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Donna Campbell, M.D.

Texas State Senator
District 25

July 25, 2024

Via Email: opinion.committee@oag.texas.gov

The Honorable Ken Paxton, Office of the Attorney General

Attn: Opinion Committee

PO Box 12548

Austin, TX 78711-2548

Dear General Paxton,

Please accept this letter as a request for an Attorney General Opinion with respect to the following legal question:

Does electronic notice captured by a QR Code on traffic violation card (the "Citation Card") satisfy the requirement of Section 543.003-004, Texas Transportation Code (the "Provision"), requiring written notice to appear to be delivered in three specific ticketing circumstances: (i) speeding, (ii) the use of wireless communication device while driving a car, or (iii) a violation of the open container law; provided that the Citation Card provides on its face the time, the place to appear, as well as the citation number.

I submit the following regarding this issue for your consideration:

I. Background

In Texas, citations for offenses like the ones described above are issued by a variety of law enforcement officials at the local (city and county) and state levels.

Under the Provision and related statutes, ticketing officers are required to provide certain specific items of information in a notice to appear provided to an alleged violator (the "violator"). These items include:

- a. Time to appear, which must be at least 10 days after the date of arrest (Section 543.003 and 543.006);
- b. Place to appear (Section 543.003 and Section 543.006);
- c. Offense charged (Section 543.003)
- d. Name and address of person charged (Section 543.003);
- e. License plate of person's vehicle if applicable, Section 543.003);
- f. When the charge is speeding, the maximum speed limit applicable to the location and the speed at which the person is alleged to have driven Section 543.010); and
- g. Signature of the violator acknowledging a promise to appear (Section 543.005).

This information is included in the citation provided to the violator. Citations have been traditionally written out using a ticket pad that creates triplicate copies of notice. One copy is for

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Fax: (512) 463-7794

the violator, one for the officer/police records, and one for the court. Issuing these handwritten tickets take approximately seven to ten minutes per stop. When the court receives its copy, the information from the citation is hand entered into the court's system, a process which generally takes about ten days.

More recently, officers have began using citation machines that print tickets at the stop, including the required information described above. While there are some efficiencies in the citation machines, specifically in eliminating illegible handwriting and minimizing error prone data entry, the machines are expensive (limiting the ability of police departments to use them wholesale), courts that are receiving the ticket electronically from the machine's server are still often printing the ticket out and re-entering the information manually into the court's system, and stop times for citations captured on these machines remain about seven to ten minutes.

Technology is now allowing for a cloud-based option for electronic citations ("e-citations"). In this scenario, the officer enters the required citation information (much of which is captured automatically through the license plate number and/or driver's license number) and presents the violator with a traffic Citation Card (an example of which is provided in [Exhibit A](#)), which included a QR Code providing the violator access to the complete citation electronically. The Citation Card, which is given to the violator and not retained by the officer, can also provide for the violator's signature and the officer's signature, for the violator's records.

The QR Code links to the complete citation and provides a benefit to the violator in that each citation can be translated to and printed in other languages, as necessary. Additionally, because the software is cloud-based, the data can be converted to be compatible with the court to avoid the hand entering of the ticket information.

This technology reduces stop times, eliminates redundancy at the court level in re-entering citations, eliminates errors caused by illegible handwriting and data entry, and also provides potential new benefits including: capturing electronic signatures, providing GPS locations of stops, providing real time actional traffic stop data, establishing cloud-based back-end management dashboard, generation detailed reports, and integrating with various record management systems.

The use of e-citations appears to comport with both the statutory provision for electronic signatures on the notice to appear and with the Uniform Electronic Transactions Act.

II. Written Promise to Appear; Electronic Signatures Permitted

One of the citation requirements under state law is that the violator makes a written promise to appear in court as provided by Section 543.005, Texas Transportation Code. Section 543.005 states:

To secure release, the person arrested must make a written promise to appear in court by signing the written notice to appear by the arresting officer. The signature may be obtained on a duplicate form or on an electronic device capable of creating the signed notice. The arresting officer shall retain the paper or electronic original of the notice and deliver the copy of the notice to the person arrested. The officer shall then promptly release the person from custody.

The provision for a digital signature option was added by the Texas Legislature in 1999 in the 76th Legislative Session to conform the use of digital signatures on electronically transmitted court documents as provided in the 75th Legislative Session through the Business and Commerce Code with the Code of Criminal Procedure and Transportation Code¹.

While this legislation addressed the authorization of digital signatures on electronic devices in Section 543.005, there was not an express recognition in Section 543.003 acknowledging that the written notice could also be provided through an electronic device. Of course, Section 543.005 cannot be fully effective without the ability for an (i) an electronic ticketing device, (ii) an electronic original copy of the notice, and (iii) the ability to deliver an electronic copy of the notice to the violator.

When read with Section 543.003, Section 543.005 would provide an interpretation that written notice can be electronically transmitted.

III. Written Notice through Electronic Delivery

The Uniform Electronic Transaction Act ("UETA"), Chapter 322, Texas Business and Commerce Code provides that a record or signature may not be denied legal effect or enforceability because it is in electronic form. Further, Section 322.007 of the UETA provides that "if a law requires a signature, an electronic signature satisfies the law."

Your office addressed the Texas UETA in GA-0228 (2004). In GA-0228, the Texas Attorney General determined that where current statutory requirements in the property code prohibit a county clerk's recording of an electronically generated signature or notary public seal or a faxed document, the UETA does not preempt that provision.

In the current situation, there is no prohibition on e-citations serving as written notice. To the contrary, when issuing a citation, an electronic signature on an electronic device must be accepted.

The UETA appears to provide an accommodation for an electronic notice as written record.

IV. The Citation Card; Traditional Tickets

To ensure that a violator has good access to the citation information, some jurisdictions pursuing e-citations have adopted a Citation Card, an example of which is provided in Exhibit A. The Citation Card provides the QR Code with a link to the complete citation, but also includes the time of appearance, place of appearance, and the citation number on the face of the Citation Card. The time and place information is available both through the QR Code and on the Citation Card handed directly to the violator.

Additionally, where a violator asserts that he or she lacks the technology to access a QR Code link, or otherwise does not agree to an electronic citation, a traditional triplicate citation can be written and processed.

¹ House Bill 806 (76R, 1999); see Exhibit B.

V. Department of Public Safety Technology Policy

With regard to state citations issued through the Texas Department of Public Safety, there is a legislative directive to introduce more technology in their public interactions.

Section 411.0043, Texas Government Code, directs the Safety Commission to implement a policy requiring the department to use appropriate technological solutions to improve the department's ability to perform its functions. This concept is further addressed in the Texas Administrative Code.

Title 37, Rule 1.291, Texas Administrative Code provides that technology policy for the Texas Department of Public Safety. This policy restates that the department "shall use appropriate technological solutions to improve the department's ability to perform its functions," but also adds this language: "Technological solutions shall, where appropriate ensure that the public is able to interact with the department on the internet."

As with the UETA, this rule recognizes that technological advances are moving fast and government has a lot to gain by keeping up with these advances.

VI. Request

These legal questions deserve clarity for the benefit of those jurisdictions seeking the advantages of technology to create efficiencies and cost savings, along with other benefits, in issuing e-citations.

The clarification is particularly important because the failure to comply with the Provision falls squarely on the officer issuing a citation. Section 543.008, Texas Transportation Code states that a "violation by an officer of a provision of Sections 543.003-543.007 is misconduct in office and the officer is subject to removal from the officer's position." While it is not anyone's intention that an officer be held accountable for a jurisdiction's election to adopt e-citations, law enforcement professionals should be assured that in such circumstances, the e-citation does not violate Sections 543.003-543.007.

Thank you for your consideration of this request. Please feel free to contact my office should you need any additional information or details regarding this request.

Sincerely,



Senator Donna Campbell, M.D.
Senate District 25
Senate Committee on Nominations, *Chair*

Front of Card

Police Department Name



Name of Municipality
TRAFFIC VIOLATION

#

Without admitting guilt, I promise to appear in JP court as described on the date set below, and there remain from day to day to answer to the above complaint until discharge by due course of law. Then this obligation shall remain null and void, otherwise to remain in full force and effect. I acknowledge that I may plead guilty, instead of appearing to answer the complaint against me. (Contact court for more information)

You are hereby notified to appear before:

Municipal Court - City of Municipality
123 Main Street, Anytown, TX 12345
(555) 555-1234
www.municipal-court.gov

On or before: _____ at _____

Name of Municipality
TRAFFIC VIOLATION

#

Driver's Signature _____ Without admitting guilt, I promise to appear in court

Officer's Signature _____ Badge ID _____

Back of Card



Police Department Name
555 Main St.
Anytown, TX 12345
www.anytownwebsite.gov

- 1 Scan QR code using your phone's camera app
- 2 Tap the banner that appears on the screen
- 3 Follow website instructions to access digital citation
- 4 Contact appropriate court to resolve citation



Questions?
Contact Municipal Court at phone number listed on the front of this card

You may also visit the Municipal Court website for more information:

www.municipal-court.gov

If you fail to appear in court as provided by law for the prosecution of the offense or if you fail to pay or satisfy a judgment ordering payment of a fine and in the time manner ordered by the court, you may be denied renewal of your driver's license.

Dimensions: 4" x 6"

Front of Card

Sheriff FirstName LastName



County Sheriff's Office
TRAFFIC VIOLATION

#

Without admitting guilt, I promise to appear in JP court as described on the date set below, and there remain from day to day to answer to the above complaint until discharge by due course of law. Then this obligation shall remain null and void, otherwise to remain in full force and effect. I acknowledge that I may plead guilty instead of appearing to answer the complaint against me. (Contact court for more information)

You are hereby notified to appear before:

Justice of the Peace, Pct. 1 Justice of the Peace, Pct. 2
(555) 555-1234 (555) 555-5678

On or before: _____ at _____

County Sheriff's Office
TRAFFIC VIOLATION

#

Driver's Signature _____ Without admitting guilt, I promise to appear in court

Officer's Signature _____ Badge ID _____

Back of Card



County Sheriff's Office
555 Main St.
Anytown, USA 99999
www.anytownwebsite.gov

- 1 Scan QR code using your phone's camera app
- 2 Tap the banner that appears on the screen
- 3 Follow website instructions to access digital citation
- 4 Contact appropriate court to resolve citation



Questions?
Contact the appropriate Justice of the Peace Precinct listed on the front of this card

You may also visit the Justice of the Peace websites for more information:

www.anytown.gov/JP1
or
www.anytown.gov/JP2

If you fail to appear in court as provided by law for the prosecution of the offense or if you fail to pay or satisfy a judgment ordering payment of a fine and in the time manner ordered by the court, you may be denied renewal of your driver's license.

Dimensions: 4" x 6"

Exhibit B

Office of House Bill Analysis H.B. 806
By: Jones, Jesse
Judicial Affairs
6/21/1999
Enrolled

BACKGROUND AND PURPOSE

The 75th Texas Legislature authorized the use of digital signatures on court documents. The statute was placed in the Business and Commerce Code, but not in the Code of Criminal Procedure. Prior to the 76th Texas Legislature, the law did not specifically state that digital signatures are approved in criminal cases. Accordingly, county court officers had refrained from using digital signatures in criminal cases. H.B. 806 explicitly authorizes the use of digital signatures in criminal cases by placing authority in the Code of Criminal Procedure.

RULEMAKING AUTHORITY

It is the opinion of the Office of House Bill Analysis that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 2, Code of Criminal Procedure, by adding Article 2.26, as follows:

Art. 2.26. DIGITAL SIGNATURE. Defines "digital signature." Provides that a document with a digital signature that is electronically transmitted to a criminal court is considered signed. Provides that this section does not preclude any symbol from being valid as a signature under other applicable law, including Section 1.201(39), Business and Commerce Code (defining "signed"). Provides that the unlawful use of a digital signature is subject to criminal laws pertaining to fraud and computer crimes.

SECTION 2. Amends Article 45.021, Code of Criminal Procedure, by amending Subsection (a), and adding Subsection (f), to authorize the issuance of a notice or citation by a law enforcement officer created by digital imaging. Provides that a statutory requirement that a document contain the signature of any person, including a judge, clerk of the court, or defendant, is satisfied if the

document contains that signature as captured on an electronic device.

SECTION 3. Amends Section 543.003, Transportation Code, to delete existing text stating that the the written notice to appear in court under this section (Notice to Appear Required: Person Not Taken Before Magistrate) must be issued in duplicate.

SECTION 4. Amends Section 543.005, Transportation Code, to provide that a signature of the person arrested may be obtained on a duplicate form or on an electronic device capable of creating a copy of the signed notice. Makes conforming changes.

SECTION 5. Amends Section 543.007, Transportation Code, to make a conforming change.

SECTION 6. Emergency clause.
Effective date: upon passage.