From the Chief's Desk

By: Alex Bunin

I met a new employee today. It was not her first day at work. She has been here for weeks. Honestly, I was briefly introduced on her first day, but it was a superficial conversation. Today, we had a real talk about things on her mind.

I wish I could report those type of meetings regularly happen with everyone in the office. However, between folks working from home and our huge growth spurt, the opportunities are fewer. I spend much of my time working on administrative issues that do not necessarily touch upon the day-to-day work of most in the office. Some staff members I have known for a decade, I rarely see.

That is all preface to say that what I write here is an attempt to set down those ideas I do not always get to say in person. The newsletter and Zoom meetings will need to suffice for now.

I have been a chief public defender for going on three decades. One thing that I have learned is that offices only work as well as the relationships among their workers. There will always be individual relationships that are hostile. Sometimes two persons just do not like each other. When those instances are rare, it can be accommodated by separating them. When those situations expand others may choose sides. Then things get unhealthy.

When an office gets large as ours there can be a tendency to write off others when one has a bad experience with them. There is anonymity in a crowd that allows one to ignore others. Please try not to do that. Look for opportunities to reach out to others and understand why it may appear that they offended you. Sometimes it is just miscommunication. I just did a quick Internet search and found dozens of instances of police arresting deaf persons because they did not hear and comply with the officer's commands. Misunderstandings like those happen in all possible relationships, including work places.
The RIC docket is supposed to be about “Responsive Interventions for Change,” but it’s hard to move on with your life when a dismissed charge still shows up on your record. And sometimes, the last thing a person wants to do after narrowly escaping the jaws of the criminal justice system is to jump right back into a courtroom and get involved in the expunction process.

To ease that burden and get people the expunctions they deserve, a group of women in Holistic worked together to automate a big part of the expunction process for RIC cases. Erin Russell, Kimberly Ashworth, Diana Barron, Courtney Alexander, Blanca Wilson, and Leslie Ginzel collaborated to create an online process through which clients and non-clients can fill out all the necessary forms for our attorneys to file expunctions for RIC cases on their behalves when they become eligible. The forms include a fee waiver for inability to pay costs for those who qualify, and people can sign the documents electronically. The whole process takes about five minutes. Once the forms are completed, a calendar reminder is automatically generated to notify our Holistic attorneys when a particular person is eligible for expunction. What’s that you say—is there a cherry on top? Why yes, yes there is!

They even created a QR code so people can access the forms easily and directly. Know someone who isn’t QR-code-ready? The can also access the forms online at www.jotform.com/PDO_Holistic/RICAgreement.

If your RIC client is in need of an expunction now or in the future, direct them to these forms and start the process immediately. Have questions? Email PDOExp@hctx.net.
Appellate Tip
By: Jani Maselli

Ability to pay inquiry must be on the record:
By now, you all know to request an ability to pay inquiry at every sentencing. The law mandates that this inquiry must be on the record.

(a-1) Notwithstanding any other provision of this article, during or immediately after imposing a sentence in a case in which the defendant entered a plea in open court as provided by Article 27.13, 27.14(a), or 27.16(a), a court shall inquire on the record whether the defendant has sufficient resources or income to immediately pay all or part of the fine and costs.


Crime Stoppers fee in community supervision cases:
For those of you with cases where your client gets community supervision, a fine up to $50 for Crime Stoppers can be assessed. (a) The judge of the court having jurisdiction of the case shall determine the conditions of community supervision after considering the results of a risk and needs assessment conducted with respect to the defendant. The assessment must be conducted using an instrument that is validated for the purpose of assessing the risks and needs of a defendant placed on community supervision. The judge may impose any reasonable condition that is not duplicative of another condition and that is designed to protect or restore the community, protect or restore the victim, or punish, rehabilitate, or reform the defendant. In determining the conditions, the judge shall consider the extent to which the conditions impact the defendant’s . . .


One of the conditions the court may impose is a fine not to exceed $50 to a crime stoppers organization: (19) pay a fine in an amount not to exceed $50 to a crime stoppers organization, as defined by Section 414.001, Government Code, and as certified by the Texas Crime Stoppers Council;


Consolidated Court Cost:
All judgments require a payment of the consolidated court cost: (a) A person convicted of an offense shall pay as a court cost, in addition to all other costs: (1) $185 on conviction of a felony; (2) $147 on conviction of a Class A or Class B misdemeanor; or (3) $62 on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle.

Tex. Loc. Gov’t Code Ann. § 133.102

Crime Stoppers Fee in Consolidated Court Costs:
In every consolidated court cost, 0.2427 percent is paid to a crime stoppers account.

Tex. Loc. Gov’t Code Ann. § 133.102 (e)(1).

A separate fee for crime stoppers is a duplicative cost:
As the statute mandates, a fine under 42A.301 cannot be duplicative of another cost. Since every conviction requires a consolidated court cost, a separate fine for crime stoppers cannot be imposed:

The judgment also attempts to assess a $50 fee for Crime Stoppers. Section 133.102 of the local government code requires a person convicted of a felony to pay a consolidated court cost of $133. TEX. LOC. GOVT CODE ANN. § 133.102(a)(1) (West Supp. 2018). That statutory provision uses percentages to allocate the $133 cost to several accounts and funds. § 133.102(e). Those accounts include funds for “crime stoppers assistance” and “compensation to victims of crime.” § 133.102(e)(1), (e)(8). Because section 133.102 assesses a percentage of the consolidated court costs to the compensation of victims of crime, it is inappropriate to assess a separately-charged fee to Crime Stoppers. See § 133.102(e)(1), (e)(8). See also Smith v. State, No. 02-16-0012-12, 2017 WL 2276751, at *2, 2017 Tex. App. LEXIS 4810 at *4-5 (Tex. App.—Fort Worth May 25, 2017, pet. ref’d) (mem. op., not designated for publication); Aviles-Barroso v. State, 477 S.W.3d 364, 398-99 (Tex. App.—Houston [14th Dist.] 2015, pet. ref’d); Owen v. State, 352 S.W.3d 542, 548 n.10 (Tex. App.—Amarillo 2011, no pet.). Accordingly, the judgment of the trial court is modified to delete any obligation to pay the $50 Crime Stoppers fee.


BOTTOM LINE:
Do ask that the ability to pay inquiry be on the record.

Do object to any separate fine for crime stoppers – it is duplicative and statutorily cannot be assessed.
I have a 17-year old client, who is from Arizona and ended up in Houston with “friends” who were really trying to traffic her. Her mom is in prison in Arizona for murder; her dad has been in and out of prison. I reached out to Damion to talk to client while in custody because she had a juvenile probation hold. The hold got lifted and she got released and we had to find her a place to stay right away. Damion stepped up and volunteered to go with me to pick up my client from the jail and drive her to the Bridges Over Troubled Waters. This was the only place that would take a 17-year old girl and they told us it could only be temporary due to her age. Damion mobilized the community and helped get my client clothes, a phone, and a real support system, including making sure she is studying for her GED test. Client has now been at the Bridges Over Troubled Waters for 3 months and she turned 18 just this past weekend. Damion, along with members of the community, got my client birthday presents and helped her celebrate her 18th birthday. Damion has gone above and beyond to make sure my client feels like she has people who care about her success and has really taken a “holistic” approach in our representation and it is a great reminder that it takes a village!

**SHOUT OUT TO DAMION WALKER**

*By: Ana-Paula Funes-Baker*

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The Harris County Public Defender’s Office invites all employees and their families to the first annual office picnic on Saturday, November 6, 2021 from 12:00 pm - 4:00 pm at Christia V. Adair Park (15107 Cullen Boulevard, Houston, TX 77047).

All attendees are welcome to bring their own food, non-alcoholic beverages, and coolers. However, grill access is limited and not guaranteed. Don’t forget to bring blankets, lawn chairs, and other items for comfort in the park.

We invite all to bring games and other items for family, outdoor fun!

For your convenience, attendees may pre-order and purchase box lunches catered by H-E-B. Adult lunches are $8.65; kids lunches are $5.40.

Please place your orders here (https://bit.ly/picnicboxlunchorders) and submit payment via CashApp ($PDOSocialFund) or PayPal (paypal.me/PDOSocialFund). When submitting payment, please include your full name matching name on order in the notes/comments section.

Please place your orders/payment by 11/03.

Questions?

For general inquiries please contact Jani Maselli at jani.maselli@pdo.hctx.net; for questions regarding lunch orders please contact Brittny Curry at brittny.curry@pdo.hctx.net.

We look forward to seeing everyone in person on November 6!

- HCPDO Picnic Planning Committee
HARRIS COUNTY PUBLIC DEFENDER'S OFFICE

adopt an angel

2021 GIFT DONATION DRIVE

IN PARTNERSHIP WITH THE
HOUSTON YOUNG LAWYERS FOUNDATION (HYLF)

Every year, the HYLFF Adopt-an-Angel gift drive brings the Houston legal community together to create holiday magic for some of Houston’s most underserved children.

This year, each HCPDO division is committed to this cause and welcomes all to volunteer to sponsor an Angel. The suggested contribution amount is $50 per child.

All gift sponsors will receive a hand-written Angel’s wish list via email to guide your shopping and gifts will be collected at the office. Gift drop off details will be sent via email.

IMPORTANT DATES:
NOVEMBER 1 - NOVEMBER 28: SHOP
NOVEMBER 29 - DECEMBER 3: DROP OFF GIFTS

For more information about the Donation Drive or to learn more about HYLFF/HYLA, please email APD Brittny Curry at brittny.curry@pdo.hctx.net.

Shopping not your thing? Consider making a monetary donation to the gift fund, where HYLFF will shop for unadopted Angels. Link below.

SIGN UP TODAY TO SPONSOR AN ANGEL: HTTPS://BIT.LY/HCPDOHOLIDAY
How many times have you been to a sporting event, the theater or the symphony and happen to see a good seat or even an excellent seat completely empty? Texas TicKids got started in 2008 when the founders realized how very often event tickets go unused. Texas TicKids (TicKids) is a non-profit 501(c)(3) organization formed by Brother/Sister team Tom Young and Denise Hamilton to facilitate the donation of unused event tickets for use by Houston area children’s charities. TicKids created a forum where charities can enrich the lives of less fortunate children while creating valuable tax incentives for businesses and individuals. It’s the perfect way to turn a loss into victory! That’s the idea behind TicKids, an organization that enhances children’s lives by allowing them to fill unused event seats. I’ve supported TicKids from the beginning, taking youth and/or providing referrals to various youth programs throughout the city. As adults, we often forget the excitement of going to our first professional and collegiate sports game, rodeo or theater event when we were kids. To witness the smiles on their faces when stepping into an arena is “priceless”, especially knowing the majority of these youth would not have had this opportunity if not for TicKids. It has been my honor and pleasure to sit on the Board of Directors of TicKids and watch their vision become a reality. TicKids has placed over 130,000 tickets in the hands of some very worthy youth. TicKids currently serves over 400 children’s charities, including Aspiring Youth of Houston, Be A Champion Inc., Boys & Girls Clubs, Casa de Esperanza, Child Advocates, Inc, Children’s Cancer Hospital at M.D. Anderson, Education-n-Hoops, Holthouse Boys & Girls Club, Houston Can! Academy, Inner City Youth, Kid’s Hope, Monica Lamb Wellness Foundation, Inc., Ronald McDonald House, Salvation Army Boys and Girls Club, Sunshine Kids Foundation and Texas Children’s Hospital. To enhance TicKids’ ability to reach more children, TicKids raises additional funding through their annual golf tournament that allows for the purchase of special event tickets. TicKids also provides vouchers to events that are used to provide the most economically challenged charities ways to recover costs of transportation, concessions and other out-of-pocket expenses.
From left to right: Mila, Winston, Harlow, and Oscar. All except for Mila were rescued from the Lone Star Bulldog Rescue. Mila is from Petal, Mississippi. They love snuggling, barking their objections, and treats, lots and lots of treats. They don’t understand personal space and we love them for it.