

COURT DECORUM

Terry Lea Elizondo
Associate Judge, City of Southside Place

LEARNING OBJECTIVES

- Recognize that decorum can improve the court experience for all participants
- Find a balance between formality and practicality
- Identify and address situations in the court experience that create a lack of confidence

"Justice does not depend upon legal dialectics so much as upon the atmosphere of the courtroom, and that in the end depends primarily upon the judge."

-Judge Learned Hand

ADDRESSING DECORUM

- Texas Code of Judicial Conduct
 - Eight Canons
- Ethics Opinions
- News coverage (generally examples of poor decorum)
- Other communications: Facebook, YouTube, Blogs

CANON 1

Upholding the Integrity and Independence of the Judiciary.



CANON 2

Avoiding Impropriety and the Appearance of Impropriety in all of the Judge's Activities.



CANON 3

Performing the Duties of Judicial Office Impartiality in all of the Judge's Activities.



CANON 4

Conducting the Judge's Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations.



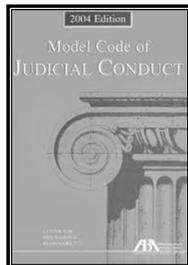
CANON 5

Refraining from Inappropriate Political Activity.



CANON 6

Compliance with the Code of Judicial Conduct.



CANON 7

Effective Date of Compliance.



CANON 8

Construction and Terminology of the Code.





"Courts embody the important appearance of authority, vital to preserving the public's perception of an orderly society."
Ryan Turner

COURT DECORUM

- Function & Organization
- Symbolic Value
- Environmental Factors
- Construction, Material & Furnishings
- Security

Ethically, all Texas judges are required to "maintain order and decorum in proceedings before the court."

Texas Code of Judicial Court, Canon 3(B)(3)



INFORMING PATRONS OF THE RULES OF COURT DECORUM

- Prominent Posting of Rules
 - Enclosures
 - Signed Endorsements?



PRO SE DEFENDANTS

- **Dealing with Pro Se Defendant out of Court**
 - Develop procedures and standing orders for support personnel for processing walk-in defendants.
 - Instruct support personnel not to give legal advice. They may inform individuals of the procedures, but not suggest or recommend a particular course of action.
 - When a guilty plea is processed or fine paid, the clerk should verify it is being done by the defendant or a person authorized to act for the defendant.
- **Dealing with the Pro Se Defendant in Court Proceedings**
 - Remind the defendant that conversations with judge are "court" proceedings.
 - Emphasize the right to retain counsel. Reasonable accommodations should be provided to defendants who appear in court pro se but who after being advised of their right to counsel wish to seek the assistance of counsel.
 - If the defendant chooses to represent himself or herself, inquire whether the defendant understands the consequences of proceeding without counsel.
 - No special treatment is required for pro se defendants.
 - The judge should be aware of the defendant's ignorance of legal procedure and rules of evidence in maintaining order and court decorum.

COURT PERSONNEL DUTIES

- Clerk
- Keep summaries of court actions in an "appearance docket";
 - Maintain case files;
 - Collect fines, fees and forfeitures; and
 - Distributes or expends collected monies and reports to the different agencies provided by law.
- Bailiff
- Provide Security and Maintain Security
 - Transport Defendants
 - Maintain Order and Communicate Instructions or Procedures
 - Stock and Fill Supplies or Maintain Equipment
 - Work with Juries
 - Sees that the flag of the United States of America and the flag of the State of Texas are displayed.

COURT PERSONNEL DUTIES

- Attorneys
- Attorneys shall observe the letter and spirit of all canons of ethics.
 - Attorneys shall advise their clients and witnesses of the Rules of Decorum and Conduct that may be applicable to them.
 - Attorneys are not excused for arriving late even if in another Court, unless previous arrangements and approval of the Judge has been given.
 - All remarks of counsel to the Court shall be addressed to the Court formally.
 - Do not approach the Judge's bench or Clerk's desk without permission.
 - Do not rest arms or hands on the bench.
- All personnel
- Turn off all cell phones, computers, iPads, pagers, and all other electronic devices.
 - No food, gum or drinks are permitted within the courtroom.

JUDGE'S RESPONSIBILTIES

1. Remain impartial on gender and national origin
2. Refrain from showing favoritism
3. Be Professional
4. Start court on time and respect others time.

Discuss Judge J. Kent Adams' Public Admonitions 2012

Judge Adam's public admonition claimed that he:

- a. Told a defendant that he would "throw his twat in jail;"
- b. Asked an African-American parent "if she was on welfare and expected the government to pay her fine;"
- c. Asked a Hispanic parent "if she had 6 or 7 kids;"
- d. Told a Pakistani parent that her son should be "stoned to death."
- e. Inquired about legal status and called ICE if defendant confirmed their status as illegal immigrants.

Judge Adam was reprimanded for failing to comply with the law and failed to demonstrate a lack of professional competence in the law by demonstrating a lack of patience, dignity and courtesy expected of a judicial officer.

PROPER COURT ATTIRE

The following should not be worn:

- Shorts or cut-offs
- Low-cut blouses or tops
- Short skirts or dresses
- Sleeveless shirts
- Clothing with offensive vulgar, racist, sexist, obscene lewd or suggestive words, slogans, depictions or pictures; and
- Excessively baggy clothing and pants worn below the waistline
- Hats, caps, bandanas or headgear shall not be worn in the courtroom

COURT DECORUM

Appropriate clothing

PLEASE DRESS MODESTLY
FAVOR DE VESTIRSE CON MODESTIA



Inappropriate clothing



COURT DECORUM

Appropriate clothing



Inappropriate clothing



COURT DECORUM



NO
CELL PHONES!

HEAVY METAL IN THE COURTROOM

How do we handle?

- Tattoos
- Facial Piercings



HOW TO HANDLE BABIES AND SMALL CHILDREN?

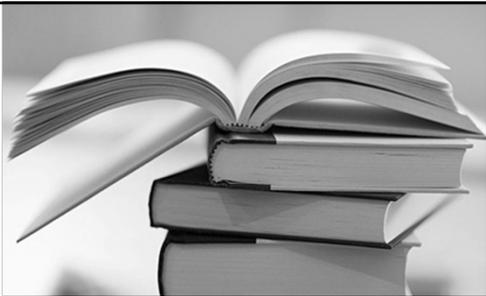
Does this look familiar?
What should you do?



BABIES & SMALL CHILDREN

What to do when a baby is in the courtroom?

- Public Admonition of Justice Patricia Ott for "abandoning proper judicial demeanor" Ordered a disruptive four-year-old child of a prospective juror to be removed from the courtroom, while ordering the mother to stay. Judge Ott failed to be patient, dignified and courteous, as required by Canon 3B(4).
- Lawyer on Maternity Leave Brings Baby to Court After Judge Refuses Trial Delay Request Attorney Amber Vazquez Bode had a cesarean section in late April. On Thursday, just ahead of a deadline, she requested a continuance in the misdemeanor trial of her client, a grease recycler accused of taking the material from a restaurant without permission, Bode says. Justice of the Peace Glenn Bass refused the request, prompting Bode to bring her baby to court for the Monday trial.
- Attempt to handle the matter and reset if it's not possible due to the child's behavior. Request parent to attempt to return without the child or children.



TEXAS PENAL CODE

Code of Criminal Procedure and Municipal Courts

TEXAS PENAL CODE

- Article 45.201 of the Code of Criminal Procedure requires that prosecutors be present at bench and jury trials, and prosecutors are to be city attorneys of the municipality or by a deputy city attorney.
- Title 9, Chapter 42 of the Texas Penal Code which relates to offenses against public order and decency, specifically, disorderly conduct and related offenses. Section 42.01 states it is an offense to intentionally or knowingly:
 - "use abusive, indecent, profane, or vulgar language in a public place;"
 - Make or display offensive gestures in a public place;
 - Abuse or threaten a person in a public place;
 - Make unreasonable noise in a public place

CONCLUSION

- Court decorum is vital to maintaining the integrity of the court.
- The Judge is an important part of maintaining court decorum.
- Attendees generally want to respect the court system.
- Many visitors to municipal court are there for their first and only time.
- Other attendees were born and raised in other countries and have no idea how a court must operate.
- It is the Judge's responsibility to balance formality and practicality with understanding.
- The most common reason for lax decorum is a general failure to appreciate its importance.
- By promulgating and enforcing decorum each Judge honors the history and importance of a truly American institution.

COURT DECORUM

Terry Lea Elizondo
Associate Judge, City of Southside Place

Court Decorum
Texas Municipal Courts Education Center

By: Terry Lea Elizondo

“Justice does not depend upon legal dialectics so much as upon the atmosphere of the courtroom, and that in the end depends primarily upon the judge.”

- Judge Learned Hand

“Courts embody the important appearance of authority, vital to preserving the public’s perception of an orderly society.”

- Ryan Turner

I. Texas Code of Judicial Conduct

The Texas Code of Judicial Conduct sets forth the following preamble:

“Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of this Code of Judicial Conduct are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts and law for the resolution of disputes and a highly visible symbol of government under the rule of law.

The Code of Judicial Conduct is not intended as an exhaustive guide for the conduct of judges. They should also be governed in their judicial and personal conduct by general ethical standards. The Code is intended, however, to state basic standards which should govern the conduct of all judges and to provide guidance to assist judges in establishing and maintaining high standards of judicial and personal conduct.”¹

In addition to the preamble set forth above the Texas Code of Judicial Conduct specifically states eight (8) “canons” that are to be deeply rooted in the mores of presiding justices across the state.²

Canon 1: Upholding the Integrity and Independence of the Judiciary

Canon 2: Avoiding Impropriety and the Appearance of Impropriety in all of the Judge’s Activities.

Canon 3: Performing the Duties of Judicial Office Impartially and Diligently.

Canon 4: Conducting the judge’s Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Obligations.

Canon 5: Refraining from Inappropriate Political Activity.

Canon 6: Compliance with the Code of Judicial Conduct.

Canon 7: Effective Date of Compliance.

Canon 8: Construction and Terminology of the Code

II. The Rules of Court Decorum

Court decorum is a utility that creates an optimal climate for the administrations of justice. All Texas judges are required to “maintain order and decorum in proceedings before the court.”³ Each

¹ Texas Code of Judicial conduct, <http://www.courts.state.tx.us/judethics/canons.asp>

² Id.

municipality is different, therefore, each municipality is given broad discretion in creating their own rules of court decorum that fits and is suitable to their own municipality. However, as stated in the Summer 2002 Municipal Court Reporter there are other factors to consider when assessing how a courtroom should function, such factors include:⁴

- (a) Function and Organization – Courtroom facilities should be of adequate size to accommodate a jury box, witness stand, designated places for court personnel, a gallery, and designated place for prosecution and defendant.
- (b) Symbolic Values – The fixtures of the courtroom should announce to all who enter it the importance of the administration of justice.
- (c) Environmental Factors – Facilities should have adequate lighting, air-conditioning, heating, and audio amplification equipment when needed.
- (d) Construction, Material, and Furnishings – the appearance of the courtroom directly impacts morale; quality environments encourage quality performance.
- (e) Security – Judge and city officials should take appropriate measures to protect both court personnel and members of the public.

Furthermore, attached to this packet is a copy of the Model Rules of Court Decorum. The rules of decorum are necessary to govern the conduct of court participants as such rules are essential managerial tools that assist the judge in fulfilling their judicial duties.

III. **Informing Patrons of the Rules of Court Decorum**

It was published in the Summer 2002 Municipal Court Reporter that a substantial percentage of municipal courts across Texas did not post any rules of court decorum. It was specifically stated that a mere 22.9% of low volume municipal courts posted rules of decorum. The rules of decorum address a wide range of citizens and more than just courtroom spectators. It becomes necessary therefore to inform and make the given patrons aware of the rules of decorum.

The issue of the same Municipal Court Reporter suggested ways in which to inform to the patrons of the court of the Rules of Court Decorum and included the following:

- (a) Prominent Posting of Rules
- (b) Enclosures – Distributing court rules of decorum with other court correspondence addressed to defendants, witnesses, and lawyers.
- (c) Signed Endorsements – This method compels parties to carefully read and acknowledge the rules of decorum, it also acts as proof of admonishment in instances where insubordination results in contempt.⁵

***Remember: “The only thing worse than having no rules is having rules you do not enforce.”

IV. **Pro Se Defendants**

Although, all Defendants are afforded the right to assistance of counsel, however, many Defendants in a Municipal Court will opt to appear pro se. For many of these pro se Defendants this will be their only time in the presence of court, therefore, it becomes necessary to provide them assistance to ensure that they abide by the proper rules of decorum. The TMCEC has previously published a checklist of proper protocol when dealing with Pro Se Defendants out of court; and a separate checklist of how to deal with Pro Se Defendants in Court Proceedings.

³ Turner, Ryan, Municipal Court Reporter: Summer 2002, Page 10

⁴ Id. at Page 10-11

⁵ Id. at Page 12-13

1. Dealing with Pro Se Defendant out of Court
 - a. Develop procedures and standing orders for support personnel for processing walk-in defendants.
 - b. Instruct support personnel not to give legal advice. They may inform individuals of the procedures, but not suggest or recommend a particular course of action.
 - c. When a guilty pleas is processed or fine paid, the clerk should verify it is being done by the defendant or a person authorized to act for the defendant.
2. Dealing with the Pro Se Defendant in Court Proceedings
 - a. Remind the defendant that conversations with judge are “court” proceedings.
 - b. Emphasize the right to retain counsel. Reasonable accommodations should be provided to defendants who appear in court pro se but who after being advised of their right to counsel wish to seek the assistance of counsel.
 - c. If the defendant chooses to represent himself or herself, inquire whether the defendant understands the consequences of proceeding without counsel.
 - d. No special treatment is required for pro se defendants.
 - e. The judge should be aware of the defendant’s ignorance of legal procedure and rules of evidence in maintaining order and court decorum.⁶

V. **Duties of Court Personnel (Clerk, Bailiff, & Prosecutor)**

1. Clerk⁷
 - a. Keep summaries of court actions in an “appearance docket” on the computer;
 - b. Maintain case files;
 - c. Collect fines, fees and forfeitures; and
 - d. Distributes or expends collected monies to the different agencies provided by law.
2. Bailiff⁸
 - a. Provide Security Checks and Maintain Security
 - b. Transport Defendants
 - c. Maintain Order and Communicate Instructions or Procedures
 - d. Stock and Fill Supplies or Maintain Equipment
 - e. Work with Juries
 - f. Sees that the flag of the United States of America and the flag of the State of Texas are displayed.
3. Attorneys⁹
 - a. Attorneys shall observe the letter and spirit of all canons of ethics.
 - b. Attorneys shall advise their clients and witnesses of the Rules of Decorum and Conduct that may be applicable to them.
 - c. Attorneys are not excuse for arriving late even if in another Court, unless previous arrangements and approval of the Judge has been given.
 - d. All remarks of counsel to the Court shall be addressed to the Court formally.
 - e. Do not approach the Judge’s bench or Clerk’s desk without permission. Do not rest arms or hands on the bench.
4. All personnel¹⁰

⁶ Chapter 3 Pro Se Defendants and Defendants Represented by Counsel, TMCEC Bench Book, Page 73-78

⁷ Duties and Responsibilities of Carter County Clerk, <http://www.brightok.net/cartercounty/courtclerkduties.html>

⁸ Duties of Court Room Bailiff, http://www.ehow.com/list_6528299_duties-court-room-bailiff.html

⁹ 2012 Rules of Decorum and Conduct in Lakeview Municipal Court of Record Number One, Pages 3-4
<http://www.cityoflakeway.com/DocumentCenter/View/16947>

¹⁰ Id. at 5

- a. Turn off all cell phones, computers, ipads, pagers, and all other electronic devices.
- b. No food or drinks are permitted within the courtroom.

VI. **Proper Court Attire**

1. Judges- A robe distinguishes the judge from all other parties involved. The robe symbolizes authority and commands respect for maintaining court decorum. However, some municipal judges do not wear the robe because it helps put *pro se* defendants at ease and believe a suit and tie will suffice.¹¹
2. Defendants- Not hats, caps, bandanas, or any headgear shall be worn in the courtroom unless given permission by the judge. The following should not be worn:
 - a. Shorts or cut-offs;
 - b. Low-cut blouses or tops;
 - c. Short skirts or dresses;
 - d. Sleeveless shirts;
 - e. Clothing with offensive, vulgar, racist, sexist, obscene, lewd, or suggestive words, slogans, depictions, or pictures; and
 - f. Excessively baggy clothing and pants worn below the waistline¹²

VII. **Texas Penal Code/Code of Criminal Procedure and Municipal Courts**

1. Article 45.201 of the Code of Criminal Procedure requires that prosecutors be present at bench and jury trials, said prosecutors are to be city attorneys of the municipality or by a deputy city attorney.¹³
2. Title 9, Chapter 42 of the Texas Penal Code which relates to offenses against public order and decency, specifically, disorderly conduct and related offenses. Section 42.01 states it is an offense to intentionally or knowingly:
 - a. “use abusive, indecent, profane, or vulgar language in a public place;”
 - b. Make or display offensive gestures in a public place;
 - c. Abuse or threaten a person in a public place;
 - d. Make unreasonable noise in a public place¹⁴

¹¹ Turner, Ryan, Municipal Court Reporter: Summer 2002, Page 6

¹² Court Decorum for the City of Liberty, Texas

¹³ Turner, Ryan, Municipal Court Reporter: Summer 2002, Page 9

¹⁴ Title 9. Offenses Against Public Order and Decency; Chapter 42. Disorderly Conduct and Related Offenses

MODEL RULES OF COURT DECORUM

- I. COURTS WHERE APPLICABLE.** Under the inherent power and duty of all Texas courts as codified in Section 21.002, *Government Code*, the following Rules of Decorum shall apply and govern all proceedings before the Municipal Court of the City of _____ in the County of _____, Texas.
- II. FORMAL OPENING.** Each daily session of the Court shall be brought by announcement of the Bailiff, Clerk or other officer of the court requiring all to rise as the Judge takes the bench.
- III. CONDUCT REQUIRED OF ALL PERSONS WHILE ATTENDING COURT.** While the Court is in session there shall be:
- A. No smoking or use of tobacco products.
 - B. No reading of newspapers or magazines.
 - C. No propping of feet or sitting on tables, chairs, benches, or railings.
 - D. No loud noises or talking.
 - E. No gum chewing.
 - F. No food or beverages.
 - G. No gestures, facial expressions, or sounds indicating approval or disapproval.
 - H. No inappropriate attire.
- IV. CONDUCT REQUIRED OF COUNSEL AND PRO SE DEFENDANTS**
- A. Attorneys shall observe the letter and spirit of all canons of ethics, including those concerning improper *ex parte* communications with the Judge and with those dealing with discussion of cases with representatives of the media.
 - B. Attorneys shall advise their clients and witnesses of Rules of Decorum that may be applicable.
 - C. *Pro se* defendants (defendants acting as their own counsel) shall conform their behavior to all provisions applicable to Counsel.
 - D. Counsel shall be dressed appropriately while in attendance of the court, unless otherwise permitted by the Court.
 - E. All parties shall be prompt in arriving for Court and in attending to Court business.
 - F. Once a party has entered the courtroom and is appearing before the Court, he/she shall not leave without obtaining permission from the Court.
 - G. The State, or moving party, shall be seated at the counsel table or side of the counsel table nearer the jury box.
 - H. All remarks of counsel to the Court shall be addressed to the Court formally.
 - I. The Court and opposing parties shall address each other and members of the Jury without familiarity. The use of first names shall be avoided.
 - J. All objections, arguments, and other comments shall be directed to the Judge or Jury and not to opposing counsel.
 - K. Objection shall be in proper legal form. Argument will not be entertained upon an objection except with the Court's permission.
 - L. In addressing the Court, counsel shall rise and remain standing at their positions at counsel table.
 - M. Counsel shall remain seated at the counsel tables at all times except:
 - 1. when the Judge enters and leaves;
 - 2. when addressing the Judge or jury;
 - 3. whenever it may be proper to handle documents, exhibits, or other evidence; and
 - 4. when objecting to opposing counsel.
 - N. Counsel shall not approach the bench except with permission or on request of the Court.
 - O. Counsel shall not lean on the bench, sit on rails or tables, or appear to engage the Court in a confidential manner.
 - P. No attorney or party shall expect any Court attendant to request his or her presence prior

(over)

to the commencement or resumption of any Court proceedings

- Q. The Court may enforce these rules of conduct and decorum by appropriate action or sanctions.
- R. Nothing herein shall prevent or prohibit the further adoption of additional rules of decorum.

V. BAILIFFS.

- A. The Bailiff or Bailiffs shall be present at all times when the Court is in session or in recess, unless excused by the Judge. No duty shall be assigned to the Bailiff without prior approval of the Judge.
- B. The Bailiff shall see that the flag of the United States of America and the flag of the State of Texas are properly displayed and respected in the Courtroom.
- C. The Bailiff shall enforce all rules of conduct and decorum and other duties assigned by the Judge.

VI. ENDORSEMENT. All attorneys practicing before the Court and *pro se* defendants (defendants acting as their own counsel) are required to conform their conduct to the above stated Rules of Decorum. The undersigned attests to his or her receipt of said Rules and acknowledges the expectation of the Court. The undersigned further acknowledges that violation of the Rules of Decorum may constitute Contempt of Court and may be punishable by a fine and/or confinement pursuant to Section 21.002(c), Government Code.

Printed Name: _____

Signature: _____

Date: _____

Bar Card No.: _____

NOTE: This endorsement must be returned to the clerk prior to any proceeding before the court.

For your editing convenience the text of the Model Rules of Decorum may be downloaded from our website (www.tmcec.com) as a Microsoft Word document.

Court Room Assessment Survey¹

Use the following assessment survey for inspecting courtroom facilities, equipment, supplies, and other conveniences.

	Adequacy or Availability	
1. Lighting	Yes _____	No _____
2. Air-conditioning	Yes _____	No _____
3. Heating	Yes _____	No _____
4. Amplifying Equipment	Yes _____	No _____
5. Bench	Yes _____	No _____
6. Flags	Yes _____	No _____
7. State Seal	Yes _____	No _____
8. Nameplate for judge	Yes _____	No _____
9. Paper, pen, pencils	Yes _____	No _____
10. Water on bench and counsel tables	Yes _____	No _____
11. Place for witnesses	Yes _____	No _____
12. Place for court reporter (if applicable)	Yes _____	No _____
13. Place for bailiff	Yes _____	No _____
14. Place for court clerk	Yes _____	No _____
15. Table for defendant & counsel	Yes _____	No _____
16. Table for prosecutors	Yes _____	No _____
17. Place for spectators	Yes _____	No _____
18. Judges chambers	Yes _____	No _____
19. Robe	Yes _____	No _____

¹ Felix F. Stumpf. *Bench Trial Skills and Demeanor*. The National Judicial College. Reno Nevada (1995) at 15-16. Used with permission.