for traffic safety.

Please take the time to look at the TMCEC website (www.tmcec.com) and use the materials provided to help your community understand the importance of safe driving. The TMCA Public Outreach Committee CHALLENGES each and every municipal court personnel to speak at schools, senior centers, and civic groups to help promote the court and importance of traffic safety.

We also encourage you to sign up for the speaker's bureau, which will help locate speakers for schools and civic groups requesting this type of outreach. Please fax your information to TMCEC at 512.435.6118.

Add Me to the Speakers' Bureau

Name: _____
 Court: _____
 Tel. # _____
 Email: _____



FROM THE CENTER

Spanish Translated Forms

TMCEC has prepared a set of forms that contain the Spanish translation to the right of the English version. Go to the TMCEC website to download copies. The translated forms may be accessed under Resources – Books – then scroll down to the TMCEC *Forms Book*. There is a link for the Spanish versions.

WARNING: HOTEL CANCELTION POLICIES

Many of the hotels that TMCEC contracts with are now requiring a 72-hour cancelation notice. If you cancel, and the hotel charges TMCEC, you and your city will be billed. Example: You register for a seminar, requesting two nights of hotel accomodations. The day before your arrival date, you decide to only stay one night at the hotel, and instead, get up early and drive in to the seminar. Under the 72-hour policy, the hotel will bill TMCEC for the night – usually a cost of \$90. TMCEC will then bill you.

Court Interpreter Programs Cancelled

TMCEC will **not** offer 6-hour court interpreter programs in FY 09. The list serv will remain active. To sign up for the list serv, email hope@tmcec.com.

09 Registration Fees

The TMCEC Board of Directors have adopted a new schedule of registration fees, effective September 1, 2008.

- 12-hour Judges & Clerks \$50 (\$50 CLE)
- 32-hour Judges & Clerks \$100
- 12-hour Court Administrators \$50
- 12-hour Bailiff/Warrant Officer \$100
- 12-hour Prosecutor \$150/300 (\$100 CLE)
- 6-hour Legislative Update \$100 (\$50 CLE)
- 24-hour Assessment Clinic \$100
- 5-hour Clinics \$20 (\$0 CLE)

In parenthesis are the voluntary Continuing Legal Education (CLE) fees for judges and prosecutors.

TMCEC Fall Programs

The TMCEC Academic Schedule will be mailed to courts in late August after the grant has final approval from the Texas Court of Criminal Appeals. Since many of you are anxious to register for the fall programs, shown below is what is scheduled. Please use the registration form on page 19 to register.

New clerks who have never attended the TMCEC 32-hour program are invited to register for the September 22-26, 2008 program to be held in Austin at the Crowne Plaza Hotel. The program provides an overview of the work of the municipal clerk. The registration fee is \$100. For additional information, contact Pat Ek at ek@tmcec.com or call 800.252.3718.

32-Hour Programs

September 22-26, 2008
32-hour New Clerks – Austin Crowne Plaza
Registration Fee: \$100

December 8-12, 2008
32-hour New Judges and Clerks – Austin Crowne Plaza
Registration Fee: \$100

12-Hour Seminars

October 8-10, 2008
12-hour Regional Judges – Tyler Holiday Inn Select
Registration Fee: \$50

October 10-12, 2008
12-hour Regional Clerks – Tyler Holiday Inn Select
Registration Fee: \$50

November 5-7, 2008
12-hour Regional Judges and Clerks – Austin Crowne Plaza
Registration Fee: \$50

For additional information on TMCEC programs, go to the TMCEC website: www.tmcec.com.

Celebrate Municipal Courts Week

November 3 - November 7, 2008

Join municipal courts, city councils, and communities throughout Texas in showing appreciation for the dedicated municipal judges, court clerks, court administrators, bailiffs, and warrant officers who comprise the Texas municipal courts from November 3 to November 7, 2008.

Municipal Courts Week is a great time to not only recognize how much municipal courts do, but to share with the public the important role that local courts and their personnel play in the criminal justice system and the larger community.

Your celebration of Municipal Courts Week should be as unique as your court, so be creative with your activities. Here are some ideas that have been successful in the past:

- Ask your city council to pass a local resolution or www.tmcec.com.
- Host a tour of your court for the city council and the public. While they are there, ask the presiding judge to make a presentation or show the TMCEC video/DVD *Role of the Municipal Court* (available from TMCEC at no charge).
- Hold a mock trial with a local high school government class acting as the key players.
- Show the court staff appreciation by treating them to lunch or have a brown-bag lunch hour together.
- Host a Q&A column in the newspaper to explain how your municipal court works.

Still need more ideas? Watch the TMCEC website, www.tmcec.com, for additional ways to celebrate Municipal Courts Week.

Remember to start planning early and have fun!

We want to hear all about your celebration, so please send copies of your activities, calendar, and news clippings to TMCEC so that we can share them with other courts.

Last year 48 courts reported their activities to TMCEC. Go to www.tmcec.com for ideas.

Local Proclamation

Whereas, the Municipal Court of _____ a time honored and vital part of local government, has existed since _____,

Whereas, more people, citizens and non-citizens alike, come in personal contact with municipal courts than all other Texas courts combined, and

Whereas, public impression of the entire Texas judicial system is largely dependent on the public's experience in municipal court,

Whereas, Municipal Judges and court support personnel have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all, and conform to the standards set by the Canons of Judicial Conduct,

Whereas, the Municipal Courts play a significant role in preserving the quality of life in Texas communities through the adjudication of traffic offenses, ensuring a high level of traffic safety for our citizens,

Whereas, the Municipal Courts serve as the local justice center for the enforcement of local ordinances and fine-only state offenses that protect the peace and dignity of our community,

Whereas, the Municipal Judges and Clerks continually strive to improve the administration of justice through participation in judicial education programs, seminars, workshops and the annual meetings of their state and local professional organizations.

Therefore, it is most appropriate that we recognize the accomplishments of the _____ Municipal Court, and salute its critical role in preserving public safety, protecting the quality of life in our community, and deterring future criminal behavior,

Now, I _____, Mayor of the City of _____, do recognize the week of November 3-7, 2008, as Municipal Court Week, and further extend appreciation to all Municipal Judges and court support personnel for the vital services they perform and their exemplary dedication to our community. I call upon all residents of _____

_____ to join with the City Council in recognizing the vital service they perform and their exemplary dedication to the communities they represent. **On this day** _____ of _____, 2008.

_____, Mayor
_____, Attest

TMCEC Program Audiotape Order Form

The following are audio recordings from the TMCEC 12-hour Judges and Clerks Seminars held in El Paso in June 2008. Duplicates are available through the Center at \$2.50 for each cassette or \$5.00 for a CD of all the recordings to municipal judges and court support personnel if ordered before August 31, 2008. These audio files are also accessible on the TMCEC website [www.tmcec.com].

Judges' Program

- ___ *Procedural/Substantive Law Update* – Meichihko Proctor, Program Attorney & Deputy Counsel, TMCEC
- ___ *Traffic Safety Update* – Marian Moseley, Municipal Judge, Coppell
- ___ *Ethics: The Role of the Court in City Government: City Councils are from Mars and Municipal Judges are from Venus* – Lauren Crawford, Legal Counsel, Texas Municipal League
- ___ *Case Law and Attorney General Opinion Update* – Ryan K. Turner, General Counsel & Director of Education, TMCEC
- ___ *Juvenile/Municipal Law Issues Update* – Robin Ramsay, Municipal Judge, Denton
- ___ *DOT & Federal Motor Carrier Law* – Lester Rorick, Presiding Judge, Pasadena
- ___ *Pre-Trial Appeals: Yes Virginia, There Is a State's Appeal* – Bonnie Lee Goldstein, Municipal Judge, Cockrell Hill & Dallas
- ___ *Nonappearance Crimes* – Rebecca Stark, Municipal Clerk, Austin
- ___ *JNAs: How to Get It Right* – Ryan Turner, General Counsel & Director of Education, TMCEC
- ___ *Complaints* – Ted Wood, Special Counsel to Trial Courts, Office of Court Administration
- ___ *Juvenile Law: Failure to Attend School & Charges Against Parents* – Sharon Pruitt, Assistant Attorney General, Texas Attorney General's Office Juvenile Crime Intervention
- ___ *Unlimited Restitution, Are you Kidding Me?* – Ed Spillane, Presiding Judge, College Station
- ___ *DUIs* – Meichihko Proctor, Assistant Attorney General, Attorney General's Office, General Counsel's Division
- ___ *Magistration Duties* – Robin Ramsay, Municipal Judge, Denton
- ___ *Warrants: Capias and Capias Pro Fines* – Ryan Kellus Turner, General Counsel & Director of Education, TMCEC

Judges' & Clerks' Program

- ___ *Records Retention & Destruction* – Kathryn Wells-Vogel, Court Administrator, Longview
- ___ *Judgments, Affirmative Findings, & Enhancements* – Dana Jacobsen, Presiding Judge, Fair Oaks Ranch
- ___ *Court Costs & Legislative Update on Court Costs* – Rene Henry, Consultant, Hot Springs Village, Arkansas

Clerks' Program

- ___ *Traffic Law Update* – Lois Wright, Program Director, TMCEC
- ___ *Legislative Update* – Deanie King, Municipal Judge, Corpus Christi
- ___ *Ethics: How the Commission Works & Recent Sanctions* – Ryan Kellus Turner, General Counsel & Director of Education, TMCEC
- ___ *Mandatory Reporting* – Lois Wright, Program Director, TMCEC
- ___ *The Internet: Your #1 Resource* – Shane Scribner, Legal Research Assistant, TMCEC
- ___ *Design a Collection Plan* – Aaron Castillo, Regional Collections Specialist, Office of Court Administration
- ___ *Jurisdiction: Concepts & Application* – Ana Otero, Thurgood Marshall School of Law
- ___ *Authority & Duties* – Pat Riffel, Court Administrator, Pearland
- ___ *Nonappearance Crimes* – Rebecca Stark, Municipal Clerk, Austin
- ___ *Courts' Dismissal Powers* – Lois Wright, Program Director, TMCEC
- ___ *What Every Clerk Needs to Know About Court Interpreters* – Lois Wright, Program Director, TMCEC
- ___ *Basic Spanish for Municipal Courts* – Herman Flores, Multimedia Specialist, TMCEC
- ___ *Complaints: The Municipal Court Charging Instrument* – Susie Garcia, Court Administrator, San Marcos
- ___ *Probationary Statutes* – Victoria Medley, Court Administrator, Amarillo
- ___ *Arrest Warrants, Capias, and Capias Pro Fines: Planes, Tranes and Automobiles* – Meichihko Proctor, Assistant Attorney General, Attorney General's Office, General Counsel's Division

___ **Total cassettes x \$2.50 Each = _____ (S & H Included)**

___ **CDs of all recordings x \$2.50 = _____ (S & H Included)**

PAYMENT INFORMATION

- ☉ Check Enclosed (Make checks payable to TMCEC.)
- ☉ Credit Card (Complete the following; \$2.00 will be added for each registration made with credit card payment.)

Credit Card Number: _____ **Expiration Date:** _____

Credit card type: _____ Name as it appears on card (print clearly): _____

☉ Visa _____
 ☉ Mastercard _____ Authorized Signature: _____

Mail or fax order to TMCEC, 1609 Shoal Creek Blvd. #302, Austin, TX 78701 [512.435.6118 fax].

Name: _____

Title: _____

Address: _____

City, State, Zip Code: _____

Telephone Number: _____ Email Address: _____

2009 Municipal Traffic Safety Initiatives Awards



Purpose: To recognize those who work in local municipalities that have made outstanding contributions to their community in an effort to increase traffic safety. This competition is a friendly way for municipalities to increase their attention to quality of life issues through traffic safety activities. Best practices will be shared across the state. Each submission will be recognized.

Eligibility: Any municipal court in the State of Texas. Entries may be submitted on behalf of the court by the following: Judge, Court Clerk, Deputy Court Clerk, Court Manager, Court Administrator, Bailiff, Marshal, Warrant Officer, City Manager, City Councilperson, Law Enforcement Representative, or a Community Member.

Categories: There are three categories this year:

Nine prizes will be awarded.

- Two in the large volume courts, *servicing populations of 150,000 or more;*
- Three in the medium volume courts, *servicing populations between 30,000 and 149,999; and*
- Four in the small volume courts, *servicing populations below 30,000.*

Awards: Award recipients will be honored at the Texas Municipal Courts Education Center (TMCEC) Traffic Safety Conference that will be held in May 2009. Award recipients will receive (for two municipal court representatives) complimentary conference registration, travel to and from the Traffic Safety Conference to include airfare or mileage that is within state guidelines, two night's accommodations at the conference hotel, and most meals and refreshments.

There may be categories where no awards will be presented due to a lack of entries.

Honorable Mentions: If there are a number of applications that are reviewed and deemed outstanding and innovative, at the discretion of TMCEC, honorable mentions may be selected. Honorable mentions will be provided airfare or mileage that is within state fiscal guidelines to attend the Traffic Safety Conference and will be recognized at the Traffic Safety Conference.

Judging Committee and How Entries are Judged: A panel of judges will review each application and assign points based on the materials submitted. After judging, the scores will be averaged and a final score assigned. Applicants will be judged on the basis of what their court has done from January 1, 2008 through December 31, 2008 in terms of public outreach in their community to increase traffic safety while decreasing traffic crashes, traffic fatalities, juvenile DUI, child safety seat offenses, red light running, and other traffic related offenses. It may be helpful to review "What Can You Do?" on page 23.

Section I: *A maximum of 50 points can be awarded.*

What did you do from January 1, 2008 through December 31, 2008? Please provide a written report that is no longer than five pages in length. This may include details regarding, but not limited to: monthly or regular articles in local publications; sponsorship of mock trials; community outreach; distribution of written materials and pamphlets; creative sentencing; bilingual programs and initiatives on traffic safety; endorsements of national programs, such as *Click It or Ticket*; webpages addressing traffic safety; presentations to local civic groups and organizations; interaction with youth; outreach with repeat offenders; and community partnerships. Court programs may be represented in conjunction with city departments, local schools, civic groups, and other community programs.

Section II: *A maximum of 30 points can be awarded.*

Attachments/Samples:

Seeing is believing. Show us samples or digital photos of your materials. This may include, but is not limited to: **copies** (*these will not be returned*) of photos, news articles, press releases, materials you distribute, copies of your web-pages, flyers, and letters of support.

Section III: *A maximum of 20 points can be awarded*

Neatness, organization of materials, and following submission guidelines.

General Tips on a Winning Submission:

- First impressions count. A neat, well-organized submission that is easy to understand during the judging makes big difference.
- Make sure that all of the information you want the judges to see is securely attached.

Entry Rules:

- **Three copies** of the application packet must be submitted.
- Provide a completed application form/packet that includes the application form.
- All typed pages should be 1.5 or double spaced, printed single-sided in at least a font size of 12, *excluded: attachments and samples do not have to follow these guidelines.*
- Each application packet cannot contain more than 30 pages or documents, including attachments, pictures, and supporting documentation. You may include letters of support as long as you do not exceed page limitations. If, for example, you create a four-page handout on Juvenile DUI to distribute to your local schools, this will count as one document.
- Please provide copies only, **no originals**, as your submission will not be returned.
- No late submissions will be considered.

Deadline: Entries must be postmarked no later than **Friday, January 16, 2009.**

Send applications to:

TMCEC – Traffic Safety Awards
Attn: Lisa Robinson, CFLE
TxDOT Traffic Safety Grant Administrator
1609 Shoal Creek Boulevard, Suite 302
Austin, TX 78701

Presentation: Award recipients and Honorable Mention winners will be notified by Friday, March 6, 2009 and will be honored during the Traffic Safety Conference to be held in May 2009.

Best Practices: Information submitted will be compiled and shared statewide for community networking, collaboration, and examples of best practices.

For more information, please contact:

Lisa R. Robinson, CFLE, TxDOT Traffic Safety Grant Administrator,
at 512.320.8274 or robinson@tmcec.com.

Traffic Safety benefits can go far beyond the traffic stop!

What Can You Do?

- Get involved!
- Add traffic safety materials to your city's and court's websites
- Host a warrant round-up with nearby cities
- Invite school groups into your court
- Start a proactive fine collection program
- Recognize situations where a "fine is not fine"
- Join the TMCEC listserv on traffic safety
- Approve adequate funding, staff, and support for your municipal court
- Speak to local civic groups on the importance of traffic safety
- Build community partnerships
- Ask law enforcement officers and prosecutors to work together to identify at-risk drivers in your community
- Create meaningful sentencing alternatives for repeat offenders, especially juveniles and minors using deferred disposition
- At the close of a trial after sentencing, remind jurors and court observers of the importance of compliance with traffic laws
- Adopt a seat belt policy for all city employees
- Participate annually in Municipal Court Week

2009 Municipal Traffic Safety Initiatives Award Application



Please print all information as you would like to appear on the award

Name of Person Submitting: _____

Position: _____

Court Nominated: _____

Mailing Address: _____

City: _____ Zip Code: _____

Telephone number: (____) _____ - _____ Email address: _____

Category (please check one):

_____ Large Volume Court: serving a population of 150,000 or more

_____ Medium Volume Court: serving a population between 30,000 and 149,999

_____ Low Volume Court: serving a population below 30,000

Judge's Signature: _____

DO NOT WRITE IN THIS AREA:

Section I: Written Report: Maximum of 50 points: _____

Section II: Attachments/Samples: Maximum of 30 points: _____

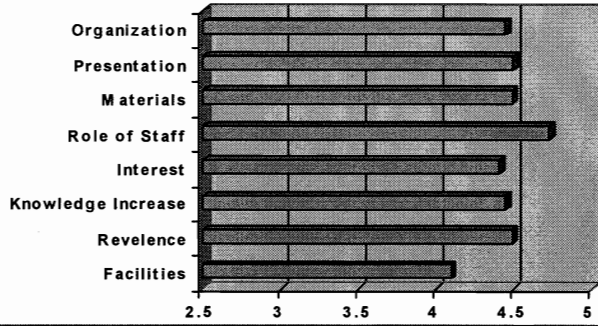
Section III: Neatness, Organization of Materials
& Following Submission Guidelines: Maximum of 20 points: _____

Total Points Awarded: _____

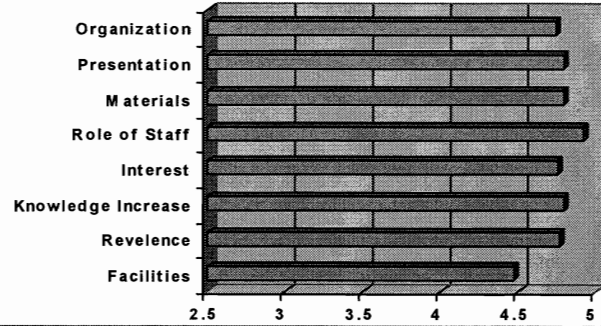
Notes: _____

TMCEC 2007-2008 Program Evaluation

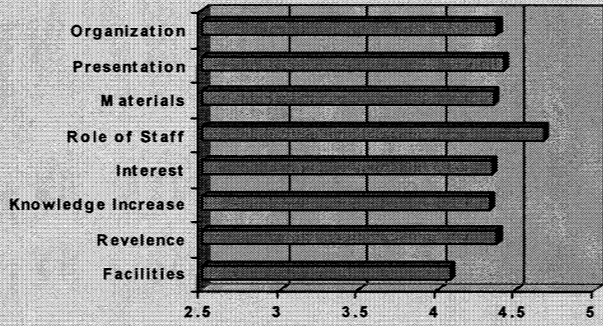
12-Hour Clerks



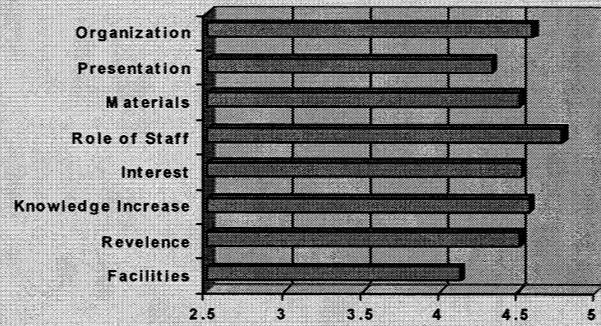
32-Hour New Judges



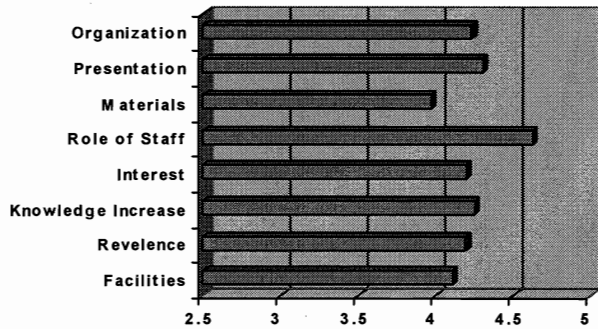
12-Hour Judges



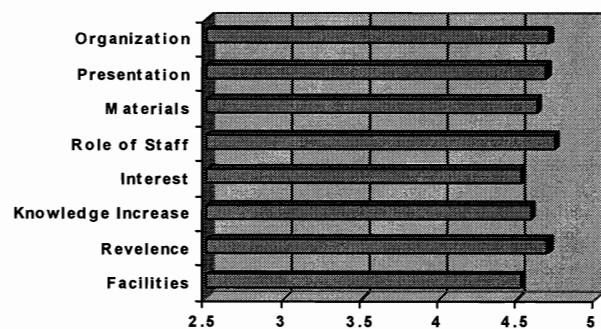
32-Hour New Clerks



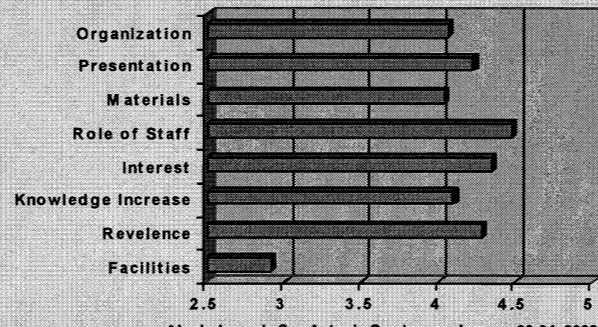
Bailiff and Warrant Officers



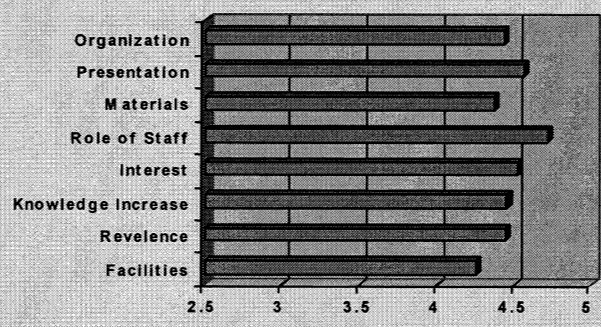
Court Interpreters



Prosecutors

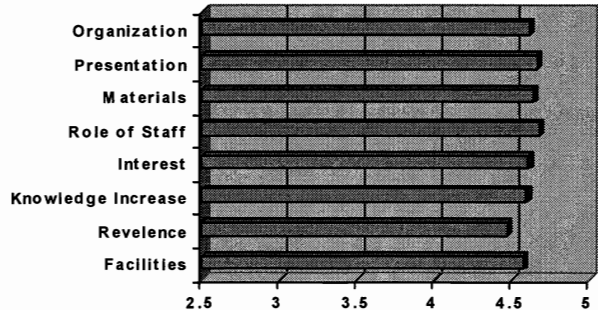


Court Administrators



* Includes only San Antonio Seminar on January 30-31, 2008

Low Volume



In Appreciation

TMCEC wishes to extend a debt of gratitude to the faculty members and course directors who participated in FY08 programs. Without the hard work and dedication of the following faculty members, TMCEC would not have been able to make the FY08 programs an overall success.

The Honorable Michael Acuna, Municipal Judge, Dallas

W. Clay Abbott, DWI Resource Prosecutor, TDCAA

Zelia Alvarez, Senior Court Clerk, Melissa

Allison Attal, Former Program Coordinator, TMCEC

The Honorable Robert J. Barfield, Municipal Judge, El Lago

Shona Bohon, Court Administrator, Midland

Charles Brothers, President, OmniBase Services of Texas

Thomas Broussard, Commission Counsel, State Commission on Judicial Conduct

Elaine Brown, Court Administrator, Katy

The Honorable Deanne Burnett, Municipal Judge, Carrollton and The Colony

Aaron Castillo, Regional Collections Specialist, Office of Court Administration

Tom Cello, Emergency Medical Trainer, Plano

Candace Chappell, Senior Assistant City Attorney, Irving

The Honorable Carrie Chavez, Municipal Judge, Dallas

Kyle Clark, Assistant Director, Office of the Dean of Students, University of Texas at Austin

The Honorable Elaine Coffman, Municipal Judge, Athens

Lauren Crawford, Legal Counsel, Texas Municipal League

Patricia J. Cummings, Attorney at Law, Round Rock

Hilda P. Cuthbertson, Court Administrator, Bryan

Detective Tom Daniel, San Angelo Police Department

Amanda DeGan, Court Administrator, Westlake

Robert DeGroot, City Marshal, Rowlett

Susan Delephimne, Court Clerk, Italy

Ray Dittrich, Law Enforcement Coordinator, TMPA

Russ Duncan, Assistant Collections Manager, Office of Court Administration

Mike Earney, Law Enforcement Coordinator, TMPA

David Eglert, Investigations and Audits, TCLEOSE

The Honorable Gary Ellsworth, Municipal Judge, Gruver, Spearman, and Stratford

Stephen Fagan, Assistant City Attorney, McKinney

Dianna Faulkenberry, Court Administrator, Mansfield

Ross Fischer, City Attorney, Seguin

Herman Flores, Multimedia Specialist, TMCEC

The Honorable Linda Frank, Chief Prosecutor, Arlington and Municipal Judge, Plano

Alfred Garcia, Deputy City Marshal, Austin

Susie Garcia, Court Administrator, San Marcos

The Honorable Allen Gilbert, Municipal Judge, Mertzon and San Angelo

Tracie Glaeser, Court Manager, Lewisville

Bonnie Goldstein, Municipal Judge, Cockrell Hill and Dallas

Mark Goodner, Program Attorney, TMCEC

Dennis Gotcher, Bailiff, Dalworthington Gardens

David Gonzalez, Attorney, Sumpter & Gonzalez, L.L.P.

John Gray, VTR Dallas Regional Manager, Carrollton

Monica Guerrero, County Court Judge, Civil Court at Law #7

Jackie Habersham, Senior Commission Counsel, State Commission on Judicial Conduct

Leisa Hardin, Consultant, Burleson

Randy Harris, Chief City Marshal, San Angelo

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The Honorable Kate Henley, Municipal Judge, McAllen

Rene Henry, Consultant, Hot Springs Village, Arkansas

Ryan Henry, Attorney at Law, Navarro, Rocha, & Bernal, P.C.

Sheila Heugel, Court System Administrator, Plano

Rosa Hernandez, Consultant, Cedar Creek

Rebekah Hibbs, Project Administrator, Texas Driver Responsibility Program

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The Honorable Odell Holmes, Municipal Judge, El Paso

The Honorable Susan M. Horton, Municipal Judge, Brady

Lisa Howard, Court Administrator, Hurst

Christian A. Hubner, Staff Attorney, Texas Judicial Probation Commission

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Deborah Jessup, Court Administrator, Balch Springs

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Wanda Kelly, Court Administrator, Shenandoah

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Melody Luetkehans, Program Attorney, National Judicial College

Sandra Ma, Deputy Court Clerk, Dalworthington

Sandra Mabbett, Judicial Information Specialist, Office of Court Administration

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Cecilia Marquart, Project Director, Criminal Justice Center, Sam Houston State University

The Honorable Robert Martinez, Section Chief, Juvenile Crimes Intervention Division, Office of the Attorney General

The Honorable Phyllis Mathison, Municipal Judge, Bastrop

The Honorable Jan Blacklock Matthews, Municipal Judge, Lubbock

Lisa Mayo, Consultant, Roanoke

The Honorable R. Neel McDonald, Municipal Judge, Fort Worth

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Victoria Medley, Court Administrator, Amarillo

The Honorable Berta Mejia, Municipal Judge, Houston

The Honorable Ron Meyerson, Municipal Judge, Austin

Jan Miller, Law-Related Education Director, State Bar of Texas

Mike Miller, Assistant City Attorney, Galveston

Janie Moreno, Court Interpreter, Dallas

John Morris, City Marshal, Duncanville

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The Honorable Gary Nadler, Sonoma County, California

Ashley Nicholas, Director of Youth Services, Presa Community Center

Tammy Odom, Deputy Clerk, Sweeny

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James Oswalt, Bailiff, Lubbock

The Honorable Ana Otero, Professor, Thurgood Marshall School of Law

The Honorable Edmund Phillips, Presiding Judge, Boerne

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Lawrence Provins, Assistant City Attorney, Pearland

Sharon Pruitt, Assistant Attorney General, Juvenile Criminal Intervention, Office of the Attorney General

The Honorable Robin A. Ramsay, Municipal Judge, Denton, Krum, and Pilot Point

The Honorable Robert C. Richter, Municipal Judge, Missouri City

Pat Riffel, Court Administrator, Pearland

Margaret Robbins, Consultant, Cedar Park

Lisa Robinson, TxDOT Grant Administrator, TMCEC

The Honorable Lester Rorick, Presiding Judge, Pasadena

Mike Sanchez, Warrant Officer, Vidor

The Honorable Gary Scott, Municipal Judge, Montgomery

Shane Scribner, Legal Research Assistant, TMCEC

Ken Smith, Texas LEADRS Program Manager, TMPA

The Honorable Robin Smith, Municipal Judge, Midland

Stephanie Smith, President/CEO, Presa Community Center

Judy Spalding, Commission Counsel, State Commission of Judicial Conduct

The Honorable Edward Spillane, Presiding Judge, College Station

Rebecca Stark, Municipal Clerk, Austin

Jennifer Sullivan, Court Administrator, Sealy

Trent Touchstone, Assistant Chief Deputy Marshal, United States Marshal Service

Bonnie Townsend, Court Administrator, Lockhart

Gerry Tucker, Associate Vice-President of Human Resources, Austin Community College

Ryan K. Turner, General Counsel and Director of Education, TMCEC

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Mark Vincent, DRE Instructor, Irving Police Department

The Honorable Richard Vlavianos, San Joaquin County, California

Kathryn A. Wells-Vogel, Court Administrator, Longview

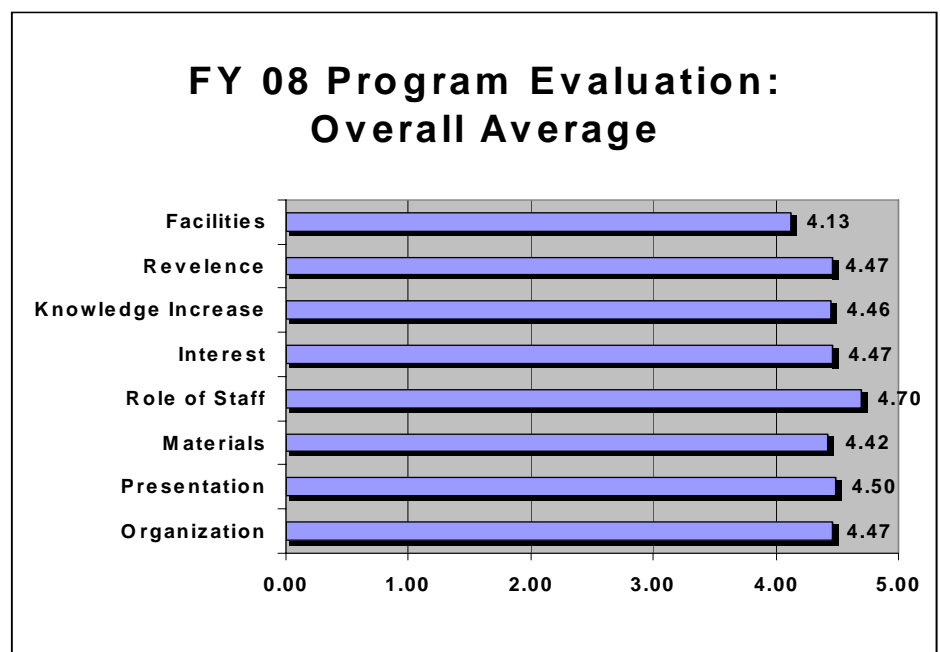
The Honorable Staci Williams, Municipal Judge, Dallas

John Whetsel, Oklahoma County Sheriff, Oklahoma City, Oklahoma

Ted Wood, Assistant General Counsel, Office of Court Administration

Lois Wright, Program Director, TMCEC

Jim Young, CPR and First Aid Services, San Antonio



Deadline for 2008 Texas Judicial System Annual Report

In order to capture your court's data for the *2008 Texas Judicial System Annual Report*, the Office of Court Administration (OCA) must receive your municipal court monthly activity reports for state fiscal year 2008 (September 1, 2007 through August 31, 2008) by **October 29, 2008**.

All municipal courts must submit a monthly court activity report to OCA, **even if the court has no activity for the month**.

The monthly court activity report collects information needed by the Legislature to make decisions regarding the jurisdiction, structure, and needs of the court system. The information is also used by many other entities or individuals: the Comptroller's Office, the Legislative Budget Board, the Department of Public Safety, local judges, city councils, local and state auditors, the media (especially local newspapers), the Texas Municipal Courts Education Center, research or special interest groups, universities (professors and students), attorneys, individuals running against incumbent judges in elections and members of the general public. Reports from September 1992 to the present are available to the public live on the OCA website at <http://www.dm.courts.state.tx.us/oca/reportselection.aspx>.

Please call Sandra Mabbett, Judicial Information Specialist, if you need assistance with or have questions about the monthly reports (512.463.1640).

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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