

**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**Presented by  
David L. Garza  
Municipal Court Judge  
City of Bee Cave, Texas**

By the end of the session, participants will be able to:

1. Recognize the special needs of a self represented defendant.
2. Explain court procedures and options to a self represented defendant while avoiding Ex Parte communications.
3. Identify steps to preserve the right to a fair trial for all parties

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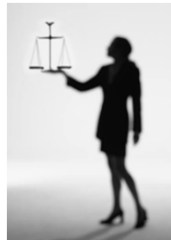
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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

Public trust and confidence in our legal system is grounded in the practice and perception of fairness and equality in our courts.



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**BEST PRACTICES FOR DEALING WITH  
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Municipal courts occupy a unique position in the Texas judicial system.

More citizens come into personal contact with municipal courts than with all other Texas courts combined.

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**



**Most defendants  
accused of fine  
only offenses  
appear in court  
“Pro Se” or  
unrepresented  
by counsel.**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**Put it all together and what do you  
get...?**

**There is probably no greater  
opportunity and/or responsibility to  
uphold the integrity of the justice  
system than your interactions with self  
represented defendants.**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**The self represented defendant has  
become a fixture on the modern legal  
landscape.**

**So who are they and where do they  
come from?**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**The rise of self represented  
defendants can be attributed to many  
factors:**

- \* The high cost of legal representation;**
- \* A better educated populace;**
- \* The availability of court approved  
forms and self help sites.**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**We as Judges are all well aware of the  
issues self represented defendants  
present:**

- \* They lack knowledge of the law;**
- \* They lack knowledge of the rules of  
evidence;**
- \* They lack knowledge of the rules of  
procedure;**
- \* They just don't know how the courtroom  
operates.**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**Positive aspects of dealing with self  
represented defendants:**

**Self represented defendants appreciate being  
heard and telling their story;**

**Sometimes, being able to communicate  
directly with the parties facilitates resolution  
by getting directly to the issues.**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**So how can we address the self  
represented defendant situation and  
still be fair to all?**

**“It is not as important that the Prince  
do justice as it is that the Prince  
appears to do justice”.**

**Therein lies our conflict.**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

**A judge can both engage parties and appear  
impartial.**

**Judges must develop their own style of how  
this is accomplished.**

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

| <b>Neutral and Engaged</b>   | <b>Disengaged</b>  |
|--|--|
| <ul style="list-style-type: none"><li>• <b>Creates an environment in which all relevant facts are shared;</b></li><li>• <b>Engages parties as needed to bring out the facts and their foundation;</b></li><li>• <b>Ensures neutrality by ensuring that each side tells their full story.</b></li></ul> | <ul style="list-style-type: none"><li>• <b>Leaves it to the parties to get their evidence and foundations before the court;</b></li><li>• <b>Does not engage parties, but rules only on motions and objections;</b></li><li>• <b>Relies on the balance of the system to ensure neutrality.</b></li></ul> |

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**BEST PRACTICES FOR DEALING WITH  
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The Judge's role is paramount in this.

The credibility of the system is more dependent on the credibility of the Judge than on any other factor.

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**BEST PRACTICES FOR DEALING WITH  
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Key points:

The Judge should ensure self represented defendants a right to be heard;

The Judge can facilitate resolution without becoming an advocate;

The Judge can provide a fair and meaningful hearing without sacrificing efficiency.

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

Remember, we Judges have tremendous judicial flexibility and discretion over:

Procedure;  
Evidence;  
Decisions and orders.

Judges can do justice and appear to do justice with thoughtful, neutral engagement.

Neutral engagement must be evenhanded.

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**BEST PRACTICES FOR DEALING WITH SELF REPRESENTED DEFENDANTS**

**Setting the stage...**

**What is our goal?**  
\* Ensuring access to justice in a neutral court.

**How do we do this?**  
\* By modeling good behavior.

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**BEST PRACTICES FOR DEALING WITH SELF REPRESENTED DEFENDANTS**

**Litigants value hearings that are dignified and formal. Formality provides structure.**

**Modeling by the court is critical;**

**Courtroom control is easier;**

**Compliance is more likely;**

**Formality is essential for difficult litigants.**

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**BEST PRACTICES FOR DEALING WITH SELF REPRESENTED DEFENDANTS**

**Communicating with the self represented defendant:**

\* Court is an intense and intimidating environment;

\* Communication is closely connected to perceptions of fairness;

\* Communication can be verbal or non-verbal;

\* Adapt the message to your audience; remember who you are dealing with.

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**BEST PRACTICES FOR DEALING WITH SELF REPRESENTED DEFENDANTS**

The importance of non-verbal communication:

Between 60-93% of the meaning of a message comes through the non-verbal paths...

- \* Voice...tone, volume, sends a message;
- \* Eye contact... or lack thereof...;
- \* Gestures...
- \* Facial expressions...
- \* Movement and bodily orientation...
- \* Use of space and room arrangement...

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**BEST PRACTICES FOR DEALING WITH SELF REPRESENTED DEFENDANTS**

Procedural fairness improves outcomes.

- \* Increased compliance with orders;
- \* Increased decision acceptance;
- \* Diminished anger/defiance towards authorities;
- \* Improves trust and confidence.

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**BEST PRACTICES FOR DEALING WITH SELF REPRESENTED DEFENDANTS**

Perception of fairness...

70% of a court user's perception of fairness is based on whether they felt that:

- \* They were treated with respect;
- \* They had a chance to be heard;
- \* They understood what was happening;
- \* The authority figure was trying to be fair.

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

Remember our goal in dealing with self  
represented defendants:

- \* A meaningful opportunity for people to  
represent themselves...
- \* In a process that is fair (within guidelines)...
- \* And that the process is perceived to be fair.

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**BEST PRACTICES FOR DEALING WITH  
SELF REPRESENTED DEFENDANTS**

Remember what Machiavelli said:

**“It is not as important that the Prince  
do justice, as it is that the Prince  
appears to do justice”**

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