

In Chambers

The Official Publication of the Texas Center for the Judiciary, Inc.
Vol. 34, No. 2, Summer 2007

Inside this Issue:

- Judge Mentality: Electronic Filing
- DWI Best Practices
- Twelve Psychological Tips for Getting Re-elected

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- Making The News
- In Memoriam

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The staff of *In Chambers* strives to provide current information about national and local judicial educational issues and course opportunities for Texas judges.

Readers are encouraged to write letters to the editor and submit questions, comments, or story ideas for *In Chambers*. Contact Staci Priest, Publications Coordinator, by calling 800-252-9232, faxing 512-469-7664, or e-mailing stacip@yourhonor.com.

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In Chambers

Volume 34, Number 2, Summer 2007

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JUDGE MENTALITY

Electronic Filing: A Judge's Instructions for Managing Implementation and Achieving Results

by Judge John K. Dietz, 250th District Court

Electronic filing of court documents has been available for ten years or so but, with few exceptions, has yet to be extensively adopted into the mainstream practice of law at the district and county court level. Fortunately, we work in a state that has made significant progress in advancing the integration of technology, including electronic filing, into our courtrooms.

In 2004, the Supreme Court of Texas developed statewide rules for electronic filing of civil cases in district and county courts using the State's electronic government portal, TexasOnline. The rules established TexasOnline as the courts' Electronic Filing Manager (EFM) and an open-model system provides filers with several options for certified Electronic Filing Service Providers (EFSP).

There cannot be a solution unless there is a problem. Electronic filing is a solution to excessive paper, inefficient processes, and slow access to documents. It benefits not only filers but court personnel and judges as well. Electronic filing improves the litigation process and produces both

direct and indirect financial savings that ultimately result in better service to our constituents at lower costs.

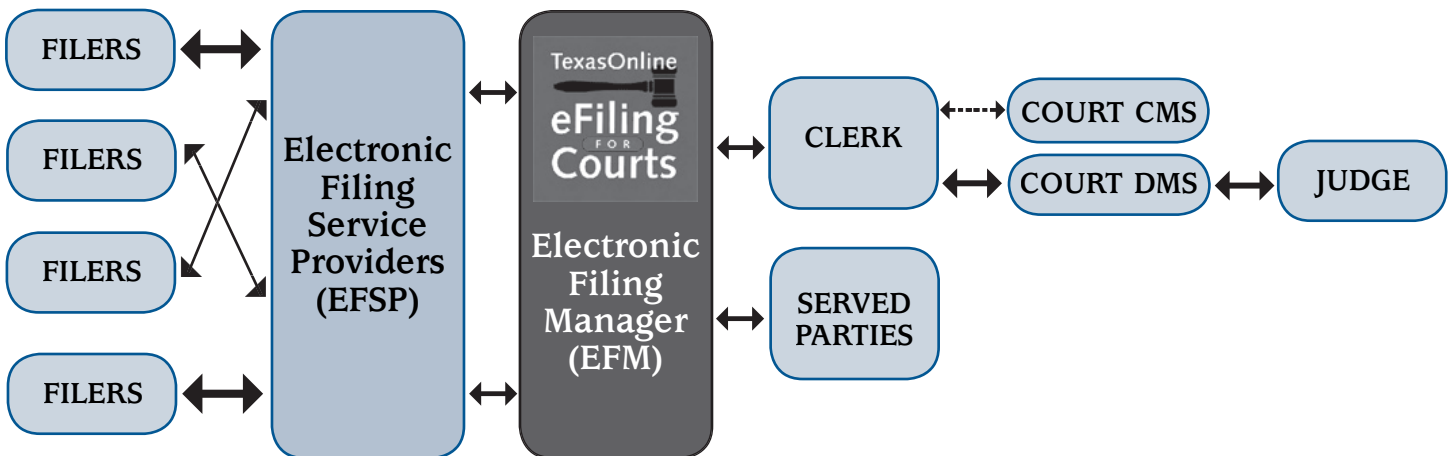
One of the most urgent problems the courts face today is the accumulation of paper. Our courthouses are literally awash in paper and the strain on both human and physical resources can be overwhelming. Texas currently has over 1.2 million civil cases on the docket in district courts and nearly 400,000 in county courts and the amount of judicial paper has increased astronomically. Although we are witnessing more cases being handled by arbitration and mediation, many of the complex, multi-party cases are left in the hands of the justice system. And with that complexity comes more paper. In the Travis County District Courts, for instance, the volume of civil filings had increased to the point that we could no longer effectively maintain efficient filing, circulation, and storage systems. Our temporary, patchwork fixes did not adequately resolve any of the issues. Paper kept coming in, filing space kept getting used up, and access to records kept getting delayed.

Functional and efficient courtrooms are also important. Combing through the clutter of paper documents is far less effective and productive than bringing up an electronic document on my computer screen.

The legal profession is not quick to adapt to technology and change is often slow and painful. Nothing short of an electronic filing crusade was needed to move the Travis County District Courts toward electronic filing. As noted earlier, Travis County, like most across the state, was left with no alternative but to find a permanent solution to address ongoing issues with paper accumulation and inefficiency. In 2002, we created an E-Filing steering committee to address the immediate and long-term problems in management and retrieval of Travis County court records. After several months of researching options, the committee formally recommended a two-pronged solution of electronic document imaging and electronic filing. Electronic data imaging would allow for the conversion of all civil court documents to electronic images that could be stored on a file server rather

continued on next page

THE E-FILING PROCESS



than in a file room, while electronic filing would enable attorneys across the state to file court documents quickly and easily via the Internet.

Travis implemented its approved management solution in two phases. Phase one involved implementing a functioning Document Management System (DMS) that would integrate with our existing Case Management System (CMS). The DMS allows the Clerk and her staff to electronically store and index documents, and make them accessible to the network of attorneys, judges, court staff, and the public. The DMS also provides for concurrent access by multiple users in various locations and improves compliance with mandated conservation of records. In addition, it enhances the security and integrity of records and increases the efficiency of civil court document retrieval by judges. With the DMS in place, staff can place court documents into case files the same day they are received and eliminate the manual transport of hardcopy files within the courthouse or to a higher court.

Upon successful completion of phase one, we moved on to phase two – implementation of electronic filing. The E-Filing steering committee agreed that the electronic filing solution should have low upfront costs, accelerate the case filing process, and reduce the amount of paper that needed to be processed. It should also meet County and State electronic filing rules, and interface with the court's new DMS. After researching our options, we chose TexasOnline to deploy, host, and maintain our electronic filing system with its eFiling for Courts solution.

In January 2006, eFiling for Courts was successfully introduced in the Travis County District Courts as a pilot

project. The system moved into full production in the civil and family courts later that year. For the first time, we are experiencing first-hand the emerging reality of a paperless court. Let me explain a little more about how the electronic filing process works from the court's side.

Using TexasOnline, the Clerk's staff processes documents electronically and exports them directly to the existing DMS. This interface allows the DMS to barcode, index, and store each electronic filing automatically, thus reducing the amount of time that the Clerk and court personnel normally spend on these activities. The documents come to the Clerk via the Electronic Filing Manager (EFM). The EFM receives the filed documents and fees from multiple Electronic Filing Service Providers (EFSP) and delivers them directly to the appropriate court.


To illustrate the impact that electronic filing has had at the Travis County District Courts, the District Clerk, Amalia Rodriguez-Mendoza, measured the time required to process both a manual, paper-based filing and an electronic filing by randomly selecting cases that had been filed in paper and electronic formats. Manually, the time required to process a filing – from receipt of the document until it was available to the judge in the DMS – was almost 13 hours spread over two to three days. With electronic filing, the document was fully processed and available to judges in less than 30 minutes.

Now, a year after full-scale implementation of eFiling for Courts, we cannot fathom how we were able to function in that alternative universe of paper-based filings and cases. Although we had to nudge some colleagues along, the positive results electronic filing has produced in our courtrooms are

undeniable. Travis County District Courts now process the second highest number of electronic filings in the state, behind only Harris County in Houston.

Before electronic filing was available, I required parties in the Texas school finance case to provide their filings on CD rather than paper. Electronic filing greatly improves access to filed documents as well. With faster processing and storage of electronically filed documents by the Clerk's office, I can generally view a document within one hour of a filing from an attorney who may be down the street, on the Plains of West Texas, or in a high-rise on the East Coast. Rather than waiting sometimes days for a manual, paper-based filing to appear in the document management system, our judges have nearly instantaneous access to the filings in their cases.

I am so adamant about integrating technology to improve the efficiency of our courtroom that I recently issued a standing order mandating electronic filing and electronic service for designated civil case types in the Travis County District Courts, and I plan on continuing to add more case types to the mandate order in the future. The improvement has been so dramatic that I think courts should charge those who file manually by paper an inconvenience fee.

Ultimately, as leaders of the judiciary, I believe it is imperative for judges to fully leverage all available tools, including electronic filing, in improving the judicial processes. If you have not already done so, embrace electronic filing if it is available in your jurisdiction. And if it has not yet arrived in your area, I encourage your proactive approach to researching, considering, and implementing electronic filing in your court. 

2007-08 Leadership Nominations

On June 1, 2007, the 2006-07 Nominations Committee chaired by the Honorable Cynthia Stevens Kent, slated the following judges for nomination for the 2007-08 Judicial Section Board of Directors and the Texas Center for the Judiciary Board of Directors.



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**Contingent on State Bar of Texas Bylaw Amendment Approval*



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If you are interested in serving on any committees during the 2007-08 term, please contact Hon. Brian Quinn at 806-342-2668 or Mari Kay Bickett at 512-482-8986 or mkbickett@yourhonor.com. 

Texas College for Judicial Studies Class of 2007 graduates

The fourth graduating class of The Texas College for Judicial Studies celebrated their achievement during the College held April 23-27 at The Sheraton Austin in Austin.

The Texas College for Judicial Studies is a multi-year program curriculum designed to provide advanced educational opportunities to judges who desire to improve their adjudication skills and acquire more knowledge in their jurisdictional specialization. The Texas Center for the Judiciary's Curriculum Committee developed the College curriculum.

The conference featured a two-and-a-half-day core education program. Sessions covered topics relating to jurisprudence, evidence, decision-making, ethics, and time management. The conference then featured four, day-and-a-half specialty education programs. The three specialty curriculums included civil, criminal, and family/juvenile topics. Some of Texas' most respected and experienced judges taught these classes, along with a diverse faculty of attorneys and other well-informed professionals in various fields.

"We developed the Texas College for Judicial Studies to allow judges to have the opportunity to obtain advanced, specialized training in their jurisdictional area so they can excel on the bench. The creation of the College is in keeping with our mission statement at the Texas Center—Judicial Excellence Through Education," said Mari Kay Bickett, Executive Director of the Texas Center for the Judiciary. 



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Hon. Billy Ray Stubblefield
Hon. Ralph Walton
Hon. Janna Whatley*

Also pictured: Hon. Lamar McCorkle, Dean

CORRECTION

Last year, Judge Analia Wilkerson of County Criminal Court at Law #9 in Houston was omitted from the list of 2006 Graduates. Judge Wilkerson did graduate last year. We offer our apologies for this error and congratulations on her accomplishment.

Five Psychological Tips for Getting Reelected Every Time

by Lisa Blue, Ph.D., J.D. & Robert Hirschhorn, J.D.

In a state such as Texas with an elected judiciary, running for reelection it is a necessary evil of the job. It is our goal in this article to provide some tips for you to implement during trial to help endear yourself to prospective and impaneled jurors and help them remember you favorably come the next Election Day, while simultaneously making the judicial process more enjoyable for everyone involved.

1. Make yourself memorable and likeable.

The number one way to get reelected is for these potential voters to remember your name. Make sure to have a nameplate on your bench, with your name clearly and prominently displayed, so the jurors continuously see it throughout the trial. This technique employs a common psychological phenomenon known as “conditioning,” by which jurors will subconsciously begin to associate you with your name. Reinforce this phenomenon by having your bailiff and other court personnel use your name, rather than the court number, when referring to you. For example, the bailiff could announce, “All jurors reporting to Judge Smith’s court should come to the third floor now.”

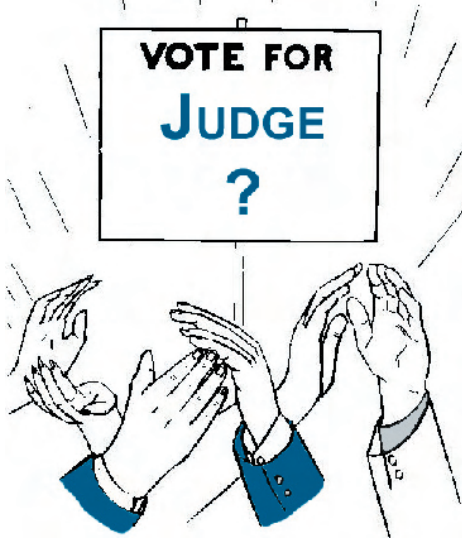
Another way to help jurors remember your name is to offer a mnemonic device. Here are a few examples:

- “My name is Judge Fairchild.

Remember by thinking Judge Fairchild is fair.”

- “My name is Lisa Blue, so just think of the red, white, and blue flag.”

No matter how you choose to



help the jury remember your name, make sure your memory device has a positive connotation.

Another way to help the jurors remember your name is to hand out your official business cards, with your name and contact information on them. Give these to the impaneled jurors so they have a way to contact you, should something come up that requires them to be late for court one day or otherwise interfere with the trial schedule. If these cards are not included in your official budget, we suggest checking with counsel on whether you should pay for these cards from your campaign funds.

Voters will vote for judges whom they feel they know something about or have connected with in some

way, so part of your job of running for reelection will be to humanize yourself so the jurors can relate to you. One way to do this with your venire panel is to engage in self-disclosure, by telling a personal fact, story, or anecdote. Build a bond with your jurors by answering some of the questions you ask the jurors on your jury questionnaire, such as your name, age, and family background. If you are married, it is particularly effective to disclose something positive about, or “brag on,” your spouse. One warning, though, is to make sure whatever information you are disclosing is not divisive or will not alienate your jurors. Avoid mentioning your religion or political leanings, since it is almost certain someone in your venire might be distracted by any differences you might have.

One federal judge in Houston effectively humanizes himself while explaining the concept of bias or prejudice to the jury by discussing his experience with buying a “lemon” car some years ago. This judge explains that, based on his unpleasant experience, to this day if the manufacturer of the car is in a case in his court, he will recuse himself from hearing the case because he feels he still harbors such negative feelings that he can’t be fair and impartial.

The best way to give your jury a sense of what it is like to be a judge is by letting them have a chance to do it themselves. One way to do this is by engaging in a small sample of

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psychodrama with the panel. Have a prospective juror try on your robe, and then ask the juror questions about how he or she views fairness and the role of a judge. Not only will this experience help explain the judicial process to your venire panel, but it will also help the panel relate to you and your role. Although this exercise will only take a few minutes of your time, it will have a big and lasting impression not only on the person playing your role, but on the entire panel. It is also likely these persons will tell their friends and family about the experience, increasing the opportunities for your name to be mentioned by potential voters.

2. Break down barriers.

Part of humanizing yourself entails breaking down barriers inherent in the judicial process invests the judge with superhuman qualities. The first impediment is your bench itself, which is elevated and removed from the rest of the action in the courtroom. Get off your bench sometimes to speak to the venire or to the seated jury. Talking with the jury at a closer proximity sends the message you are approachable. Judge Ken Curry in Fort Worth, who has been a state court judge for 15 years and has never had an opponent, has done this effectively.

Break down language barriers, and some of the mystique of the legal profession, by using plain language and not “legalese” when speaking to the jury. Keep this tip in mind, not only when addressing the jury, but also when the lawyers are arguing and think the jury might not understand. “Translating” for the lawyers will endear you not only to the jury, but also to the practitioners in your court.

3. Show your appreciation for the jury.

Empowerment is a very powerful psychological tool. Talk about the three honors or privileges of being an American: having the opportunity to serve the country in public service (including military service), having the opportunity to vote, and having the opportunity to serve as a juror. Always phrase jury service in terms of an honor or privilege, rather than an obligation.

After the conclusion of the trial, send a postcard or personal note thanking the prospective and impaneled jurors for their service. Judge Curry passes out coffee mugs with his name on it at the conclusion of the trial. Other judges give key chains or nail files with their name stamped on the item. This can be done cheaply and is a great memento for the jurors. When sending a note, make sure to sign your name by hand and don’t use a stamped or automated signature. We caution judges to check with counsel to determine whether these cards should be sent using campaign funds or whether it would be appropriate to use county or state funds.

4. Make the process transparent.


We have talked to thousands of jurors across our careers as jury consultants, and the number one complaint of jurors is their perception of inefficiency at trial. From the jury’s perspective, any time they spend waiting in the jury room for argument and other delays is a mystery. Help clarify the process by taking the time to explain what is causing the delays and taking some of the mystery out of the process. For example, after a long delay for

argument, say, “I’m sorry I kept you waiting. The lawyers and I were working on matters we hope will result in a more efficient trial. Thank you for your patience.”

5. Be creative in your fundraising.

We will also guess that, while running for reelection is the least favorite part of your job, your least favorite part of running for reelection is fundraising. One judge we know actually asked to be hypnotized to help overcome his fear of asking potential donors for contributions! Because fundraising rarely comes naturally for judges, we suggest taking special training on best practices.

One tactic that is not often utilized is to obtain lists of donors who gave to your opponent. You can write letters to these persons, inviting them to visit you in your chambers and meet you as the newly elected judge. No matter whom you are soliciting contributions from, be sure you don’t take a negative answer as personal and don’t let any refusals discourage your future efforts. As always, check with your counsel to make sure you are not inappropriately using state funds to fund raise for your campaign.

Every venire panel appearing before you should help you get reelected since the panel will provide exponentially more potential voters who will know your name and something about you personally. Remember to not overlook the small opportunities available every day to make yourself memorable, likeable, and more human to the jurors. Overall, jurors will appreciate your making them feel like active participants in the process. 

Resolutions and Bylaw Amendments


The Judicial Section Resolutions Committee will meet in conjunction with the Judicial Section Annual Conference in September.

As stipulated in the Judicial Section bylaws, resolutions must be submitted to the chair of the Resolutions Committee no later than 20 days prior to the date set for the annual meeting. Therefore, the deadline for

submitting resolutions is Monday, August 27, 2007. Submit resolutions to: Honorable Wilford Flowers, Judge, 147th District Court, P.O. Box 1748, Austin, TX 78767 or fax 512-854-9140.

Proposed bylaw amendments should be submitted in writing by Monday, August 27, 2007 to: Honorable Molly M.

Francis, Bylaws Committee Chair, Justice, 5th Court of Appeals, 600 Commerce, Suite 200, Dallas, TX 75202 or fax 214-745-1083.

Please send copies of any resolutions or proposed bylaw amendments to the Texas Center for the Judiciary, 1210 San Antonio, Suite 800, Austin, TX 78701 or fax to 512-469-7664. 

District Judges to Meet at Judicial Section Annual Conference

By Judge Julie Kocurek, President
Texas District Judges Association

The Texas Association of District Judges will hold its annual business meeting at the Judicial Section Annual Conference on Monday, September 17, 2007, at 4:30 p.m. at the San Luis Resort in Galveston, TX. If you are a District Judge, please plan to attend. The goal is to have every active Texas District Judge become an active member of the Association.

The Texas Association of District Judges was established as a non-profit association at the 1993 Annual Judicial Conference. It is a voluntary organization for active Texas District Court Judges. Annual membership dues are \$20.

At our meeting we will discuss goals for the next legislative session. As many of you know, the 2007 legislative session required District

Judges across the state to take an active role in the legislative process. We need to be more prepared for the next session.

Light refreshments will be provided. Contributions from officeholder accounts are permitted to be made to the Texas Association of District Judges. If you would like to remit your annual dues or a contribution to the Association, please send a check payable to: The Texas Association of District Judges, c/o Judge Stella Saxon, P.O. Box 308 Karnes City, Texas 78118.

Please also provide the Association with your e-mail address by e-mailing me at the address below. Should you have any questions, please contact Judge Julie Kocurek, at (512) 854-4885 or vote4julie@aol.com.



ETHICS OPINIONS

Question & Answer

No new ethics opinions have been issued since July 2006. To ask an ethics question, contact Judge Stephen B. Ables (830.792.2290) or the State Commission on Judicial Conduct (877.228.5750).

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THE EFFICIENT DISPOSITION OF DWI CASES: BEST PRACTICES

By Judge David Hodges, Judicial Resource Liaison

One early goal of the grant we received from TxDOT was to increase the effectiveness of DWI adjudication in Texas by disposing of cases more promptly. To that end, Judge David L. Hodges, the Texas Judicial Resource Liaison, conducted a review of five Texas counties to determine what methods have proven successful in reducing the delays inherent in the prosecution and disposition of DWI cases. The counties were selected to include both rural and urban jurisdictions and were geographically and culturally dispersed to represent the rich diversity of our Texas courts. The "best practices" outlined in this article are the result of this study which was conducted over a period of several months taking into account the arrest, booking, screening, filing, and court administration practices of the five subject counties. The ideas and resources provided by the court administrators/managers in these counties were an invaluable resource in identifying common causes of delay in the filing and disposition of DWI cases, and in determining the most efficient and available solutions.

In this study, we have attempted to conduct a thorough review of the entire process, from arrest to disposition. Since delays can occur at every stage of the case, the delays and recommended solutions have been categorized as follows:

- Offense Report
- Magistrate's Warning, Setting Bond, Interpreters, and Appointing Attorneys
- Prosecution
- Court Administration

It will be obvious that some of the delays and solutions identified herein

are within our judicial purview, and others are not. Some will also require the participation of other agencies and/or additional resources. However, it is hoped that we can all benefit from this systemic review and continue to learn from each other how to dispose of our cases more efficiently.

-Dr. Ann Blankenship
Program Attorney



Introduction

Without a constant review of how we do business, delay will insidiously work its way into every phase of the disposition process. Our Texas Supreme Court has stated:

Delay haunts the administration of justice. It postpones the rectification of wrong and the vindication of the unjustly accused. It crowds the dockets of the courts . . . pressuring judges to take shortcuts, interfering with the prompt and deliberate disposition of those cases in which all parties are diligent and prepared for trial, and overhanging the entire process with the pall of disorganization and insolubility...[P]ossibilities for error multiply rapidly as time elapses between the original fact and its judicial determination. If the facts are not fully and accurately determined, then the wisest judge cannot distinguish between merit and demerit. Southern Pac. Transp. Co. v. Stoot, 530 S.W. 2d 930, 931 (Tex. 1975).

As gatekeepers to the doors of the criminal justice system, it is our job as judges to constantly review and revise the way we dispose of our criminal caseload. We know by intuition, and research confirms, that the more proximate in time

disposition is to the date of arrest, the more effective the sentence will be. However, the Office of Court Administration Annual Report shows that more than two-thirds of DWI cases are disposed 90 days or more after arrest. The average disposition rate of DWI cases is much slower than other misdemeanor cases in most counties because of the inherent delays identified in this article. It is our goal to identify where these delays occur in the disposition process, and allow individual judges and prosecutors to decide which of these practices might be useful in their counties to eliminate or reduce those delays.



Offense Report

In many jurisdictions there is significant delay from the date of arrest until the date the offense report and criminal records check are received by the prosecution. In many jurisdictions, the local police agency may take one to two weeks to transfer a written office report for prosecution review; smaller arresting agencies within the county may delay the preparation and transfer of an offense report by a month or longer. This obviously delays the ability of the prosecutor to review the facts surrounding the arrest, evaluate and file or decline the case, or request additional information from the arresting agency. It also requires additional staff time by the prosecutor's office to track down and request missing offense reports.

This problem has an easy and accessible solution. The Texas Municipal Police Association, with a grant from TxDOT, has created

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the LEADRS program, which allows the arresting officer to access an online web based program for creation of a DWI offense report. Not only does the program simplify and standardize the process, it also uses the information that the officer inputs to populate all of the additional forms required when a DWI defendant is arrested. This program benefits not only the arresting officer by reducing processing time by several hours, but also benefits the prosecutor who can be provided online, password-protected access to the offense report without delay. The program was initially “field tested” in ten Texas counties, and is now available statewide at no cost. The only requirement is for the officer to have online access to input the information. For more information on how to make this program available in your county, go to <https://www.leadrtexas.com>.

Magistrate’s Warning, Setting Bond, Interpreters, and Appointing Attorneys

After arrest, the law requires a defendant to appear before a magistrate to receive his/her statutory warning; have bond conditions set (including breath interlock); receive an indigency application; and have an attorney appointed, if necessary. Although the delays are as varied as the jurisdiction involved, common delays can be reduced by the following practices:

- having a magistrate available 24/7. If the jurisdiction’s caseload does not warrant having a full-time magistrate at the jail, video conferencing can be established between the jail and remote sites in the county where magistrates are available. The cost of the video conferencing equipment can be recovered by reduced jail population and reduced jail staffing costs.
- having an interpreter available

24/7. Again, if the caseload does not warrant a full-time interpreter, video conferencing can be used.

- having a court-appointed attorney available full-time, or on short notice, to consult with the defendant. If the defendant remains in jail, the consultation could also occur through video conferencing. This significantly reduces time spent by the attorney waiting to see the defendant and can also reduce jail staff time by making defendants available for in-person consultation with attorneys. If the defendant is free on bond, many jurisdictions appoint an “attorney for the day” who is available in court for indigent defendants, instead of appointing a separate attorney for each individual defendant. One consistently identified source of delay results when appointed counsel is given inaccurate contact information for the defendant and is unable to contact and consult his/her client. It is therefore important that the person who generates the contact information provided to appointed counsel (magistrate, jail staff, PR bond coordinator, interpreter) make an effort to ensure accuracy of the contact information.



Prosecution

Reasons for the delay in DWI prosecutions are generally the result of understaffing. Many prosecutors’ offices assign DWI prosecutions to the least experienced prosecutors. It is obvious that a DWI case, especially a breath test case, involves the use of expert witnesses, video evidence, pleading and proving enhancement paragraphs, and other complications that a simple shoplifting or assault case will not require. Another grant awarded by TxDOT to the Texas County and District Attorney Association created a full-time Texas DWI Resource Prosecutor position.

Clay Abbott, a former prosecutor with years of experience in prosecution and presenting, was selected as the Texas DWI Resource Prosecutor and has traveled throughout the state training prosecutors to effectively evaluate and try DWI cases. Since it is not unusual to have an inexperienced prosecutor oppose a very experienced defense attorney who specializes in DWI cases, Mr. Abbott is available to provide technical assistance and training to prosecutors as they prepare and try these cases. Clay can be contacted by phone at 512-474-2436, or via email at abbott@tdcaa.com.

An additional source of delay in the prosecutor’s office results when the case is not expeditiously screened and filed or declined. In order to reduce that delay, Harris County has provided a prosecutor who is available 24/7 to review incoming DWI offense reports and accept or decline the case. This method, known as direct filing, allows the prosecutor’s office to file written charges immediately and have the defendant standing before the judge in whose court the case is filed within 24 hours of arrest. Harris County by using the LEADRS offense report creation web site, the direct filing system, full-time screen prosecutor, “attorney for the day,” and various other short scheduling practices, has been able to reduce its average disposition time for DWI cases from the statewide average of over six months to a little over 60 days.

In some counties, where it is not practical to have a prosecuting attorney available all the time, the Commissioners’ Court can agree to pay overtime to prosecuting attorneys who will screen cases after hours and on the weekends. The theory is that the incremental pay is more than offset by reduced jail population.

In some counties, the pace of screening and filing cases has been stepped up by assigning one prosecutor to screen and file all cases, whether or not those cases are being assigned to that prosecutor. The duties of the screening prosecutor are to ensure that offense reports are received expeditiously from the arresting agency and request any additional information that may be required, including prior criminal history. The screening prosecutor then decides which, if any, charges will be filed and files the appropriate charges. The drawback to this type of system is that the prosecutor who files the charges might not be the one responsible for the prosecution. As a result, the screening prosecutor may be less discerning in which cases to file and which to refuse, since he or she will not have to follow the case to its conclusion. Also, the prosecutor responsible for proceeding with the case may be less invested if he or she did not participate in the filing decision.

In many counties, the prosecutor who is assigned a DWI case is the only one who is authorized to negotiate a plea on that case. This system can result in significant delays in disposing of cases that should be pled because overworked prosecutors are often unavailable to meet with defense counsel to discuss merits of the case and potential pleas. As result, defense counsel may make several trips to the prosecutor's office to discuss the case, or attempt to corner the prosecutor on plea day to work out pleas in the courtroom. If the prosecutor and defense attorney are unable to find a time to meet and discuss the case, it is not unusual for these cases to be postponed on the court's docket several times; it may be weeks or months before prosecutor and defense counsel

ever meet to discuss the case. In addition, some defense counsel find it easier to move a case from the plea docket to the trial docket in order to buy more time and ensure they will get the prosecutor's individual attention. The result is that a court's trial docket is clogged with cases that neither side intends to ever go to trial.

Several solutions have been tried in various counties. One is to have each prosecutor set aside a designated period during each week when the prosecutor will be available to consult with defense counsel, and publish that schedule to the defense bar. This scheduling may require a measure of cooperation between the courts and the prosecution, but should inure to everyone's benefit. Another is to have the assigned prosecutor review the case immediately upon assignment and write a potential guilty plea recommendation for probation and/or jail time on the file. The defense attorney is allowed to access whatever portion of the file the prosecutor wants to make available, and access the recommendation without the necessity of the prosecutor's presence. Then, it is only necessary to meet with the prosecutor if the recommendation is not acceptable, or if the defense attorney wants to provide additional information to the prosecutor in order to change the plea recommendation. It is also helpful to have a plea recommendation written on the file, and allow anyone in the prosecutor's office to actually present the plea to the court. This can solve the problem of having an assigned prosecutor appear in several different courts on the same day, with resultant delays.



Court Administration

Once a DWI case is filed, it is the judge's responsibility to see that

the case is disposed of in a timely manner and with a meaningful result. An important first step is to set a goal. Without setting a goal or mark to be reached, we're allowing the tail to wag the dog. Once the goal is set (i.e., dispose of all DWI cases within three months from date arrest; reduce the average disposition date of all misdemeanor cases by 20%; etc., etc.), then you can identify sources of delay in your system and began to eliminate them. It will be different for every county, and delays will be built into the system at every step. It is important to determine where these delays exist and establish realistic goals. In some cases your goal may be to lessen the effect of the delay, rather than to eliminate it entirely

Here are some global Court Management practices that can be applied:

1. Make sure some agency or staff member (pretrial services, probation, court administration staff, jail staff) is responsible for daily monitoring of the jail population and case disposition settings.
2. Never continue any case, motion hearing, or disposition without first assigning a subsequent, firm prospective hearing date.
3. Employ short scheduling. For instance, if defense counsel and prosecutor initially requested six weeks for further investigation and plea negotiations, and are back before the court requesting additional time, the subsequent date should be much closer in time. Each matter being reset on the court calendar should be rescheduled into a shorter time frame to create momentum toward disposition.
4. Set firm and meaningful trial and plea dates and grant continuances only when absolutely necessary. Many courts have established practical roadblocks to reduce rescheduling. These include:

- having the prosecutor agree to the continuance or requiring a contested hearing
- requiring the attorneys to have the judge's signature rather than that of the court administrator to continue a case
- requiring the defendant to be present in open court and personally explain his reason for requesting the continuance
- not granting more than one continuance without a contested hearing

5. Use pretrial hearings. The Code of Criminal Procedure requires that most pretrial motions be filed and heard at a pretrial hearing set by the Court, or they are waived. By setting all cases on the jury docket for a pretrial hearing, the Court will be more likely to weed out cases where the attorneys are only trying to buy time. In addition, many DWI cases can be disposed of at this level by a ruling on a defense Motion to Suppress, or other dispositive motions.

6. Adopt formal scheduling orders, as in civil cases, with established date parameters:

- Target plea date
- Date for pretrial motions to be filed
- Pretrial hearing date
- Final date to accept negotiated plea (do not allow negotiated plea on the day of jury selection)

7. Adopt a standing discovery order for all DWI cases and include the standing order in your local rules.

8. Consider the use of status hearings for all cases which exceed your targeted disposition date. The status hearing will require the presence of all parties and counsel with an explanation for all delays, and the setting of a firm, final disposition date.

9. Determine what data is being

captured by your system and how it can be used. For instance, all systems keep track of the date of filing, date of disposition, and attorney representation. Ask the system to prepare a report for each attorney showing average disposition dates. If the report highlights certain attorneys who are abusing the system, determine how that is occurring and take steps to correct it.

Is it possible to more efficiently dispose of these cases and still provide the quality of disposition our constituents expect? This question was answered in the affirmative in an extensive study conducted by the National Center for State Courts for the National Institute of Justice and the State Justice Institute. The research, which included the participation of Texas courts, demonstrates that greater efficiency enhances both timeliness and quality of outcome. "Efficiency is fundamental to timeliness and a court system's provision of effective advocacy. Hence, a real need for courts is to learn from each other on how to get essentially the same job done in a tighter time frame." Ostrom, Brian J., *Efficiency, Timeliness, and Quality: A New Perspective from Nine State Criminal Trial Courts*. Williamsburg, VA: National Center for State Courts, 1999, 18.



Conclusion

One definition of insanity is to take the same action over and over again and expect a different result. It is a healthy exercise for us to step back occasionally and take a look at how we are accomplishing our job. This is especially true in Texas where we have such a large pool of qualified judges and court administrators from which to learn. Certainly not all of the "best practices" mentioned

in this article will have practical application in your jurisdiction. However, quite a few of them are easily employed, and within your power to implement. Some of the others might take a little more political persuasion on your part; but you would not be where you are if you were not good at that also.

"Concepts of justice must have hands and feet to carry out justice in every case in the shortest possible time and the lowest possible cost. This is the challenge to every lawyer and judge in America." Justice Warren E. Burger

One of the main goals of our grant is to help us communicate and learn from each other. Many of our Texas judges and court administrators may have already solved problems that we face on a daily basis; all we need to do is facilitate the communication of our ideas to each other. This article is the beginning of that process. We are also currently developing our web site with a list serve that will allow us to communicate directly and immediately with each other. Stay tuned.



For additional information and resources, please contact:

Judge David L. Hodges Judicial Resource Liaison

Texas Center for the Judiciary
1210 San Antonio, Suite 800
Austin, TX 78701

Phone: 512-482-8986

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Cell: 254-744-1115

dhodges@yourhonor.com



We're Not Alone

by Chief Justice Brian Quinn, 7th Court of Appeals

After one of my teenage rifts with my Mom, I remember going to a friend's house and proclaiming "I don't need anyone ... I can do it all by myself." Luckily, the neighbor friend was a bit older. She remained quiet during my tirade, looked at me when I finished, smiled, and calmly said "you're wrong." Wiser words were never spoken.

Let's see, I'm an elected judge dependent upon the vote of a majority of the people to maintain my job. And, to be effective at work, I not only have to depend on attorneys to "explain" the issues, but on administrative assistants and staff attorneys to keep my head above water. That says nothing about the spouse and kids who pitch in to create a satisfying home life that allows me to escape the whines of work. And, I thought I needed no one. Life has taught me otherwise, and thank God I have help.

The same is no less true for you judges across this State. You

cannot do it by yourself, and you are not alone. The importance of our staff and our family is a given. Without them, we just can't function as we need to. Yet, what of each other? That old saying about misery loving company has its corollary. When miserable company gets together they can find the commonality between them. Eventually, that commonality leads to the identification of what's wrong. When someone eventually says "this needs to change", we start working on a solution. Then the ball is rolling and with continued effort the need allayed. Funny how that works.

As a body of judges, the judiciary knows the obstacles and burdens facing its members. So too do we have the collective intellect and will to address them. More importantly, at our hands lay the means to gather, identify, discuss and resolve them. These means range from the formalized meetings of the Judicial Section of the State Bar

and its committees to the informal exchanges over coffee at programs sponsored by the Texas Center for the Judiciary. In fact, through the collective efforts of the Judicial Section's legislative committees and the coordinated efforts of interested judges, we now receive higher salaries and better benefits. So too have our continuing education experiences grown exponentially due to the efforts of judges and Texas Center for the Judiciary staff.

One voice singing in the desert can go unheard. But, who can ignore a unified chorus of 1000's. We are those 1000's with creative minds and undeniably important jobs to do. The judiciary is not just a few individuals but rather the mass of black-robed, culturally diverse Texans who sit from Dalhart to Brownsville and El Paso to Beaumont. We're not alone because we have, and need, each other. Let's not forget that when facing the challenges before us.

Help is just a phone call away.

Texas' Newest Administrators of Justice

As of July 10, 2007

Hon. Mark Alan Calhoon

3rd Judicial District Court
Succeeding Hon. Jim Parsons

Hon. Thomas P. Wingate

430th Judicial District Court
Newly Created Court



DOES THE TEXAS CENTER FOR THE JUDICIARY HAVE YOUR CURRENT E-MAIL ADDRESS?

The Texas Center frequently sends out important information via e-mail. To ensure you receive this information in a timely manner, please keep your e-mail current with us. To submit or update your e-mail address, please contact Michele Mund, Registrar, at (512) 482-8986 or michelem@yourhonor.com.

Volunteer Faculty—A Priceless Asset for the Texas Center

by Mari Kay Bickett, Executive Director

For the past 27 years, during the month of June, the Texas Center for the Judiciary presents a program for court support personnel called PDP. What exactly is PDP?

It is the Professional Development Program and it provides a plan for the professional education and development of individuals employed as court coordinators, court managers, and court administrators.

PDP consists of a core curriculum sponsored by the Texas Center for the Judiciary and developed in conjunction with the Texas Association for Court Administration. It is a week-long program which includes more than 25 hours of classroom instruction and incorporates the National Association for Court Management Core Competencies for presiding and supervising judges, court managers, and court administrative staff. Experienced judges and court coordinators provide education in topics such as caseload management, leadership skills, criminal and civil procedure, and ethics.

This June, 2007, PDP was held in Las Colinas. As is usual, the program and faculty scored high in evaluation ratings and comments. But I believe the letter we received from Ms. Lynn Allen, court coordinator for Grayson County Courts #1 and #2 really does sum up the essence of what the faculty for PDP strive to accomplish every year. The judges and court support personnel who volunteer their time and expertise to judicial

GRAYSON COUNTY COURTS #1 AND #2
GRAYSON COUNTY JUSTICE CENTER
200 SOUTH CROCKETT STREET
SHERMAN, TEXAS 75090
(903) 813-4200 ext. 2904
(903) 892-8300 FAX

LYNN ALLEN
COURT COORDINATOR

July 10, 2007

Dear Brandi, Linda, and Ed:

Just a very quick and informal note to let you know how much I enjoyed the PDP conference last month at Las Colinas. I don't think I've ever learned so much in such a short amount of time! My brain cells were smoking! At the end of each conference day, once I was back in my room, I wrote down several ideas or things I wanted to try in the two courts that I coordinate. By the end of the week, I had a good list for both courts. I thought about the personality styles for both of my judges and how best to present my plans for improved caseload management for each court. After assessing both judges as "red" with "green" tendencies, I knew I had to get to the point but have data at the ready!


Upon returning to work Monday morning, June 25, I immediately met with the judge for County Court at Law #1. I thanked him for making me aware of PDP, informed him that I had a wonderful week of learning (and only missed 1 question on my test), and that I looked forward to sharing some new ideas about caseload management. He cleared his desk, picked up his pad of paper and pencil, and told me he was ready to listen. Wow! I presented my ideas and backed my strategies with data. We now have an extra arraignment docket each month, which increases our number of arraignments from 100 to 125. We also made two other minor changes that I'm very excited about.

The judge for County Court at Law #2 recently returned from a 3-week vacation, and I was able to meet with her this morning. We've added a plea conference date for defendant's who request court-appointed attorneys, and I anticipate that this will get most of those cases disposed of much quicker. We also made changes to the jail chain and to some other court procedures that should increase the efficiency of the court's time.

So, I wanted each one of you to know that it's been less than a month since PDP, and I'm using my newly learned skills every day! Because I've become better educated in the area of court management, I feel more professional. I feel like my judges take me a bit more serious, or maybe I'm taking myself a bit more serious. PDP was very therapeutic for me. I crave knowledge and information, and the curriculum provided everything I needed in order to create plans of action and then present those plans to the judges of the courts that I coordinate.

Thank you so much,
Lynn Allen
allen@co.grayson.tx.us

education are truly an invaluable resource-- without them there would be no Texas Center for the Judiciary. The fruits of their labor are apparent in Ms Allen's letter and with her permission, I have reprinted it in this issue.

The Texas Center thanks every justice, judge, lawyer, court support personnel, and other professionals who so generously give of their time to all our education programs throughout the year. 

Professionalism at Its Finest

The Texas Association for Court Administration (TACA) is proud to present their 31st Annual Education Conference being held October 9th-12th at the Omni San Antonio. We are very excited to provide continuing education and promote professional standards for Court Administrators, Managers and Coordinators from across Texas. Last year over 200 court administrators/coordinators traveled from counties across the state. The program fits the needs of a rural coordinator managing several counties, a coordinator from a general jurisdiction court or someone managing a single court in a large county. The annual education conference has something to offer for everyone.

The conference theme centers on the National Association for Court Management's Core Competency, "Court Community

Communications". Speakers from across the country and state will speak on issues that will ensure that the court and its leaders communicate with and build public trust and confidence in the judicial system. Whatever the size of the jurisdiction, court community communication is a court leader responsibility.

This year members of our Judicial Advisory Board will participate in a discussion panel and TACA will solicit their views and opinions on the importance of personal responsibility and development of court administrators. TACA looks forward to strengthening our relationship with the judiciary and promoting their commitment to our organization.

Our attendees will also have the opportunity to hear Clint Swindall, a nationally renowned speaker, give his high energy presentation

on "Engaged Leadership." Clint provides motivation for a proactive approach to leadership that involves being engaged at all levels, along with stressing the importance of having what he calls a "character core". The organization is thrilled to be able to offer this entertaining and inspirational speaker to our members.

I encourage the judiciary to review the conference agenda and if you have any questions, please feel free to contact me. I ask the judiciary to encourage the professional development of their court staff. Within every cohesive, well-managed court, you will find an effective court leader that strives for professional development.

Kristy Smith

Chair, TACA

www.mytaca.org

TACA 31st Annual Education Conference Schedule

"Communicating Court Leadership Skills" Court Community Communication
A Core Competency Curriculum Guideline for Improving Your Performance

Tuesday, October 9, 2007

11:30 a.m. – 1:30 p.m. - Registration

1:30 p.m. – 1:45 p.m. - Welcome

1:45 p.m. – 3:30 p.m.

"Working Smarter, Not Harder"

Ms. Nancy Baird

3:45 p.m. – 5:00 p.m.

"Court Administration & Education"

TACA's Judicial Advisory Board

- Reception Honoring TACA's Judicial Advisory Board

5:30 p.m. – 6:15 p.m. - New Members/
First Time Attendees

6:15 p.m. – 7:30 p.m. - Reception

Wednesday, October 10, 2007

8:30 a.m. – 11:45 a.m.

"Engaged Leadership"

Mr. Clint Swindall

11:45 a.m. – 1:30 p.m. - Luncheon

- Presentation of PDP Certificates & Introduction of Candidates

1:30 p.m. - 2:45 p.m.

"Security", Hon. Jack Skeen

3:00 p.m. – 4:00 p.m.

"Handling the Media", Hon. Steve Smith

Thursday, October 11, 2007

8:30 a.m. – 10:00 a.m.

"Court Community Communications"

Mr. Tom Hodson

10:15 a.m. – 11:45 a.m.

Workshops Round I

- Civil, Hon. Peter Sakai
- Criminal, Hon. Mark Atkinson
- Juvenile, Hon. Laura Weiser
- Family, Hon. Debra Lehrmann & Christie Kersten

11:45 a.m. – 1:00 p.m.

Awards Luncheon

Introduction of Board &
Committees Awards

1:00 p.m. – 2:30 p.m.

Workshops Round II

- DWI Courts, Hon. David Hodges
- Faculty Development Training (By Invitation Only)
- Rapport with Clerk, Mr. John Warren, Dallas County Clerk

- General Jurisdiction/Rural

Hon. Steve Ables & Becky Henderson

2:45 p.m. – 4:15 p.m.

Workshops Round III

- Excel- Intermediate
Ms. Jeanette McGowen, OCA
- Focus on TACA's Future, Ed Wells
- Rapport with Clerk (repeated)
- General Jurisdiction/Rural (repeated)

4:15 p.m. – 5:30 p.m.

TACA BUSINESS MEETING

*Group Outing to Riverwalk

Friday, October 12, 2007

8:30 a.m. – 9:15 a.m.

"Legislative Updates"

Mr. Carl Reynolds & Ms. Eva Walla

9:15 a.m. – 10:30 a.m.

"Professional Life Management:
It's Not Just For Work Anymore"

Mr. Dave Murray

10:30 a.m. – 11:15 a.m.

"Disaster Recovery", Mr. Greg Cowan

11:15 a.m. – 11:30 a.m.

Closing Remarks (including raffle)



MAKING NEWS

Honors & achievements of Texas Judges

Judge Carmen Rivera-Worley of the 16th District Court was named 2007 Judge of the Year by CASA of Denton County. CASA recognized Judge Rivera-Worley for her serious dedication to the children and families who appear in her court.



State Bar of Texas President Martha Dickie awarded **28 Texas judges** a Presidential Commendation for leadership in improving justice in Texas and for being among the judges in the state who have met the standards of certification of special competence as graduates of the Texas College for Judicial Studies. The Commendations were presented at the Bench Bar Breakfast, which was held June 22 in San Antonio as part of the Bar's Annual Meeting.

Judges who received a Presidential Commendation are:

- | | |
|----------------------------------|------------------------------------|
| <i>Hon. Gordon G. Adams</i> | <i>Hon. Marilea Lewis</i> |
| <i>Hon. J. Manuel Banales</i> | <i>Hon. Leticia Lopez</i> |
| <i>Hon. Diane Bull</i> | <i>Hon. Ed Magre</i> |
| <i>Hon. Carole Clark</i> | <i>Hon. Wayne Mallia</i> |
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| <i>Hon. Jo-Ann De Hoyos</i> | <i>Hon. Chris Oldner</i> |
| <i>Hon. Kem Thompson Frost</i> | <i>Hon. Carter T. Schildknecht</i> |
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| <i>Hon. Mike Herrera</i> | <i>Hon. Janna Whatley</i> |
| <i>Hon. Julie Harris Kocurek</i> | <i>Hon. Lamar McCorkle</i> |

NAWJ to Meet at Annual Conference



Justice Diane Henson

The Texas members of the National Association of Women Judges will be hosting their annual Membership Dinner during the Texas State Bar Judicial Section Annual Conference in Galveston. The dinner will be held at Moody Gardens on Monday, September 17th from 7:00PM to 10:00PM.

Justice Diane Henson, 3rd Court of Appeals in Austin, will enlighten you with her presentation "From Pom Poms to Center Court: Celebrating 35 years of Title IX".

Tickets to the dinner are \$55. Please RSVP to Judge Elisabeth Earle (512) 854-3794 or elisabeth.earle@co.travis.tx.us if you need transportation. Men, as always, are welcome to attend the dinner and join the NAWJ.

CONTRIBUTIONS & MEMORIALS

Thank you for your contributions

Includes contributions received as of July 10, 2007

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Leonel Alejandro
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Robert Blackmon

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Rick Morris

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Judges of the 8th
Administrative Region

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Mary Sean O'Reilly

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Derwood Johnson

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Hon. Penny Roberts,
Hon. Gary Harger,
Hon. David Garcia,
& Hon. Alfonso Charles
Laura A. Weiser

In Honor of the
Texas Center for the Judiciary
Staff
Mike Herrera

IN MEMORIAM

For Those Who Served Our State Courts As of July 10, 2007

Honorable Andrew Z. Baker
Senior District Judge
306th District Court, Galveston

Honorable Allen J. Daggett
Senior District Judge
310th District Court, Houston

Honorable Kenneth C. Dippel
Judge (Former)
95th District Court, Dallas

Honorable James Fitz-Gerald, III
Senior Judge
County Court Law No. 2, Midland

Honorable Fred S. Harless
Senior District Judge
116th District Court, Dallas

Honorable John Hill
Chief Justice (Retired)
Texas Supreme Court, Austin

Honorable John R. Lindsey
Senior District Judge
271st District Court, Jacksboro

Honorable Tom Neely
Judge (Retired)
46th District Court, Vernon

Honorable E.D. Salinas
Judge (Retired)
111th District Court, Larado

Honorable Harold Valderas
Senior District Judge
233rd District Court, Fort Worth

LOOKING AHEAD

Judicial Conference Calendar

2007

You Asked For It...You Got It!
August 1 - 3, 2007
San Antonio

Beyond the Bench
August 19 - 21, 2007
Fort Worth

DWI Conference
August 22 - 24, 2007
Fort Worth

CPS Judges Conference
September 5 - 7, 2007
San Antonio

Judicial Section Annual Conference
September 16 - 19, 2007
Galveston

College for New Judges
December 2 - 5, 2007
New Braunfels

2008

Winter Regional Conference
Regions 2, 6, 7, & 9
January 27 - 29, 2008
San Antonio

Winter Regional Conference
Regions 1, 3, 4, 5, & 8
February 24 - 26, 2008
Houston

Family Violence Conference
March 31 - April 2, 2008
Galveston

Professional Development Program
June 16 - 20, 2008
Austin

Judicial Section Annual Conference
September 14 - 17, 2008
Dallas

2009

Judicial Section Annual Conference
August 30 - September 2, 2008
Grapevine



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Austin, TX 78701

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