

FILED
 JAN 17 1990
 NOËL K. DESSAINT
 CLERK SUPREME COURT
 BY *[Signature]*

SUPREME COURT OF ARIZONA

In the Matter of:)	
)	REVISED
STANDARDS FOR MUNICIPAL COURTS)	ADMINISTRATIVE ORDER
)	No. 83-11
)	

Pursuant to the authority granted this court by Article VI Section 3 of the Arizona Constitution, and in order to preserve and protect the independence of the municipal courts throughout the state in carrying out their function of impartially hearing and deciding all cases within their jurisdiction, it is ORDERED that the following standards are adopted, and, from and after the date of this order, they shall govern the administration of all municipal courts within the state.

STANDARDS FOR MUNICIPAL COURTS

Standard 1. Duty to Uphold Justice.

The judge serves a vital function in the criminal justice system. The judge must preside over the search for truth to assure that it is carried out in accordance with the dictates of the law and principles of reason and fairness. The judge should impose a sentence in each case which is just and gives due regard to the goals of punishment, restitution, deterrence, rehabilitation and protection of the public. The judge has the responsibility of safeguarding both the rights of the accused and the interests of the public. Those duties are no less imperative in the lower courts. Whether dealing with major cases in which substantial rights may be affected or with lesser cases, Municipal Courts should be courts of justice. These standards should be construed and applied to further that objective.

Standard 2. Responsibility for Decisions.

a. Ultimate Authority. The ultimate authority for determining overall administrative policy of judicial and internal administrative functions for the Municipal Court resides with the Presiding Judge of that court. The exercise of such authority by the Presiding Judge must be independent. The ultimate authority for making judicial decisions in the individual case resides solely with the trial judge and shall not be delegated. The role and authority of the court administrator and court staff is limited to supporting the judicial and administrative functions in accordance with policies and procedures established by the Presiding Judge of the court.

b. Relationship of Municipal Court with Appointing and Funding Authority. Because of the relationship between the city and the Municipal Court, Municipal Court judges must exercise care to insure that the adjudication process remains free from the influence of any person or institution having responsibility for judicial appointments or funding. While any Municipal Court judge may listen to the counsel of others, decisions regarding the resolution of a particular case must be made by the judge in the exercise of a free and unfettered judgment. Decisions regarding the overall function of the court are the sole responsibility of the Presiding Judge, as defined in Paragraph (a) above. The authority of the Presiding Municipal Court judge for making decisions regarding the overall function of the court applies to decisions concerning handling of court mail and records, and hiring, supervision, discipline and dismissal of court personnel; provided that decisions regarding hiring, supervision and dismissal of court personnel must be consistent with municipal personnel policy. Personnel rules adopted by a City or Town for the employment, grievance procedures, termination, sick leave, overtime, vacation time, and other items are applicable to employees of the Municipal Courts. In employing additional personnel, the existing City or Town personnel procedures shall be followed. The Presiding Judge shall have exclusive supervisory authority over all court personnel while such personnel are performing work for the court. However, non-judicial functions, such as custodial and maintenance services assigned to the Municipal Court may be performed by employees or contractors working under the supervision and authority designated by the City or Town Council.

c. Priority of Judicial Policy. Care must be taken not to subordinate the judicial function of the trial judge to the administrative function of the Presiding Judge. In the Municipal Court, decisions related to the outcome of cases must be made by the trial judges. The Presiding Judge must design administrative policy and procedures to support the primary function of the trial judge. The trial judge has the responsibility to follow the administrative policy and procedures of the Presiding Judge to the extent that such policies and procedures do not impair the trial judge's ability to impartially adjudicate cases.

d. Court Revenue. The judge should not permit anyone to control or influence the discretionary amount of any fine, penalty, or sanction imposed. Under the direction of the Presiding Judge, the court shall collect all fines, sanctions, restitution and bond payments imposed by the court. Because all monies coming into the possession of the Municipal Court are public monies, these funds shall be handled and accounted for in accordance with state law and procedures adopted by the City or Town Council.

Standard 3. Duty to Maintain Impartiality and Independence.

In accordance with the judge's duty to maintain impartiality and independence, the judge shall refrain from all practices and associations which might affect or appear to affect the judge's impartiality or independence. The judge should not accompany law enforcement officers during the performance of their duties, since this practice not only gives rise to the possibility that the judge will become a witness in a case before the court but also conveys the appearance of partiality. No judge should serve as an officer, reserve officer, special deputy, or in any similar capacity, with a law enforcement agency. No judge should be a member of an association, the purpose of which is to advance the interests of law enforcement officers, prosecutors or defense attorneys.

Standard 4. Duty of the Municipal Court Judge to Act in Accordance with the Law.

The overriding duty of the Municipal Court judge is to administer justice in accordance with the law. The judge is not vested with arbitrary power, and may not disregard the law in order to do what the judge personally regards as justice. In sentencing, however, the judge should use available sentencing alternatives to assure that justice is done in the individual case. The judge must give to all persons equally the benefit of the rights, privileges and protections of the law.

Standard 5. Compliance with Applicable Law.

a. Rules of Criminal Procedure. The applicable rules of criminal procedure are designed to protect the rights of the individual and to provide for the uniform and orderly adjudication of criminal cases. Each Municipal Court judge must understand these rules and apply them to the action or proceeding before him, as applicable. Where a specific judicial form is prescribed by statute or rule, it shall be used. In particular, the criminal forms approved by the Arizona Supreme Court, or an equivalent form, shall be used.

b. Other Law. The judge shall also comply with all other applicable laws, statutes and rules of court promulgated by competent authority, as well as all applicable constitutional provisions.

Standard 6. Duty to Use Judicial Time Effectively.

A Municipal Court judge has the obligation to avoid delays, continuances and extended recesses, except for good cause. The judge should set a good example in the matter of punctuality by the observance of scheduled court hours and by the optimum use of working time. The judge should require the same of all other persons involved in cases before the Municipal Court.

Standard 7. Judicial Education.

a. General Duty. Each Municipal Court judge has a continuing duty, by formal education where available and by personal study where necessary, to gain a thorough knowledge of all laws, rules and standards that govern or guide the conduct of the judicial office and the adjudication of cases within the jurisdiction of the Municipal Court. The Presiding Municipal judges also have a duty in cooperation with the City or Town to assure court personnel receive supervision and training which enables them to perform their duties in accordance with law.

b. Specific Duty. In fulfillment of the duty described in subparagraph (a), Municipal Court judges shall attend all courses and seminars required by the Arizona Supreme Court and, where possible, appropriate courses of the National Judicial College in Reno, Nevada, and shall supplement such formal education by a continuing program of personal study. Additionally, court personnel shall be required to attend courses and seminars necessary to satisfy Supreme Court standards.

Standard 8. Court Resources.

The Municipal Court can only engender proper respect for the law and provide justice in the individual case if the court is provided with sufficient judges, supporting staff, legal resource materials such as the Arizona Revised Statutes, training opportunities for court personnel and physical facilities to assure the prompt, fair and dignified administration of justice. The Presiding Municipal Court judge responsible for the administration of the Municipal Court should be mindful of the needs of the court, and seek the cooperation of the funding authority to provide the funds required to meet those needs. Because all City or Town funds must be budgeted in accordance with the provisions of Title 42 and in accordance with the limitations set forth in Article IX, Section 20 of the Arizona Constitution, the Municipal Court judge responsible for administration shall follow the budgeting and expenditure procedures adopted by the City or Town, including the procedures adopted for the purchase of equipment and supplies.

Standard 9. Issuance of Complaints and Search Warrants.

Where a judge is called upon to authorize the issuance of a criminal complaint or a search warrant, the matter should be reviewed by the Municipal Court judge carefully in the exercise of an independent judgment, and not as a mere perfunctory ratification of the actions of others. The judge should conscientiously attempt to assure that the proposed action conforms to all applicable rules, statutes and constitutional provisions. The judge's authority in these matters shall not be delegated to court personnel.

Standard 10. Right to Counsel.

The right of the accused to counsel is a fundamental right, and the Municipal Court judge should take care to advise the defendant of that right and otherwise take appropriate measures to safeguard it. The judge should also assure that counsel is provided to indigent defendants in all cases where required by law or where justice would be served thereby.

Standard 11. Selection of the Jury.

The Presiding Municipal Court judge responsible for the administration of the court should assure that the names of those persons who are called for jury service are selected at random from sources which will furnish a representative cross-section of the community, as required by law.

Standard 12. Conduct of the Trial.

The Municipal Court judge should require that every proceeding be conducted with dignity and without undue haste. All distractions and unnecessary interruptions should be avoided. While the judge has a duty to expedite the business before the court, this must be done in a manner consistent with the right of all to be fully heard. Justice, not speed, is the aim of all litigation.

Standard 13. Sentencing.

a. Sentencing Policy. The Municipal Court judge should endeavor to adopt a sound, reasonable and purposeful sentencing policy and to apply it fairly, equally and objectively. Enhanced sentencing shall never be used to discourage the exercise of constitutional rights such as the right to trial, the right to be tried by a jury, and the right to counsel.

b. Avoiding Extremes. Justice should not be determined by the individual idiosyncrasies of those who administer it. A Municipal Court judge should not seek to be extreme or sensational in the conduct of court proceedings. In imposing sentence, the judge should endeavor to conform to a reasonable standard of punishment and should not seek popularity or publicity, either by exceptional severity or undue leniency.

c. Seeking Justice in the Individual Case. Insofar as practicable, the Municipal Court judge should ascertain the facts that are relevant to a determination of an appropriate sentence in each individual case, being mindful that an inflexible adherence to a predetermined sentencing schedule may result in injustice in the individual case.

Standard 14. Reports.

In the Municipal Courts, all reports required to be submitted by statute, court rule or administrative order, or as appropriate and necessary by the City or Town Council, shall be prepared accurately in accordance with prescribed instructions and shall be submitted in a timely manner.

Standard 15. Code of Judicial Conduct.

All Municipal Court judges are reminded that the Code of Judicial Conduct, Rule 45, Rules of the Supreme Court, governs the conduct of all judges and magistrates in the State, and all judges should comply fully with the letter and spirit of that Code.

DATED this 17 day of January, 1990.

~~FRANK X. GORDON, JR., CHIEF JUSTICE~~

~~STANLEY G. FELDMAN, VICE CHIEF JUSTICE~~

~~JAMES DUKE CAMERON, JUSTICE~~

~~JAMES MOELLER, JUSTICE~~

~~ROBERT J. CORCORAN, JUSTICE~~

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c. Priority of Judicial Policy. While it is difficult to separate the judicial function of a court from the administrative function, care must be taken not to subordinate the judicial function to the administrative function. In the Municipal Court, judicial policy must be set by judges, and administrative policy must be designed to implement it.

Standard 3. Duty to Maintain Impartiality and Independence.

In accordance with the judge's duty to maintain impartiality and independence, the judge should refrain from all practices and associations which might affect or appear to affect the judge's impartiality or independence. The judge should not accompany law enforcement officers during the performance of their duties, since

this practice not only gives rise to the possibility that the judge will become a witness in a case before the court but also conveys the appearance of partiality. No judge should serve as an officer, reserve officer, special deputy, or in any similar capacity, with a law enforcement agency. No judge should be a member of an association, the purpose of which is to advance the interests of law enforcement officers, prosecutors or defense attorneys.

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b. Specific Duty. In fulfillment of the duty described in subparagraph (a), Municipal Court judges shall attend all courses and seminars required by the Arizona Supreme Court and, where possible, appropriate courses of the National Judicial College in Reno, Nevada, and shall supplement such formal education by a continuing program of personal study.

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DATED this 16th day of November, 1983.

WILLIAM A. HOLOHAN, CHIEF JUSTICE

FRANK X. GORDON, JR., VICE CHIEF JUSTICE

JACK D. H. HAYS, JUSTICE

JAMES DUKE CAMERON, JUSTICE

STANLEY G. FELDMAN, JUSTICE