

# Non-Appearance Violations

Presented by

**Rebecca Stark**

Court Clerk

Austin Municipal Court

# Non-Appearance Violations

- VPTA
  - Violation of Promise to Appear
- FTA
  - Failure to Appear
- COA
  - City Ordinance Appearances
  - Home rule cities only

# Today's Agenda

- Definitions
- If and When Charges May be Brought
- Creating Cases
- How Defendants May Handle These Cases
- Fines / Court Costs / Fees

# Inquiring Minds ...

- By the end of this session, you will be able to:
  1. determine under what circumstances a non-appearance case may be processed.
  2. determine whether to process a VPTA or FTA or COA.
  3. apply the appropriate fine, court costs and fees.





# VPTA and FTA

# Violate Promise to Appear (VPTA)

- Person willfully violates written promise to appear on traffic **citation**

## **Section 543.009, T.C.**

- Separate and distinct **criminal** charge

# Failure to Appear (FTA)

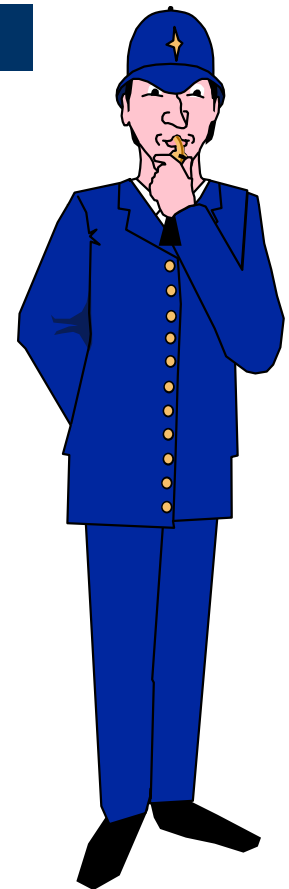
- Defendant lawfully released from **custody** with or without bail and intentionally and knowingly fails to appear in accordance with the terms of the release.

## **Section 38.10, P.C.**

- Separate and distinct **criminal** charge

# Custody

- VPTA – “traffic citation”
  - Who can write?
  - In custody?
- FTA – “released from custody”
  - Who can take into custody?
  - Are all citations “custody”?
- Only \_\_\_\_\_ can take into custody – by citation or arrest



# Citations

- Peace Officer's Authority to issue:
  - Section 543.003, T.C.
    - For offenses under Subtitle C, T.C.
  - Article 14.06(b), C.C.P.
    - For Class C misdemeanors except Public Intoxication

## Cannot Process VPTA or FTA Unless ...

- Can only charge on a **criminal** offense
- Defendant must have been in **custody** and released by peace officer
- Defendant must have **agreed to appear and didn't**

# Which to Process?

- VPTA
  - Violations of Subtitle C, T\_\_\_\_\_C\_\_\_\_\_
  - “Rules of the Road” - Criminal violations
  - Issued by peace officer
- FTA
  - All other criminal violations
  - Issued by peace officer

# VPTA or FTA?

- Registration
- Speeding
- Running Red Light
- Cameras at Red Lights
- Failure to Maintain Financial Responsibility
- Driver's License
- Commercial Driver's License
- Fail to Yield ROW
- Disorderly conduct
- Parking

# Required to Process?

- No!
- Prosecutors decision to charge
  - VPTA: \_\_\_\_\_
  - FTA: \_\_\_\_\_
- Should weight advantages and disadvantages
  - What are some?

# VPTA and FTA

- Questions?



# City Ordinance Appearances

# City Ordinance Appearances (COA)

- Defendant lawfully issued a **citation** requiring defendant to appear and obtaining promise to appear in writing

## **City Ordinance (home rule cities) Chapter 51.072 L.G.C.**

- Separate and distinct **criminal** violation

# Creating a FTA, VPTA or COA Case

- Starts with a Sworn Complaint
- Create New Case
  - The charge is not the same – different case no.
    - court costs not be the same as underlying case
  - The “officer” is not the same
  - The violation location is not the same
  - The fine does not have to be the same
  - Different probable cause affidavit

# How Defendants Handle Cases

- The same as any other case
  - Pay, TPP, Community Service, CTS, etc.
  - Note: VPTA conviction reported to DPS (3333)
- If defendant does not come in on this charge:
  - Issue warrant
    - Do probable cause affidavit
  - Report to DPS (Omnibase) Program
  - Collection Agency



# Fines / Court Costs / Fees

- VPTA

- Maximum fine \$200
- Court costs – same as other
  - **Subtitle C** violations BUT **no \$5.00 arrest fee**
- Warrant, collection, FTA (Omnibase), TPP fees are the same
- **Special Expense Fee of \$25.00** if ordinance on file (45.203 CCP)



# Fines / Court Costs / Fees

- FTA

- Maximum fine \$500
- Court costs – same as other non-Subtitle C violations BUT **no \$5.00 arrest fee**
- Warrant, collection, FTA (Omnibase), TPP fees are the same
- **Special Expense Fee of \$25.00** if ordinance on file (45.203 CCP)



# Fines / Court Costs / Fees

- COA

- Maximum fine \$500
- Court costs – same as other non-Subtitle C violations BUT **no \$5.00 arrest fee**
- Warrant, collection, FTA (Omnibase), TPP fees are the same
- **No Special Expense Fee**



# Circumstances to file VPTA / FTA

- VPTA filed
  - Defendant signed promise to appear on **criminal case by citation (custody)** and peace officer released
  - Defendant **failed to appear** as promised
- FTA filed
  - Defendant has been in **custody** on a **criminal charge**
  - Defendant **fails to appear**
- COA filed (home rule)
  - Defendant issued **citation** by non-peace officer
  - Defendant **fails to appear**

# When to Use VPTA, FTA, OCA

- VPTA filed
  - Criminal charge was under **Title C** of the Transportation Code
  - Issued by **peace officer**
- FTA filed
  - All other **criminal** charges
  - Issued by **peace officer**
- COA filed
  - Home rule cities if **ordinance on file**
  - **Criminal** charges (usually code viol.)
  - Citation issued by **non-peace officer**

# Contact

- Rebecca Stark
  - Austin Municipal Court  
P.O. Box 2135  
Austin, TX 78768
  - (512) 974-4690 (phone)
  - (512) 974-4682 (fax)
  - [Rebecca.Stark@ci.austin.tx.us](mailto:Rebecca.Stark@ci.austin.tx.us)
- Codes
  - [www.capitol.state.tx.us/statutes](http://www.capitol.state.tx.us/statutes)
- Legislation
  - [www.capitol.state.tx.us](http://www.capitol.state.tx.us)



**THE END**