

November 7, 2008

Honorable State Sen. Troy Fraser
607 U.S. 281, Suite B
Marble Falls, TX 78654

Honorable State Rep. Harvey Hilderbran
PO Box 294270
Kerrville, TX 78029

Dear Senator Fraser and Representative Hilderbran

Llano County adopted the scofflaw June 23, 2008 in an effort to collect about \$ 700,000 in Warrants outstanding for traffic tickets. In the process of getting started we learned that the Scofflaw 502.185 was written "A County Assessor-Collector or the department may refuse to register a motor vehicle if the Assessor-Collector of the department receives information that the owner of the vehicle owes the County money for a fine, fee, or tax that is past due." This wording only allows vehicles registered in Llano County to be flagged with the Scofflaw.

Llano County has about \$ 85,000 outstanding in Austin and \$ 133,000 in Burnet County. About 75% of Llano Counties \$ 700,000 unpaid traffic tickets are from residents living outside of the county. The City Scofflaw program 702.003 statute includes such language, allowing municipalities to submit data on any vehicle by using a municipality. Dallas County has \$ 177 million in unpaid traffic tickets.

I and various other entities have discussed this problem with various legislatures to amend the County Scofflaw Program to allow counties to submit license plate numbers of those who reside in other counties. Your support of this amendment to 502.185 will be very beneficial.

Attached is a copy of an article written in the November 2008 issue of the Texas County Progress Magazine.

Thank you for your help in this matter and if I can be of any assistance, please call me at 325/388-3092 or e-mail at duane.com3@hotmail.com.

Sincerely:

Duane F Stueven

"If all counties join together in this, we could take care of fines and fees."

— Duane Stueven, Llano County Commissioner

The

The 75th Texas Legislature passed 1,487 bills, and nestled within the pages of legalese is one section that is finally — some 11 years later — making the headlines.

This little nugget, dubbed "The Scofflaw," has yielded a mini gold mine for El Paso County since its implementation in 2004. The El Paso County Tax Office Enforcement Division has collected a total amount of \$781,873.80 for the justices of the peace and has cleared 4,533 warrants for the county, and collected a cool \$1,692,991.71 for the city of El Paso, clearing 10,809 warrants.

Other counties are beginning to take notice.

The Scofflaw

This legislation is aimed at a person who flouts the law or fails to pay fines, which is the textbook definition of the word "scofflaw." Section 502.185 of the Texas Transportation Code allows a freeze on the auto registration of those who owe the county money for a fine, fee or tax that is past due.

The process unfolds as follows:

1. The county initiates an interlocal agreement with the Texas Department of Transportation (TxDOT) for the purpose of marking, or flagging, Texas motor vehicle registration records. TxDOT charges the county a pre-set fee of \$23 per file submission plus 12 cents per each file transaction.
2. The county submits input files to TxDOT listing license plate numbers of county residents who have a fine, fee or tax that is at least 90 days past due. The county has access to the TxDOT computer so they can probe for accuracy before submitting. However if they do not, TxDOT will probe and remove any non-qualifying submissions.
3. TxDOT flags the records of those who live in that county by placing the word "Scofflaw" in the appropriate blank on the record.
4. The vehicle owner attempts to register the vehicle.
5. The county tax assessor-collector denies registration and directs the registrant to the appropriate county office to pay the outstanding fine, fee or tax. According to the statute, the county may impose an additional fee which must go into an escrow account in the county that can only be used for expenses related to the Scofflaw. El Paso County has opted not to impose this addition.
6. The vehicle owner clears his or her record as required by the county, obtains a release form, and presents the form to the county tax assessor-collector's office. The

release form in El Paso County must bear the county's raised seal.

7. The county submits a "clear" request to TxDOT and registers the vehicle.

El Paso County Scofflaw Program

At the recent County Judges and Commissioners Association of Texas State Conference, David Marquez of El Paso County reminded officials of Abraham Lincoln's famous quote: "A law without enforcement is only good advice."

The Scofflaw is an effective method of enforcement, said Marquez, El Paso County Tax Office enforcement director.

Instituting a Scofflaw Program takes a great deal of coordination, Marquez continued, with key players including TxDOT, the commissioners court, justice of the peace courts, and the tax assessor-collector's office. El Paso County also denies registration for the City of El Paso Scofflaw Program. The county and city entered into an interlocal agreement, whereby the county retains 10 percent of the city collections.

"We have a fiscal responsibility to bring in money owed to the county," Marquez said. The Scofflaw Program, while requiring additional county resources, pays for itself with increased collections.

Llano County Scofflaw

Llano County Commissioner Duane Stueven was approached by one of his justices of the peace who asked Stueven to help clear up some of the county's unpaid traffic tickets. Stueven requested a listing of tickets and outstanding amounts, and then collected the same data from the other three justices of the peace.

Llano County's outstanding tickets totaled some \$700,000, Stueven said. For a small county of about 23,000, this is "quite a sum of money." Determined to collect some of this revenue, Stueven asked the tax assessor-collector if he knew of any program dedicated to collection. The tax assessor-collector had heard of a program called the Scofflaw, but he didn't know how it worked.

Stueven made an Internet query and then set up a meeting with TxDOT to familiarize himself with the procedures and required agreements. He also contacted El Paso County and asked for information.

The first implementation step in Llano County, Stueven said, was to explain the Scofflaw Program to the tax assessor-collector and assure him that he would not be collecting fines, fees or taxes, but rather denying registration and directing

Scofflaw

**Little-Known Statute
Links Auto Registration,
Overdue Collections**

registrants to the appropriate office to clear the charges.

Stueven then secured the agreement of each justice of the peace office. Next, he contacted the county's software vendor to ensure the required data set could be transmitted to TxDOT. Finally, Stueven conducted a meeting and question-and-answer session with the judge, auditor, tax assessor-collector, and a justice of the peace representative. When all parties agreed to participate, a resolution was prepared and passed by the Llano County Commissioners Court.

Llano County sent its first data set to TxDOT in October targeting money due from Jan. 1, 2007, through June 2008.

"If we collect 75 percent of the 236 records, this would add up to \$53,100," Stueven said. This first transmission will get the county up to date.

Currently, counties can only flag vehicles registered in their home county. However, in Llano County about 75 percent of unpaid traffic tickets are from residents living outside of the county.

Hopefully, the 81st Texas Legislature will amend the County Scofflaw Program to allow counties to submit license plate numbers of those who reside in other counties, Stueven continued. In other words, the vehicle can be flagged regardless of where the vehicle is registered. The City Scofflaw Program statute includes such language, allowing municipalities to submit data on any vehicle.

If counties are eventually allowed to flag any vehicle that incurred a traffic violation, regardless of home residence, then tax assessor-collectors across the state could help one another by exercising the option to deny registration until the fine or fee was paid. This would be especially valuable to neighboring counties, said Jim Lehman, regional collections specialist with the Texas Office of Court Administration (OCA). While tax assessor-collectors would not be obligated by law to deny the registration if the money is owed to another county, they may opt to do so in the hopes that other counties will return the favor, thus increasing collections for everyone.

Suppose a person with a flagged record moves from one county to the next? Marquez explained the scenario—which actually happened—as follows: "A resident owes El Paso County but moves to Tarrant County and attempts registration renewal. The 'flag' appears in the system, the clerk exercises his option to inform the defendant of his citation owed El Paso, and the clerk denies registration. The defendant calls El Paso, and I tell him he owes \$500. I tell him to buy a money order payable to El Paso County and to fax me a copy. I receive the fax and see that everything is in order, and then I tell the defendant to mail

us the money order. I then speak to the registration supervisor in Tarrant County and give him the authorization to renew. Why do I allow this? The defendant cannot cash the money order anywhere because it's payable to El Paso County."

At the State Conference, Stueven encouraged all officials to consider implementing a County Scofflaw Program.

"If all counties join together in this, we could take care of fines and fees," Stueven maintained.

Common Queries

During the State Conference presentation on the Scofflaw Program, Marquez fielded several questions regarding the demeanor of the registrant once he is denied registration. For example, does the registrant become irate and cause an upheaval? Marquez reminded officials that only class C misdemeanors are flagged, meaning the "offender" is not a criminal accused of a violent crime. Rather, the majority of those denied in El Paso County are quick to take care of their mistake or have forgotten that they have an outstanding fine or fee. Others say they did not realize they had a warrant for their arrest and are anxious to clear their record.

Another common question centered on the timeline. What if the fine, fee or tax had been paid but the payment was not processed by the time the registration was attempted, meaning a flag is still on the record. Marquez said this is a very rare occurrence and can be quickly cleared by a phone call.

Several other counties are currently looking into the Scofflaw Program, said Russ Duncan, regional collections specialist with OCA. According to TxDOT, Ector, El Paso, Fort Bend and Kaufman counties have active programs, along with the Harris County Toll Road Authority. Llano was scheduled to come on board in October, and Travis County is also considering the program.

"Frankly, for counties I see this as a boon," Duncan said. "If people can't register their vehicles, they are going to pay their fine and get on their way."

While the process is important, the goal is to secure compliance in the form of payment, Lehman said.

"Therefore if executed properly, the 'threat' of the vehicle registration flag could be just as effective (if not more) as the flag itself," Lehman continued.

A well-planned media and notification campaign prior to implementation of the program, similar to what takes place before a warrant roundup, should generate revenue before the vehicle is flagged, offering the defendant one final public invitation to appropriately handle business. ★

— By Julie Anderson