

PRESIDENT'S MESSAGE

By Libby Lanzara, PHR

President TMHRA

Assistant HR Director, Fort Worth

It was great seeing so many of you – over 100 – at Mid-Year in San Antonio and largely a different group of around 50 at Nuts and Bolts.

TMHRA members are both a friendly and fairly serious group – a rare combination. You see the friendliness in the outreach to link up new members and make sure no one is alone who doesn't want to be! I'd say you are fairly serious because you are sharp: you are active at the sessions, giving well-thought-out feedback, and holding down tough jobs in local government that really do make a difference.

Knowing those two things about you – your friendliness and inclusiveness, in addition to the wealth of experience each of you brings to the table, makes TMHRA a great group to network with.

Take advantage of that network at conferences, or on the phone, or by e-mail at the office! We have been struggling to get up a high tech, on-line, password protected directory. That directory, I am pleased to announce, is now "Live." By now you should have received an e-mail that was sent to

all members providing them with the user name and password. If you have not received this e-mail, please contact the TML Data Processing department at 512-231-7400. TMHRA expresses its gratitude to the TML staff for their hard work in bringing us this great service enhancement. Please let us know what you think.

I hope to see you at Employment Law in September. After that, it's the Texas Municipal League Annual Conference in Fort Worth in October, at our beautifully renovated convention center in our exciting downtown. I am not biased here, just observant!

On a final note, your Board is working hard, as usual, behind the scenes to bring you all this programming while keeping up with the finances and logistics to make it all happen. Please take the time to vote when you get the ballot in August. Janet Melancon and the nominating committee have worked hard to bring you the slate. Remember, sometimes votes are very close – yours can really be the deciding one.

Thanks for the great support you all have been giving all year to your professional organization; it is our pleasure to serve you.

Call or e-mail with your ideas and suggestions.

Until next time...

EMPLOYMENT LAW SEMINAR

Omni Downtown Austin

September 12-13, 2002

As the role of the Human Resources Professional and other city officials becomes more diverse and critical in the effective operations of city government, the TMHRA continues to strive toward presenting the most timely educational programs to assist all of us in adding value and decreasing exposure to liability within our respective organizations. We have asked HR Professionals across the state what they would most like to hear, and well-respected attorneys from the Law Offices of Karger Key Barnes & Springer will be addressing those topics: "FMLA, ADA, Sick Leave, and Workers' Compensation"; "EEOC Complaints"; "Implementation of Local Government Code, Chapter 175"; "Sexual Harassment"; and "Transition of Gender Among Employees." Bettye Lynn will be moderating the program and will be joined by fellow attorneys Lu Pham, Kathy Teel, Martha Rose, and Julie Ross. We are certain that attendees will leave with a wealth of knowledge and clarity that will serve as an ongoing resource for our respective employers/organizations.

Keep an eye open for the publicity. If you have an e-mail address on file, you will be receiving the publicity via e-mail. Hard copy publicity will only be mailed to those who do not have an e-mail address on file with TML. ★

CONGRATULATIONS!

Congratulations to Debbie Whitley with the City of Lake Worth, who was the winner of the complimentary TMHRA 2003 Mid-Year Conference Registration!

SPONSOR RECOGNITION

Our sponsors were recognized at the Mid-Year Conference in San Antonio. Lonne Parent from TML did an excellent job on the awards they received. The next time you see one of our wonderful sponsors, please let them know how much we appreciate them!

City-County Benefit Services (C-CBS)

ICMA Retirement Corporation

Insurance Partners Southwest Corporation

Nichols, Jackson, Dillard, Hager & Smith

Public Sector Personnel Consultants

Scott and White Prescription Services

Slavin Management Consultants

Texas Municipal Retirement System

Texas Municipal League Intergovernmental Risk Pool

The Hartford Group

The Waters Consulting Group, Inc.

IMPORTANT

THIS IS THE LAST HARDCOPY NEWSLETTER THAT WILL BE PRINTED

To receive the HR FOCUS beginning in August, the Texas Municipal League (TML) must have your e-mail address. Currently TML has e-mail addresses for all but 30 of the 200 members of TMHRA. You may also provide your e-mail address at home, if you do not have Web access at work. If you are not sure if TMHRA has your e-mail address, log onto the TMHRA Web site directory and verify your information. There is a link at the bottom of the directory page where you can click to update your information. ★

TMHRA MID-YEAR CONFERENCE
SAN ANTONIO, TEXAS
MAY 15-17, 2002

By Laura Morrow
Director of Human Resources
City of Allen



Dr. Tony Picchioni and Lashon Ross

One hundred and five human resources aficionados (or at least San Antonio aficionados) attended this year's Mid-Year Conference. President Libby Lanzara welcomed the crowd that included folks from around the state, as well as several sponsors.

Dr. Tony Picchioni, Director, Dispute Resolution Program with Southern Methodist University, presented *Managing Conflict: A Conceptual Framework*. We had fun learning whether we were "Sharks," "Turtles," "Teddy Bears," "Owls," or "Foxes." Dr. Picchioni also discussed communication traps, barriers, and stoppers, as well as differing communication styles and skills to use in giving and receiving feedback.

The well-attended reception allowed a chance for attendees to meet up with old friends and make new friends, then all were off to have fun on the Riverwalk! Several people met up with the Prima folks, who were also having a conference in San Antonio.

On Thursday, Dr. Picchioni started off the morning with Learning to be a Third Party Neutral. Topics included "Setting the Stage," the "Opening Statement," "Moving from Position- to Interest-based Negotiation," "Common Ground," "Strategies for Solving Problems," "Agreement," "Implementation and Feedback," and "Assessment." *The Pharmacy Benefit "Balancing Act"* was presented by Esther Webb, Marketing Representative, and David Perez-Guerra, Operations and Sales Manager, both from Scott and White Prescription Services. They provided great information regarding prescription drugs, trends, and tips for making plans more cost-effective.



Truemann O'Quinn Sponsor

This year's luncheon speaker was Truemann O'Quinn from the Texas Municipal Retirement System (TMRS), who discussed legislative changes. He also presented some potential changes in buyback provisions to the act, and he encouraged members to contact TMRS with any ideas for changes to our benefits.

Dr. Melba Benson, Mediator/Consultant/Educator, gave an engaging talk on *Leading Up: How to Manage Your Boss So Everyone Wins*. "Leading up" is defined as taking the reins and exceeding what is expected. Dr. Benson explained why it was necessary, how to figure your boss out, how to disagree with your boss, coping with a difficult boss, and teaching others how to lead up.



Dr. Melba Benson

The Annual Breakfast Business Meeting was conducted on Friday morning, followed by Bettye Lynn's "Legal Update." Bettye discussed cases including FMLA, ADA, Sovereign Immunity, Title VII, harassment, discrimination cases, freedom of religion, and military leave. Under "Truth is Stranger Than

Fiction," she shared an FMLA case in Tennessee where a jury awarded a woman \$84,000 under the FMLA. The employee was fired after taking FMLA leave to convalesce from a suicide attempt. The company actually claimed that she was terminated for being irresponsible enough to attempt suicide; the Court of Appeals upheld the jury verdict. ★



Enjoying a night on the town

MEMBERSHIP DIRECTORY IS NOW LIVE!

TMHRA is one of four affiliates with an on-line directory. The TMHRA directory is not available to the public. The directory is password protected and available to the members. The TMHRA directory contains detailed information similar to that published in the last printed directory in 2000. It is simple to update your information. The ability to routinely update the directory will enhance its usefulness. The printed format becomes out-of-date the moment it is published.

If you have not received an e-mail informing you that the directory is now live, your e-mail address may be outdated. Contact the data processing department at TML at 512-231-7400 to update your information. ★

THE ABC'S OF CRIMINAL BACKGROUND CHECKS

By Dale Shaffer

Background Information Systems

Fifteen years ago, background checks were principally conducted on persons seeking employment with law enforcement agencies or branches of local, state, or national government. Today, however, employment background checks are utilized not only by law enforcement and government, but by virtually every industry in the country.

Today, unfortunately, every industry, profession, and volunteer organization has individuals who not only have criminal records, but who are actively seeking to further their criminal activities through their positions. Examples include 1) pedophiles in schools, churches, scouting, and day care centers; 2) clerks and stockers in large retail stores and warehouses who supply the underground markets "out of the back door" of their employers; 3) checkers and sackers in supermarket chains that have access to the names, addresses, and banking information on a customer's checks; 4) city workers who may have access to addresses, telephone numbers, and banking/checking account information of taxpayers; and 5) workers for utility companies who may have knowledge regarding whether homeowners are at home or out of town.

The presence of a person with a criminal record poses a potential threat not only to the employer and customers but also poses potential risks for coworkers. Employers not only have the right but a growing responsibility to know the kind of people working in their organizations. This is important not only as part of an asset protection program, but also in order to limit the exposure to liability which could result from the actions of a person with a prior criminal record.

A significant factor in deciding whether and to what extent an employer should be liable for the criminal acts of an employee with a prior criminal record is the determination of whether the employer took reasonable steps to screen and evaluate the criminal history of its employees. A growing number of courts are holding employers liable in situations where crimes have been committed by employees who were not checked for prior criminal history. In addition, many insurance carriers now are requiring criminal background checks before they will issue liability and asset protection policies.

Are there different types of criminal background checks?

It is important to understand the differences between various types of criminal background checks. Basically, there are two types of checks: 1) checking one or more criminal history databases covering different jurisdictions (i.e., individual county vs. state databases), which are typically missing certain conviction records; or 2) checking individual county conviction records existing as of the date the check is performed. A further explanation of the important differences between database searches and "real-county" searches follows.

"Database" Checks. A "Database" check is a search of criminal records which have been compiled and saved on a disk or in a computer. However, if a person has a criminal record in a jurisdiction not covered by the databases, his record will not be found when the database search is performed. According to an article entitled "Who's going to school with your kids?" in the March 2000 edition of Reader's Digest, even databases such as the National Criminal Information Center ("NCIC") database used by the FBI has significant "gaps," with 14 states not reporting conviction information and approximately 50% of the information forwarded by states not including the disposition information after arrest. Generally speaking, databases that are more "local" in nature have fewer "gaps." The point is that there is not a nationwide or statewide database in existence that has every criminal record and conviction information from every county in that state or the U.S. This is true not only for the private sector, but also for law enforcement.

Databases are made available by different governmental entities such as counties and states. The frequency with which databases are updated and made available varies and typically ranges from monthly to semi-annually,

if updated at all. Thus, at any given point in time, a database may be missing a portion of the most recent conviction information. An example of this is the "Texas Department of Public Safety Criminal Data Base" search on the Web. This database is only as good as the county clerk offices that continually provide updates. There are many counties that never submit data to this state file. There are other counties who submit data intermittently, thereby leaving many gaps in the stream of information. While this source of information is relatively inexpensive, the information received many times is incomplete, non-existent, and/or misleading. If database searches are used as a screening tool, they should begin at the repository site of the records, which in this case is the county level, and certainly not at a level that requires diligent and constant updates, such as a statewide file.

"Real" County Checks.

A "Real" county check is a search of individual county criminal records in existence as of the day the search is conducted. For this reason, the "gaps" in databases, resulting from convictions which have occurred but which have not yet been added to the databases, are eliminated. In certain cases, the search can be performed via electronic access to the on-line criminal record system of the county, but in the overwhelming majority of counties across the U.S., the search can only be performed by a real person physically going to the county clerk's office in the counties where the search is being conducted. Generally, a "Real" county search takes 2 to 3 business days to process and return the results. As a result, "Real" county searches are significantly more expensive than database searches. However, "Real" county searches do not have the "gaps" which exist in database searches and a "Real" county search can always be performed, even where no database is available.

How Do You Know Where to Search for Criminal Records?

To know where a criminal background check should be done, employers should request applicants to provide prior counties and states of residence, if possible going back to age 18. However, persons with existing criminal records many times do not list prior states or counties of residence in which they have existing criminal records. This creates an obstacle for the employer in terms of knowing which jurisdictions should be checked in performing the criminal background check. The best method of finding counties of prior residence not listed on the employment application is to have a social security trace performed. This search relies on accessing records where the person's social security number was used in a "credit" situation, such as applying for utilities, cable TV, making a purchase, renting housing, or applying for financing. Often, searching these records will produce a number of prior counties of residence where criminal convictions may have occurred. Also, the social security trace provides a defense against false identity. A criminal record search is useless unless the identifying information such as the spelling of first, middle, and last names; correct date of birth; correct addresses; and correct social security number (when applicable) used in the search is accurate. A social security trace will provide this accuracy.

Are Criminal Background Checks Really Necessary?

Statistics at Background Information Systems, based on a diverse state and national client base and approximately 10 years in the background screening industry, indicate that approximately 22% of all applicants have either a misdemeanor or felony criminal background. Although all criminal records do not necessarily disqualify an applicant for hiring, performing a criminal background check is clearly a reasonable step to take instead of playing "Russian Roulette" and taking your chances. During the employment application process, it is recommended that the applicant be asked if they have a criminal record. If the applicant is not truthful on this question, it may affect the hiring decision or, if found out later, may be grounds for termination. It is also important that employers have applicants sign a proper authorization form prior to conducting the criminal background check. Once this is done, the process can be initiated.

Summary.

Performing criminal background checks on employees and prospective employees is a growing necessity in order to adequately manage risks and protect lives and property. Several options are available for conducting these

checks, and it is advisable to consult an entity with the knowledge and experience to help assess the options. It is advisable to utilize a provider of criminal background checks with the capacity to perform either database checks or "real" county checks on a nationwide basis. At times, the reading, analysis, classification, and interpretation of criminal records can be a very complex and often frustrating process. It requires skill, knowledge, and experience to avoid making costly mistakes, and it requires the understanding and knowledge of professionals who work with these records on a

daily basis. Performing a criminal background check is truly a prime example of where "An ounce of prevention can prevent a pound of cure!"

Background Information Systems, Inc. (BIS) is a full-service, pre-employment screening services company headquartered in Dallas, Texas, serving multiple municipalities, school districts, and major employers. For more information, contact Dale Shaffer at 214-360-9122 or 800-687-0894, extension 104. ★

**NUTS AND BOLTS OF HR IN THE PUBLIC SECTOR
APRIL 12, 2002 IRVING, TEXAS**

*By Laura Morrow, SPHR, IPMA-CP
Director of Human Resources
City of Allen*

Fifty-nine individuals attended this year's Nuts and Bolts Workshop. The audience consisted of new faces and eager learners. Organizers of this event decided to bring a splash of excitement and diversity to the session by featuring panels of speakers rather than one individual presenting all of the information. The new format received rave reviews! **Debra Drayovitch**, Attorney, Taylor, Olson, Adkins, Sralla & Elam, L.L.P., led an interesting session on FMLA, ADA, and Workers Compensation: Is It the Devil's Triangle? As a City Attorney, Debra had lots of stories to relate. Personnel Policies: Must Haves and How to Do It was facilitated by Debra, **Libby Lanzara**, Assistant Human Resources Director, City of Fort Worth; **Pete Nelson**, Human Resources Manager, City of Fort Worth; and **Janet Melancon**, Human Resources Director, City of Waco. Both new and seasoned HR professionals learned new ideas.

After the luncheon, **Mike Bratcher**, Workers Compensation Claims Manager, and **Mike Shaw**, Loss Prevention Manager, TML Intergovernmental Risk Pool, discussed The Basics of Workers Compensation: TWCC-1, MMI, TIBs – What Does It All Mean? They did a great job in explaining a very dry subject, and fielding lots of questions from the audience. **Justin Johnson**, Consultant, Arthur Andersen, wrapped up the afternoon facilitating discussion on Compensation and Classification: Market Based vs. Point Factor – What's the Difference? He was enjoyable and insightful, as usual! ★

IT'S ELECTION TIME!

*By Laura Morrow, SPHR, IPMA-CP
Director of Human Resources
City of Allen*

On August 1, ballots will be mailed out to all active members of TMHRA. (An active member is the administrative head or director of a municipal human resources department, or the head of a major subdivision thereof; in lieu of such a department, an individual serving as the highest ranking person actively engaged in municipal management and/or civil service administration in any City of the State of Texas.) TMHRA is your organization, and this is your chance to elect the individuals you want as leaders for the next two years.

BOARD MEMBERS WHO WILL CONTINUE FOR 2002-2003 INCLUDE:

President:	Janet Melancon	City of Waco
Vice President:	Barry Robinson	City of Greenville
Trustee:	Melanie Helms	City of Bryan
Trustee:	George Mones	City of Mesquite
Trustee:	Bonita Hall	City of Longview
Immediate Past President:	Libby Lanzara	City of Fort Worth

Candidates for Secretary/Treasurer, which will move up to Vice President and then President, include (one will be elected):

Laura Morrow	City of Allen
Lauren Safranek	City of Frisco

Candidates for Trustee include (three will be elected):

Harold Cates	City of Southlake
Jo Ann Franke	City of Brownwood
Charmelle Garrett	City of Victoria
Ida Rivera	City of Sweetwater
Scott Snider	City of Lubbock
Lynn Thornton	City of Amarillo

Candidates for TML Board Representative include (one will be elected):

Cynthia Garcia	City of Corpus Christi
Jim Parrish	City of Amarillo

Watch for ballots to hit your desk in August, and please vote!!!

TEXAS MUNICIPAL HUMAN RESOURCES ASSOCIATION - BOARD LIST (November 2001 – November 2002)

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