



OUTLOOK

For members of the Municipal Justice Bar Association of Texas

Fall 1994

Preserving Common Justice for the Common Person

By Randall Scott
MJBAT President

The annual MJBAT Traffic Law Seminar convened in Houston on Aug. 20. Seventy-four attendees (mostly defense attorneys, but a few brave prosecutors and judges) assembled to improve their competence in the area of municipal and justice court practice.

At a time when attorneys are so widely defamed, when the practice of law is described as a "business," and when no one, especially "rich lawyers" supposedly cares about the common person, OUR MEMBERS spent precious

weekend hours examining the law, in order to maximize the rights of our clients and ensure that the opportunity to achieve common justice is preserved.

"The right of trial by jury shall remain inviolate."

TEX. CONST. Art. I, § 15

How fortunate the citizens of Texas are to have OUR MEMBERS as their guardians. How fortunate the citizens of Texas are to have the benefit of legal process, legal representation, and of actual legal

rights and remedies in resolving the most common claims of a government against its people.

In contrast, how bleak and futile the relationship must be between government and citizen in states that have "decriminalized" common crimes; where rights are traded for administrative procedures; where the presumption of innocence is traded for a presumption of guilt; where a hearing before your peers is traded for a hearing before a disinterested bureaucrat on the government payroll.

Texas legal tradition and our

See Rights, Page 3

Report from the directors

Speakers, regional committee members sought

By Larry Rousseau
MJBAT Past President

The most recent meeting of the MJBAT Board of Directors was held in Austin on Oct. 23, with Randall Scott, Terry Stork, Larry Rousseau and Bill Pewitt attending. Bill, the MJBAT lobbyist in Austin, also introduced his assistant, Laura Van Wisse.

Finance chairman Robert Gregg reported that expenses for the August CLE had been paid. The membership

committee reported the addition of two new members, raising our ranks to approximately 120 members.

Directories are to be compiled and mailed out to MJBAT members in the next few weeks. There was a request that 180 directories also be made available for legislators, and that additional copies be made available for members. Annual dues statements will be mailed in several weeks.

Randall Scott, president, plans to name a member from

See Committee, Page 3

Trend seen nationally

Police Put Less Emphasis On Traffic Enforcement

It's not your imagination -- nationally, there are fewer traffic tickets being issued these days.

Pressured to do more about serious crime, and working under ever-tighter budgets, police are shifting their emphasis. A Federal Highway Administration study shows that in 1992, police wrote 7 million speeding tickets, a half-million fewer than in 1988.

Yet the ticket slowdown had not come at the expense of highway safety. Accidents and deaths involving vehicles traveling 55 mph or faster both decreased by about 17 percent over the same period.

The Insurance Institute for Highway Safety attributes the safety improvement to seat belt laws, but that explanation cannot account for the drop in accidents themselves.

Leading the plunge in ticketing was New Hampshire (a 76-percent

drop) and Missouri (57 percent). Some states, however, went the opposite direction: West Virginia's ticketing was up 47 percent, and the number of tickets issued in

steady, 44 percent of motorists exceeded the national 55 mph speed limit.

Despite the improvement, Brian

In Texas, the Department of Public Safety wrote 35 percent fewer tickets statewide than during the period before.

California also increased. Citations for moving violations from 1989 to 1993 dropped nearly 11 percent in Massachusetts. New York state's four largest reporting regions -- New York City, Buffalo, Rochester and part of Long Island -- reported a combined 7.8 percent decline in moving violations from 1989 to 1993. In Texas, the Department of Public Safety wrote 35 percent fewer tickets statewide than during the period before.

Significantly, federal officials report that during that period, a

O'Neil, president of the Insurance Institute for Highway Safety, an industry-funded research group, called the decline in ticket-writing a "nationwide breakdown" in speed-law enforcement that would have dire consequences because it would encourage motorists to break more laws.

"The evidence shows clearly that what does control the worst behavior on the highways is the perception of the motoring public that they are going to get a ticket if they break the law."

Office fire contributes to newsletter delay

If you think it has been a while since you last received an issue of Outlook, you're right.

The office of Pat Monks, who has the responsibility of putting out this newsletter, was nearly destroyed by fire in mid-August. Monks, Monks and Monks has moved to a temporary location while new office space is being completed.

Needless to say, the fire has caused some major disruptions and minor inconveniences. As a result, this issue is coming out later than originally planned.

We apologize for the delay.

IMPORTANT BOOKS

- Procedure for Establishing Speed Zones (\$6.40)
- Standard Highway Sign Design (\$57.16)
- Texas Manual on Uniform Traffic Control Devices (\$74.59)
- The Federal Trucking Regulations Manuals (large book \$15; small book \$10)

These prices include tax and postage. They may be obtained directly from the Department of Transportation, 125 East 11th Street, Austin, TX 79701, Attn. Lois Young.

For more information, contact Terry Stork at (512) 442-2335.

Committee to watch for changes in court costs, defensive driving

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each of the three MJBAT regions (San Antonio, Houston and Dallas) to the membership committee. The Local and Specialty Bar committee will be chaired by Amy Blum.

There is a need for speakers for the Municipal Justice Training Center, and travel costs are supplied. This is an excellent opportunity to meet many of the non-attorney judges around the state. Contact Bill Pewitt at (512) 478-8877 for more information.

The Legislative Committee will advise as to prefilings, particularly watching for any tampering with Art. 45.54 during the cleanup of the Penal Code this next session. Other things to look for are the reporting of Deferred Adjudications pursuant to Art. 45.54. Also, expect more changes in court costs and defensive driving. If you are interested in helping with the review of bills, call Randall Scott at (214) 264-9782 to get on the information highway.

Terry Stork requested that we make contact with bar association presidents of other states concerning organizations such as ours, and possible formation of a national organization. This suggestion was referred to Amy Blum as chairman of local and specialty bars.

Meeting Schedule Set

The proposed schedule for the Board of Directors meetings (which are open to all MJBAT members) is as follows:

- Nov. 20, 1994
- Dec. 18, 1994
- Jan. 22, 1995
- Feb. 19, 1995
- March 19, 1995
- April 23, 1995
- May 28, 1995
- June 25, 1995



Meetings will be held at 1 p.m. at the Capitol extension in Austin. Members are welcome to join the directors for lunch at the Texas Chili Parlor, 1409 Lavaca, at 12:30 p.m.

Meeting schedule is subject to change

COURT BRIEFS

A Houston justice of the peace who jailed a man for saying she took a long lunch has been disciplined by the State Commission on Judicial Conduct. The judge was given a public admonition for having a man jailed twice after he told her it was a disgrace for her to be an hour late from lunch. The judge maintained that she wasn't late from lunch, but had talked with attorneys on two cases with the prosecutor before returning to court. The commission said the judge violated four canons of conduct, including one that states: "A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity."

A South Texas municipal judge who closed the court also was publicly admonished by the commission. The judge closed the court during a dispute with city commissioners, kept the court from taking action for about two weeks, and routinely dismissed cases without recommendation or appearance by the city attorney or some other prosecuting authority, the judicial commission said. The commission called the judge's move "an intolerable act which must be publicly condemned in the strongest of terms."

Rights to jury under attack

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constitutional right to a jury is coming under attack. Not by juresprudes who believe that common justice may be better preserved by a new and better means. Not by citizens who no longer recognize the value of legal rights when dealing with the government concerning common crimes. But by bureaucrats who believe the concern for common justice impedes the efficiency and "profitability" of revenue collections.

The threat to common justice by "decriminalization" of Class "C" misdemeanors is comprehensive. We must pledge the best of our adversarial skills and knowledge to maintain traditional rights for the common person.

For without the traditional rights attendant to crimes, our clients will have no real choice but to pay on governmental demand, substantiated by no more than official accusation.

Highlights of CLE in Houston

At the CLE in August, Tom Pappas of Dallas reviewed the new ALR (Administrative License Revocation) that becomes effective Jan. 1, 1995. Portions of Tom's review will be included in the next issue.

Randall Scott of Grand Prairie updated his excellent paper on laser speed-measuring devices. A complete package of his work can be obtained by calling Randall at (214) 264-9782.

Terry Stork of Austin gave a very informative review of the basics of traffic ticket defense. His materials are a must for any municipal practitioner.

Woody McAndrew of Stafford familiarized the group with ethical concerns.

Herb Gee, prosecutor for the city of Spring Valley, spoke on his case appealed from the City of Houston and now pending in County Criminal Court at Law No. 11. Herb's issue deals with the waiver of a trial by jury

in a court of record.

David Lee of Houston spoke on his case concerning the JP's jurisdiction in municipal school-zone cases.

Bill Meyer of Houston informed us of his decision to attack the jurisdiction of art.6701d sec. 104 (passing a school bus when lights are flashing).

Judge Tom Lawrence of Humble spoke on the use of teen court as alternative sentencing. Judge Lawrence is one of the 48 lawyer-JPs in Texas. There are more than 789 JPs in the state. Members of the Harris County Municipal Justice Bar Association are regular participants of the Spring, Texas teen court.

If you were not able to attend this CLE, I personally recommend participating in the future. I found it to be a rewarding experience, as well as a lot of fun.

Please give your suggestions for future CLE topics and locations to Larry Rousseau at (713) 222-0550.

-- Pat Monks

Municipal Justice Bar Association of Texas

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