

THE BRIEF



Information for Texas Municipalities about Texas Municipal Courts (May 2020)

SPECIAL EDITION

Judicial Independence, Collaboration, and COVID-19

Canon 1 of the Canons of Judicial Conduct requires all Texas judges, including municipal judges, to uphold the integrity and independence of the judiciary. Municipal courts make up the greatest portion of the state judicial system and more people come in contact with municipal courts than all other Texas courts combined. Due to this broad reach of municipal courts, it is imperative that city officials and employees understand that upholding the integrity and independence of Texas courts involves city hall.

So, what happens when the operation of municipal courts, the Texas courts that come in contact with the most people, is interrupted by a global pandemic? COVID-19, the novel coronavirus, presents novel questions about the operations of courts (e.g., access to court buildings, internal operations, and logistics).

How has the Coronavirus affected the operations of your municipal court? Is there a conscientious effort by city employees and court personnel to respect the boundaries between city hall and city court?

Judicial Independence is Important to City Hall

Ask your city attorney. Pandemic or no pandemic, legally, from the perspective of city hall, judicial independence is a good thing. It is not only essential to ensuring that the public has access to fair and impartial judicial proceedings, it is also why cities are not held legally responsible for the decisions of municipal judges. This protection does not apply when judges are not acting independently but are instead effectuating official policies or customs of cities that violate constitutional rights. In such cases, municipalities face potential liability.

Preserving the integrity and independence of courts is an on-going challenge. Judges and court personnel routinely find themselves in disputes with other government officials relating to the operation of court. It comes with the territory. It is not necessarily a bad thing. Generally, disputes involving municipal courts involve questions about the relationship between the municipal court, city council, mayor, and city manager.

Judicial independence can be put to the test during difficult times. Nevertheless, it is important to remember that judicial independence does not mean that courts operate in a vacuum or with complete autonomy. Courts by their very nature are dependent on other parts of government. While municipal courts in Texas are state courts, they are courts hosted by municipalities and housed in buildings owned by cities. The proper operation of municipal courts hinges on understanding the balance of power between city hall and municipal court and collaboration between city officials and staff and municipal judges and court personnel.

Novel Virus, Novel Partnerships

In terms of operations of the local courts, COVID-19 is historic in the amount of collaboration required. Not only must there be collaboration between city hall and the municipal court, the municipal court must also collaborate with the state. To address health and safety concerns in courthouses throughout Texas, the Supreme Court of Texas has ordered that municipal courts comply with guidance from the Office of Court Administration (OCA). According to that guidance, courts are required to continue using all reasonable efforts to conduct proceedings remotely via videoconferencing. On or after June 1, 2020, courts may resume holding some in-court proceedings, but prior to doing so, each presiding municipal judge must submit an operations plan to the regional presiding judge. Jury trials must not be held prior to August 1, 2020 until further guidance is issued by OCA. ([Click here for more details.](#))

Rising to the Challenge

Courts across Texas are working hard to address the challenges posed by COVID-19. These challenges are a two-way street. Officials and employees at city hall should not usurp or exercise judicial power that state law gives only to municipal courts. At the same time, judges and court personnel should be mindful that municipal courts are hosted by local governments and judicial independence does not insulate a judge from allegations of misconduct or the requirement of accountability.

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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