

THE BRIEF



Information for Texas Municipalities about Texas Municipal Courts (April 2021)

OFFICIAL OPPRESSION: CITY OFFICIALS & TRAFFIC QUOTAS

A Cautionary Tale for All Texas Cities

Texas Has Long Prohibited Traffic Quotas. The Conviction of a City Administrator Sets a New Precedent for Violators at City Hall.

The integrity of law enforcement and municipal courts in Texas hinges on maintaining public confidence that fairness, justice, public safety, and the rule of law, not revenue generation, are the reasons Class C misdemeanors (crimes punishable by the imposition of a fine) exist.

A 2020 decision of a Texas court of appeals, affirming the conviction of a city administrator, is garnering attention across the state and increased public scrutiny of city hall. The implications of the decision are significant for cities of all sizes.

More than half a billion dollars in fines are collected by Texas cities every year. Yet, under Texas law, fines are a form of punishment for people who break the law, not a revenue source for funding government.

Herein lies a tender trap for municipal governments and city officials.

Guardrails in Government: State Law Limits on Localities and Traffic Fines

In cities and counties with a population of less than 5,000, Section 542.402 of the Transportation Code generally limits the amount of money generated by criminal traffic enforcement to 30 percent of local government revenue.

Regardless of population, all local governments are legally prohibited from having traffic offense quotas. Section 720.002 of the Transportation Code prohibits formally or informally establishing a plan to evaluate, promote, compensate, or discipline a peace officer or judge based on the number of citations issued or fines collected. Municipal officials and employees may not expect, require, or suggest that a peace officer issue a predetermined or specified number of traffic citations within a specified period. Similarly, municipal officials and employees are prohibited from expecting, requiring, or even suggesting that a municipal court or municipal judge collect a predetermined amount of money from persons convicted of a traffic offense during any period. The law does not, however, prohibit a municipality from obtaining budgetary information from a municipal court, including an estimate of the amount of money the court anticipates will be collected in a budget year.

The Costs: Traffic Quotas and City Hall

Violations of state law regarding traffic quotas have political and professional consequences. A violation of Section 720.002 by an elected official is misconduct and a ground for removal from office. A violation of the law by a person who is not an elected official is a ground for removal from the person's position. Additionally, it is important that elected officials and city staff know that municipalities throughout Texas have been subject to costly whistleblower lawsuits, audits, and investigations for violating the state law prohibition against traffic-offense quotas.

The Crime: Abuse of Official Capacity

Since the enactment of Section 720.002 in 1995, there has been a lingering question about criminal liability for violators. However, until recently, there has been little guidance in terms of case law.

In 2019, a city administrator was convicted because of traffic-offense quotas. The crime? Abuse of Official Capacity (Section 39.02(b) of the Penal Code). The conviction was affirmed in [Becker-Ross v. State](#) by the Sixth Court of Appeals in 2020.

The evidence presented at trial showed that Rosena Becker-Ross, the city administrator for the City of Mount Enterprise, contacted the city marshal many times and urged him to write a certain number of traffic tickets within a specified period. Messages introduced as evidence included audio recordings, emails, and text messages. The evidence showed that Becker-Ross was relentless in pushing the city marshal to write more traffic citations. A jury found the city administrator guilty of three counts of Abuse of Official Capacity. A public servant commits this crime if, with intent to obtain a benefit, he or she intentionally or knowingly violates a law relating to the public servant's office or employment.

As the court explains, Section 720.002 applies to any elected or unelected official who suggests to a peace officer that the officer is required or expected to meet a traffic-offense quota. It does not matter whether the official has actual authority over the peace officer. Similarly, it does not matter whether the official receives a benefit from violating Section 720.002. What matters is if the official intends to receive a benefit. Circumstantial evidence existed that Becker-Ross intended to benefit from the violation of Section 720.002. Fifty-four percent of the city's budget in 2017-2018 was collected through payment of traffic fines. She was the highest paid city employee, she sent emails to the city marshal showing salaries would have to be cut if the city marshal did not meet the traffic-offense quota, and there was testimony that her salary was cut due to failure to bring in traffic fine revenue.

Abuse of Public Confidence

Revenue generated by Class C misdemeanors should be viewed by city officials as an incidental byproduct of law enforcement and court operations. Traffic quotas undermine traffic safety and public confidence in law enforcement and local courts.

Traffic safety is a compelling public interest. Most public servants are committed to reflecting on their role in government and promoting the public's interests. Public officials and employees who either enable or perpetrate traffic quotas do not serve the public's interest. It is criminal. Furthermore, it is an abuse of public confidence that cannot be tolerated in any city hall by those truly committed to serving the public's interests.

The Brief is a periodic briefing for Texas mayors, city council members, and other local officials highlighting issues and increasing awareness and understanding of municipal courts in the Lone Star State. *The Brief* is part of TMCEC's public information and education campaign, *Councils, Courts, and Cities* (C3). For more information about TMCEC, visit: www.tmcec.com. Follow C3 on Twitter: @C3ofTexas.

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