



ETHICAL ISSUES IN MUNICIPAL COURT

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MUNICIPAL COURT

WHY YOU SHOULD BE CONCERNED

Criminal Courts – constitutional rights are involved – same for a Class C as for a felony

With respect to your Police - court operations can effect individual and departmental effectiveness

Changes in society filter down to municipal court – You will see what you read about – much sooner than you think

MOST IMPORTANT is CUSTOMER SERVICE – the weakest link defines a machine

More citizens have direct contact with municipal court than any other department

DUAL EMPLOYMENT

Code of Judicial Ethics – Canon 1 & 4I - act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary,” and that a judge may be paid only if the source of such payment does not give the appearance of impropriety

Attorneys defending persons charged with criminal offenses

Task Forces – Multi agency and Multi jurisdictional

Court Clerks as municipal judge

Clerk/Judge - Beginning third quarter of fiscal year behind budget but is faced with several speeders who have money and can afford to pay more

ROADSIDE PAYMENTS

Probable Cause versus appearance of impropriety

Training

Collateral effects such as release of Omni Holds

INVERSE DISCRIMINATION

Paying for your freedom

Is the right to an attorney a prerequisite to being jailed


Is being indigent a morally relevant characteristic?

RULES

Code of Criminal Procedure: Article 45.201(d) – “It is the primary duty of a municipal prosecutor not to convict, but to see that justice is done.

Texas Rules – 3.09, Comment 1: “A prosecutor has the responsibility to see that justice is done, and not simply be an advocate.


Rule 3.09(c) - not initiate or encourage efforts to obtain from an unrepresented accused a waiver of important pre-trial, trial or post-trial rights



Attorney works for a law firm who has a contract with the city to prosecute its Class C misdemeanors and city code violations in its municipal court and is paid per hour. Attorney is assigned a case where the defendant has committed one city code violation involving his property but the property is now up to code.

Rule 1.04 - Fees

Rule 3.02 Minimizing Burdens and Delays



Defense attorney's client was roughed up during a DUI arrest, and a lawsuit against the City was filed, but not yet served. Attorney offers to dismiss the suit if the DUI is dismissed.

Who's the Boss?

Trucking company and truck stop are significant economic generators for City. Council member wants you to give driver breaks by dismissing moving violations in favor of lesser offenses.

Who's the Boss?

Upholding laws and constitution

Doing Justice? For whom?



INDIGENTS

May be the hottest upcoming issue facing municipal courts

No debtor's prison – many courts no longer jail Class C defendants

Keeping order – especially on the highways

Community service

Refusing to complete community service – falsifying hours

Appointment of attorneys – when is it necessary for Class C

MENTAL ILLNESS

Expanding jurisdiction over non-vehicular crimes means increased likelihood of defendants with mental illness

Knowing and voluntary waiver of constitutional rights

Lack of legal representation

Mens Rea

Driving offenses and dementia

“Purchasing” new health record to defeat driving without a license



QUESTIONS

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