

THE BRIEF



Information for Texas Municipalities about Texas Municipal Courts (August 2018)

Where Loyalty Lies: City Hall and Municipal Court

You are probably familiar with the old adage associated with University of Texas football coach, Darrell Royal, “You dance with the one that brung ya.”

The American workplace has long put a premium on “being a team player.” Government is no exception. A duty of loyalty in the workplace predates sports metaphors and discussions of leadership, human resources, and organizational management.

If you are a mayor, a city council member, or other local official, what is your expectation for people on the city payroll? Should your expectations of people who work in the municipal court be the same as those who work at city hall? A related and equally important question: what does the public expect?

The Public Expects Judicial Independence

Judicial independence entails courts operating free from the improper influence of other parts of government (including employees and officials) and both private and partisan interests.

Regardless whether you are in a big city or a small town or whether court proceedings are held in city council chambers or in a separate building, judicial independence involves maintaining a figurative distance between city hall and the municipal court.

What steps has your city taken to demonstrate commitment to acknowledging and protecting the independence of its municipal court? In the context of municipal government, judicial independence means that municipal courts must not act, or be expected to operate, as a rubber stamp for the mayor, city manager, police department, or any other operating department.

Judicial independence does not mean that city hall should ignore what is happening in the municipal court. Judicial accountability and judicial independence go hand in hand.

The public is counting on city hall to make sure that judges do not act like prosecutors or defense attorneys, and clerks do not usurp the authority of judges or become proxies for law enforcement or the finance department.

The Public’s Trust Resides in City Hall

While most judges in Texas are elected by the people, most municipal judges in Texas are appointed by city council. Many court clerks in Texas are elected. In contrast, most municipal court clerks are hired indirectly or directly by council. Most prosecutors in Texas are elected by the people. Most municipal prosecutors are hired by the city hosting

the municipal court. More people come in contact with municipal courts in Texas than all other courts combined. These contacts tend to define the public's perception of the entire Texas judicial system.

The decisions made at city hall have an effect on people's public perception of justice. When it comes to municipal court, city council members are entrusted with the power of the people. With great power comes great responsibility. (No pressure).

Public Perception

Cities are encouraged to be mindful of public perception and take steps to promote public confidence in its municipal court.

Preserving judicial independence and avoiding the appearance of impropriety can be difficult regardless of a city's population.

The challenge can be harder in a smaller town. When judges act also as clerks, clerks serve in other various municipal capacities (city secretary, police dispatcher, etc.), or where the offices of the court are located in the same building as the police department, judicial independence can be undermined by public perception.

Carefully examine local signage, webpages, and other sources of public information.

- Is it clear that the municipal judge is not an employee? (Per state law, a municipal judge is a public official either appointed or elected to either a two- or four-year term of office.)
- Is the municipal court depicted in an organizational chart as just another city department? (A municipal court is part of the state judicial system hosted by a municipality.)
- Does your organizational chart depict the municipal court as being under the police department or the finance department?

The above practices can lead to issues with public perception and confidence in the municipal court.

City Hall's Duty of Loyalty

When it comes to municipal court, the duty of loyalty of a mayor, a city council member, and other local officials is to the public and its interest in justice.

This duty of loyalty can be breached by allowing other interests to supersede the interests of justice or by promoting a court culture where court personnel are more committed to city hall than doing individual justice in individual cases.

The integrity of a court often reflects the integrity of city hall. The public is depending on city hall.

When it comes to court, regardless whether you are a mayor, a city council member, or other local official, it is important to remember that the public expectation is that you will make decisions that place the interest of justice first and foremost.

It is important to dance with the one that brung ya!

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. For more information visit: www.tmcec.com.