

# TEXAS FAIR DEFENSE PROJECT

January 9, 2018

City of White Settlement  
Judge Gary Ritchie  
Mayor Ronald A. White  
Mayor Pro Tem Danny Anderson  
Council member Paul Moore  
Council member Evelyn Spurlock  
Council member Dave Mann  
Warren Spencer, City of White Settlement Attorney

214 Meadow Park Drive  
White Settlement, Texas 76108

mayor@wstx.us  
place1@wstx.us  
place2@wstx.us  
place3@wstx.us  
place4@wstx.us  
place5@wstx.us  
WSpencer@wstx.us

Fax: 817-367-0885

Dear City of White Settlement.

We write regarding the administration of the White Settlement Municipal Court and the actions of the White Settlement Municipal Judge Gary Ritchie. Attorneys from the Texas Fair Defense Project and the Texas Civil Rights Project observed the court's single plea docket per month for all class c misdemeanors in White Settlement Municipal Court during the months of September, October, and November 2017. What follows is a summary of the State and Federal laws that were disregarded by the Court during those dockets, as well as behavior by Judge Ritchie at those dockets that constitutes misconduct under the Texas Code of Judicial Conduct. We write to make you aware of these problems, and with the hope that you can resolve these problems We offer/are willing to work with you to help you resolve these problems, and would like to set up a meeting to further discuss these problems as soon as possible.

### ***The Majority of Guilty Pleas in White Settlement Are Likely Invalid***

Judge Ritchie and the White Settlement Municipal Court routinely accept guilty and no contest pleas from defendants that are likely invalid because they fail to provide defendants the admonishments required by Article 26.13(a) of the Texas Code of Criminal Procedure to ensure a plea is valid.

At the September, October, and November 2017 plea dockets, Judge Ritchie gave no verbal admonishments to any defendants despite the fact that he accepted guilty and no contest pleas from defendants throughout the dockets. At no time did Judge Ritchie explain to the defendants that he was accepting a plea or make an effort to ensure that defendants were “aware of the consequences” of their pleas. TEXAS CODE OF CRIM PROC. ART. 26.13(D).

The same required admonishments listed in Section 26.13(a) of the Texas Code of Criminal Procedure are all missing from the court’s plea document. Furthermore, Judge Ritchie and White Settlement generally task the court clerk, not Judge Ritchie, to “explain everything [a defendant does] not understand” on the plea document. As a result, there is no way to truly know if a pro se defendant understands what is written on the form, as they do not have the assistance of an attorney and Judge Ritchie does not ask any questions or make any admonishments as to an individual’s rights.

Additionally, Judge Ritchie fails to comply with the procedures required by Article 45.041(a-1) of the Texas Code of Criminal Procedure when a court accepts a plea in open court. These procedures include immediate inquiry into the defendant’s ability to pay the assessed fines and costs and if the defendant does not have the sufficient resources to pay, a determination of whether the defendant should be given a payment plan, community service, waiver, or some combination of alternatives to full payment. During the dockets observed by our attorneys, Judge Ritchie never inquired into a defendant’s ability to pay and when defendants offered him that information, he dismissed some of them with statements such as, “you need to pay it or you are going to jail” and “not my problem.”

***White Settlement Issues Capiases Pro Fine and Routinely Jails Class C Defendants for Nonpayment of Fines and Fees in Violation of State and Federal Law***

Article 45.045 (a-2) of the Texas Code of Criminal Procedure outlines the procedures required of Courts before they may issue a capias pro fine for failure to satisfy a judgment in a Class C misdemeanor case. These procedures include giving notice to the defendant that a hearing will be held on the defendant’s failure to satisfy the judgment and then at that hearing taking evidence of the defendant’s “ability to satisfy said judgment.” At no time was Judge Ritchie observed holding these types of hearings or entertaining evidence on any defendant’s ability to satisfy a judgment. Many of the individuals who appeared in the White Settlement Municipal Court with a capias pro fine who told Judge Ritchie that they could not afford to pay their tickets were told by Judge Ritchie that the capias pro fine had issued and was “out there” and “good” and that the options were “pay or go to jail.”

Class C defendants are also regularly jailed in White Settlement for the nonpayment of their fines and fees without access to alternatives in violation of state law and federal constitutional requirements of equal protection and due process.

Article 45.046 of the Texas Code of Criminal Procedure requires that before committing an individual to jail for nonpayment, the court must determine that “the defendant is not indigent and has failed to make a good faith effort to discharge the fine” or “the defendant is indigent and has failed to make a good faith effort to discharge the fine or costs” by performing community service pursuant to Article 45.049 and could have done so without “undue hardship.” Individuals who are indigent and have *not* been given the option of community service, cannot legally be committed to jail for their unpaid tickets. Judge Ritchie routinely refuses to consider community service as an option for almost all defendants who cannot afford full payment, despite being told by defendants that they are indigent. There is also no indication that Judge Ritchie and the municipal court are determining whether a defendant is indigent before jailing them for nonpayment.

There is extensive U.S. Supreme Court case law that holds that the practice of converting fines and costs into jail time for individuals who are indigent without providing alternatives violates both due process and equal protection rights under the 14<sup>th</sup> Amendment to the U.S. Constitution. *Bearden v. Georgia*, 461 U.S. 660 (1983); *Williams v. Illinois*, 399 U.S. 235 (1970); *Tate v. Short*, 401 U.S. 395 (1971). As stated previously, Judge Ritchie is not making alternatives to full payment available to many of the individuals who he knows cannot afford to pay their fines and costs.

Further, through the actions of Judge Ritchie, the City of White Settlement is violating the Americans with Disabilities Act’s requirement that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” 42 U.S. Code § 12132. Individuals appearing in front of Judge Ritchie in the White Settlement Municipal Court were observed telling Judge Ritchie that they have medical issues or have applied for or receive SSI due to a disability. Despite this notice, Judge Ritchie does not make any accommodations for these individuals such as a waiver, the mechanism designed for this situation in the Texas Code of Criminal Procedure Article 45.0491. In fact one individual was observed explaining that she “has two kids,” is not working and has a “disability case” and cannot work because of her medical condition. She also explained, “I don’t have the money to pay it.” The Judge then raised his voice and said, “you have 120 days, THAT’S ALL.” She tried to say something else and the Judge said, “YOUR PROBLEM, THAT’S ON YOU.”

### **White Settlement is Operating a Closed Court**

Judge Ritchie and his court staff maintain a closed court in violation of state and federal requirements that criminal proceedings remain presumptively open. See TEX. CODE OF CRIM. PROC. Art. 45.041(d); *Tamminen v. State*, 644 S.W.2d 209, 217 (Tex. App.—San Antonio 1982); *Press-Enter Co. v. Super. Ct of Cal.*, 464 U.S. 501, 508 (1984). At the September 2017 plea docket, one of our attorneys witnessed the White Settlement Municipal Court bailiffs repeatedly refuse access to the court to family members of those with docket settings, despite the courtroom having ample seating space. Family members who were not allowed in the courtroom included two small children of a mother who had to attend court with her teenage son and the mother of an adult child with a severe mental impairment, whom she feared would not be able to understand what was going on.

### **Judge Ritchie Routinely Violates the Texas Judicial Code of Conduct**

Canon 2A of the Judicial Code of Conduct states “a judge shall comply with the law and should act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.”

Canon 3B of the Judicial Code of Conduct states in part:

(4) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in an official capacity, and should require similar conduct of lawyers, and of staff, court officials and others subject to the judge's direction and control.

(5) A judge shall perform judicial duties without bias or prejudice.

(6) A judge shall not, in the performance of judicial duties, by words or conduct manifest bias or prejudice, including but not limited to bias or prejudice based upon race, sex, religion, national origin, disability, age, sexual orientation or *socioeconomic status*, and shall not knowingly permit staff, court officials and others subject to the judge's direction and control to do so.

As outlined above, Judge Ritchie disregards both state and federal law in his administration of the White Settlement Municipal Court. He also denies defendants that appear in the court the opportunity to seek alternatives to resolving their tickets that take into account their financial status.

Additionally, Judge Ritchie is verbally abusive to certain defendants and does not afford them the opportunity to explain their situation or give them the courtesy one expects from a public servant. Furthermore, at the November 2017 plea docket, the White Settlement

Police Officers were observed openly discussing two defendants' personal lives in open court. The police officers spoke negatively and, at times, mockingly about both defendants, and also about one of the defendant's family members. Both incidents occurred while each defendant was not in the courtroom and one of our attorneys was present observing court.

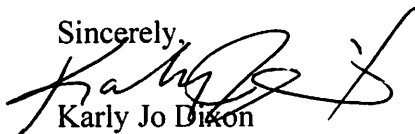
Judge Ritchie only holds court once a month, on a Saturday. Individuals are made to stand in line outside of the building in the elements because the building cannot accommodate all of the individuals who are summoned to court. These individuals include those with obvious physical disabilities, as well as parents with young children, and pregnant women. Judge Ritchie needs to expand the court's dockets so that all individuals can be accommodated in the courthouse without having to stand in the Texas heat or a rainstorm for an hour or more.

All of these actions separately and taken as a whole violate the Texas Code of Judicial Conduct. These actions also violate the mission statement of the White Settlement Municipal Court, as stated on the City's website:

**Mission Statement:** The mission of The City of White Settlement Municipal Court is to serve all citizens in a *courteous, efficient and professional manner*. The Court is dedicated to principles of fair and impartial justice administered *with respect and equality*. We are responsible for the prompt, accurate processing of a Class C misdemeanor and collections of fines.

This letter serves as notice to the City of White Settlement that the White Settlement Municipal Court is operating in violation of the Texas Code of Criminal Procedure, the U.S. Constitution, and the Texas Judicial Code of Conduct. We would like the opportunity to meet with you and discuss remedies for resolving these issues outside of litigation or involvement of the State Commission on Judicial Conduct. Please contact us by January 29, 2018, to set up that meeting. We look forward to working with you to make the White Settlement Municipal Court just and equitable, regardless of an individual defendant's ability to pay.

Sincerely,



Karly Jo Dixon

State Bar No. 24093974

Susanne Pringle

State Bar No. 24083686

Texas Fair Defense Project

Phone: 512-637- 5220 x 103

[kdixon@fairdefense.org](mailto:kdixon@fairdefense.org)

[springle@fairdefense.org](mailto:springle@fairdefense.org)

Hani Mirza  
State Bar No. 24083512  
Natalia M. Cornelio  
Illinois State Bar No. 6289267  
Texas Civil Rights Project  
Phone: 972-333-9200 x 171  
[hani@texascivilrightsproject.org](mailto:hani@texascivilrightsproject.org)  
[natalia@texascivilrightsproject.org](mailto:natalia@texascivilrightsproject.org)