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**REVENUE OR REDUNDANCY: AN EVALUATION OF THE FINE  
COLLECTION PRACTICES FOR THE CITY OF AUSTIN MUNICIPAL  
COURT  
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Institute for Court Management  
Court Executive Development Program  
Phase III Project  
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## **ABSTRACT**

To protect the integrity of the Court and ensure justice is served, the Court has an obligation to enforce orders for fine payment. This report is an evaluation of Austin Municipal Court's fine collection practices. The Court both past and present has implemented collection practices without thoroughly analyzing results. As long as the Court reached a targeted monetary goal, it was satisfied. Reports were rarely generated to see if our efforts could have been streamlined or how they compared with previous collection practices.

My goal is to monitor the collection efforts presently in use, determine if those need modification and compare these methods with the methods used by other courts.

Initially my research was based on collection practices used by the private sector. Noting there were numerous publications dealing specifically with fine collection practices for courts, the focus moved in that direction. Analyzing the Court's past budget reports and receiving information from the Court's managerial staff, aided me in my research.

The material for this report will satisfy the main objective: measuring effectiveness and determining necessary improvements. This will be done by comparing collection and workload percentages from the past to the present,

analyzing responses from the mail and Marshals arrests, comparing our case disposition rates to court's comparable in size and noting changes in the law that have affected our collection rates.

Evaluating our collection percentages and the methods used for collections revealed we are redundant in our collection efforts. The Court has continued to use outdated collection practices to generate revenue. By continuing with outdated efforts, the following has resulted:

- Case disposition rate is 1% higher than the state average but 12% lower than a court comparable in size
- Collections are 5% lower than 10 years ago
- Goals and procedures for collections do not exist
- There are no true methods for measuring the results of payments by mail or Marshal arrests. If the percentages are higher than the previous year or close to a standard collection rate, the Court is satisfied
- Numerous cases are in a limbo status without any future plans for disposition.

It will benefit the Court to establish plans and goals for collections.

Inconsistency in collection efforts and continued threats of arrests has given the public the perception the Court is not enforcing court orders. Developing

collection procedures and a collection plan that involves everyone will aid the Court in enforcing court orders and regaining public trust in the judicial system.

## INTRODUCTION

### Court Organization

Austin is the capitol of the state of Texas. Austin is surrounded by the small municipalities of San Marcos, Round Rock, Cedar Park, Bastrop, and Manor.

The estimated population of Austin and its surrounding municipalities is 975,000.

Known as a college town, Austin is home of the University of Texas Longhorns, Huston Tillotson College, St. Edward's University, Concordia University and Park College.

Austin Municipal Court , created by the Texas Legislature is a limited jurisdiction Court of record . The Court has jurisdiction over criminal cases arising from city ordinances, state laws and concurrent jurisdiction with Justices of the Peace of precincts located in the city. The Court became a Court of record in March 1984 in an effort to reduce the number of appeals filed at the County Court. This action requires the Court to keep copies of legal proceedings and allows citizens to appeal within the Municipal Court instead of at the County Court.

Municipal Court is responsible for the filing of traffic, parking , class C misdemeanors (petty theft, public intoxication, city ordinances etc...), class A and B misdemeanors (Driving while intoxicated, Unlawfully Carrying of a Weapon

etc...) and Felony (Murder, Burglary etc...) cases. In April 1988, due to the consolidation of the City and County Jail Central Booking facilities and operations, the Court became the central location for filing all legal complaints within its jurisdiction. While the Court is not responsible for prosecuting individuals with higher charges, the filing of probable cause affidavits and complaints are conducted by the Court staff.

The mission of Municipal Court is to protect the public by promoting voluntary compliance of state and local statutes through the execution of judicial and other Court-related proceedings. The Court files over 500,00 traffic, parking, misdemeanor and felony violations per year.

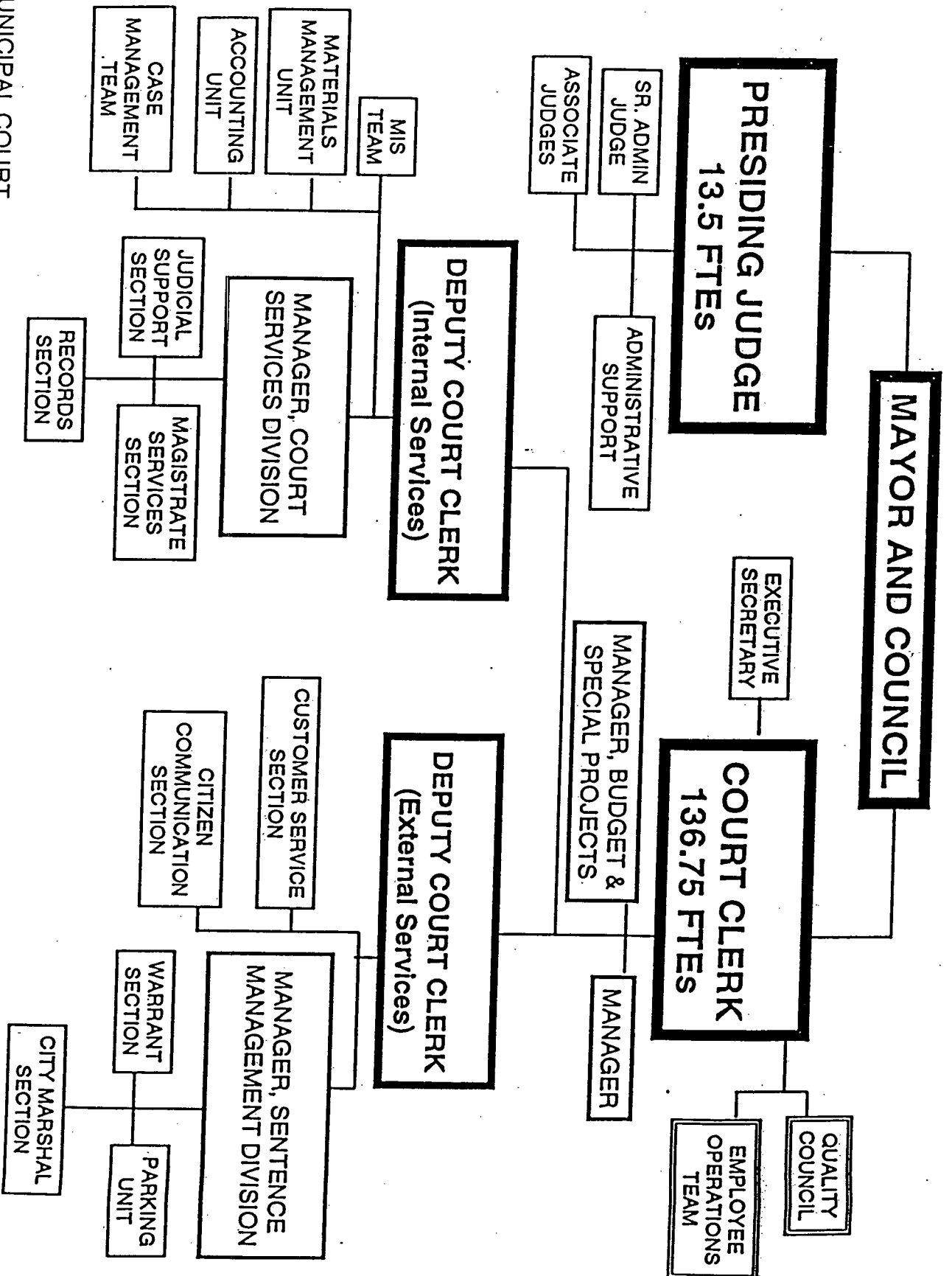
The Court has two functional areas (**Table I.**): the judicial and administrative. The judicial staff consists of 7 full time administrative judges and 7 part time relief judges. Judges are appointed by the Mayor and City Council to serve a term of not less than two years and not more the four years. The team of 7 full time judges elect one of their colleagues as presiding judge. The relief judges have the same judicial power as administrative judges.

The administrative area of the Court consists of the Clerk of Court and his staff. The Clerk serves at the pleasure of the governing body of the City (Mayor and City Council). The Clerk oversees the day to day operations of the Court,



Table I.

2a



administer oaths, and is responsible for maintaining Court records. The Clerk may appoint two or more Deputy Clerks who act on his behalf. In Municipal Court there are two : Deputy Clerk for External Services and Deputy Clerk for Internal Services.

The Deputy Clerk for External Services is responsible for overseeing the operations of the :

Sentence Enforcement Division which consists of the :

- City Marshals
- Warrants Unit
- Parking Unit

Public Information Division which consists of the :

- Citizens Communications (Mail services) Team
- Front Counter Staff (cashiers)
- Phone Operators

The Deputy Clerk for Internal Services is responsible for the overseeing the operations of :

- Management Information Systems (MIS) Team
- Materials Management
- Accounting Services

- Case Management
- Judicial Assistants (bailiffs)
- Magistrate Services
- Records Center

## **EXTERNAL SERVICES**

### **Sentence Enforcement Division**

#### **City Marshals**

The City Marshals serve class C misdemeanor arrest warrants generated by the Court. The Marshal program created in 1988 was initially under the direction of the City's Law Department. Prior to its creation, Court warrants were served by a specialized team at the Austin Police Department.

The marshals are responsible for arresting citizens at home or work, serving subpoenas, providing security for the Courtrooms, and overseeing the towing of vehicles on the Parking Impound list. The Marshal Unit currently has 17 full time marshals and 11 phone clerks. They are supervised by a superintendent and two team leaders while the phone clerks are supervised by two team leaders.

The Marshal's main focus is to serve Court warrants timely.

### **Marshal Clerks**

Marshal clerks assist the Marshals in serving Court warrants. Clerks are given print-outs of outstanding warrant cases. Information from the cases (phone numbers for work or home) are utilized along with information found in the City's utility directory to locate citizens and inform them by phone of their outstanding warrants. Citizens are encouraged to take some type of action on their pending cases and are given the opportunity to satisfy their debt by phone utilizing credit cards.

### **Warrant Unit**

The Warrant Unit is responsible for ordering court documents such as probable cause affidavits and complaints and issuing Court warrants in the database. There are two types of warrants issued: *capias* and *capias pro fine*.

*Capias* - a *capias* is issued when a citizen fails to appear at the Court to take action upon their case by the initial appearance date listed on the citation. A *capias* is to be ordered 40 days after the citation issue date. *Capias*' are referred to as warrants.

Capias pro fine - a capias pro fine is issued when a person fails to comply with a judges' order or fails to pay the fine after entering a guilty or nolo contendere (no contest) plea. The capias pro fine, referred to as a commitment, is to be ordered 30 days after the date of delinquency.

The warrant unit issues over 85,000 warrants and confirm 11,500 arrests per year for the Austin Police Department.

### **Parking Unit**

The Municipal Court's parking unit is responsible holding hearings on parking ticket disputes and scheduling appeals before Municipal Court judges'. Before November 1992, receipt of a parking citation was a criminal offense. Citizens were allowed to enter pleas of not guilty and set their cases for trial before a judge or jury or speak with a City Prosecutor in hopes of having their fines dismissed or reduce. If a citizen accumulated 10 or more unpaid parking citations a warrant for arrest was issued. Citizens were subject to arrest and would be released only after having submitted payment to the Court..

In November 1992, parking citations were decriminalized by action of State Law and City Council and made civil. Appearance before a judge or stating your case to a prosecutor no longer existed, except on appeal. Citizens now appear before an administrative Court appointed hearing officer who

determines the citizen's liability for the offense. Citizens may appeal any decisions of the hearing officer. Appeals are heard by a judge.

By decriminalizing parking, the vehicle not the citizen is the target of enforcement. After three, not ten citations, a judicial order is issued making the vehicle eligible to be booted and eventually towed to the City Impound lot. Once booting and towing has occurred, full fine payment is usually collected prior to release. Decriminalization of citations proved to be cost-effective and manageable. The voluntary rate of parking fine collection without any effort made by the Court is 65%.

## **PUBLIC INFORMATION DIVISION**

### **Citizens Communication Team**

The citizens communication team is responsible for the processing of mail payments and requests. The unit processes over 300,000 pieces of mail per year. The unit enters payments into the computer system database for both traffic and parking cases and answers inquiries from the general public.

### **Front Counter Staff**

The Front Counter Staff is responsible for collecting fine payments for outstanding Court cases. The downtown (main) location is open five days per week with extended hours on Tuesday night. Over 150,000 citizens are assisted

yearly. In addition to posting payments, the cashiers dismiss state mandated traffic citations upon submission of proof (No insurance, no driver's license, unregistered vehicles, etc...), place citizens on payment plans, and schedule citizens for parking hearings.

In the spring of 1996, the Court's Case Setting unit was disbanded. The front counter staff inherited the duties of : setting initial Court appearances, accepting and recording of motions, accepting and processing subpoenas to be served by the Marshals, and processing Court appeals. The consolidation of functions at the Front counter Staff and Case Setting units allows citizens to handle all of their Court business at one window.

In addition to our downtown location, three satellite stations located in various areas of the city (North, South and East) afford citizens the opportunity to handle all Court matters, except parking hearings and Court appearances. Citizens may exercise the option to handle matters at a location convenient to them.

### **Phone Operators**

Phone operators are assigned full time to assist over 90,000 citizens per year. A variety of Court related questions are answered daily. Before 1995, the Court was unable to monitor phone calls or log phone activity. With the purchase of new software , statistical information for tracking the number of incoming calls, wait times, and the number of hang-ups is now available. The new system aided the Court in repairing its past reputation for inefficient phone service.

In January 1997, the Court implemented an Interactive Voice Response (IVR) system. Citizens can now call the Court and retrieve citation information on a 24 hour a day basis. Information regarding fine payment, Court dates, Driver Safety Course due dates and pending warrants is accessible by phone. Citizens activate the file by entering their citation number or driver's license number. Future modifications include accepting credit card payments by phone.

## **INTERNAL SERVICES**

### **Management Information Systems (MIS) Team**

The MIS team is responsible for analysis and operation of the Court's computer system. In 1994, the Court purchased an IBM AS400 mainframe and Judicial Enforcement Management (JEMS) software from Personal Computer Software Services (PCSS).

### **Material Management**

The Materials Management unit oversees purchasing and stocking of equipment and supplies, maintenance agreements and contracts, and the overall mechanical operations of the Court building.



**Account Services**

The Accounting unit is responsible for management of fiscal accounts, preparation of fiscal reports and bank deposits, and collection of funds from insufficient checks.

**Case Management**

The Case Management team is responsible for the creation and updating of all case files. The team sets cases for trials and provide clerical assistance during Court appearances. Charges of Violation of Promise to Appear (VPTA) are issued by this unit. A VPTA is issued when a citizen fails to appear on or before their initial appearance date. This additional charge is intended to encourage citizens to respond to their charges in a timely manner.

**Judicial Assistants**

Judicial Assistants (Courtroom bailiffs) provide Courtroom support for the judges. Processing of legal forms, jury management, and support for the judges are a few of the duties performed.

### **Magistrate Services**

Clerks are responsible for initiating filings for higher charges, collecting cash bonds for incarcerated citizens, processing and dismissing deferral cases. Over 20,000 prisoners are magistrated annually.

### **Records Center**

The center is responsible for housing all Court files and retrieving cases for court appearances and trials. Use of color-coded file folders and a numerical filing system makes case location easy and convenient.

## STATEMENT OF THE PROBLEM

"For Courts, the business of collections can be a political, constitutional, and ethical minefield"<sup>1</sup>.

"Funding agencies and legislatures look toward Courts to contribute toward financing their operations, although it is widely accepted that courts are not, and can hardly be, self-supporting. City Councils, more so than county-governing boards or legislatures, tend to view fines and fees as a revenue stream they can tap to finance government operations."<sup>2</sup>

The City of Austin Municipal Court has several methods for requesting fine payments. The purpose of this report is to look at the Court's collection methods and evaluate whether or not our efforts are productive or are we just duplicating past practices. With a growing demand for cost efficiency from the City's Budget office and the State Legislature, the Court needs to utilize its resources dedicated to collections without being seen as a money-making organization.

"Some individuals feel that if fines are collected and enforcement is taken seriously, the resulting punishment may have rehabilitative value and deterrent effect."<sup>3</sup> The significance of the fine collections to the Court is to ensure

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<sup>1</sup> Ron Zimmerman, "Dollars and Sentences: The Fiscal Seduction of the Court", State Court Journal, Fall 1990

<sup>2</sup> Mathis, John, Paul Gomez, and Gwendolyn Lyford, "Current Practices in Collecting Fines and Fees in State Courts: A Handbook of Collection Issues and Solutions. National Center for State Courts. 1995

<sup>3</sup> Ibid.

compliance with Court orders and to generate revenue to fund Court operations. One goal of our fine collection process is to ensure that after citizens are given ample opportunity to submit fine payments, warrants are promptly generated and served. To do this, our collection efforts and enforcement of Court orders must be well planned.

The Court's fine collection process can be measured by reviewing our collection percentages and case dispositions. We can compare our case filings and dispositions of the case filings and dispositions of cities comparable in size. These measures will enable us to see where we are and look at ways for improvement.

In this report I am focusing on traffic citations in the status of: a) warrant (capias issued for failure to appear - no judgment has been entered), and b) commitment (capias pro fine - failure to appear with a Court order - judgment has been entered) status. Due to the inability to predict outcomes of Class C misdemeanor and City ordinance violations, and since these violations comprise only 5% of the cases filed in the Court, I am not including them in my report. The 65% voluntary payment rate for parking citations without any efforts for collection made by the Court can be interpreted as "Don't fix it if it isn't broken."

This report will provide the Court with some insight into fine collection practices utilized by other Courts and the private sector and suggestions for establishing a more structured program.

## **COLLECTION EFFORTS**

The Court has several methods of paying and disposing of outstanding obligations.

### **Fine Payments**

Citizens may waive their right to a speedy trial, enter a plea of nolo contendere (no contest) or guilty and submit full payment for their fine. If the citizens cannot appear in person, payment may be submitted by mail or dropped in the after hours drop box. Citizens may submit payments in the form of cash, checks, money orders, cashier's checks, and credit or debit cards.

Credit card acceptance began in January 1995. The Court incurs all costs for the credit card program. The program has been profitable and citizens like the convenience and safety of not having to carry large sums of cash.

Checks are accepted without many restrictions. Temporary checks without any pre-printed personal information are accepted without questioning. The citizen is allowed to hand write his/her name, address, phone number etc. without submitting proper identification. If a check is returned as insufficient by the bank, a \$20.00 return check fee is added to the paid violation. The citizen is mailed a letter requesting payment after the check has been submitted to the bank twice for collection. The citizen's case is extended for 2 weeks allowing the

Citizen time to rectify the situation. If no action is taken, a commitment (capias pro fine) is issued for the citizen's arrest. The case does into the regular collection cycle. No special action for collection of bad checks is ever taken.

### **Partial Payments**

A citizen is allowed to appear on or before the initial appearance date and request an extension to pay. A signed plea of nolo contendere (no contest) is obtained from the citizen. He/she is automatically placed on a payment plan of \$50.00 per month with the first payment due in 30 days from the plea date. If the Court is not on schedule for issuing warrants, (or a warrant is unable to be issued for lacking a probable cause affidavit or complaint, etc...) the case being pled on could remain "past due" by one day to 2 years. Regardless, the citizen is entrusted to return to submit the monthly payment by the due date. Since the issuance of capias pro fines are sometimes delayed, the citizen has no true time limit to submit payment since the fear of arrest is non-threatening.

### **Mitigation Court**

If a citizen is unable to make payments on the payment plan, states he/she is unable to pay due to financial hardship, or has warrants and wants to avoid arrest, a judge is available on a walk-in basis to discuss payment/disposition

options with the citizen. This walk-in Court appearance is referred to as Mitigation Court. Mitigation Court was formed in the Spring 1995 to assist citizens with pressing matters before the Court (late submission of Driver Safety Course certificates, warrants, community service requests etc.). Citizens arrive to Mitigation Court on their own accord (unscheduled) or with the assistance of a City Marshal if arrested. Mitigation Court is conducted twice daily (morning and afternoon) and Friday mornings.

### **Community Service**

Citizens who are able to prove they are financially unable to submit monetary payments to the Court may request permission to perform community service in lieu of submitting fine payments. Citizens are allowed \$50.00 for every 8 hours of service performed. Judgments are entered and the citizen is given a specific date to return to the Court with written proof from the participating agency that the service was performed.

The problem with community service is that for the majority it serves as a delay tactic. Once their time frame for completion has passed, they return to the Court to either request more time for performance or a payment plan. This payment plan is sometimes less than the standard \$50.00 required of citizens who appear timely.

Another problem is that many agencies are no longer offering their community services. This means assignments are scarce and the location of an agency is the responsibility of the citizen. If the citizen does not have the knowledge to locate an agency, he often returns to the Court on or after the due date to explain their inability to complete the service. Thus, the delay of payment continues.

A financial affidavit (appendix A ) is required of citizens requesting community service. The affidavit serves two purposes: aides the judges in determining lengths of community service for each citizen and assists the Marshals in locating citizens later when/if warrants are issued. Some judges use the affidavit to determine the severity of the citizens financial hardship while others feel the information is not useful since they are not sure of the truthfulness of the affidavit. The judges who do not reference the affidavits rely more on conversations with the citizen about their current financial obligations when determining the hours to be completed and the length of completion time.

Some citizens resent the affidavit because they feel their privacy is being invaded. They often argue with the Front Counter Staff but complete the affidavit out of fear that the service may not be granted without it.



### **Driver Safety Course**

In lieu of paying the fine for moving violations, attendance of a state mandated Driver Safety Course is permitted. Citizens must submit proof of insurance, a valid Texas driver's license and filing fees (Court costs) ranging from \$45.00 to \$65.00 and are eligible to take the course in lieu of paying the fine. Driving records are preserved, as the violation is not reported to the insurance company. Failure to complete the course within the required 90 day period may result in a conviction being recorded on the citizens driving record and requirement of the full fine.

### **Notices**

In 1994, the Court implemented a new software system. The manner in which we informed citizens about their pending citations changed. In the Court's previous system the following applied:

- a letter was sent one day after the initial appearance date, notifying the citizen that unless some type of action was taken, a warrant for arrest would be issued.

If no action was taken, 30 days from the initial appearance date the citizen was informed that a warrant had been issued. These notices were automatically generated.

- For cases with a plea (capias pro fine) a letter would be generated one day after the extension date. If no action was taken, a commitment for arrest would be issued. The issuance date would be approximately 28 days from the date the payment was due.

- Cases in a warrant or commitment status would remain in that status until the citizen was arrested by an Austin Police officer during a routine traffic stop or by a Department of Public Safety officer when the citizen attempted to renew their license.

In an effort to clear backlogs of old warrants, the Court conducted an Amnesty program. Waiver of the warrant fee (\$25.00) allowed citizens to pay reduced fines and eliminate the threat of arrest. Case backlogs were partially eliminated and a substantial amount of revenue was generated. Additional Amnesty programs were not as profitable as the first since citizens acquired a disincentive -- if they waited long enough more amnesty would be offered.

In 1987, the Law Department of the City of Austin transferred their City Marshal staff to the Clerk of the Court. The role of the Marshal remained serving traffic warrants. This move enabled the Court to regain custody of traffic and class C misdemeanor warrants from the Police Department.

Acquiring the Marshal staff brought many changes in our collection process and thus marked the beginning of a quasi collection team. Instead of sending warrant notices and issuing warrants without taking any further action, the

Marshals would begin systematic collection efforts. The citizen would initially receive a phone call requesting appearance at the Court to take some action on their outstanding warrant. If they did not respond in the specific time stated by the Marshal, arrest action would begin. The citizen was eligible to be arrested at home or work. Citizens who could not be located were left a hang tag (appendix B) on the door of their residence.

To locate citizens, the Marshals utilized information listed on the citizen's traffic citation or Court plea (phone number for work or home, address etc.). If the ticket information was not sufficient, research utilizing the Utility Department's database was used as well as the database of the State Departments of Transportation and Public Safety. Using manual efforts, Marshals arrests were impressive.

The ownership and buildup since June 1994, of our own technology has made it possible to gather accurate statistical data which aids in the monitoring of our operations. The ability to list additional phone numbers and addresses, comments about the citizen, ticklers and other pertinent information aiding the location of citizens are examples.

With the new software system, our notification procedures changed. Instead of the citizen receiving a warrant summons letter, a delinquency notice is mailed. This notice is mailed 40 days from the citation date on cases where there is no appearance. Instead of sending a notice 14 days after the citation date, we are allowing the citizen an additional 26 days to enter a plea or make

fine payment.. After the Delinquency notice is mailed, a letter informing the citizen a warrant of arrest had been issued for them was mailed. In the meantime, we mailed a notice of Violation of Promise to Appear (VPTA) informing the citizen an additional charge had been filed against them for not appearing by their appearance date. The letter informing the citizen a warrant had been issued was be mailed two days to two years after the delinquency notice. The reason for this time span is, (as previously stated) was due to date of signature by the judge, availability of an acceptable probable cause affidavit, existence of a complaint not written by a Prosecutor, etc.

## RESEARCH

Aiming at improvements to the Austin Municipal Court's collection rates, I focused on one main sources of information . Although numerous articles and publications exist on the subject of fine collections, a publication from the National Center for State Courts "Current Practices in Collecting Fines and Fees in State Courts" lays the groundwork for beginning and structuring a successful Court collection program. The publication was developed from research conducted between 40 courts in 22 states throughout the United States by a project staff of the National Center for State Courts Services Division. Besides the research conducted at the courts, information from the Court Management (National Association for Court Managers) Trial Court Financial Management guide (sect. 30.70) and information from the participants in the Institute for Court Management's Collecting Fine and Fees workshop was used.

The information in the "Current Practices in Collecting Fines and Fees" did not promote coercive collection techniques. Coercive techniques or scams in a Court collecting environment not only deceives citizens, it questions the integrity of the court.

In addition to the National's Center publication, additional publications specializing in collections for courts and the private sector were used to give the Court an initial direction to develop a successful collection program.

According to the research, Judicial and administrative commitment to fine collection" is one critical element when beginning a fine collection program. Two guidelines exist to improve collections: No delay and consistency. The longer the delay between sentencing and payment, the less likely the collection of fine payment. Fines due the Court are not seen as top priority to citizens. Given the chance, they may never submit payment. The attitude is that if they wait long enough, the fine may "go away." Consistency and currency may change this attitude. Consistency when sentencing (one principle of justice is to treat similarly situated defendants alike) and getting a commitment from judges to follow similar sentencing policies.

### **Environment**

Courts with the best collection programs expect fines to be paid as quickly as possible. This is done by sending timely notices from the Court and the rules emphasized at the sentencing. The message to the citizen is to pay when the fine is due. Not paying would result in immediate collection efforts. The Court would follow-up immediately to protect the integrity of the Court and its orders.

In the collection process, court leaders also require commitment. Resources for collections such as computer programming, staff dedicated to collecting and time to relay the collection commitment to the citizens must be allotted.

Commitment must also come from the Court prosecutors and all involved law enforcement agencies.

Collection procedures should have goals that are attainable and measurable. Time standards for issuing of warrant notices, warrants, setting Show Cause hearings, disposing of deferral cases must be set to dispose of cases in a timely manner. Procedures must be established and monitored on a regular basis to ensure consistency or to detect a problem before it becomes serious or untamable. Exception reports should be generated for past due fine payments by citizen on special payment plans or who have been granted community service.

Communication with citizens at the beginning of the collection process is pertinent. A written notice of the citizen's next payment date or hearing should be distributed in writing. "A monetary sanction is a Court order. If it is not paid, the integrity and credibility of the judiciary is called into question. Without compliance, offenders may believe that they have beaten the system, the public may view the criminal justice system as ineffective, and the important symbolic value of a sentence may be lost."<sup>4</sup>

Court staff should be educated about the court's collection goal. Training in collections is also beneficial. Discussion and granting of payment plans for citizens should not be routine. Payment terms and the citizen's ability to pay

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<sup>4</sup> Litschewsik, Paul. "Getting a Grip on Court Collections: An Overview of the Colorado Collections Investigator Program", Court Manager, Summer 1991.

should be discussed. Citizens should be responsible for submitting a financial affidavit when requesting a payment plan stating their true financial situation. This affidavit should be used when pertinent information is necessary to allow the Court to locate the citizen. Information such as: social security number, driver's license, home/work address, pay day, phone number and address of friends or relatives, personal references etc. Use of the affidavit could serve to decrease the number of payment plans requested. Requirement of a minimal "down payment" may encourage citizens to submit the payment in full or send the message that the payment plan will be enforced.

"A specialized staff of collectors can be formed. Members of the staff must not be uncomfortable in the role of "collection agent." A specialized staff ensures that their time will be devoted to collections and they have the tenacity to handle stressful situations." <sup>5</sup>

In addition to the specialized collection staff, counter staff can be trained to obtain current information from citizens such as a new address for home or work or, new phone numbers each time personal contact is made with a citizen.

Courts must be accountable. Uncollected fines of large amounts are an open field for the media and the auditing division of the government agency. Large amounts of unpaid fines lead the public to believe "the job is not being done." Courts must establish a collection amount that is reasonable and attainable. Collection procedures for write-offs must be established (the City of Austin does

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<sup>5</sup> Ibid.



not have any write-off procedures established for collection of City revenue). If the governing body of the Court does not have write-off procedures, they should be established to determine when the cost to collect on an outstanding debt exceeds the debt itself. Accountability promotes public trust and confidence. Mechanisms for measuring success are mandatory to demonstrate financial accountability.

There is no model collection process nor is there a national standard collection rate. Collection procedures must be established to meet the court's philosophy taking into consideration the local legal restraints and evaluating the effectiveness of past collection activity of phone calls and notices.

## **PAYMENT AND ENFORCEMENT**

### **Payment Methods**

Citizens should be given every opportunity to pay their fines or to inquire about pending cases. These opportunities should be flexible and reasonable.

Some options are:

- Alternate locations such as satellite stations, grocery stores, or lock boxes (payments are deposited in the court's bank account and paperwork is forwarded to the Court for processing) or drop boxes should be available.
- Information using an interactive voice response saves staff time and permits 24 hour a day inquiries.
- Web-page.
- Acceptance of cash, checks, money orders, credit and debit cards.
- Payment by mail.
- Using credit cards to make payments by phone.
- Issues to address when making payment options flexible are:
  - Are procedures in place for the handling of bounced checks?
  - What are the procedures for post-denials on credit cards?
  - How to recover the cost on fake money orders?

- Are fees imposed for insufficient funds? Do they cover the cost of collection?
- Who absorbs the cost for credit card transactions? The Court or the citizen?
- Is it cost effective to have a lock box? How long will it take the bank to process the payment and forward the information?

Before acceptance of payments other than cash are practiced, these questions should be addressed. Make sure a convenience for the citizen is affordable and feasible to your court.

### **Alternate Payment Options**

Community Service - this service is dedicated to citizens who have a financial hardship and are unable to submit monetary payments to the court. A standard hourly rate is credited for the service performed. The fine is considered paid when the number of hours worked equal to the amount of the fine.

When implementing a community service program:

- Make sure it is a realistic alternative to a fine.
- Have procedures in place to verify the service performed.
- Determine the alternatives for non-compliance.
- How will dollars and costs translate into hours of service?

- Is the citizen to be charged a Court fee/cost when placed on community service?

Some complaints associated with community service are:

- Insufficient resources to assign and supervise workers.
- Difficulty in finding agencies who will to accept workers.
- Reports of compliance were never forwarded to the Court or were slow in arriving.
- Liability: who was responsible for injuries encountered while the service was being performed. Some states have specific statutes granting immunity to liability for the Court and providing entity.

Traffic Schools - In lieu of submitting fine payments, some states offer citizens the opportunity to attend a traffic school. "Traffic schools tend to "reduce the burden on the justice system because cases are delivered out of the formal Court process and therefore the prevention of future violations by providing instruction in safe driving habits."<sup>6</sup> Court administrative fees and costs sometimes equal or exceed the actual fine of the pending violation.

The ability to attend a traffic school offers the benefit of non-reporting of a

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<sup>6</sup> Ibid.

violation to the citizen's insurance company or Department of Motor Vehicles in their state.

In Texas, traffic schools are regulated by the state. Proof of traffic school completion is forwarded to the citizen via mail. The certificate has a control number and is embossed with the State seal to ensure authenticity and lessen the likelihood of fraud. (appendix C )

### **Enforcement Techniques**

Standardized actions should be in place for citizens failing to adhere to Court orders. Examples of actions to be taken are:

- Telephone calls to citizens at home or work.
- Door signs indicating officer did appear to make an arrest
- Arrest by marshal or police officer
- Suspension of a citizen's driver's license or vehicle registration.
- Imposition of late fines.
- Reporting to credit agencies.
- Jail
- Interception of tax refunds
- Wage garnishment
- Printing citizens names in the newspaper
- Warrant sweeps. Mass numbers of law enforcement officers sent to arrest citizens with outstanding warrants.

In summary, "Some individuals feel that when fines are set rationally in relation to means as well as offense severity, the fine can be collected from offenders, even when they are poor".<sup>7</sup> "For the Court to continue to provide services at current levels, innovative financing methods must be undertaken".

<sup>8</sup> Municipal Court has to utilize the techniques of other collection agencies along with our own ideas to collect outstanding fines. Good management goals, good reports, and collection procedures set the foundation for a successful collection program. When collecting look beyond the obvious. Information from your database or financial affidavits may not be the only sources to utilize when attempting to locate citizens. "Managers can take comfort in the fact that there is not "national standard" collection rate. Each Court needs to find its own current level and employ methods to improve it"<sup>9</sup>

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<sup>7</sup> Silvia S. G. Casale, Sally T. Hillsman, "The Enforcement of Fines as Criminal Sanctions: The English Experience and Its Relevance to American Practice", National Institute of Justice, November 1986

<sup>8</sup> Lynn M. Gilliam, "Compton Municipal Court Fine Installment Program: Monitoring the Use of Notification Letters", June 1993

<sup>9</sup> Ibid.

## METHODOLOGY

Municipal Court does not have a collection program. My report is to evaluate the fine collection practices the Court presently uses by benchmarking collection of other courts and the private sector.

Past budget reports provided a brief history on the court's past collection practices. The reports outlined the Court's mission, provided statistical information on case loads, case dispositions, and revenue. The Court's managerial staff aided in filling in the blank spaces by providing information about past and present collection practices and the impact the practices had on their divisions.

Resource from the Public Library, Texas Law Library, and the National Center for State Courts on the subject of collections in the private sector and courts was used. The publications and articles provided the foundation for beginning, monitoring and measuring the results of a collection program. The library sources gave insight to methods and results of collection programs in other courts. Comparison of the methods and results was used to see how the Court's present collection practices measured against established programs.

Two instruments were used for data collections. One was a report from the Municipal Services Bureau indicating the methods used to collect delinquent

parking fines for the court and the other was a report evaluating the response rate of the court's use of delinquent notices over a period of one month.

## **Research Instruments and Results**

### **Parking Collections**

Data for the collection of past due parking citations was compiled by the Municipal Services Bureau (referred to as MSB). This organization is a collection agency that specializes in collecting past due payments for government organizations.

The court contracted with the Municipal Services Bureau to collect payments on the delinquent citations. The court provided MSB with a print-out of the pending citations listing the customer's name and address and the plate number of the ticket vehicle. Using the skip tracing methods of manual searches through CD-roms for new addresses and telephone information and electronic access of driver's license records the following resulted:

1. Number of cases sent: 208,670
2. Total dollar value: \$3,117,780
3. Total amount collected: \$228,647
4. Letters were mailed to 68,949 customers. 56% had bad addresses.



5. The 44% good addresses yielded a collection rate of 16%.

A 16% collection rate with minimal personal information and strong skip tracing methods, gives the court a percentage to use when establishing collection goals.

### **Delinquent Notices**

The court did a pre-test on a set of delinquent notices. The notices tested were the first group printed on the Court's new heat-sealed notices. In the past, notices were printed on letter size paper and mailed in a legal size envelope with an enclosed addressed envelope. The response rate was never measured. Had the response rate been measured, the Court would have had to run several detailed and tedious queries and perform manual calculations. After all of this effort, we still would not have concrete numbers since some of the cases are archived. The court archives cases one year after the disposition date. Information from archived cases for any statistical information is nonretrievable.

To test the response rate from the notices mailed and to determine whether or not the postage paid envelope inside the heat-sealed notice was worth the financial resources we had spent, the following was performed:

1. 1000 notices containing 1838 cases were mailed February 17, 1997.

2. On March 21, 1997, several queries were run to determine what action had been taken between February 17 and March 17, 1997, on the cases listed in the notices. The first query indicated what type of action payment, extension, dismissal, trial, etc..) was taken on the cases, The second query was run to indicate payments entered by the Mail Services team to determine what percentage of customers responded by mail. This query was run to determine if our resources were wisely used by enclosing postage paid envelopes and to measure our mail response rate.

3. A manual count was performed to determine the number of cases on which some type of action had been taken. The results indicated:

Of the 1000 notices sent there were 324 responses.

139 cases were paid by mail

Mail response rate was 42.9%

The total response rate was 17.6%.

The Court does not record bad addresses in the system for returned mail.

Not taking possible return mail responses into consideration, the Court was pleased with the results. These figures can be the initial starting point in establishing goals for the Court's notice response rate.

The 17.6% response rate was without any assistance or skiptracing from the Marshal clerks. We can use this rate as a target rate for future mailings and the response we would like to see on our first collection effort. We can also use

the information from both samples to set goals for the Marshals and Marshal clerks.

## OBSTACLES

The obstacles encountered were:

1. Analyzing our collection practices without any concrete procedures in place
2. Retrieval of case disposition information from the computer system which sometimes did not exist because of archiving
3. Evaluating the response rate from notices since we changed the way in which notices are mailed. Due to budgetary restraints some of the mailing of some notices were eliminated.
4. Small sample of heat sealed envelope mailing

Without any concrete figures or measurements in place, use of the 20% standard collection rate used by the private sector is utilized.

## FINDINGS

### Case Filings and Collection Efforts

When comparing case files and dispositions, Austin ranks in the top five cities in Texas (**Tables II. and III.**) San Antonio leads the way with a 95% disposition rate. The standard disposition percentage for Austin Municipal court is 83%. Information from the Texas Judicial Council's 1996 annual report lists the following categories and percentages for dispositions: 39% dismissals, 43% fine payments, and 18% set for trial. These percentages constitute a standard disposition rate of 82% for the state of Texas. Austin Municipal Court's disposition rate is 1% higher than the state average.

Past budget reports indicate the Court's fine collections are below averages of 10 years ago (**Table IV.**). For example, in 1996 we issued 237,869 traffic citations. The figures reported to the Texas Judicial Council indicate a collection rate of 61%. The 61% includes fines collected on citations issued before 1996. Focusing on the revenue generated from citations issued and paid in 1996 yields a collection rate of 42%. In 1986 we issued 256,792 citations and collected 44% of the fines due on cases issued in 1986.. Researching the history of the courts and state laws in effect in 1986 there were several contributing factors for his two percent difference.

1. Speed limit increases by the Federal government resulted in the writing of fewer speeding citations.
2. The ability to take a Driver Safety Course instead of paying the fine was changed. The citizen is now able to take a class every year instead of bi-yearly.
3. Incarceration of citizens resulted in full payment of the fine, posting of a cash bond to release, or time served in jail. The present procedure is for citizens to return to appear before a judge at a later date or post bond for release.
4. The monitoring of Community Service was better organized.

Table II.

**CASE ACTIVITY COMPARISON**

	Number of Cases Filed	Number of Cases Disposed	Number of Cases Paid	Disposition Rate
Houston	893,602	811,679	545,097	91%
Dallas	349,611	261,067	231,262	75%
San Antonio	251,057	237,972	153,145	95%
El Paso	128,841	103,414	78,593	80%
Austin	237,869	198,586	145,100	83%

Table III.

## CASE ACTIVITY COMPARISON

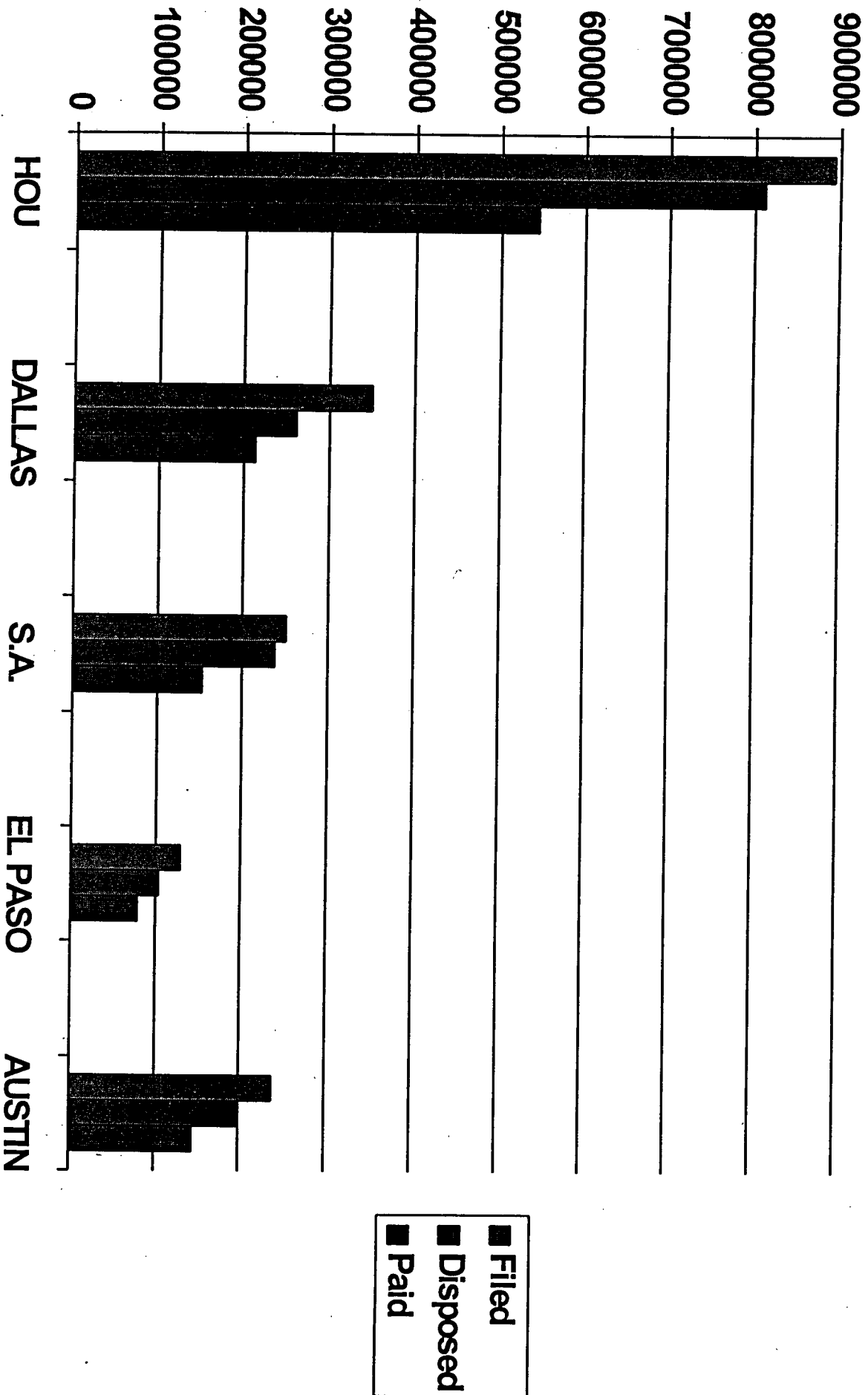




Table IV.

# CITATION PAYMENT HISTORY

YEAR	ISSUED	PAID	%
1987	256,792	114,001	44
1988	274,575	128,529	46.8
1989	230,000	N/A	N/A
1990	200,000	N/A	N/A
1991	190,000	N/A	N/A
1992	230,000	N/A	N/A
1993	240,000	N/A	N/A
1994	243,129	81,106	33
1995	253,568	83,775	33.04
1996	237,869	145,100*	42**

\* This figure includes citations issued before 1996 but not paid until 1996.

\*\* 42% is percentage of citations issued and paid in 1996.

## Marshals

Marshal contacts continue to increase. The inability to monitor contacts for 1996 via the court's computer system hinders record keeping for future statistical comparison. Utilizing the statistics available for the past three years and the computer systems calculation of revenue generated, the efforts of the Marshals and Marshal clerks are profitable (Table V.).

The Marshal's Program success is a result of the following collection practices:

1. Collection efforts are mainly by phone. Citizens would rather receive a phone call than be arrested.
2. Utilization of databases from the Austin's Utility Department, the Departments of Public Safety (driver's license) and Transportation (vehicle registration).
3. Door hangers (appendix B) written in English and Spanish are hung on citizen's doors if they are not home.
4. Keep potential of danger low by making phone calls or arresting citizens at work.
5. Escort citizens before a judge as opposed to arrest and jail. Citizen is given the opportunity to discuss placement on a payment plan with the judge.
6. Complete a work sheet for each citizen arrested (appendix)

7. Cases are worked starting with the most recent warrant issued and working backwards. The potential of locating citizens with new warrants is high.

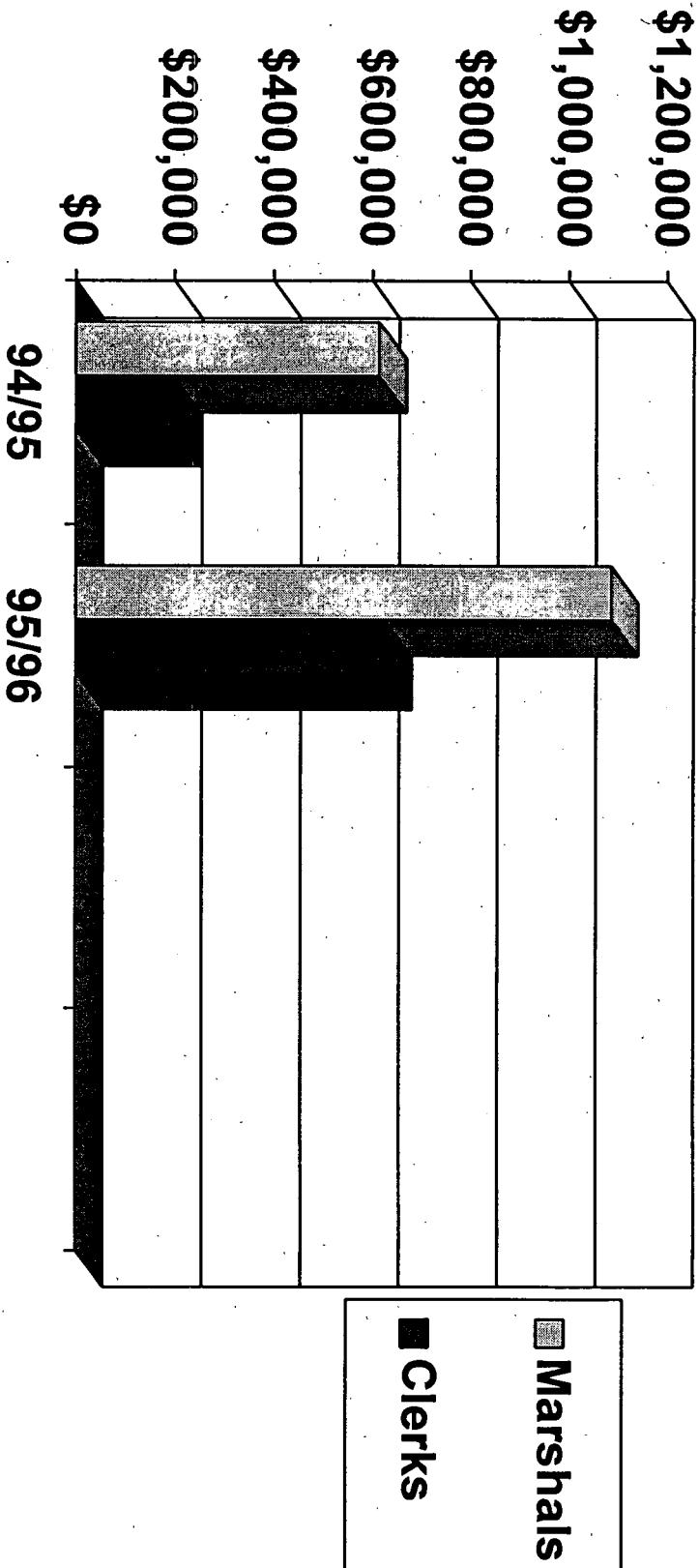
The Fair Debt and Collections Practices Act (appendix E ) prohibits collectors from contacting citizens before 8a.m. and after 9p.m. The Marshal's team call citizens between the hours of 6a.m. and 10p.m. When queried about the liability of potentially violating this law, the Marshal superintendent stated, "Marshals can arrest citizens anytime day or night. Citizens would rather receive a phone call than be arrested. A phone call saves the citizen a trip to jail and humiliation at home or work".<sup>10</sup>

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<sup>10</sup> Personal Interview with Harry Singletary, Marshal Superintendent, City of Austin, Municipal Court. 26 March 1997.

Table V.

# MARSHAL/CLERK COLLECTIONS



## **Mailings**

The court mails delinquent notices and Final Warning notices when a citizen fails to appear by their initial appearance date. Letters (8 1/2 x 11 inch) are mailed informing the citizen of pending cases. Each letter contains one violation which means we mail at least two letters to a citizen. The court recently changed the letter format to a heat-sealed mailing instrument which includes a postage paid envelope. Each pending violation (there are up to three violations on a citation ) is listed with the case number, violation description and the location in which the offense(s) occurred (appendix F).

February 17, 1997 the first batch of heat-sealed envelopes was mailed. The response time, action taken on the case, and information listing the cashier who entered the payment into the computer system was queried. The court wanted to know the response information during the first thirty days after the mailing. This results were as follows:.

1. 324 cases - action (extension, payment, court trial etc..) had been taken.
2. 139 cases paid by mail which equals 42.9% mail response
3. Total responses to notices was 17.6%

Collection agencies consider a 20% response rate as excellent. The notices mailed have an October 1996 filing date. The four month delay yielded a 17.6% response rate without any additional communication. Submission of the notices within the court's 40 day guidelines for past due cases should yield a higher response percentage.

### **Case Activity**

December 1996 an activity report of all pending cases listed by status code system was generated. Analyzing the report revealed some of cases are in a limbo status or the true status is not known. A limbo status indicates the caseflow of some cases is stopped. The outstanding balance on these cases is \$11,452,000. If 20% of this total is collected, the court could collect and deposit at least \$2,290,400. 00.

Continued neglect of monitoring cases in limbo status can become more costly. The court needs to monitor this report and have a plan to control the file updating and case flow to ensure the timely disposition of the case file(s).

Table VI.

**CASE ACTIVITY**

Total Number of Cases  
 in system - 495,187  
 Cases Paid - 186,042  
 Percentage paid - 38%  
 Average case amount - \$125.00

Status Description	Total Number of Cases	Potential Revenue
<u>No Status</u> - cases may be initial appearance cases. No indication of past due or timely.	81,731	\$10,216,375
<u>Arrest</u> - cases of arrested citizens. Case files have not been updated to reflect true status.	683	\$85,375
<u>Bond</u> - cases of which a cash bond has been posted. Case files have not been updated to reflect true status.	994	\$124,250
<u>Converted Cases</u> - cases converted from the Court's previous computer system. Cases files have not been updated to reflect true status.	5,645	\$705,625
<u>Jail cases</u> - cases of which the citizen has been arrested. Case files have not been updated to reflect true status.	320	\$40,000
<u>Ready set cases</u> - cases awaiting a court appearance or court trial.	2,243	\$280,375
<b>TOTAL</b>	<b>91,616</b>	<b>\$11,452,000</b>



## RECOMMENDATIONS

"Most successful collection programs have goals for average amounts collected measured in the numbers of defendants completing payment and percentage of amounts ordered that are collected."

Municipal Court has implemented collection efforts based upon past experiences and staff suggestions. The court can enhance its collection efforts by implementing the following recommendations:

### Administration

- Establish a collection program for the Court with outlined collection procedures and goals. Audit and monitor collections and the collection program on a regular basis.
- Involve staff in the collection process. Communicate on problems of fine collection and what their role is in the process. Some employees view the collection process as "meeting budget." Emphasize it is the citizen's responsibility to adhere to the judges' order and state laws.
- Hire or designate an employee to act as Collections officer to assist in the monitoring of the court's collection goals.. (An example of a collection officer duties and job description -- appendix G)
- Establish set procedures and rules for adding status codes and events to the system. Currently, if a new code is needed persons with the capability to

add codes do so without communicating with other personnel. Therefore, cases are updated improperly and there is an interruption in the operations of other units within the court.

- Establish written procedures indicating who is responsible for limbo reports and what actions they are to take. Limbo reports should be monitored on a regular basis (at least quarterly).
- Modify the wording on the judgment forms and payment receipts informing the citizens of the consequences for non-payment.
- Establish write-off procedures for non-collectable cases.
- Transfer non-collectable cases to a Collection Agency.
- Designate moneys for training staff in collections.
- Benchmark government and private industries collection process.
- Advertise early and timely payments as rewards (positive) not penalties.
- Monitor and record a numerical count of returned mail. Update the case files as "bad address". Transfer returned mail to Collections unit to skip trace new addresses.
- Encourage down payments when citizens request payment plans.
- Continuous monitoring of collection letters.
- Maintain a numerical count of case dispositions and payments by Mail and at the Front Counter (not just customers assisted).
- Test new collection ideas immediately before implementing a full blown program.

- Lobby the Legislature to consider implementing a driver's license program similar to the one in Chicago. When the citizen is placed on a payment plan, the citizen's driver's license is used as collateral. The citizen is issued a temporary license by the judge. The license is valid for the duration of the payment plan. The original license is forwarded to the Department of Public Safety. When the citizen satisfies the payment plan, the license is released.<sup>11</sup>
- Take advantage of the ability to charge delinquent fees on past due accounts.<sup>12</sup> Win public support by advertising the addition of late fees as an incentive for paying cases on time instead of as a punishment for paying late.

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<sup>11</sup> Doyle, John P. and Dean Gallo, "Court Fines on the Installment Plan: The Default Problem", New Jersey Legislative Oversight Committee, August 1980:10.

<sup>12</sup> Article 6701d-28 of the Texas Civil Statutes allows courts to collect or authorize a collection fee on delinquent fines resulting from certain "motor vehicle misdemeanors" offenses. Senate Bill 261, 1995 Texas Legislative Update.

## **Marshals**

- Train the Marshal Clerk team leaders who oversee the collections operation to act as Collection Officers (description of duties - appendix G ) to monitor payment schedules ordered by the judge. The Collection officer will have one-on-one contact with the customer verifying information from the financial affidavit (appendix A ) and explaining the consequences for non-compliance.
- Make phone calls to customers with past due accounts immediately. If the customer fails to appear within a week after the phone call, a warrant can issue and arrest of the citizen is immediate.
- Generate a report listing warrants pending by zip codes. Assign all Marshals to one zip code area at a time. This will let the public know we are serious about the enforcement of judges' orders. This also places the Marshals on equal grounds for arrests and potential revenue collections.
- Enhancement of the Marshal worksheet to include more information about the customer's history (past employment, old address, relatives, apartment manager's name etc...).
- Expand the sources used to locate citizens. Presently we use the City Utility Department, Department of Public Safety and the Department of Transportation. Utilize the databases of county courts in the area, the public

library ; employees at the City, County, State and Federal agencies, unemployment office, employee unions, licensing offices, information obtained from previous proof submitted by customer (different address, vehicle information etc...), probation officers (If known the person is charged with a county charge) and any other agency who may have information on citizen's addresses or phone numbers.

- Immediate collection on checks returned due to insufficient funds.
- Immediate collection on warrants where an attorney of record is listed.
- Establish a list of private and public post office box addresses. This list will save time and alleviate wasting resources on bogus addresses.
- Inquire about issuing a subpoena to the Post Office to locate information on a person's post office box application. The actual application is not for viewing, but the information on the application can be released.
- Purchase phones that display the name in which the phone number is listed and the number from which the customer is calling. This will assist the clerks in maintaining a current or alternative phone number.
- To determine the location of resources used for collections, a skip trace checksheet should be used (appendix H).

## CONCLUSION

### Summary

Once I reviewed our fine collection practices and revenue collections, I asked myself, are we generating a healthy percentage of our potential revenue or are we being redundant in our efforts. My perception is we are mimicking practices of the past. The citizen receives a traffic citation, waits 30 - 40 days, receives a delinquent notice, asks for a payment plan never to be seen again.

The practice of delayed collection practices has left the court scrambling year after year to generate revenues for the City's general fund. Year after year, we have hiring freezes, limit purchasing of supplies, and stress ourselves only to begin this never-ending cycle the following fiscal year. The citizens have become accustomed to our practices and view them as an opportunity to delay their responsibility. The court's collection rate has suffered. 10 years ago we were collecting 44% of our outstanding fines without a collection team. Presently, we have a collection team (that is not a cost to the court) and our collection rate is 38%.

In order for the court to succeed and progress in a positive direction changes will have to be made. A collection program needs to be developed with procedures and goals. Measurements will have to be in place to determine whether or not the procedures are working. Have a targeted time to monitor practices and to determine when to make changes. Include the employees in the plan. Many employees feel the Court is out to collect money and punish citizens. Some employees do not realize citizens have a responsibility to obey court orders.

After developing a collection plan, modifications to the forms distributed to the public must indicate the consequences for paying timely and late. Enforce the use of financial affidavits. Make it mandatory that any employee who comes in contact with a citizen in person or by phone to verify the citizens address and phone. Organize a team of employees to develop standard updating procedures and status codes to ensure consistency in updating.

When the threat of arrest is made, carry the threat out immediately. Presently the Marshals attempt to arrest citizens 30 days after contacting them by phone. Some citizens relocate at the beginning of each month, so 30 days is too long of a period. If the citizen has not arrived at the court within 2 working days or called within 2 working day stating when they will arrive, the Marshal should attempt to arrest the citizen.

Encourage the judges to assist in the collection process by holding Saturday Mitigation hearings bi-monthly. Offer clerical support to the judges and prosecutors for an Appearance Docket. The more cases handled in an Initial Appearance docket means less warrants to issue.

Keep records of Marshal contacts, mail processed, Front Counter collections, Marshal arrests, percentage of cases paid and disposed, return mail and the number of bad addresses. Cut costs by updating bad addresses and resubmitting letters. Assign staff to update new addresses. Marshal clerks can place worksheets in the case files to reference in future so not to duplicate efforts of attempting to locate citizens whose information has not changed.

The court can improve its collection practices by working as a team. Developing procedures and defining goals and employees' roles in the collection process will alleviate the current redundancy practice.



**APPENDIX A - FINANCIAL AFFIDAVIT**

**INSTRUCTIONS:** Please complete as much information on this form as possible. Bring the form with you to court.

**DEFENDANT'S FINANCIAL AFFIDAVIT**

My name is \_\_\_\_\_ I am fully competent to make this affidavit.

1. Full legal name: \_\_\_\_\_
2. Social Security Number: \_\_\_\_\_
3. Other names I have used: \_\_\_\_\_
4. Age: \_\_\_\_\_ Date of Birth: \_\_\_\_\_ Place of Birth: \_\_\_\_\_
5. Names and relationship of those persons who live with me or who are otherwise dependent upon me for support:

NAME	RELATIONSHIP	AGE
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

6. Number of years married to a person listed above: \_\_\_\_\_
7. I live at: \_\_\_\_\_
8. How long at this address: \_\_\_\_\_ How long at last address: \_\_\_\_\_
9. House, apartment, condominium: \_\_\_\_\_ Renting or Buying: \_\_\_\_\_
10. Job or occupation: \_\_\_\_\_ How long: \_\_\_\_\_
11. I am employed/unemployed: \_\_\_\_\_
12. Employer's Name: \_\_\_\_\_
13. Employer's Address: \_\_\_\_\_
- 14a. Work Telephone Number: \_\_\_\_\_
- 14b. Supervisor's Name: \_\_\_\_\_
15. If unemployed, my last job was: \_\_\_\_\_
16. My average TOTAL monthly income from all sources ..... \$ \_\_\_\_\_
17. Average TOTAL income of spouse ..... \$ \_\_\_\_\_

18. List any and all other sources of income not considered in questions 16 and 17.....\$ \_\_\_\_\_
19. Total of cash on hand, checking accounts, savings accounts, certificates of deposits, stocks, mutual funds, life insurance policies, etc. .... \$ \_\_\_\_\_
20. Value of real estate owned less amount owed (do not include your family residence) ..... \$ \_\_\_\_\_
21. Value of automobiles less amount owed ..... \$ \_\_\_\_\_
22. Monthly rent or house payment ..... \$ \_\_\_\_\_
23. Total monthly utilities ..... \$ \_\_\_\_\_
24. List all other monthly expenses ..... \$ \_\_\_\_\_

#### TYPE OF DEBT

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

#### TOTAL MONTHLY DEBTS AND EXPENSES

\$ \_\_\_\_\_

- 25a. I am currently (check one) \_\_\_\_\_ In Jail \_\_\_\_\_ On Bond
- 25b. Type of Bond: (check one) \_\_\_\_\_ Cash \_\_\_\_\_ Personal Bond
- \_\_\_\_\_ Pretrial \_\_\_\_\_ Surety

I swear or affirm that the information and facts I have provided for the Court on this motion are within my personal knowledge and are true and correct.

I understand that if I intentionally or knowingly give false information either in this affidavit or during the hearing on this motion, that I may be prosecuted for the offense of aggravated perjury, a felony, punishable by imprisonment not to exceed ten (10) years and a fine not to exceed five thousand dollars (\$5,000).

\_\_\_\_\_  
DEFENDANT

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ A.D. 19\_\_\_\_

\_\_\_\_\_  
DEPUTY CLERK

**APPENDIX B - MARSHAL HANG TAG**

# ARREST WARRANT NOTICE



CITY OF AUSTIN MUNICIPAL COURT  
WARRANT SERVICE DIVISION  
MARSHAL UNIT

**WANTED  
PERSON**

THIS NOTICE IS TO INFORM YOU THAT CITY MARSHALS WERE HERE TO ARREST YOU FOR WARRANTS ISSUED BY THE CITY OF AUSTIN MUNICIPAL COURT. OFFICERS WILL CONTINUE TO RETURN UNTIL YOU ARE ARRESTED OR HAVE OTHERWISE DISPOSED OF THE CASE(S) PENDING AGAINST YOU. THE AUSTIN POLICE DEPARTMENT PATROL OFFICERS ASSIGNED TO THIS BEAT HAVE BEEN PROVIDED WITH YOUR WARRANT INFORMATION AND THE LICENSE NUMBER OF YOUR VEHICLE.

**YOU ARE SUBJECT TO ARREST ON SIGHT**

TO AVOID ARREST, YOU MUST IMMEDIATELY APPEAR AT ONE OF THE FOLLOWING MUNICIPAL COURT LOCATIONS TO VOLUNTARILY PAY YOUR FINE(S) OR POST A CASH BOND:

DOWNTOWN- 700 EAST 7TH STREET AT IH-35 FRONTAGE  
NORTH- 12425 LAMPLIGHT VILLAGE DRIVE  
SOUTH- 6800 WESTGATE BLVD AT WILLIAM CANNON  
EAST- 2800 WEBBERVILLE ROAD AT PLEASANT VALLEY

TELEPHONE 433-4800 FOR FURTHER INFORMATION REGARDING THE OFFENSES PENDING AGAINST YOU AND THE FINE OR BOND AMOUNT. HAVE YOUR DRIVER'S LICENSE NUMBER OR TICKET NUMBER AVAILABLE.

**CONTACT IMMEDIATELY:**

City  
Marshal \_\_\_\_\_  
at \_\_\_\_\_

**AVISO DE ORDEN PARA SU ARRESTO**

## CORTE MUNICIPAL DE LA CUIDAD DE AUSTIN

DIVISION DE SERVICIOS DE ORDENES DE APREHENSION



UNIDAD DEL COMISARIO

SE BUSCA A \_\_\_\_\_

ESTE AVISO ES PARA INFORMARLE QUE COMISARIOS DE LA CUIDAD ESTUVIERON AQUI PARA ARRESTARLO A CAUSA DE ORDENES DE ARRESTO EMITIDAS POR LA CORTE MUNICIPAL DE LA CUIDAD DE AUSTIN. LOS AGENTES SEGUIRAN BUSCANDOLO HASTA ARRESTARLO O HASTA QUE EL CASO(S) PENDIENTE EN SU CONTRA SEA DESECHADO. SE HA PROPORCIONADO A LOS AGENTES DE PATRULLA DEL DEPARTAMENTO DE POLICIA DE AUSTIN ASIGNADOS A ESTA AREA LA INFORMACION SOBRE LA ORDEN PARA ARRESTO Y EL NUMERO DE PLACA DE SU VEHICULO.

**LO PUEDEN ARRESTAR  
EN CUANTRO LO VEAN**

PARA EVITAR SER ARRESTADO DEBE PRESENTARSE DE INMEDIATO A UNA DE LAS OFICINAS DE LA CORTE MUNICIPAL A CONTINUACION Y PAGAR SU MULTA(S) VOLUNTARIAMENTE O DEPOSITAR UNA FIANZA EN EFECTIVO:

CENTRO- 700 CALLE 7 ORIENTE Y CARRETERA 35  
NORTE- 12425 LAMPLIGHT VILLAGE DRIVE  
SUR- 6800 WESTGATE BLVD Y WILLIAM CANNON  
ESTE- 2800 WEBBERVILLE ROAD Y PLEASANT VALLEY

PARA MAS INFORMACION ACERCA DE LAS OFENSAS PENDIENTES EN SU CONTRA Y LA CANTIDAD DE MULTA O FIANZA, LLAME AL 433-4800. TENGA A MANO SU NUMERO DE LICENCIA PARA MANEJAR O EL NUMERO DE SU INFRACCION.

**PONGASE EN CONTACTO INMEDIATAMENTE CON :**

COMISARIO  
DE LA CUIDAD \_\_\_\_\_  
TELEFONO \_\_\_\_\_

**APPENDIX C - DRIVER SAFETY COURSE CERTIFICATE**

STATE OF TEXAS DRIVING SAFETY COURSE  
UNIFORM CERTIFICATE OF COMPLETION

This certifies that the person named below has successfully completed a six (6) hour driving safety course as regulated by the Texas Education Agency (512) 719-5247.

Under penalty of perjury, I certify that I have received six (6) hours of instruction. SEE REVERSE.

Student's Signature [Signature]  
(You must sign before you submit this document to the court.)

USA Training Company, Inc.

8871 Tallwood

Austin, TX 78759

CERTIFICATE NO. 0897603

LOCATION CODE

D0396

COURSE CODE

CP246

INSTRUCTOR'S NAME

T. M. TRAM

INSTRUCTOR'S DL NO.

COMPLETION DATE

3/28/97

ISSUE DATE

3/24/97

STUDENT'S DL NO.

STUDENT'S DOB

9/29/71

STUDENT'S PHONE NUMBER

(512) 257-0945

COURT

CITY OF AUSTIN MUN

12342 HUNTERS CHASE 2123

AUSTIN

TX 78729

CC  
OO  
UP  
RY  
T

Def. Adj. 3561564

UNLAWFUL IF REPRODUCED OR ALTERED  
INVALID IF STATE SEAL IS NOT VISIBLE

**APPENDIX D - MARSHAL WORKSHEET**



# MARSHAL WARRANT WORKSHEET

\_\_\_\_\_  
LAST NAME FIRST NAME MI ALIAS

\_\_\_\_\_  
R/S DOB EYES HEIGHT HAIR WEIGHT

\_\_\_\_\_  
HOME ADDRESS ZIP CODE HOME PHONE

\_\_\_\_\_  
BUSINESS/WORK ADDRESS ZIP CODE WORK PHONE

DL \_\_\_\_\_ SSN \_\_\_\_\_ APD \_\_\_\_\_

VEHICLE OWNER LIC. PLATE # COLOR YEAR MAKE TYPE

1 \_\_\_\_\_

2 \_\_\_\_\_

CAUSE NUMBER	VIOLATION	FINE	STATUS
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1 _____	_____	\$ _____	_____
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2 _____	_____	\$ _____	_____
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3 _____	_____	\$ _____	_____
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4 _____	_____	\$ _____	_____
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5 _____	_____	\$ _____	_____
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6 _____	_____	\$ _____	_____
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7 _____	_____	\$ _____	_____
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8 _____	_____	\$ _____	_____
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**\*\*CLERK NOTES\*\*** \_\_\_\_\_

**MARSHAL NOTES** \_\_\_\_\_

AMCORD TICKET INFO \_\_\_\_\_ AMCORD V SCREEN \_\_\_\_\_ AMCORD O SCREEN \_\_\_\_\_

PDDL \_\_\_\_\_ PDQW \_\_\_\_\_ 8 SYSTEM \_\_\_\_\_ WARRANT FINES \$ \_\_\_\_\_

ACTIVE UTILITIES IN \_\_\_\_\_ TOTAL FINES \$ \_\_\_\_\_

DATE \_\_\_\_\_ RESEARCH BY \_\_\_\_\_ DATE \_\_\_\_\_ ASSIGNED TO \_\_\_\_\_

MAP PAGE \_\_\_\_\_ SECTOR \_\_\_\_\_ ASSIGNED BY \_\_\_\_\_

**APPENDIX E - FAIR DEBT AND COLLECTIONS PRACTICES ACT**

PUBLIC LAW 95-109 (H.R. 5294); Sept. 20, 1977  
**CONSUMER CREDIT PROTECTION ACT**

For Legislative History of Act, see p. 1695

As Act to amend the Consumer Credit Protection Act to prohibit abusive practices by debt collectors.

Consumer Credit Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Consumer Credit Protection Act (15 U.S.C. 1601 et seq.) is amended by adding at the end thereof the following new title:

**TITLE VIII—DEBT COLLECTION PRACTICES**

**Fair Debt Collection Practices Act.**

"Sec.

"801. Short title.

"802. Findings and purpose.

"803. Definitions.

"804. Acquisition of location information.

"805. Communication in connection with debt collection.

"806. Harassment or abuse.

"807. False or misleading representations.

"808. Unfair practices.

"809. Validation of debts.

"810. Multiple debts.

"811. Legal actions by debt collectors.

"812. Furnishing certain deceptive forms.

"813. Civil liability.

"814. Administrative enforcement.

"815. Reports to Congress by the Commission.

"816. Relation to State laws.

"817. Exemption for State regulation.

"818. Effective date.

15 USC 1601

note.

"§ 801. Short title

"This title may be cited as the "Fair Debt Collection Practices Act".

15 USC 1692.

"§ 802. Findings and purpose

"(a) There is abundant evidence of the use of abusive, deceptive and unfair debt collection practices by many debt collectors. Abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy.

"(b) Existing laws and procedures for redressing these injuries are inadequate to protect consumers.

P.L. 95-109  
15 USC 1692a.

"(c) Means other than misrepresentation or other abusive debt collection practices are available for the effective collection of debts.

"(d) Abusive debt collection practices are carried on to a substantial extent in interstate commerce and through means and instrumentalities of such commerce. Even where abuse debt collection practices are purely intrastate in character, they nevertheless directly affect interstate commerce.

"(e) It is the purpose of this title to eliminate abusive debt collection practices by debt collectors, to insure that those debt collectors who refrain from using abusive debt collection practices are not competitively disadvantaged, and to promote consistent State action to protect consumers against debt collection abuses.

91 STAT. 874

"§ 803. Definitions

"As used in this title—

"(1) The term 'Commission' means the Federal Trade Commission.

"(2) The term 'communication' means the conveying of information regarding a debt directly or indirectly to any person through any medium.

"(3) The term 'consumer' means any natural person obligated or allegedly obligated to pay any debt.

"(4) The term 'creditor' means any person who offers or extends credit creating a debt or to whom a debt is owed, but such term does not include any person to the extent that he receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another.

"(5) The term 'debt' means any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance, or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.

"(6) The term 'debt collector' means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (G) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses

any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. For the purpose of section 808(6), such term also includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests. The term does not include—

"(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

"(B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

"(C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties;

"(D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt;

"(E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors;

"(F) any attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client; and

91 STAT. 875

"(G) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement; (ii) concerns a debt which was originated by such person; (iii) concerns a debt which was not in default at the time it was obtained by such person; or (iv) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor.

"(7) The term 'location' means a consumer's place of abode and his telephone number at such place, or his place of employment.

"(8) The term 'State' means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

15 USC 1692b.

"§ 804. Acquisition of location information

"Any debt collector communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall—

"(1) identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer;

"(2) not state that such consumer owes any debt;

"(3) not communicate with any such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information;

"(4) not communicate by post card;

"(5) not use any language or symbol on any envelope or in the contents of any communication effected by the mails or telegram that indicates that the debt collector is in the debt collection business or that the communication relates to the collection of a debt; and

"(6) after the debt collector knows the consumer is represented by an attorney with regard to the subject debt and has knowledge of, or can readily ascertain, such attorney's name and address, not communicate with any person other than that attorney, unless the attorney fails to respond within a reasonable period of time to communication from the debt collector.

15 USC 1692c.

"§ 805. Communication in connection with debt collection

"(a) **COMMUNICATION WITH THE CONSUMER GENERALLY.**—Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt—

"(1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the consumer. In the absence of knowledge of circumstances to the contrary, a debt collector shall assume that the convenient time for communicating with a consumer is after 8 o'clock antimeridian and before 9 o'clock postmeridian, local time at the consumer's location;

"(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless

91 STAT. 876

the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or

"(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

"(b) COMMUNICATION WITH THIRD PARTIES.—Except as provided in section 804, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.

"(c) CEASING COMMUNICATION.—If a consumer notifies a debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer, the debt collector shall not communicate further with the consumer with respect to such debt, except—

"(1) to advise the consumer that the debt collector's further efforts are being terminated;

"(2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or

"(3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy. If such notice from the consumer is made by mail, notification shall be complete upon receipt.

"(d) For the purpose of this section, the term 'consumer' includes the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator.

#### 15 USC 1692d.

"§ 806. Harassment or abuse

"A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property

of any person.

"(2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

"(3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency or to persons meeting the requirements of section 603(f) or 604(3) of this Act.

#### 15 USC 1681a, 1681b.

"(4) The advertisement for sale of any debt to coerce payment of the debt.

"(5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

"(6) Except as provided in section 804, the placement of telephone calls without meaningful disclosure of the caller's identity.

#### 15 USC 1692e.

"§ 807. False or misleading representations

"A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt.

#### Sept. 20 LAWS OF 95th CONG.—1st SESS.

#### P.L. 95—109

Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.

"(2) The false representation of—

"(A) the character, amount, or legal status of any debt; or

"(B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.

"(3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.

"(4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is

lawful and the debt collector or creditor intends to take such action.

"(5) The threat to take any action that cannot legally be taken or that is not intended to be taken.

"(6) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to—

"(A) lose any claim or defense to payment of the debt;

or

"(B) become subject to any practice prohibited by this title.

"(7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer.

"(8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.

"(9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a false impression as to its source, authorization, or approval.

"(10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

"(11) Except as otherwise provided for communications to acquire location information under section 804, the failure to disclose clearly in all communications made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose.

"(12) The false representation or implication that accounts have been turned over to innocent purchasers for value.

"(13) The false representation or implication that documents are legal process.

"(14) The use of any business, company, or organization name other than the true name of the debt collector's business, company or organization.

"(15) The false representation or implication that documents are not legal process forms or do not require action by the consumer.

91 STAT. 878

27

15 USC 1681.  
15 USC 1692f.

"(16) The false representation or implication that a debt collector operates or is employed by a consumer reporting agency as defined by section 603(f) of this Act.

#### "§ 808. Unfair practices

"A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

"(1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

"(2) The acceptance by a debt collector from any person of a check or other payment instrument postdated by more than five days unless such person is notified in writing of the debt collector's intent to deposit such check or instrument not more than ten nor less than three business days prior to such deposit.

"(3) The solicitation by a debt collector of any postdate check or other postdated payment instrument for the purpose of threatening or instituting criminal prosecution.

"(4) Depositing or threatening to deposit any postdated check or other postdated payment instrument prior to the date on such check or instrument.

"(5) Causing charges to be made to any person for communications by concealment of the true purpose of the communication. Such charges include, but are not limited to, collect telephone calls and telegram fees.

"(6) Taking or threatening to take any nonjudicial action to effect dispossession or disablement of property if—

"(A) there is no present right to possession of the property claimed as collateral through an enforceable security interest;

"(B) there is no present intention to take possession of the property; or

"(C) the property is exempt by law from such dispossession or disablement.

"(7) Communicating with a consumer regarding a debt by post card.

"(8) Using any language or symbol, other than the debt collector's address, on any envelope when communicating with a consumer by use of the mails or by telegram, except that a debt collector may use his business name if such name does not indicate that he is in the debt collection business.

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USC 1692g.

"§ 809. Validation of debts

"(a) Within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—

"(1) the amount of the debt;

"(2) the name of the creditor to whom the debt is owed;

"(3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector;

91 STAT. 879

"(4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain a verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and

"(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

"(b) If the consumer notifies the debt collector in writing within the thirty-day period described in subsection (a) that the debt, or any portion thereof, is disputed, or that the consumer requests the name and address of the original creditor, the debt collector shall cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt or a copy of a judgment, or the name and address of the original creditor, and a copy of such verification or judgment, or name and address of the original creditor, is mailed to the consumer by the debt collector.

"(c) The failure of a consumer to dispute the validity of a debt under this section may not be construed by any court as an admission of liability by the consumer.

15 USC 1692h.

"§ 810. Multiple debts

"If any consumer owes multiple debts and makes any single payment to any debt collector with respect to such debts, such debt collector may not apply such payment to any debt which is disputed by the consumer and, where applicable, shall apply such payment in accordance with the consumer's directions.

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15 USC 1692i.

"§ 811. Legal actions by debt collectors

"(a) Any debt collector who brings any legal action on a debt against any consumer shall—

"(1) in the case of an action to enforce an interest in real property securing the consumer's obligation, bring such action only in a judicial district or similar legal entity in which such real property is located; or

"(2) in the case of an action not described in paragraph (1), bring such action only in the judicial district or similar legal entity—

"(A) in which such consumer signed the contract sued upon; or

"(B) in which such consumer resides at the commencement of the action.

"(b) Nothing in this title shall be construed to authorize the bringing of legal actions by debt collectors.

15 USC 1692j.

"§ 812. Furnishing certain deceptive forms

"(a) It is unlawful to design, compile, and furnish any form knowing that such form would be used to create the false belief in a consumer that a person other than the creditor of such consumer is participating in the collection of or in an attempt to collect a debt such consumer allegedly owes such creditor, when in fact such person is not so participating.

"(b) Any person who violates this section shall be liable to the same extent and in the same manner as a debt collector is liable under section 813 for failure to comply with a provision of this title.

15 USC 1692k.

"§ 813. Civil liability

91 STAT. 880

"(a) Except as otherwise provided by this section, any debt collector who fails to comply with any provision of this title with respect to any person is liable to such person in an amount equal to the sum of—

"(1) any actual damage sustained by such person as a result of such failure;

"(2) (A) in the case of any action by an individual, such additional damages as the court may allow, but not exceeding \$1,000; or

"(B) in the case of a class action, (i) such amount for each named plaintiff as could be recovered under subparagraph (A), and (ii) such amount as the court may allow for all other class members, without regard to a minimum individual recovery, not to exceed the lesser of \$500,000 or 1 per centum of the net worth of the debt collector; and

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"(3) In the case of any successful action to enforce the foregoing liability, the costs of the action, together with a reasonable attorney's fee as determined by the court. On a finding by the court that an action under this section was brought in bad faith and for the purpose of harassment, the court may award to the defendant attorney's fees reasonable in relation to the work expended and costs.

"(b) In determining the amount of liability in any action under subsection (a), the court shall consider, among other relevant factors—

"(1) In any individual action under subsection (a) (2) (A), the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, and the extent to which such noncompliance was intentional; or

"(2) In any class action under subsection (a) (2) (B), the frequency and persistence of noncompliance by the debt collector, the nature of such noncompliance, the resources of the debt collector, the number of persons adversely affected, and the extent to which the debt collector's noncompliance was intentional.

"(c) A debt collector may not be held liable in any action brought under this title if the debt collector shows by a preponderance of evidence that the violation was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

"(d) An action to enforce any liability created by this title may be brought in any appropriate United States district court without regard to the amount in controversy, or in any other court of competent jurisdiction, within one year from the date on which the violation occurs.

"(e) No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any advisory opinion of the Commission, notwithstanding that after such act or omission has occurred, such opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

15 USC 1692L

"§ 814. Administrative enforcement

"(a) Compliance with this title shall be enforced by the Commission, except to the extent that enforcement of the requirements imposed under this title is specifically committed to another agency under subsection (b). For purpose of the exercise by the Commission of its functions and powers under the Federal Trade Commission Act, a violation of this title shall

15 USC 58.

be deemed an unfair or deceptive act or practice in violation of that Act. All of the functions and powers of

91 STAT. 881

15 USC 58.

the Commission under the Federal Trade Commission Act are available to the Commission to enforce compliance by any person with this title, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests in the Federal Trade Commission Act, including the power to enforce the provisions of this title in the same manner as if the violation had been a violation of a Federal Trade Commission trade regulation rule.

12 USC 1818.

"(b) Compliance with any requirements imposed under this title shall be enforced under—

"(1) section 8 of the Federal Deposit Insurance Act, in the case of—

"(A) national banks, by the Comptroller of the Currency;

"(B) member banks of the Federal Reserve System (other than national banks), by the Federal Reserve Board; and

"(C) banks the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System), by the Board of Directors of the Federal Deposit Insurance Corporation;

12 USC 1564.

12 USC 1751.

"(2) section 5(d) of the Home Owners Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (Acting directly or through the Federal Savings and Loan Insurance Corporation), in the case of any institution subject to any of those provisions;

"(3) the Federal Credit Union Act, by the Administrator of the National Credit Union Administration with respect to any Federal credit union;

"(4) the Acts to regulate commerce, by the Interstate Commerce Commission with respect to any common carrier subject to those Acts;

49 USC 1301 note.

"(5) the Federal Aviation Act of 1958, by the Civil Aeronautics Board with respect to any air carrier or any foreign air carrier subject to that Act; and

7 USC 181.

"(6) the Packers and Stockyards Act, 1921 (except as provided in section 106 of that Act), by the Secretary of Agriculture with respect to any activities subject to that Act.

"(c) For the purpose of the exercise by any agency referred



to in subsection (b) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (b), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title any other authority conferred on it by law, except as provided in subsection (d).

"(d) Neither the Commission nor any other agency referred to in subsection (b) may promulgate trade regulation rules or other regulations with respect to the collection of debts by debt collectors as defined in this title.

"§ 815. Reports to Congress by the Commission

"(a) Not later than one year after the effective date of this title and at one-year intervals thereafter the Commission shall make reports to the Congress concerning the administration of its functions under this title, including such recommendations as the Commission deems necessary or appropriate. In addition, each report of the Commission shall include its assessment of the extent to which compliance with this title

91 STAT. 882

is being achieved and a summary of the enforcement actions taken by the Commission under section 814 of this title.

"(b) In the exercise of its functions under this title, the Commission may obtain upon request the views of any other Federal agency which exercises enforcement under section 814 of this title.

#### 15 USC 1692a.

##### "§ 816. Relation to State laws

"This title does not annul, alter, or affect, or exempt any person subject to the provisions of this title from complying with the laws of any State with respect to debt collection practices, except to the extent that those laws are inconsistent with any provision of this title, and then only to the extent of the inconsistency. For purposes of this section, a State law is not inconsistent with this title if the protection such law affords any consumer is greater than the protection provided by this title.

#### 15 USC 1692c.

##### "§ 817. Exemption for State regulation

"The Commission shall by regulation exempt from the requirements of this title any class of debt collection practices within any State if the Commission determines that under the law of the State that class of debt collection practices is subject to requirements substantially similar to those imposed by this title, and that there is adequate provision for enforcement.

#### 15 USC 1692d.

##### "§ 818. Effective date

"This title takes effect upon the expiration of six months after the date of its enactment, but section 809 shall apply only with respect to debts for which the initial attempt to collect occurs after such effective date."

Approved September 20, 1977

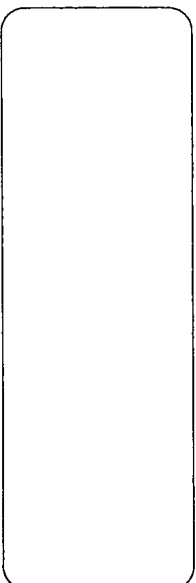
**APPENDIX F - HEAT SEAL DELINQUENT NOTICE**

TO OPEN PLEASE READ INSTRUCTIONS ON BACK OF ENVELOPE

CITY OF AUSTIN MUNICIPAL COURT  
WARRANT SERVICE

P. O. BOX 2135  
AUSTIN, TEXAS 78768-9977

# **DELINQUENCY WARNING NOTICE**



**DELINQUENCY WARNING NOTICE**

The City of Austin Municipal Court Warrant Service Section  
Our records show that you failed to appear as promised on the charge(s) listed below. To avoid additional criminal charges being added (Violation of Promise to Appear - \$235 Maximum Fine), an arrest warrant being issued (\$35 per warrant), denial of your driver's license renewal by DPS (for traffic offenses only), additional administrative fees and the embarrassment of arrest, you must take immediate action and select one of the options listed on the back. **USE THE ATTACHED ENVELOPE - YOU MUST ACT NOW.**

Ticket # Case # Viol. Date

A WARRANT  
FOR YOUR  
ARREST HAS  
BEEN ORDERED

TOTAL FINES DUE



DETACH THIS NOTICE AND SEND IT WITH YOUR FINE PAYMENT IN THE ATTACHED ENVELOPE  
**FULL FINE PAYMENT IS NOW DUE**


# DELINQUENCY WARNING NOTICE

The City of Austin Municipal Court Warrant Service Section

Our records show that you failed to appear as promised on the charge(s) listed below. To avoid additional criminal charges being added (Violation of Promise to Appear - \$235 Maximum Fine), an arrest warrant being issued (\$35 per warrant), denial of your driver's license renewal by DPS (for traffic offenses only), additional administrative fees and the embarrassment of arrest, you must take immediate action and select one of the options listed on the back. USE THE ATTACHED ENVELOPE - YOU MUST ACT NOW.

Ticket #	Case #	Viol. Date	
10353476	3693642	2/06/97	FAILURE TO YIELD-LEFT/RIGHT INTO PR 210.00

A WARRANT  
FOR YOUR  
ARREST HAS  
BEEN ORDERED

  
AUSTIN TX 78724

TOTAL FINES DUE  
GRAND TOTAL:  
210.00

DETACH THIS NOTICE AND SEND IT WITH YOUR FINE PAYMENT IN THE ATTACHED ENVELOPE  
FULL FINE PAYMENT IS NOW DUE

**CITY OF AUSTIN MUNICIPAL COURT PARKING VIOLATIONS SECTION**

Our records show that you failed to contest or pay your parking ticket in full by the scheduled hearing (or extension) date. The ticket, by law, may no longer be contested. The amount shown includes a late fee that has been added to the fine or balance owed. Unpaid parking tickets can result in your car being booted or towed and additional fees being added. USE THE ATTACHED POSTAGE PAID ENVELOPE TO MAKE YOUR DELINQUENT FINE PAYMENT IMMEDIATELY.

Ticket # 32310347      P454659      3/20/96      12/20/96      PARKING - EXPIRED METER      FINE OWED 20.00

The Texas Department of Transportation shows you to be the registered owner of this vehicle. City Ordinance and State law prescribe that the vehicle's registered owner is the person responsible for payment. By law, you are responsible for all parking tickets issued to this vehicle even though you may not have been the person who actually parked it. If you were not the owner of the vehicle at the time it was ticketed you must fill out the affidavit on the back, have it notarized and mail it immediately to the Court.

[REDACTED]

TOTAL FINES DUE	
GRAND TOTAL:	40.00
LICENSE PLATE TFF12L	

DETACH THIS NOTICE AND SEND IT WITH YOUR FINE PAYMENT IN THE ATTACHED ENVELOPE  
**FULL FINE PAYMENT IS NOW DUE**

**APPENDIX G - COLLECTION OFFICER'S DUTIES AND JOB DESCRIPTION<sup>13</sup>**

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<sup>13</sup> Ibid.

### Important Functions:

1. Composes and generates letters, billing notices, and other correspondence and sends to appropriate parties.
2. Retrieves files to update and verify information.

### Qualifications Required:

Any combination of education, training, and experience providing the following knowledge, skills, and abilities:

Knowledge of collection procedures and related laws and regulations.

Knowledge of investigative techniques and resources.

Knowledge of court procedures and policies, legal documents, law and legal factors pertaining to the court.

Ability to analyze and evaluate information and formulate recommendations affecting collections for the court.

Ability to make arithmetical computations rapidly and accurately.

Ability to operate adding machine, calculator and computer terminal.

Ability to compile investigative information into clear, concise, and accurate reports.

Ability to work independently and work effectively with judges, defendants, court administrator, and court personnel.

Ability to conduct thorough and effective interviews.

Ability to communicate effectively both orally and in writing.

Ability to maintain records and make written and oral reports.

### Minimum Qualifications:

Completion of two years course work at an accredited college or university majoring in the social sciences, criminal justice, business administration, or related field or two years experience in conducting financial interviews and investigations, credit management, or related experience.

Any equivalent combination of education or experience may substitute on a year for year basis.



## Certain Named Court

### Payment of Fines

**Fines are due in-full by 4:30 p.m. on the day of sentencing!**  
Pay with cash or money order at the Clerk's Office, Room \_\_\_\_\_. The clerk does not take partial or installment payments.

Be sure to consider possible sources of money: your bank account, "rainy day" funds, credit company, friend, relative, or sale of personal property.

### If you do not pay your fine today the court may:

- ✓ Impose a late fee of \$\_\_\_\_. [The court may do this by local court rule, perhaps.]
- ✓ Suspend your driver's license and that information is available to your auto insurance company, which may cause your rates to increase.
- ✓ Issue a warrant for your arrest and your warrant will go into the regional law enforcement warrant system.
- ✓ Notify a credit bureau about your bad debt and place your future credit at risk.
- ✓ Seize your wages, bank accounts, or personal property, such as your car if nonexempt. - N/A to Texas Law.

PROPOSED JOB DESCRIPTION  
COLLECTIONS INVESTIGATOR

**Primary Purpose:** This is responsible work investigating defendants for eligibility for stays of execution on fines and costs assessed by the Municipal Court.

**Supervision:** Under the direct supervision of the Court Administrator.

**Description of Work:**

Work will involve interviewing defendants applying for stays of payment of costs and fines due the Municipal Court. Applications are evaluated and a decision made for granting or denying the request, length of stay, and the payment schedule. Work also involves follow-up on failures to pay. Considerable initiative and independent judgement are exercised within a prescribed framework of established court policies and procedures. Work will be reviewed on the basis of results obtained.

**Essential Functions:**

1. Interviews defendants, investigates, evaluates and verifies applications for stays of execution; grants or denies stays of execution based on a defendant's financial resources.
2. Determines terms of stay of execution payment schedule.
3. Distributes applications for stays of execution.
4. Develops and maintains system for reviewing accounts for delinquency; contacts defendants regarding delinquent accounts.
5. Submits delinquent accounts to judges, with recommendations, for review and follows judges instructions. May issue notices of delinquent accounts, suspend drivers licenses, issue an arrest warrant, or turn information of delinquent accounts over to a credit bureau.
6. Gives out accurate information pertaining to the status of specific accounts.
7. Prepares and maintains all related required reports, files, and records.
8. Performs related work as required including supervision of employees including supervision of other employees assigned to collections department.

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**OBJECTIVES OF PROBATION  
COLLECTIONS OFFICER:**

1. Fine and costs are part of a court order. The Probation Collections Officer enforces collection of fine and costs to preserve the integrity and credibility of the court.
2. Provide effective monitoring of collections; not only to increase revenues, but also to decrease bad debt losses.
3. Produce substantial savings by impacting specific departments in the following ways:
  - a. Decrease in number of warrants resulting in labor savings in issuance of warrants by Municipal Court and serving of warrants by Springfield Police Department.
  - b. Decrease in costs of Springfield City Jail in the detention of defendants.
  - c. Decrease in flow of delinquent cases to Judge.
  - d. Provides additional docket time to promote the Municipal Court Caseflow Management Goals.
  - e. Reduce flow of collection arrangements and questions from payment clerks, thus increasing the efficiency of receiving and posting defendant's payments.
4. Improve citizen relations by ensuring impartial enforcement of court orders.
5. Maintain accurate, concise documentation of collections to formulate recommendations affecting collections for the court to the Presiding Judge and Court Administrator.

**APPENDIX H - SKIPTRACING PRELIMINARY CHECKSHEET<sup>14</sup>**

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<sup>14</sup> Fay Faron, A Nasty Bit of Business - A Private Eye's Guide to Collecting A Bad Debt. (San Francisco, Ca.: Crighton-Morgan Publishing Group, 1988)

## PRELIMINARY CHECKSHEET

Before you get started on the main event—the skip-tracing checksheet—you should fill out this one to determine the locations of your sources of information.

- 1) Where is your local Department of Motor Vehicles located?  
Address \_\_\_\_\_  
Can you obtain information there on the target's driver's license number and auto license tag number(s)? Or are these sources at different locations? Where can information on the target's traffic citations be obtained?
- 2) Where do you have to go to get information about ownership of boats and airplanes? Addresses \_\_\_\_\_
- 3) Will your local telephone, gas, water, and power companies give out forwarding information if service has been transferred?  
Addresses and/or phone numbers \_\_\_\_\_
- 4) Insurance agent. Do you have an insurance agent/broker with whom possible insurance applications of the target can be checked against the Casualty Index and other directories as previously discussed?  
What systems can you gain access to? \_\_\_\_\_
- 5) Workmens' Compensation Board: Where do you have to go to find out if the target is covered by workmens' compensation insurance?  
Address \_\_\_\_\_
- 6) Loan applications information. Do you have a bank that will assist you in obtaining information on any loan applications from or loans granted to the target?
- 7) Credit checking: Do you need to become a member of TRW and/or Trans Union?  
TRW: 505 City Parkway West, Orange, CA 92666, (714) 991-5100.  
Trans Union Systems, 1400 N. Harbor Bl., Fullerton, CA 92635, (714) 870-5181.
- 8) Cross-reference telephone directories: Is the R.L. Polk Directory available in your area? The Haines Directory? A local telephone company cross-directory?

- 9) Criminal records: Where are files containing felony convictions kept?  
Address \_\_\_\_\_  
Where are files containing misdemeanor convictions kept?  
Address \_\_\_\_\_
- 10) County Recorder: Where are real property records kept? Where are the county real estate tax assessor rolls? The Personal Property tax rolls? Chattel mortgage recordings?  
Addresses \_\_\_\_\_
- 11) Occupational License Records: These will usually be kept at the Secretary of State's office. Is there one located near you?  
Address \_\_\_\_\_
- 12) County Civil Records: Where do you go to look up data on lawsuits, in Superior Court, and in Small Claims Court?  
Addresses \_\_\_\_\_
- 13) City Business Licenses and Permits: Where do you go to look up data on business licenses and other permits issued by the city?  
Address \_\_\_\_\_
- 14) State Franchise Tax Board and/or Board of Equalization: Where do you go to look up data concerning business income tax and applications to collect sales tax?  
Addresses \_\_\_\_\_
- 15) Voter Registration Records: Where do you go to get information on the target's voter registration?  
Address \_\_\_\_\_
- 16) Marriage Records: Where do you go to find out if the target has been married or divorced and any accompanying information?  
Address \_\_\_\_\_
- 17) Highway Patrol: What information can be obtained from your State Highway Patrol on accident reports, etc., in which your target may have been involved, and where is this information?  
Types of information obtainable \_\_\_\_\_  
Address \_\_\_\_\_
- 18) Where is your main library located? What sources of information are available there that were described in the Sources of Information section (page 35)?

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