

*Statement ISSUED by
Willamson County Commission
Court Oct. 15, 2010*

The commissioners court has remained silent in hopes of being able to cooperatively work out the issues that we were having with the county attorney, but the time for silence is over and the public wants and expects to know the reasons behind our decision to hire an attorney to work directly with the commissioners court.

The attorney-client relationship between the commissioners court and the county attorney's office has been deteriorating for quite some time.

- Because the county attorney has often had a strong policy agenda, it has at times been difficult for the court to distinguish between her legal advice and her policy or political positions.
- There have been instances in which attorney-client communications between the county attorney's office and the commissioners court or other county departments have ended up in print or otherwise revealed.
- The recent suit against the county commissioners court exacerbates the situation as the county attorney has put herself in an adversary position to the commissioners court despite her realization and prior statements that she recognizes that the commissioners court has the legal authority to retain and use its own counsel.

The role of the county attorney is to provide legal advice when requested by county officials, not to make policy and not to sue her clients when they disagree with her. The action by the commissioners court to hire its own attorney, as has been determined in other cases by the Texas Supreme Court, does not infringe upon her constitutional and statutory duties, which are primarily the prosecution of misdemeanor and juvenile cases. This action removed some civil law responsibilities from her office and the funds for one attorney, but left the funding for 18 other attorneys.

This action has no impact on fiscal checks and balances as according to the local government code, these checks and balances are provided by the county auditor who is an independent official appointed by the district judges. Those checks and balances remain in place.

While the commissioners court regrets that there is litigation on this issue, it was the county attorney, not the commissioners court, that brought suit. The county attorney apparently recognizes that the commissioners court has the legal authority to retain its own legal counsel, but is using the courts in an attempt to achieve the policy result she favors rather than the one adopted by the commissioners court.

We stand ready to work cooperatively with Ms. Duty and all other county elected officials. We hope she will join us in that effort for the betterment of the county and its citizens.