

# Judicial Demeanor

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Funded By A Grant From The Texas Court Of Criminal  
Appeals

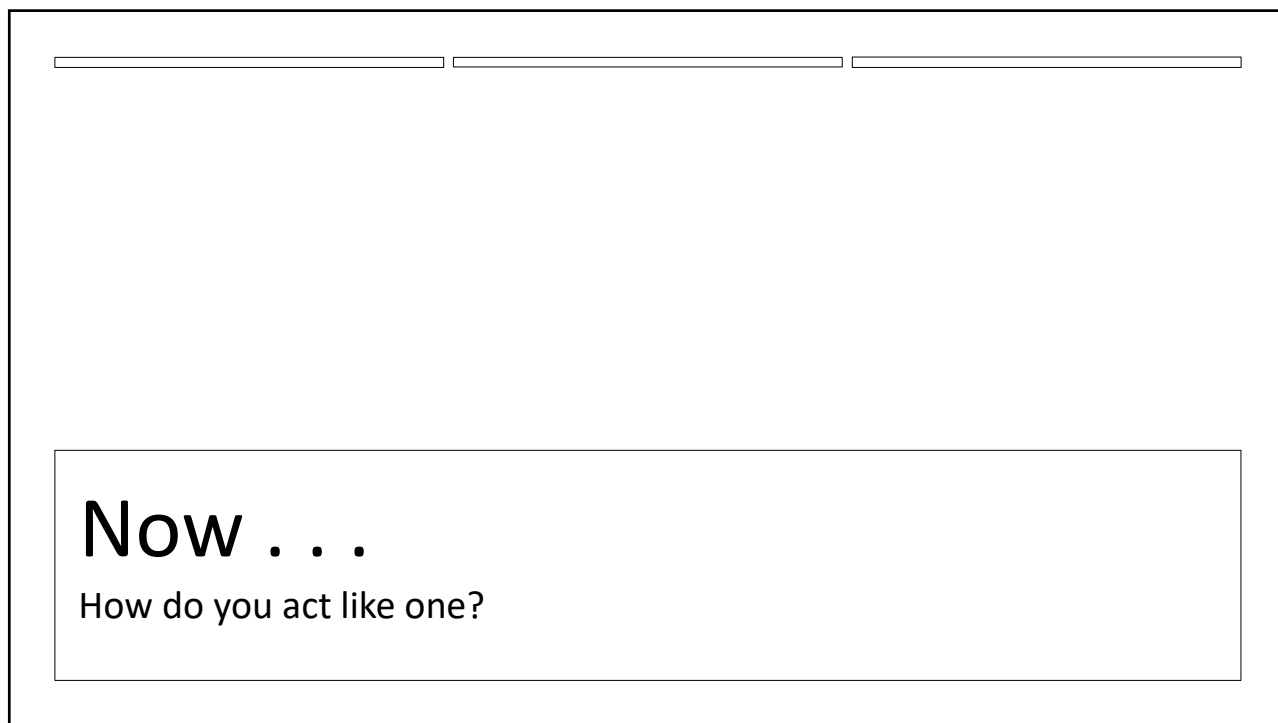
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What do you think is proper judicial demeanor?

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## **Elements Of Proper Judicial Demeanor:**

- Being competent
- Maintaining court order
- Being ethical

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# How Can I Be Competent?

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## Basics For The Bench

- Complete required judicial education
- Go observe different courts and talk to other judges
- Use the resources available to you

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## Resources For Finding the Answer

- [www.tjctc.org](http://www.tjctc.org)
  - Deskbooks, Forms, Charts and Checklists
  - Legal Question Board and Legal Calls
  - Recordings and Self-Pace Modules
- [www.sll.texas.gov/legal-help](http://www.sll.texas.gov/legal-help)
  - Has Texas Laws and Court Rules

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### Helpful Resource Examples:

- New Judges Checklist
- Trial Scripts
- Upcoming live webinars

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## Find New Judges Checklist

- Go to [www.tjctc.org](http://www.tjctc.org)
- Under Legal Resources tab, click Charts & Checklist
- Click Officeholding and Ethics heading

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## Find Trial Scripts

- Go to [www.tjctc.org](http://www.tjctc.org)
- Under Legal Resources tab, click Deskbooks
- Click Trial Notebook (They are near the end.)

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## Find Webinar Schedule

- Go to [www.tjctc.org](http://www.tjctc.org)
- Click Online Learning
- Click Virtual Programs

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## How Can I Maintain Order in the court?

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## Order In The Court!

- Explain the process
- De-escalate
- Use contempt powers

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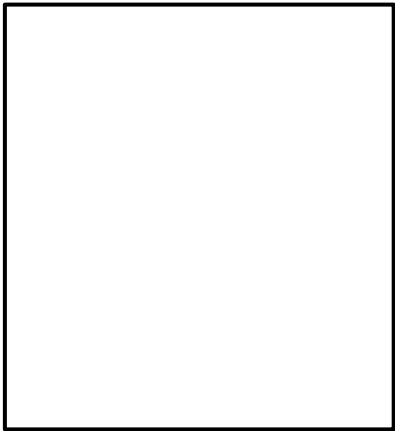
## 1. Explain The Court Procedure

- Use simple words and explanations for self-represented litigants
- Introduce your dockets
- Make sure everyone knows how the process is going to work

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## 2. De-escalation



- When people start to escalate during court or in your office, the best option is to maintain a calm demeanor and try to defuse the situation.
  - Recesses/breaks may help!
- Remember to recognize and accommodate people with mental health issues.

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## 3. Contempt

- Contempt is a tool a judge can use when someone behaves extremely inappropriately in court or does not follow a court order.
- Please note: A judge must be very careful to only hold someone in contempt for **interfering with court processes and justice**, and not because **they get upset or offended the judge personally**.
- Contempt rules/procedures for juveniles are different

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## Types Of Contempt



Contempt may be:

- **Direct** – Occurs in the court's presence
- **Constructive (Indirect)** – Occurs outside the court's presence; as in failing to obey a court order

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## Direct Contempt Examples

Outbursts by anyone participating in the trial, including officers of the court

Disruptive behavior by those observing the trial

Violation of a judge's direct orders made in an attempt to maintain order or ensure a fair trial to the litigants

Repeatedly arguing or asking a question designed to bring in inappropriate evidence, despite a previous order from the judge to stop

Attempts to bribe or improperly influence a juror that are done in the court's presence

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## Constructive Contempt Examples

Failure or refusal to obey a court order

Hiding evidence

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## Two Different Types Of Punishment

Punitive and Coercive (Not mutually exclusive)

- Punitive
  - \$100 Fine, 3 days in jail, or both
- Coercive
  - Put in jail until comply with court order (max 18 months)
  - May trigger right to jury trial and legal counsel if in jail for 6 months or more
- Notice and Hearing Required
  - Unless immediate punishment is necessary to maintain court order

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## When Should I Use Contempt?

- Contempt should be used as a last resort
- Not used to bully or intimidate
- Think about alternatives to contempt

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## Alternatives of Contempt

No contempt for:

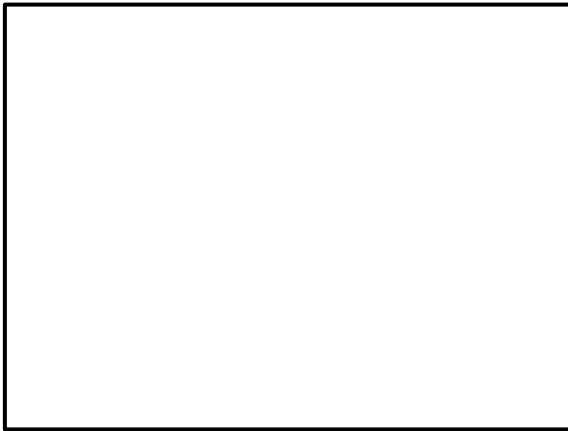
- Deferred Disposition violation
  - Violation results in conviction after a show cause hearing
- Driver Safety Court failure
  - Violation results in conviction after a show cause hearing
- Failure of an adult to pay fines and costs
  - Other procedures in Chapter 8 of the Criminal Deskbook

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## For More Information On Contempt



- For more information on contempt procedures and contempt orders, see Chapter 3(A) of the Officeholding Deskbook.

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## How Can I Be Ethical?



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## Look to the Texas Code of Judicial Conduct

- 8 Canons that give standards for conduct (on and off the bench)
  - These standards are applied to court staff as well
- Code is not exhaustive
  - Judges should also be governed by their general ethical standards
- There are also advisory opinions to help understand and apply the code

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## Discussion Questions



- We will go over each canon and then you will discuss questions related to the canon at your table
  - You must decide if conduct is proper or not according to the code and advisory opinions and why or why not
  - Feel free to use [www.tjctc.org](http://www.tjctc.org) as a resource
  - Nominate a table spokesperson who will share your answer

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## Canon 1 -

# Upholding The Integrity And Independence Of The Judiciary

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## Canon 1 Scenarios-Proper? Why?

- 1.Can a JP be the subject of a fund-raising roast?
- 2.Can a JP act as a prosecutor in any capacity?
- 3.Can a JP be a paid legal consultant for TV or movies?

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## Canon 2

# Avoiding Impropriety and the Appearance of Impropriety in All of the Judge's Activities



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## Canon 2 ABC's

- Shall comply with laws
- Shall act in a manner that promotes public confidence in judiciary
- Shall not allow relationships to influence judgment or conduct

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## Canon 2 ABC's Continued

- Shall not lend prestige of office to others
- Shall not knowingly hold membership in a group that discriminates

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## Canon 2 Scenarios—Proper? Why?

1. Publicly endorse a candidate for public office?
2. Provide brochures that refer people to county bar lawyer referral service?
3. Testify voluntarily as a character witness?

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# Canon 3

## Performing the Duties of Judicial Office Impartially and Diligently

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### Canon 3 ABC's

- Judicial duties take precedence over other activities
- Shall be faithful to and competent in the law
- Shall hear and decide matters assigned
  - Except when disqualification or recusal is appropriate

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## Canon 3 ABC's Continued

- Require order and decorum in proceedings
- Require all to act courteous without bias or prejudice in your court

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## Canon 3 ABC's Continued 2

- Shall not disclose or use nonpublic information received in a judicial capacity
- Yet, you must follow Rule 12/disclosure of judicial records that are public info
  - See Recordkeeping & Reporting Deskbook on "how to"

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## Canon 3 ABC's Continued 3

- Do not comment about cases
  - However, this does not keep you from explaining procedures of the court
- Must inform State Commission on Judicial Conduct if another judge breaks code
- Must inform State Bar of Texas if an attorney breaks their rules of conduct

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## Canon 3 Scenarios—Proper? Why?

1. Decide to not take truancy filings anymore?
2. Allow clerks to publicly comment on cases?
3. Recuse yourself because you are in a legal battle with defendant in a different court?

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## Canon 4

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

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## Canon 4 ABC's

- You can speak, write, and participate in activities that have to do with the legal system
- You can also be involved in and serve on a board for organizations, government agencies, civic groups or charitable activities that raise money, so long as you do not fundraise personally
- Refrain from financial activities that reflect adversely to impartiality or interfere with job duties

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## Canon 4 ABC's Continued

- Generally, you or household family cannot accept outside gifts
  - Exceptions apply:
    - Incidental to public honor
    - Invitation to a judge and spouse to attend a bar-related function
    - Ordinary social hospitality from friend or relative
      - Must be commensurate with occasion and relationship
  - Do not take anything from a party whose interest have come or are likely to come before you as a judge

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## Canon 4 ABC's Continued 2

- A full-time judge may not act as arbitrator or mediator for pay
  - Can encourage people to go to mediation
- Non-attorney JP's cannot practice law outside capacity as JP
- Attorney JP's cannot practice in their own court or anything related to one of their JP cases

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## Canon 4 ABC's Continued 3

- Compensation and reimbursement allowed for extra-judicial activities if it does not appear to influence judicial duties and it is a reasonable amount
- Shall file financial and other legally required reports

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## Canon 4 Scenarios—Proper? Why?

1. Attend a holiday party at a law firm that is open to public?
2. Accepting lower interest rate on car loan because you are a JP?
3. Be a speaker or guest of honor at an organization's fund-raising event?

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# Canon 5

## Refraining from Inappropriate Political Activity

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### Canon 5 ABC's

- Shall not make pledges or promises about cases that suggest you are predisposed to a probable decision
- You cannot make false or reckless comments about an opponent
- Must resign once you become a candidate in a contested election for a non-judicial officer role

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## Canon 5 ABC's Continued

- You may **not** endorse a candidate for **any** political office
  - You may attend events
  - May indicate support of political party

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## Canon 5 Scenarios—Proper? Why?

1. Sharing a Facebook meme that says, “I back Minnie Mouse in 2024” or “I back Peter Pan in 2024”?
2. Sending out a mailer on your opponent with statements that have not been fact checked?
3. Keeping your job as JP after becoming a candidate for County Court at Law Judge in contested election?

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## Canon 6

Compliance  
with the  
Code of  
Judicial  
Conduct

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## Canon 6 ABC's

- Shall not have improper *ex parte* communication
- Code applies to temporary JP's and judicial candidates
- If the code is not followed, you may be sanctioned by the State Commission on Judicial Conduct

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## Canon 7 & 8

- 7: Effective Date of Compliance
  - As soon as you can
- 8: Construction and Terminology of the Code
  - Purpose and definitions

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## Finding the Code and Advisory Opinions?

- [www.tjctc.org](http://www.tjctc.org)
- Officeholding and Ethics Deskbook



### Officeholding and Ethics Deskbook

*Revised October 2023.* This deskbook contains information on lots of topics related to holding office as a justice of the peace, including ethics, elections, contempt, weddings, liability, and more!

[Click here to download a copy.](#)

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## Do You Have Questions About Ethics Or A Canon?



- Call a State Commission on Judicial Conduct attorney. They can provide information and guidance about ethics and the canons.
- 512-463-5533 – Main Number

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Remember:  
Equality vs. Equity

Equality: giving everyone in the room a size 11 shoe

Equity: giving everyone a shoe that is their size

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## In Conclusion

- Many people in your court just need to be heard, even if they lose their case
- You can give people hope in the justice system by treating them fairly
- Treating people with kindness and dignity upholds the dignity of being a Justice of the Peace

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Questions?

Thank You!!!

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