

Austin Municipal Court Docket Session (10.05.2015)

By: Kyle Rearden from [The Last Bastille blog](#)

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In a republican form of government, the judicial branch interprets the government's laws as written and enforced by the legislative and executive branches, respectively. An independent judiciary is typically considered to "[check and balance](#)" the potential overzealousness of the other two through the "[separation of powers](#)" doctrine. Unfortunately, despite original intent, "[local](#)" judiciaries are the ones most likely to prosecute [vices as if they were crimes](#), as well as justifying the systematic infringements against the [right to travel](#).

According to the City of Austin Municipal Court's [2014 annual report](#), they consider themselves to have **improved performance** over the past few years. On the *Message and Overview* pages, it says:

"The Judiciary of the Austin Municipal Court strives to rigorously preserve, protect, and defend the constitution and laws of the United States, the State of Texas, and the City of Austin...[t]he City of Austin Municipal Court is the Judicial Branch of the local government...[t]he Judges and the Clerk of the Municipal Court are appointed by the City Council."

How is it possible for the municipal judiciary to uphold both Texas and federal statutes whenever there is a [clash of laws](#)? Notice also how the municipal judges are **not** elected by Austinites, but rather by the Austin City Council, the same type of people [who told the Fluoride Free Austin reformists to piss off](#) (although, to be fair, [the composition of the city council has dramatically changed over the past few years](#)). On the annual report's *Judiciary* page, it says:

"The City of Austin Municipal Court has jurisdiction over class c-misdemeanors occurring within the city limits of Austin, Texas. These offenses include state and city offenses such as traffic citations, public intoxication, misdemeanor theft and assault and city code violations... [t]he court provides a walk-in docket Monday through Thursday.

Dockets include environmental, juvenile, bench trials, emergency protective order modification hearings, show-cause hearings, and administrative hearings.”

Ah, just wonderful, isn't it? So, this is the entity that will simultaneously prosecute and arbitrate on such matters as [loitering](#), [dumpster diving](#), and the infamous “[no camping ordinance](#),” pursuant to the [Code of the City of Austin](#). Besides [criminalizing specific human actions](#) as [mala prohibita](#), the Austin Municipal Court's total number of filed cases increased by 45,171 between FY 2012 – 2014. On the *Key Performance Measure* pages, the total number of filed cases is defined as:

“The number of cases filed is a direct result of the number of citations issued by the Austin Police Department (APD) and other departments/agencies that issue citations filed in the Municipal Court. This measure reflects the workload for Municipal Court staff and allows the Department to track resource allocation. The types of cases filed include traffic, city ordinance, state class C misdemeanors, parking, and red light camera violations.”

To compliment this, the *General Fund Revenue* page shows that parking fines have increased by \$244,707 between FY 2012 – 2014, traffic fines have increased by \$754, 413 during this period, with total revenue having been increased by \$1,310,857; for *General Fund Expenses*, operations have increased by \$1,168,382 between FY 2012 – 2014, with total expenditures having been increased by an estimated \$1,936,000 during this same period, which oddly enough, was not covered in the municipal court's 2014 annual report, but rather, by the City of Austin's [Comprehensive Annual Financial Reports](#) for [2012](#) and [2014](#).

Needless to say, the Austin judiciary has a direct financial incentive to monetarily profit from prosecuting those “[victimless crimes](#)” that fall within their earlier stated purview, especially considering that parking and traffic fines make up, respectively, 20% and 42% of the municipal court's revenue for their general fund. [Revenue generation](#), much?

I remember from back during my Boy Scout days that the last merit badge I earned was in Law ([surprising, right?](#)), and that one of the “either/or” requirements was to: “[Attend a session of a civil or criminal court. Write 250 words or more on what you saw.](#)”

So, in that same spirit, I've decided to incorporate the judicial branch of government into my series of political fieldtrips, if for no other reason than good old-fashioned transparency. After examining the [docket](#) for the municipal court, which is described as their “[public inquiry system](#),” I discovered a bunch of criminal cases scheduled for jury trials in courtroom 2A beginning in the early afternoon. The variety of charges seemed to be mostly traffic infractions, alongside a few [narcotics prohibition](#) cases. Having unsuccessfully tried to drive into downtown and get free parking last Thursday before last, I decided this time to try my luck with the train.

Once I had arrived at one of the MetroRail stations, I tried to pay for a [Commuter Day Pass](#) at the ticket vending machines with a \$20 bill. Unfortunately, even though there was an instruction on screen to cancel the transaction, there was no cancellation button enabled, only a continue,

which would have placed the remaining \$13 on an electronic change card (ECC), that must be used within the next two weeks or otherwise be forfeited; this became especially disconcerting given the fact that the “value” of the ECC is non-transferable and non-refundable. My loud cursing at the machine as I was desperately attempting to avoid pressing the continue button attracted the attention of at least two other passengers, one of whom politely admonished me for using a \$20 bill. Obviously, I ended up swallowing the whole affair, getting both the ECC and my [\\$7 train pass](#), having the pass swiped by the “enforcement” officer (who told me to call the number on the ECC if I wanted a refund, when I asked her if such a thing were possible), and then getting on the train.

The younger of the two aforementioned passengers sat near me and decided to engage me in conversation, which lasted most of the ride, covering a range of topics from “[voting with your feet](#)” to student loan debt. Of course, I wasn’t blending in nearly as well as the red-headed lady who sat across the aisle from me, but then again, I lost that the second I lost my temper and began hitting the vending machine like a New Yorker. Thankfully, I didn’t get in trouble because the government employees were on the train platform and nowhere near the ticket vending machines, and also due to the fact that I showed the other passengers the clear contradiction between the on-screen instructions and the lack of a cancellation button.

Upon arriving in downtown, I proceeded to go on an unrelated side-trip before heading to the municipal court, since I arrived early enough to do so. It wasn’t until this was completed that I was on my way to the courthouse when I realized I’d need to return to downtown Austin later for a separate project, and that was, if anything, quite fortuitous since it would use up the remaining balance on the ECC within the allotted time period. By [looking at the glass half-full](#), I realized that the [silver lining](#) of this political fieldtrip was to understand that I really can [kill two birds with one stone](#) (by cramming as many idioms into a single sentence, of course!).

Hopping up the steps to the courthouse, I proceeded through security. After putting my messenger bag and the contents of my pockets into a small bin, I walked through the metal detector, which proceeded to beep loudly. I was asked by the screener to take off my belt and put it in front of her, and then walk through the detector again. Momentarily relieved it did not go off again, I hurriedly grabbed my belongings, asked the screener where courtroom 2A was, and then headed off to a corner of the lobby where I dressed and composed myself before taking the elevator up to the second floor. Upon arriving, I took advantage of the bathroom; heading towards the courtroom, I noticed the long line of jurors sitting on benches in the hallway.

Slipping inside towards the back, the courtroom possessed an eerie sense of foreboding, as if there were a sign above the doorway stating, “[Abandon hope all ye who enter here.](#)” Two tall yet narrow windows did not increase the width of the courtroom one iota, which appeared as if it were constructed during the 1970s, which nicely coincides with the stench wafting up from the broken-tiled lobby right into the second floor hallway, thereby firmly establishing the atmosphere of the entire place.

Arriving well over ten minutes late, substitute judge [Olivia Ruiz](#) introduced herself to the scantily attended courtroom, which was mostly composed of the defendants listed on the docket, as well

as one witness for the prosecution. Judge Ruiz told these defendants that they had the option to go *pro se* should they want to, but that they didn't have to do so. She also mentioned they had a similar option to testify, but that the only risk was that it would open themselves up to cross-examination from the prosecution.

Ruiz then conducted a roll call in order to determine which defendants bothered to show up. One lady whose name wasn't called on during the initial roll call said she received a notice in the mail to show up for a court appearance today, but then a grey-suited prosecutorial flunky piped up to say that her appearance was scheduled for the 26th. Once she left the courtroom, Ruiz did too, and it was announced that "the court" was in recess.

During this recess, the prosecutorial flunky called up the various defendants, most of whom were able to get their cases dismissed or settled, either because the police officer in question didn't show up for court, couldn't get any evidence, or just decided to tear up the ticket in question; for a few other cases, the prosecutorial flunky offered some defendants a settlement whereby as long as they pay a "nominal" fine and don't get another traffic infraction within a set time period, the charge would be automatically dropped. Throughout this recess, the prosecutorial flunky would either call each of the defendants to come up to the front of the courtroom, or he would go to them amongst the benches where members of the public sat, and tell them why their case just got dismissed.

Three cases on the docket are worth mentioning in some detail. Theodore Wang, on the charge of failing to yield at a T-intersection, was offered a deal by the prosecutorial flunky to pay a \$150 fine and if he managed to not get another traffic infraction within 90 days, then the infraction would be stricken from his traffic record; as you could expect, Wang took it without any hesitation. Demian Blair, on the charge of failing to yield at a left turn intersection, failed to appear for court today, despite the prosecution's chief witness being present. Johnnie Russell, on the charge of running a red light, was in the middle of negotiating a possible deal with the prosecutorial flunky when Judge Ruiz returned.

An attorney then approached the bench, and after some negotiations with Ruiz (that I couldn't entirely hear), she managed to reschedule a court appearance with the court secretary. After a few moments, Judge Ruiz left the courtroom without any of her staff saying anything, unlike earlier, where we were all expected to stand whenever Ruiz entered and left the courtroom, so I was unsure as to whether "the court" was in recess or not. How could any of us expect to obey the [rules of this municipal court](#) if those same rules are merely optional for those who run this madhouse?

Upon Ruiz eventually returning, again without fanfare of having to rise up as we all had done earlier, Russell was ordered to approach the bench, since his case was the only one that was possibly going forward today into an actual jury trial. Ruiz asked Russell whether he was ready to proceed, but upon learning that not only had Russell had no attorney, but more importantly, he had not conducted [discovery](#) yet, she told him, above his well-intentioned but very incorrect assertions to the contrary, that he was not ready for trial, and that she would be willing to have

his case rescheduled, but only one more time, and that if he showed up again in “her” courtroom without being ready for trial, then she should would find him in [contempt of court](#).

Bewildered, Russell sat back down, conveniently in the row ahead of me. During the earlier recess, Russell and I began whispering to each other after the prosecutorial flunky had come up and asked me if I had been “helped” yet, to which I said (something to the effect of) that I was a member of the public, and that I was operating on the presumption that this courtroom was open to the public. In response, he affirmed it was, but merely wanted to make sure I wasn’t ignored for lack of being on the docket, as that one lady has been earlier, to which I said, “My name is not the docket,” which encouraged the prosecutorial flunky to walk away from me immediately. Seemingly impressed that I had not identified myself using my legal name, Russell whispered to me that he too was rather curious as to what I was doing there, which I replied by saying that I was experimenting in using a new educational method to teach others about the nature of government, without abstract textbooks. Once Russell finished his aforementioned encounter with Ruiz, he began whispering to me that he wished children could learn about what government was actually like, which I quickly yet politely admonished him to **shut the fuck up**, because to whisper while “the court” is in session would be to invite a contempt of court charge, which I was not interested in either him or I getting “by accident.”

Seeing Ruiz leave the courtroom again, this time oh-so-appropriately with the all of the rising and such, the prosecutorial flunky told Russell from across the courtroom that he needs to wait just a little bit longer while his next court appearance was being scheduled. Upon hearing that, I packed up my bag, wished Russell good luck on his case, and left the building. Although I was disappointed that I wouldn’t be able to bear witness to a jury trial as I had done years ago with where I used to live, I was relieved that I had only spent approximately an hour and a half inside the Austin municipal courthouse.

Upon further examination, there was an upside or two to this political fieldtrip. No prayers or [pledges of allegiances to multiple flags](#) were given; the attitude was merely more of a game of [Simon Says](#) for those of us in the courtroom who were told to “stand up, and then sit down” whenever the black-robed government employee entered and exited, except of course for whenever she did so and we weren’t ordered to do our brief calisthenics. The attitude amongst all of the government employees was very (dare shall I say it?) business-like and matter-of-fact; so, the inconsistently recurring game of Simon Says was about the extension of the [ceremonial worshipping](#) of [the State](#). This courtroom was all about **enforcement**, and there is absolutely nothing romantic about that at all, which seemed to contribute to the vibe of desperation throughout the courtroom, much like from [Frank Kafka’s novel *The Trial*](#).

On my way back to the train, I bumped into the prosecution’s witness against Blair while he was waiting for a crosswalk light to turn on. We introduced ourselves to each other after I had confirmed I had seen him back in the courtroom, and he began telling me how he believed that Blair was at fault for the entire traffic accident, to which I responded that it was too bad for Blair he didn’t show up today. As we began walking, Robert the Eagle Scout told me that he had taken the train, and so we would share about half the trip together; so, much like Russell, I told Robert what I was doing there, and he seemed pleased that I was taking such a hands-on approach to

education, to which I responded that I'm [a former homeschooler](#). We each reminisced to each other about our respective time in the Boy Scouts, and I remarked that the method of learning about the world encouraged by the BSA was infinitely better than the typical government school models, to which he wholeheartedly agreed. The light-hearted banter about firearms and Bitcoin ended when he got off his stop, and I traveled the rest of the way back home with no further conversations betraying my attempts at "[urban camouflage](#)."

Naturally, today's experience concludes my circuit of political fieldtrips regarding Austin's municipal government. Direct contact with the [Austin City Council](#) and [Texans for "Accountable" Government](#) has left an offensively horrid taste in my mouth, and when combined with the odors (both figuratively **and** literally) emanating from the municipal courthouse, the putrid stench of "local" government trails behind it a rather unique sense of repulsiveness. Shane Radliff was correct when he mentioned in his [political fieldtrip report that the nature of government doesn't magically change](#) just become the scope of one subsidiary government happens to be geographically closer to the people. As he so accurately described the conundrum of "local" government in the afterward to his [Adventures in Illinois Law](#) anthology:

"It's often said that my generation isn't involved enough in politics that it is worrisome to many older folks – we don't participate, we don't attend county board meetings, and we don't vote, to name a few examples. I would go so far as to say, that most of those folks that are recommending the younger generations to do those things haven't actually witnessed the State themselves in its own natural habitat; it's daily operating procedure, per se. That is exactly what I did, and contrary to what many in my generation have been told, it accelerated my evacuation off of the [minarchist](#) ship, rather than make me want to become more involved in politics. Witnessing the inherent coercion and violence of the State firsthand through these political field trips could be a major tool in assisting others to make the jump to true freedom: anarchy."

Although it was certainly not my intention to nudge Shane towards advocacy for no government, what he learned from his political fieldtrips encouraged him to make that final leap towards truly appreciating the Lockean (yet ironic) "[state of nature](#)." In light of the festering scab that is contemporary American democracy and its flagrant disregard for its own [foundational constitutional republicanism](#), the only way I can perceive for getting the acrid taste of the State out of my mouth is to seriously reconsider whether "[restoring constitutional government](#)" (aka, "restoring the Republic") is truly the correct strategic remedy for what ails the body politic, or, if perhaps, it would only serve to inadvertently "restore" the problem of tyranny itself, albeit under a dissimilar guise.

In conclusion, I think it would behoove all of us to reconsider whether or not it is consistent with libertarian principles to live under the heel of rulers, and what role, if any, does a **paper cage**, such as the 1787 federal and 1876 Texas constitutions, have in restoring American liberty. As the oft-repeated adage goes, [constitutions don't stop bullets](#), so any kind of sound strategy should take that into consideration when it comes to what are the serious options "[freedom outlaws](#)" have in terms of [direct action](#).