



Quarterly Report February 2016

A FOND FAREWELL FROM EXECUTIVE DIRECTOR ROGER ROUNTREE

In late December of 1983 I flew from Denver, Colorado, to chauffeur my father on his last trip as an officer to the Austin Police Department. It was his retirement ceremony after 36 enjoyable years and for him it was a bittersweet moment, he loved his job yet he was looking forward to the new chapter in his life. During that short drive, he made an offhand comment that I remember to this day. He said you work all of your life and then one day it's your day to retire and you wonder where all of that time went. Well, my friends, like my father 32 years ago, I find that I am now on that last ride to retirement, March 31, 2016, two short months from now.

Retirement columns are supposed to reflect upon the past and identify important people who were and are essential to the tasks. And I want to do that, truly I do, but frankly, there have been so many great people it would be impossible to mention them all in one small space. But I need to acknowledge some because this job, more than any other I've ever had, is collaborative. Without those who have dedicated their time and energy to TJCTC, we could not have functioned properly.

I would to thank the Department of Criminal Justice at Texas State University, then Southwest Texas State, for hiring me all of those years ago. Their advice and support has been invaluable, especially in leasing our office spaces in Austin. We have moved the office three times, so leasing is important.

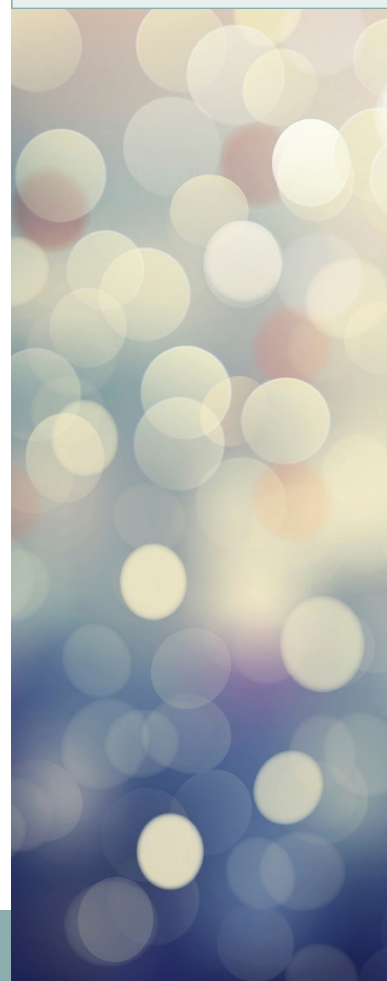
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SPECIAL POINTS OF INTEREST

- Order of Retrieval sample policy
- Upcoming webinars
- Open Carry state map
- Faculty for Civil Process 16-Hour
- TJCTC Social media accounts



ROGER'S FAREWELL (CONTINUED)

My heartfelt gratitude goes to my friends with the Justice of the Peace and Constables Association of Texas (JPCA) for their guidance and support. Words cannot describe their dedication and focus, and that has been continual through 22 JPCA presidents, 7 chairs of the JP education committee, 5 chairs of the constable's education committee, and 6 chairs of the court clerk's education committee. All of them volunteer their time to better the state of the justice courts of Texas. Our volunteer instructors who prepare and deliver our classes are our true unsung heroes. It is not easy to schedule repeated trips out town to teach judges, constables, or clerks, all for no pay, while keeping job and family commitments at home. The next time you are in class taught by a volunteer judge, constable, or clerk, please thank them for all that they do. The same goes for the education members, dedicated people all.



My appreciation goes to my staff, past and present, for their hard work, dedication, loyalty, and competence. I tell prospective employees that two attributes are required for them to be successful at TJCTC: you have to like people and you have to like to travel. There are other necessary job skills, of course, but without the first two, this job is hell. I would like to remember our friend Kenny Miller at this point. Kenny unexpectedly passed away during our South Padre JP seminar in 2009. Kenny loved his job and often described it as a "labor of love." He truly meant it. There was nothing phony about Kenny. The bell at the JP seminars originated with Kenny. I think of him every time I hear it, and I hope you do, too.

Change has been continual in the time I've been here. Much, but not all, has been driven by the new laws and procedures that come to us like a flood every two years, like it or not. The routine switch in JPCA presidents and the new appointments that always follow have been part of our change, and new technology has been a major challenge in our work lives. However, I'm sure that applies to your court or office as well, not to mention personal lives. One change stands out above all others. I changed the

teaching paradigm several years ago to hire program attorneys for teaching, research, and answering legal questions via telephone and online questions. It was a good change. I hope that all of our changes over the years have been productive and meaningful. But, in the end, whether TJCTC has been a successful contributor to your professional career is for you to determine, not us.

When I began reflecting on the past 22 years to write this short column I, like my father, couldn't help but wonder where all that time went. I know now. I spent the time with all of you during and after classes talking about many different things, some important and others not, but always interesting. I have been privileged to watch the classes of new judges and constables grow to become competent and fair elected officials who have the best interests of the people in their hearts. Not many people can say that. While my time in judicial education has come to an end, judicial education never comes to an end, and I urge you to support the new executive director. That person will step into a challenging environment filled with bright, energetic people with high expectations. I have confidence that the University will find the right person.

It has been an honor to be allowed to work with you and to assist the justice courts of Texas to become the outstanding jurisdiction in our state. I wish you all the very best of luck in everything you do.

GREETINGS FROM THE TRAINING CENTER

Happy New Year! We hope everyone had an enjoyable holiday season.

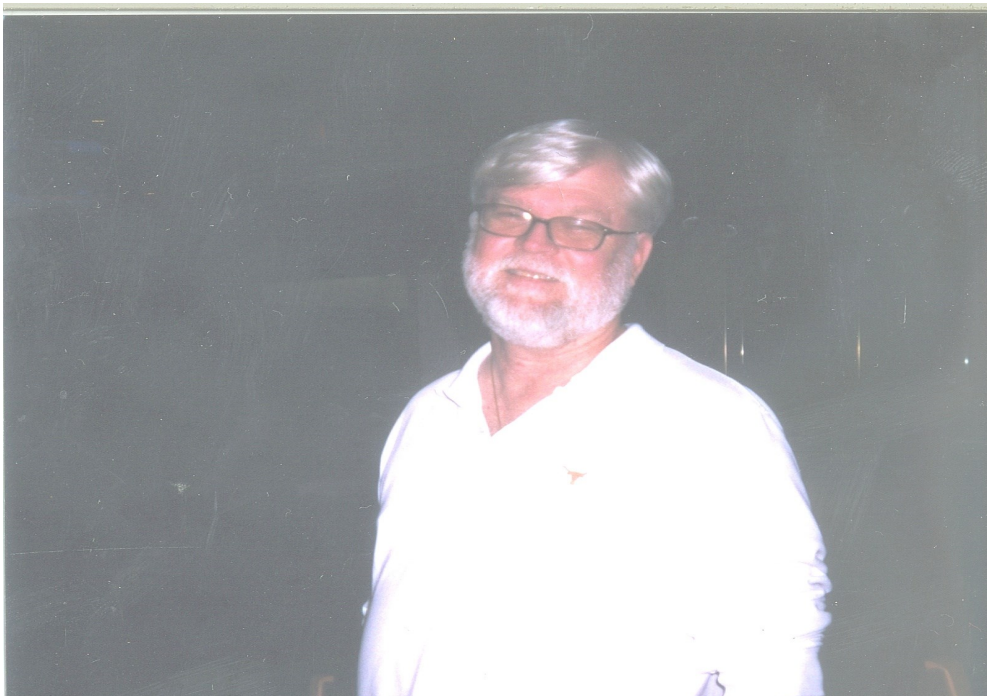
The Training Center staff has already begun work on some fantastic new and updated resources for you. First, over 100 forms have been created or improved. These forms can be found on our website: www.tjctc.org. Speaking of our website – it has undergone a major upgrade. We spent many hours creating a user-friendly site with input from all of you through surveys and meetings at our Legislative Updates this summer. Another major project the legal department is currently undertaking is a total revision of the Deskbooks. These will all be live on the website by the end of the year, but some may become available sooner, if possible. These new Deskbooks will include flowcharts and forms. We hope these resources will be a great additional to your office and helpful in processing your cases.

You are probably already aware that the Training Center made a minor change to its legal phone call and email policy. The legal question phone hours are now from 9-11 am and 1:30-3:30 pm. This gives you 20 hours of access to our attorneys a week. We're also trying to make sure that we can get to your legal board questions as quickly as possible. To keep up the quick responses, we're going to redirect your personal emails to the question board. You will get a form email in response to post your question on the board, rather than email one of the attorney. We know you ask great questions, so this way, everyone will have access to the question and answer.

This month, we are saying good-bye to a valuable member of the Training Center team – Rob Daniel. Rob is opening a private law practice in Austin. He will be missed for his excellent teaching, suburb writing, and knowledge of the best BBQ in Texas. We wish him well as he begins this exciting new chapter in his career. Taking Rob's place will be Randy Sarosdy. You may remember from our last newsletter, or you may have already had him as an instructor, that Randy joined us part-time last fall. With Rob's departure, Randy has happily joined our staff full time and is a welcome addition.

As always, your feedback is considered and appreciated. If you have any suggestions for future newsletter topics, please don't hesitate to contact us. Here's to a great year!

-The Training Center Staff



Kenny Miller — Gone But Not Forgotten

We Miss You Buddy!

JUSTICE COURTS INCREASE THE NUMBER OF IGNITION INTERLOCK DEVICE ORDERS ISSUED

By Rob Daniel, Program Attorney

As you know, Article 17.441 of the Code of Criminal Procedure states that a magistrate shall order a defendant to install an ignition interlock device as a condition of bond if the defendant has been arrested for a second or subsequent DWI offense, or a charge of intoxication assault or intoxication manslaughter. The magistrate shall also order the defendant to refrain from operating any vehicle that has not been equipped with an ignition interlock device. A magistrate may also order a defendant who has been arrested for a first-offense DWI to install an ignition interlock device as a condition of bond if the magistrate believes that the condition is related to the safety of a victim of the alleged offense or to the safety of the community and will assist in securing the defendant's appearance at trial. (See Article 17.40, Code of Criminal Procedure.)

TJCTC has stressed the issuance of ignition interlock orders in our education and our printed materials over the past five years, and we believe this has benefitted public safety. According to Office of Court Administration statistics, justices of the peace issued 3,526 orders requiring a defendant to install an ignition interlock device in FY 2012 (September 2011 through August 2012). In FY 2015, justices of the peace issued 4,325 such orders. That's an increase of 22.6 percent over three years! By contrast, ignition interlock device orders issued by municipal judges decreased by 8.4 percent over the same time period (3,477 IID orders in FY 2012 and 3,184 IID orders in FY 2015).

Ignition interlock devices are important to public safety because they reduce the incidence of Driving While Intoxicated offenses by cutting down on repeat offenders. A 2012 Insurance Institute for Highway Safety study found that if all first-time DWI defendants installed IIDs, the rate of recidivism would decrease by nearly 50%. The National Highway Traffic Safety Administration's Model Guideline for State Ignition Interlock Programs also recognizes the critical need for IIDs, stating that "educational strategies should include...the relevant ways that interlocks can be applied (e.g., as a condition of bond...)."

As magistrates, it is the duty of every justice of the peace to "to preserve the peace within his jurisdiction by the use of all lawful means" and "to issue all process intended to aid in preventing and suppressing crime." (See Article 2.10, Code of Criminal Procedure.) Many of you should be proud that you are upholding this duty by issuing ignition interlock device orders in accordance with Article 17.441 of the Code of Criminal Procedure.

However, there is still room for improvement in this area. The most recent Texas Department of Public Safety crime statistics indicate that 70,569 DWI arrests occurred in 2014. Because we know (per a 2014 NHTSA study) that about 25% of DWI arrests involve recidivist offenders, we can estimate that Texas peace officers arrested 17,642 repeat DWI offenders in 2014. However, JPs and municipal judges issued only a combined 7,213 IID orders in that year, indicating that many repeat DWI offenders (about 60% based on our estimate!) weren't ordered to install an ignition interlock device as a condition of bond in 2014. Additionally, a recent study by the Texas Association of Counties and the National Injury Prevention Council which examined practices in four Texas counties found that only 38% of repeat DWI offenders were ordered to install an IID as a condition of bond.

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CHECK OUT OUR UPCOMING WEBINARS

Feb. 4 - Enforcing
Criminal Judgments

Feb. 26 (10:30 AM) -
Debt Claim Cases

March 3 (1 hour) - Bond
Forfeiture

March 15 - Commercial
Motor Vehicle Issues



Follow us on social media!

Our social media accounts post legislative changes, links to resources, and fun snippets of JP & Constable history.

Facebook:

[www.facebook.com/
TexasJusticeCourtTrainingCenter](http://www.facebook.com/TexasJusticeCourtTrainingCenter)

Twitter: @TJCTC

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If you believe that justices of the peace can continue to improve in this area, I encourage you to consider joining the Texas DWI Bond Condition Program (formerly known as the Texas DWI Bond Schematic Program). This program helps counties to create a comprehensive plan for setting, monitoring, and enforcing bond conditions in DWI cases. In the past, only counties could join the program pursuant to the agreement of the county's magistrates, but starting this year we are permitting individual justices of the peace to join the program as associate members if they commit to creating a plan for setting, monitoring, and enforcing the bond conditions that they set as a magistrate. The program also has several benefits. For example, you'll receive additional educational materials from TJCTC, including a PowerPoint presentation that you can use when speaking to community groups. Please contact TJCTC for additional information if you are interested in joining the program.



As many of you have heard, I'll be stepping down as the Program Attorney for TJCTC's Traffic Safety Initiative in order to establish a solo law practice in Austin. I am happy to inform you that this program is in good hands, as Randy Sarosdy will be taking over my duties. I have really enjoyed getting to know many of you over the past five years and serving as an instructor for the Training Center. I believe that justice courts are the hardest working courts in Texas, and our state is blessed to have so many justices of the peace who are willing to go the extra mile to serve their communities. Thank you for all that you do for your community and for our state.

Welcome!

TJCTC would like to welcome our faculty for the 2016 Civil Process 16 Hour Seminars.

We would like to recognize the hard work and dedication demonstrated by these individuals.

Asst. Chief Sharon Arnold - Fort Bend County, Pct. 2

Deputy Alan Redd - Travis County, Pct. 5



Deputy Paul Cassidy - Montgomery County, Pct. 4

Deputy Chuck Copeland - Nacogdoches County, Pct. 4

Deputy Roy Hart - Williamson County, Pct. 3

John Helenberg - Director of Credentialing & Education, TCOLE

Const. Chad Jordan - Hood County, Pct. 4

Deputy George Reynolds - Johnson County, Pct. 4

Sgt. Dwayne Rouse - Galveston County, Pct. 8

Const. Charles "Buck" Stevens - Brazoria County, Pct. 3

Deputy Fred Taylor - Harris County, Pct. 2

Constable Mike Truitt - Denton County, Pct. 2

MAY FIREARMS BE EXCLUDED FROM MY COURT BUILDING?

By Randy Sarosdy, TJCTC Program Attorney

Summary

The short answer to this question is that as a result of two recent Attorney General opinions a governmental entity may not prohibit the carrying of handguns throughout an entire building in which a court or offices utilized by the court are located if the building contains other government offices in which the carrying of handguns is not prohibited. A notice under Sections 30.06 and 30.07, Penal Code, may prohibit the carrying of handguns in the entire building only if the building is occupied exclusively by “courtrooms and offices determined to be essential to their operation” or by other places where the carrying of handguns is expressly prohibited under Sections 46.03 and 46.035, Penal Code. A governmental entity that seeks to prohibit a licensee from carrying a handgun onto premises where handguns are lawfully permitted is subject to a civil penalty of not less than \$1,000 nor more than \$1,500 for the first violation, and not less than \$10,000 nor more than \$10,500 for the second or subsequent violations, with each day of a continuing violation counting as a separate violation.



On January 1, 2016, HB 910, the “open carry” law, went into effect. The bill permits a person who is licensed to carry a handgun under Govt. Code § 411.172 to openly carry a holstered handgun.

Discussion

On January 1, 2016, HB 910, the “open carry” law, went into effect. The bill permits a person who is licensed to carry a handgun under Govt. Code § 411.172 to openly carry a holstered handgun. HB 910 also amended Penal Code § 30.06 and added Penal Code § 30.07 to provide that a license holder commits an offense if he carries a concealed handgun or openly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code (the handgun licensing law), on the property of another without effective consent and received notice that entry on the property by a license holder carrying a concealed handgun or openly carrying a handgun was forbidden.



The notice may be provided by a card or sign that states: “Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.” In order to prohibit the open carry of a handgun the sign must state: “Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.”

But there is an exception to the right to post such a notice if the property is owned or leased by a governmental entity. Penal Code § 30.06(e) states: “It is an exception to the application of this section that the property on which the license holder carries a handgun is owned or leased by a governmental entity and **is not a premises or other place on which the license holder is prohibited from carrying the handgun** under Section 46.03 or 46.035.” Penal Code § 30.07(e) creates the same exception for a license holder who openly carries a handgun on property that is owned or leased by a governmental entity.

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We therefore need to know what is “a premises or other place” on which the license holder is prohibited under Penal Code §§ 46.03 or 46.035 from carrying or openly carrying a handgun. Section 46.03(a)(3) states that a person commits an offense if the person intentionally, knowingly, or recklessly possesses or goes with a firearm . . . **on the premises of any government court or offices utilized by the court**, unless pursuant to written regulations or written authorization of the court.” Section 46.03(c)(2) states that “premises” “has the meaning assigned by Section 46.035. Penal Code § 46.035(f)(3) states that “‘Premises’ means **a building or a portion of a building**. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.”

Accordingly, if the term “premises” means **either** “a building or a portion of a building” in which a court or offices utilized by a court are located, then the notices under Sections 30.06 and 30.07 could prohibit the carrying of a handgun (whether concealed or openly carried) in the entire building. But if the term “premises” means **only** “a portion of a building” in which the court or offices utilized by the court are located, then the notices under Sections 30.06 and 30.07 could not prohibit the carrying of a handgun in the entire building in which the court is located.

The consequences for not getting it right are severe. Govt. Code § 411.209, added to Chapter 411 by SB 273 in 2015, provides:

(a) A state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, Penal Code, or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.

(b) A state agency or a political subdivision of the state that violates Subsection (a) is liable for a civil penalty of:

- (1) not less than \$1,000 and not more than \$1,500 for the first violation; and
- (2) not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

(c) Each day of a continuing violation of Subsection (a) constitutes a separate violation.

For this reason opinions were requested from the Attorney General on the extent to which firearms may be excluded from buildings that contain courts, offices utilized by courts, and other county offices, and concerning the notices that may be posted prohibiting the entry of a person with a handgun onto government premises. Attorney General Paxton responded by issuing Tex. Atty. Gen. Op. KP-0047 (2015) and Tex. Atty. Gen. Op. KP-0049 (2015). Copies of these opinions are available at these links:

<https://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2015/kp0047.pdf>
<https://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2015/kp0049.pdf>

In Tex. Atty. Gen. Op. No. KP-0047 (2015), Attorney General Paxton construed the term “premises” to mean only “a portion of a building,” so that if there are government offices in a building other than a court or offices utilized by a court, handguns may not be prohibited from the entire building. The Attorney General noted: “If the Legislature intended for the entire structure with a government court in it to be a location from which firearms are excluded, it could have redefined ‘premises’ to mean only a building.” *Id.* at 4. Because the Legislature also amended Penal Code § 46.035 (c) to prohibit handguns from the “room or rooms where a meeting of a governmental entity is held,” the Attorney General observed that the Legislature “knows how to limit the handgun prohibition to a specific room in which an activity is conducted.” *Id.* He therefore concluded: “[W]e construe subsection 46.03(a)(3) to encompass only government courtrooms and those offices essential to the operation of the government court.” *Id.* at 5.

In Tex. Atty. Gen. Op. No. KP-0049 (2015), Attorney General Paxton responded to a question concerning the Hays County Government Center, a large, three-story building housing a variety of government offices, many of which are courts or offices utilized by courts but some of which do not serve courts. Hays County prohibited weapons from being carried within the entire building. The Attorney General concluded: “[I]t is only the courtrooms, and those offices determined to be essential to their operations, from which Hays County may prohibit concealed handguns without risk of incurring a civil penalty under section 411.209 of the Government Code.” *Id.* at 2. He noted that Section 411.209(a) “creates an offense and penalty for a governmental entity that seeks to prohibit a licensee from carrying a handgun onto premises where handguns are lawfully permitted.” *Id.* at 2-3. Hays County could therefore incur civil liability by posting a sign outside the building saying “Gun Free Zone” or if a deputy orally tells a licensee that he may not carry a handgun in the entire building. *Id.* at 4. “This is contrary to the Legislature’s intent to stop governmental entities from infringing on Texas citizens’ rights to carry handguns wherever the law allows.” *Id.*

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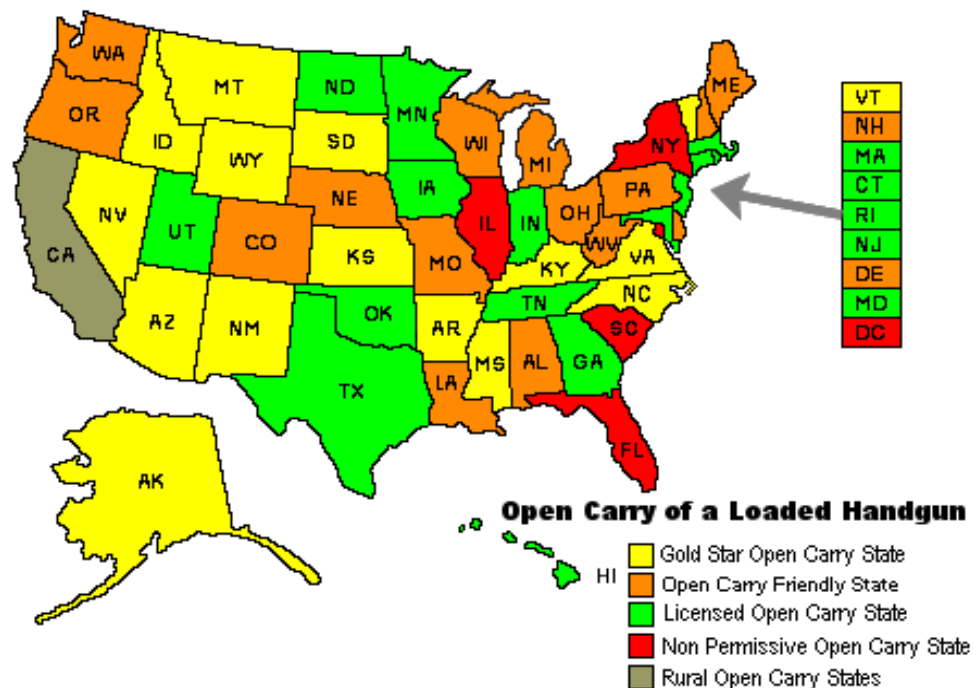
It is worth noting that a request for further consideration of Attorney General Paxton's interpretation of the word "premises" to mean only a "portion of a building" rather than a "building" in which a court is located has been submitted by the Hon. Gary W. Blanscet, Justice of the Peace, Precinct Six, Denton County. In the event the Attorney General modifies his opinions in response to this or other requests, we will advise you promptly.

Currently, under the existing opinions, a governmental entity may not prohibit the carrying of handguns throughout an entire building in which a court or offices utilized by the court are located if the building contains other government offices in which the carrying of handguns is not prohibited. A notice under Sections 30.06 and 30.07, Penal Code, may prohibit the carrying of handguns in the entire building only if the building is occupied exclusively by "courtrooms and offices determined to be essential to their operation" or by other places where the carrying of handguns is expressly prohibited under Sections 46.03 and 46.035, Penal Code. A governmental entity that seeks to prohibit a licensee from carrying a handgun onto premises where handguns are lawfully permitted is subject to a civil penalty of not less than \$1,000 nor more than \$1,500 for the first violation, and not less than \$10,000 nor more than \$10,500 for the second or subsequent violations, with each day of a continuing violation counting as a separate violation.

What Do We Do Now?

In light of the recent Attorney General opinions on this matter, we suggest the following measures:

- (1) Consult with your County Attorney, security personnel and County Commissioners to determine the areas in the building housing your court in which handguns are allowed to be carried by a licensee and those areas in which they are prohibited under Sections 46.03 and 46.035, Penal Code.
- (2) As part of this process, if possible, have the judges who have courtrooms in the same building determine which areas of your building are "courtrooms and those offices essential to the operation of the government court." Put this determination in writing as a finding of the judges who have courtrooms in your building. Keep in mind that you have the right to authorize the carrying of handguns by a licensee in your court or court offices under Section 46.03, should you wish to do so.
- (3) Have the Commissioners Court issue an Order adopting this finding and placing the appropriate notices in the building under Sections 30.06 and 30.07, Penal Code.
- (4) Do not post notices under Sections 30.06 and 30.07, Penal Code, yourself; those signs should be posted under the authority and direction of the Commissioners Court.



ORDERS OF RETRIEVAL—IN THE FIELD

By Kirsha Haverlah, MPA. Governmental Relations, Travis County Constable, Precinct 5.

It is not very often that a new writ or court order is written into Texas law. But in the 84th legislative session, the order of retrieval was passed. Why was this legislation necessary? As you know, this bill was expertly covered in the July issue by Bronson Tucker- after the bill had passed, but before it was enacted... which took place September 1, 2015.

In an effort to keep everyone informed and up to date, we decided to reach out to a few judges across the state to see if anyone had utilized this new tool that we believed would help victims of violence- or potential violence.

Based on a grass-roots small selection, we found stories from a few select individuals.

A judge in North Texas reported someone applied for the order:

The plaintiff lost access to the premises in early September and submitted the request in late October. She really needed to do a Small Claims case. The hearing ended with me not issuing the writ of retrieval.

A central Texas deputy reported doing a couple of orders of retrieval, one of which included guns. Guns are generally not considered to be an emergency item, nor is it on the approved list of items of the following types: such as medical records, medicine and medical supplies, clothing, child-care items, legal or financial documents, checks or bank and credit cards (in the name of the applicant), employment records or personal identification documents. So, although guns and DVD's were not part of this order, both parties agreed to depart with and/or retrieve said items, and they were included on the inventory. This did seem strange to the author of this story. But apparently there were no repercussions- at least not yet!

Do people know that this order exists? Does your county attorney's office have a pamphlet or other written material about it?

Another Judge's experience (and opinion):

I've had one apply but turns out it really was an illegal lockout. However, I think the Order of Retrieval is poorly written. There is no provision for getting one's car keys, the tools of their trade, or textbooks. It also puts a constable in harm's way.

Many victims groups came to the Capitol to testify on this bill, but as was reported in the previous article, last minute changes that JPCA was not in favor of were added to this bill, in many ways changing the very fabric of what we intended. This is one reason why we are looking for stories and experiences judges and constables have had- regardless of whether they are successes. Many times we learn more from the "mistakes" or bad legislation, than when something actually works. The primary purpose of this legislation is 1) to safely retrieve one's items from a habitat they previously inhabited as well to 2) promote community and public safety, not excluding the safety of our constables.

The most common theme amongst the respondents to this inquiry was that nobody had applied for this order yet. Does that mean it isn't needed? When we walked the halls of the Capitol, and spoke to legislators and their staffs, we heard stories of this legislation being absolutely necessary. The expert witnesses from the Texas Advocacy Project stated in their testimony that this was a common occurrence.

Then how can it be now that hardly any orders of retrieval have been completed? Do people know that this order exists? Does your county attorney's office have a pamphlet or other written material about it? Some offices used to do civil stand-bys to help victims of abuse retrieve their things. But others frowned on that practice. This was a primary reason we wrote this legislation. We felt it was important to give people a tool to retrieve their items, without placing them in harm's way.

At least one other judge felt that the writ of re-entry had worked fine in his county for a number of years- and why should we create something new, especially when it was so complicated? The applicant has to apply for the order, has to post a bond, may have to fill out a indigency form (even if they are not indigent, but cannot access their wallet) the circumstances they might currently find themselves in, might make them indigent... This is a lengthy, complicated process to go through when one just needs a few emergency items.

We are looking forward to hearing about your experiences with this at the next class or seminar. We need your input to improve the education, and the legislation that we prioritize each session. Helping those who do not have a voice- or their wallet seems a worthy cause.

TRAVIS COUNTY CONSTABLE PRECINCT 5 RETRIEVAL ORDER POLICY

To assist you in understanding how these orders are working in the field, below we are reproducing this policy. Note that this is provided as a guide, and not as something every office must do. Thanks to Kirsha Haverlah and Constable Carlos Lopez, 2nd Vice-President of JPCA for your assistance with this matter. — TJCTC Legal Department

Notice of Hearing for Property Retrieval

1. When a Notice of Hearing for Property Retrieval is received by CN5 it shall be assigned to the appropriate deputy for service.
2. These notices must be delivered personally to the named respondent no less than three days prior to the hearing date per TRCP 21(b).
 - (a) These notices shall not be delivered via substitute service.
3. Once the notice has been delivered the officer's return must be completed within 24 hours of delivery.
4. If personal service is not effected before the court date then the notice shall be unexecuted and returned to court.
 - (a) The court may then re-issue the notice for subsequent attempts to effect personal service.

Writ of Property Retrieval

1. These writs are to be treated as rush process.
2. Upon the receipt of a Writ of Property Retrieval from the court, dispatch shall check the parties for any active court orders (i.e. protective orders) that may preclude the applicant from entering the residence in question.
 - (a) If any orders are found during this check that would preclude the applicant from entering the residence in question, the court should be contacted for further instruction. Per statute the writ cannot be enforced if the applicant cannot legally enter the residence.
 - (b) If the occupant presents an order to the deputy at any time during the execution of this writ that may preclude the applicant from the residence, the deputies are to halt execution of the writ until they can confirm the validity of the order. If the order is valid and it precludes the applicant from the residence the deputy should contact the court for further instruction.
3. Once the writ has been entered into the tracking system and given to the assigned deputy that deputy shall:
 - (a) Make contact with the applicant to arrange a time to execute the writ.
 - (b) Make contact with the resident of the location being entered to notify them of the issuance of the writ and to advise them of when the writ will be executed.
 - (i) The Deputy shall allow the occupant to be present at the time the writ is executed to allow the applicant entry in to the location.
 - (ii) Communicate with the occupant that if they are not present at the time the writ is executed that any force necessary will be used to gain entry into the location-and-
 - (iii) Any damage incurred to the location while making entry will be the responsibility of the occupant.
 - (c) If the deputy is unable to make contact with the occupant after reasonable attempts are made to do so, then deputy shall proceed with the execution of the writ, leaving notification of the writ for the occupant in the manner stated in section 4.a.i or 5.d below.
4. On the date and time arranged with the applicant the deputy shall go to the residence listed in the writ and attempt to make contact with the occupant.
 - (a) If the occupant is present and allows entry into the residence then the deputy shall:
 - (i) Provide a copy of the court order to the occupant
 - (ii) Accompany the applicant as they gather the listed property (applicant may only take items listed in the order).

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- (b) If the occupant is present and presents physical opposition to the deputy attempting to execute the writ, the deputy shall inform the occupant that they may be subject to immediate arrest and charged with hindering the execution of the writ of property retrieval, Class B misdemeanor.
 - (i) If the occupant continues to oppose the execution of the writ the deputy may then immediately arrest the occupant and transport to central booking.
 - (c) If the occupant is not present the deputy shall gain entry to the residence in the following manner:
 - (i) Attempt to make contact with the occupant to advise them that they need to come to the location to allow entry in to the location.
 - (ii) If the deputy is unable to make contact with the occupant and the residence is an apartment or it is known to be a rental property, the deputy shall attempt to contact the property owner to come assist in making entry.
 - (iii) Should neither of these methods prove successful, the deputy shall notify dispatch that the occupant is not at the residence and that forcible entry is going to be made.
 - (1) The deputy shall give the applicant the option of using a locksmith to gain entry or allowing the deputy to gain entry by any force necessary.
 - (2) When using force to enter the residence the deputy shall make diligent effort to minimize damage.
 - (3) After entry is made by either method listed above the deputy shall clear the residence ensuring that there is no danger present to either the deputy or the applicant.
 - (4) Once the residence is deemed safe the applicant shall be allowed entry, the deputy shall accompany the applicant as they gather the listed property (applicant may only take items listed in the order).
 - (d) At no time during this process will the deputy search any container, location or object inside the residence nor will they assist in the moving of any property.
5. At such time the applicant has gathered all property listed on the writ/application the deputy will compare the property to the list on the writ/application.
- (a) The deputy shall make an itemized inventory of all items removed from the residence.
 - (b) If the applicant attempts to remove an item not listed on the order the deputy shall advise them that they cannot remove that item without a subsequent court order listing that item.
 - (c) After all items listed on the inventory are removed from the residence the deputy shall have the applicant sign the inventory acknowledging receipt of the property and a copy of the inventory shall be given to the applicant.
 - (d) A copy of the order (if not already given to the occupant) and a copy of the inventory shall be left in a conspicuous place inside the residence.
 - (i) If forcible entry has been made to the location, secure the point of entry as best as possible.
6. Upon execution of the writ the deputy shall fill out the officer's return.
- (a) Attach the third copy of the inventory to the return to be filed with the court.
 - (i) Return is to be completed and turned in for processing within 24 hours of execution.



DWI BOND CONDITION SCHEMATIC PROGRAM

The Texas Justice Court Training Center's bond schematic program assists Texas counties in creating consistent conditions of bond in all DWI cases. TJCTC works with all stakeholders (including all criminal magistrates, prosecutors, and probation departments) in participating counties to establish a system for setting, monitoring, and enforcing appropriate conditions of bond. If you are interested in having your county participate in this program, please contact Randy Sarosdy at 512-347-9927.

PUBLIC PERCEPTION OF THE COURT SYSTEM

By Thea Whalen, Program Attorney

The New Year is always a great time to reflect on the current state of life - be it health, relationships, or work. In that spirit, let's examine what the public's latest view of the court system is in our country and how you can use those opinions to enhance and improve your office. The inspiration is the National Center for State Courts' 2015 Public Opinion Survey which can be found here: http://www.ncsc.org/~media/Files/PDF/Topics/Public%20Trust%20and%20Confidence/SoSC_2015_Presentation.ashx (we will also post a link to the survey on our Facebook page).

This is a national survey, but it is interesting how much is applicable to Justice Court. The survey asked over 1,000 registered voters ten questions with subparts. They are referred to as 'figures', and we'll do the same when citing to one. Overall, the public has a more positive outlook on the courts than it did in the group's 2012 survey, but less than they did in last year's report. The majority of the participants felt the courts are respectful, unbiased, listen to the parties, and are attentive to people's needs. *Figure #2*. Seventy percent of respondents said they were satisfied with the fairness of the process, regardless of the outcome. *Figure #3*.

Unfortunately, some of the same concerns persisted from the previous year. Most of it had to do with customer service. *Figure #4*. Direct contact gave a worse impression of the courts. All respondents felt that the courts treat certain groups – African Americans and the poor – worse than others. *Figure #5*. They also believe that the wealthy and corporations are treated better. African American participants particularly felt unfair treatment in the court system. *Figure #6*.

An interesting finding that relates to a topic our courts dealt with this year is the fact that the public worries that the judge considers his or her personal beliefs when making a decision in a case. *Figure #4*. This is timely because Justice Courts faced the issue of same sex marriage. This is a good reminder that the public is paying attention to your views and they believe those views may affect how you handle their case.

An area where we hope to give increased information and resources to you is also an area of frustration for the public – lack of technology in the courtroom. The public continues to believe that more could be done to improve customer service through technology. They think courts need to find better and new methods to use technologies and the court is “not doing enough to empower regular people.” *Figures #9 & 10*. That makes another finding not surprising: Americans prefer to mediate or use a form of alternative dispute resolution rather than have the court hear their case. *Figures #7 & 8*.

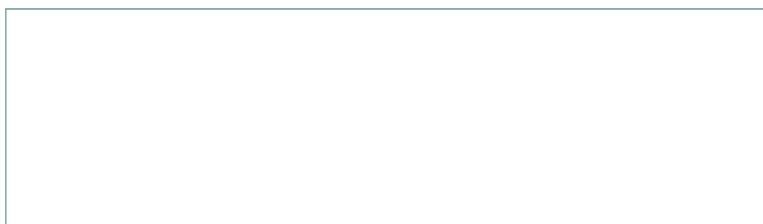
To end on an upbeat note, the “courts remain the most trusted branch of the government.” *Figure #4*.

So what can your court do to address these issues? One of the easiest ways is to re-evaluate the tone in your office and when you're on the bench. Do you have staff that is courteous to the public? Is it easy for the public to get information about your court, such as hours, case processes, and are litigants receiving a timely hearing? And when you're on the bench, are you considerate of the parties' time and effort?

We know you already strive for an efficient and helpful office and court. These are just a few thoughts on ways to continue the great service you provide to the citizens of Texas.



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“The mission of the Texas Justice Court Training Center is to provide quality education opportunities for justices of the peace, constables and court personnel, insuring the credibility of, and confidence in, the justice courts enabling them to better serve the people of The State of Texas.”