

Overview of the Courts

Table of Contents

INTRODUCTION	2
PART 1 HISTORY OF THE JUDICIAL PROCESS	2
Constitutional Law.....	2
Amendments.....	4
Federal and State Law	4
PART 2 TEXAS JUDICIAL SYSTEM	5
A. Court Structure of Texas	5
1. Appellate Courts.....	6
2. Trial Courts.....	8
B. Municipal Court Jurisdiction in Detail.....	10
C. Cooperation Within the Judicial System	11
D. Funding.....	11
PART 3 THE MUNICIPAL COURT ROLE IN LOCAL GOVERNMENT	13
A. Fine Collection and Quota Prohibition	13
B. Relations with City Departments	13
1. Mayors and City Managers	14
2. City Attorneys and Prosecutors	14
3. Law Enforcement	14
PART 4 AGENCIES AND ORGANIZATIONS.....	15
A. Texas Municipal Courts Education Center (TMCEC).....	15
B. Attorney General's Office (AG).....	16
C. State Bar of Texas (SBOT).....	16
D. State Commission on Judicial Conduct (SCJC)	17
E. State Comptroller of Public Accounts (CPA)	17
F. Texas Commission on Law Enforcement (TCOLE).....	17
G. Texas Court Clerks Association (TCCA)	17
H. Texas Department of Motor Vehicles (TxDMV).....	17
I. Texas Department of Public Safety (DPS)	17
J. Texas Judicial Council.....	18
K. Office of Court Administration.....	18
L. Texas Municipal Courts Association (TMCA).....	18
M. Texas Municipal League (TML).....	18
APPENDIX A: COURT STRUCTURE OF TEXAS	20
ANSWERS TO QUESTIONS.....	21

INTRODUCTION

The judicial system in the United States is vast, with many courts exercising different degrees of jurisdiction at both the federal and state level. Further, the State of Texas has a complicated system of courts with limited jurisdiction that make it one of the more complex court systems in the United States. To better understand both the system as a whole, and Texas municipal courts in particular, it is essential to explore the basis for the entire system. This chapter will provide a brief history of the judicial process in the United States and introduce readers to American constitutional law and the Texas court system.

PART 1 HISTORY OF THE JUDICIAL PROCESS

The American criminal justice system is rooted in the English system of common law. Common law is the body of law developed over time through court decisions rather than laws passed by a legislature. When a court decides a case, that decision creates a precedent, which is a rule that other courts follow when deciding similar cases. This body of decisions is often called case law.

For example, in *Brown v. Board of Education of Topeka*, the United States Supreme Court ruled that laws requiring segregated public schools were unconstitutional. Courts across the country rely on that decision as precedent when addressing similar issues.

Many common law principles have since been written into statutes. For instance, legal concepts such as waiver of a jury trial, the defense of necessity, and the defense of justification all originated in common law before being codified. However, some principles remain purely common law. One example relevant to municipal courts is a court's inherent judicial power—the authority necessary for a court to function, maintain order, and carry out its duties, even if that authority is not specifically listed in a statute.

An important feature of the common law system is the adversarial legal system used in American criminal courts. In this system, a case is presented as a contest between two opposing sides:

- The State, represented by the prosecutor, seeks to enforce the law and pursue justice.
- The Defense, represented by an attorney or the defendant, seeks to protect the defendant's rights.

Each side presents evidence and arguments to support its position. The judge acts as a neutral decision-maker, ensuring that the law is followed and that the proceedings are fair. The judge decides questions of law and, in cases without a jury, also decides questions of fact. When there is a jury, the jury serves as the factfinder.

The adversarial system is designed so that, through this structured opposition, the truth can be determined and justice can be achieved under the law.

Constitutional Law

Constitutional law is the body of law based on the United States Constitution and state constitutions. These documents establish the structure of government, define the powers of each branch, and protect individual rights.

The U.S. Constitution divides government authority among three branches:

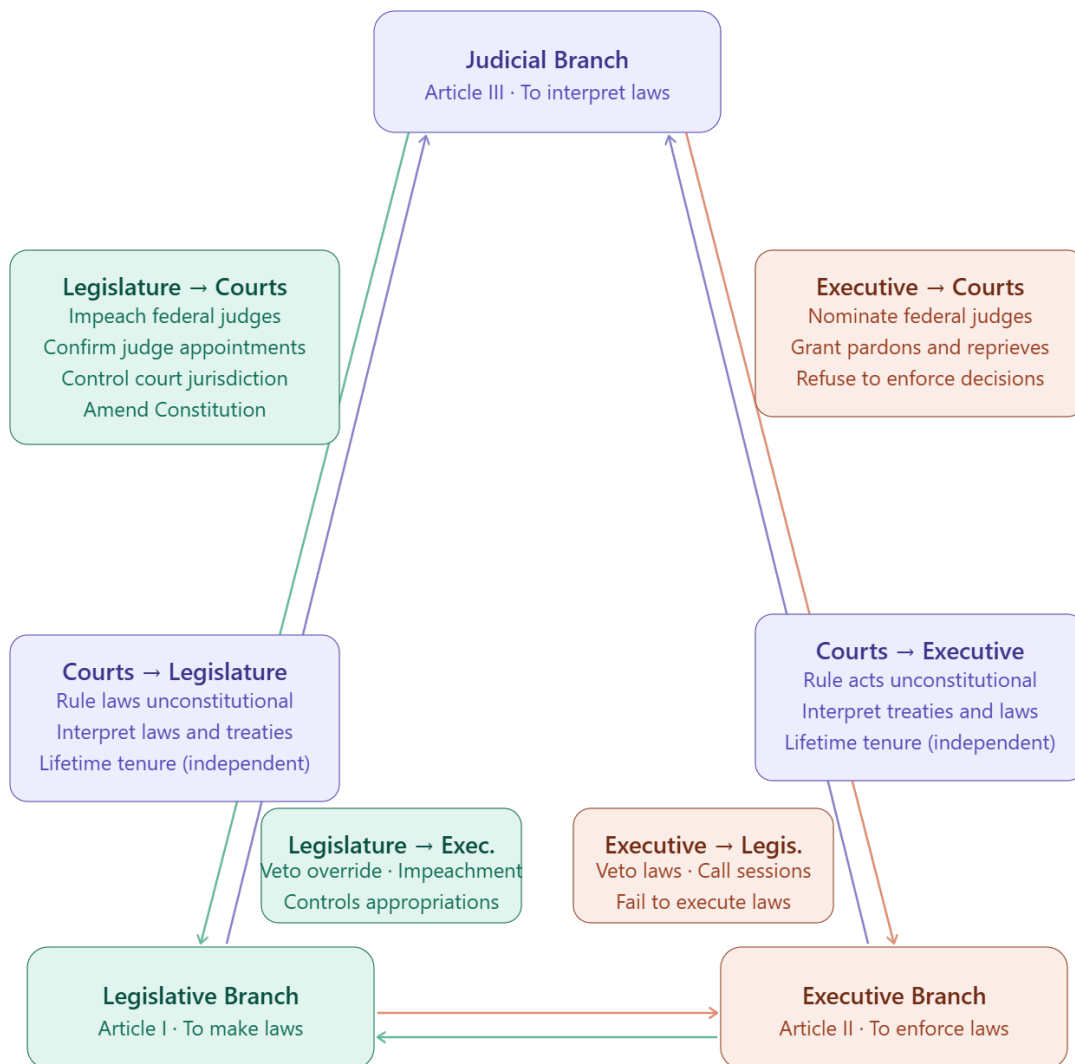
- **Legislative** (makes the law),
- **Executive** (enforces the law), and
- **Judicial** (interprets and applies the law).

This structure, known as separation of powers, ensures that no single branch has complete control. Closely related is the principle of checks and balances, which allows each branch to limit the powers of the others. For example, courts can review laws or government actions to determine whether they comply with the Constitution.

For municipal court clerks, constitutional law is important because it directly affects daily court operations. Clerks must ensure that court procedures protect constitutional rights, such as the right to due process, the right to counsel, and the right to a fair and impartial trial. Clerks also play a key role in maintaining accurate records, processing cases properly, and supporting the court in carrying out its judicial responsibilities within constitutional limits.

In short, constitutional law provides the framework within which all court actions must operate, and clerks help ensure that this framework is followed in every case.

Separation of Powers: Checks and Balances



Amendments

Since its drafting in 1787, there have been 27 amendments to the U.S. Constitution. A constitutional amendment is a modification or addition to the document. Such an amendment to the U.S. Constitution must be ratified by three-fourths of the states to become a part of the Constitution. The most recent amendment, regarding Congressional salaries, was ratified on May 7, 1992.

The first 10 amendments to the U.S. Constitution are known as the Bill of Rights. These rights are intended to protect individual citizens against government tyranny and lawlessness. American courts are charged with interpreting the meaning of such protections. Amendments that may be commonly implicated in municipal courts are listed below:

1st Amendment: Freedom of religion, speech, press, assembly, and petition

4th Amendment: Freedom from unreasonable searches and seizures

5th Amendment: Right to remain silent, protection against double jeopardy, and due process of law

6th Amendment: Right to a speedy and public trial by an impartial jury, to be informed of the accusation, to counsel, to be confronted by your witnesses, to compulsory process to obtain witnesses in your favor

8th Amendment: Fair fines and bail, protection against cruel and unusual punishment

14th Amendment: Equal protection, incorporation of (most of) the Bill of Rights to the states, and due process of law

The U.S. Constitution specifically reserves certain powers for the states and every state has its own constitution. The current Texas Constitution took effect in 1876 and has been amended more than 500 times. Like the U.S. Constitution, the Texas Constitution establishes three branches of government and provides for the separation of powers between these branches. The Texas Constitution vests power in courts. Those courts established by the Texas Constitution, collectively referred to as constitutional courts, include the State's highest appellate courts, the intermediate courts of appeals, the district courts, the constitutional county courts, and the justice courts. The Texas Constitution also authorizes the Legislature to establish other courts and their jurisdiction by statute. Those courts established by statute are referred to as statutory courts. Municipal courts, a type of statutory courts, are unique in that they are the only part of the Texas judicial system that operates at the municipal level of government.

Article I of the Texas Constitution contains many similar provisions to those in the U.S. Constitution, including:

Section 9. Searches and Seizures: Protection from Illegal Searches

Section 10. Rights of Accused in Criminal Prosecutions

Section 13. Excessive Bail or Fines; Cruel and Unusual Punishment; Remedy by Due Course of Law

Section 15. Right of Trial by Jury

Federal and State Law

All courts in the United States are obligated to follow federal law and to give precedence to the U.S. Constitution over federal law, treaties, and state law. Accordingly, in adjudicating cases,

municipal courts are required to apply common law, federal and state constitutional law, federal and state statutory law, and local ordinances. That is, undoubtedly, a large body of law. Fortunately, many of these protections and common law rights have been codified in the Texas Code of Criminal Procedure. Codify simply means that it has been organized in a written code or statute. For example, Article 1.04 of the Code of Criminal Procedure codifies rights spelled out in the 14th Amendment to the U.S. Constitution.

1. Explain the term “adversarial legal system” as it relates to American criminal courts. _____

2. Define common law and give an example applicable to municipal courts. _____

3. Identify and briefly describe the role of each branch of government. _____

4. Explain the reasoning and significance of separation of powers. _____

5. What are the first 10 amendments to the U.S. Constitution called? _____

6. List the courts established by the Texas Constitution. _____

PART 2

TEXAS JUDICIAL SYSTEM

Municipal courts occupy a unique position in the Texas judicial system. More people encounter municipal courts than all other Texas courts combined. Whether appearing as a defendant, witness, or juror, a person’s experience in a municipal court may likely be their only contact with the judicial system. This contact may influence their perception of the city, misdemeanor crimes, or even the criminal justice system. Therefore, a day in a municipal court can form a lasting impression. It is important to understand what the larger system entails and where municipal courts fit.

A. Court Structure of Texas

The structure of the present court system was established in 1891 by an amendment to the Texas Constitution that allowed the Legislature to create (through statute) additional courts as it deemed necessary to ensure judicial efficiency.

Texas has two main types of courts: trial courts and appellate courts. Which court handles a case depends on the type of case, its stage, the filings, and the court’s jurisdiction. Most cases begin in a trial court and may move to an appellate court if a party files an appeal.

Texas has a bifurcated appellate system, meaning it has two highest courts: the Supreme Court of Texas for civil cases and the Texas Court of Criminal Appeals for criminal cases. This differs from

the federal system and most other states, which have only one highest court. Oklahoma is the only other state with a similar structure. See Appendix A: Court Structure of Texas.

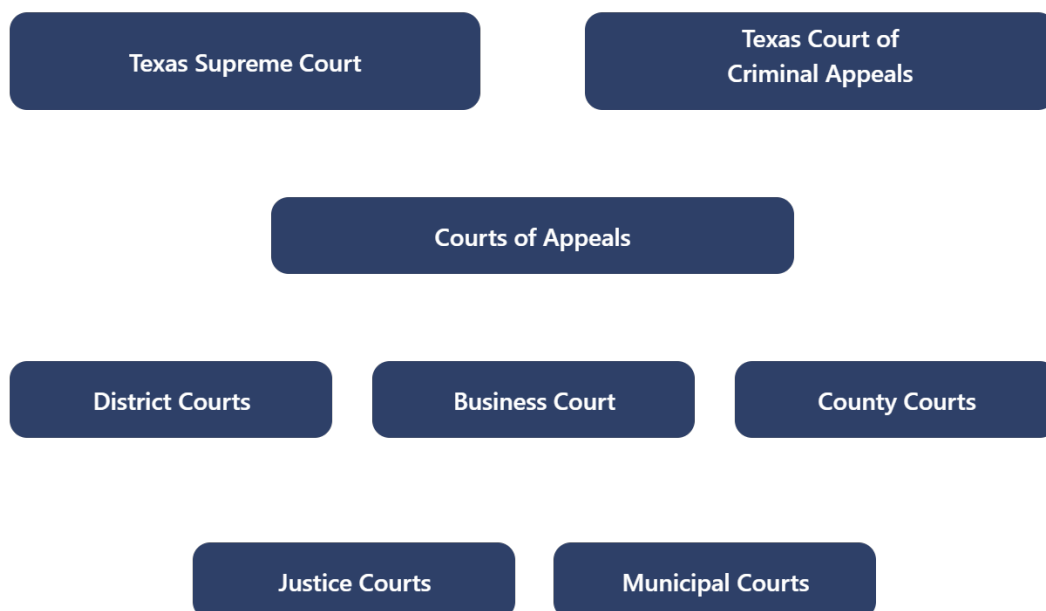
1. Appellate Courts

An appellate court is a court that reviews cases on appeal to determine whether a trial court correctly applied the law and followed proper procedures. Appellate courts do not retry the case or hear new evidence. Instead, they review the record for legal error.

The Supreme Court of Texas

The Supreme Court of Texas is composed of one Chief Justice and eight justices, who are elected in partisan elections on a statewide basis for six-year terms of office. The Supreme Court of Texas has final appellate jurisdiction statewide in civil and certain juvenile cases. A civil case usually deals with private rights of individuals, groups, or businesses. A civil lawsuit may be brought when one person is wronged or injured by another person. One example is a lawsuit for recovery of damages suffered in a car collision. From the municipal court clerk perspective, civil cases may include certain animal hearings or cases involving truant conduct.

In addition to hearing oral arguments and writing decisions for cases on appeal, the Supreme Court of Texas is empowered to make and enforce all necessary rules of civil trial practice and procedure. The Legislature has authorized the Supreme Court of Texas and the Texas Court of Criminal Appeals collectively to promulgate or publish the rules of evidence and appellate procedure used in both civil and criminal matters. To ensure the efficient administration of justice in Texas, the Supreme Court has many administrative duties that include issuing the rules of procedure for the State Commission on Judicial Conduct; equalizing the dockets of the intermediate courts of appeals; and supervising the operations of the State Bar of Texas, including the licensure of Texas attorneys.



The Texas Court of Criminal Appeals

The Texas Court of Criminal Appeals consists of one Presiding Judge and eight judges, who must have the same qualifications, and are elected in the same manner as the justices of the Supreme Court of Texas. The Court of Criminal Appeals is the highest final state appellate court for criminal cases. The jurisdiction of the Court of Criminal Appeals extends to all criminal cases heard by the intermediate courts of appeals and those criminal cases coming directly from the district courts when the death penalty has been imposed.

Additionally, the Court of Criminal Appeals administers state grant funds for the training of judges and court personnel, which is the primary funding source of the Texas Municipal Courts Education Center.

The Courts of Appeals

Each of the 15 intermediate courts of appeals has at least three judges: a Chief Justice and two other justices. The Legislature, however, may increase the number whenever the workload of an individual court requires additional judges.

Except for the Fifteenth Court of Appeals, which has statewide jurisdiction over appeals from the business court, courts of appeals hear the appeals from the trial courts located within their respective districts. The appeals are based upon the “record.” When the term “record” is referenced in this context, it generally refers to the written transcript of testimony given, exhibits introduced, the documents filed in the trial court, and the supplementary written briefs and oral arguments of the appellate lawyers. The courts of appeals do not receive testimony or hear witnesses when considering cases on appeal. Those events happen at the trial court level and become part of the record for the appellate court to review. At this level, appeals are usually heard by a panel of three justices. In some cases, an en banc hearing is ordered. En banc means that a case is heard before all the judges of a court. In that case, all the justices would hear and consider the case, rather than a panel.

The map of the geographic locations of the courts of appeals and their respective boundaries can be found on OCA’s website: <https://www.txcourts.gov/judicial-directory/court-jurisdiction-maps/>.

The courts of appeals are located in 13 cities, with an additional statewide Fifteenth Court of Appeals:

Houston (Districts 1 and 14)

Fort Worth (District 2)

Austin (District 3)

San Antonio (District 4)

Dallas (District 5)

Texarkana (District 6)

Amarillo (District 7)

El Paso (District 8)

Beaumont (District 9)

Waco (District 10)

Eastland (District 11)

Tyler (District 12)

Corpus Christi/Edinburg (District 13)

2. Trial Courts

Trial courts are where cases are heard and decided — witnesses testify, exhibits are entered into evidence, and a judge or jury determines the outcome. In criminal cases, defendants have the right to a jury trial (six jurors for misdemeanors, twelve for felonies). Except in capital murder cases, parties may waive a jury and opt for a bench trial, where the judge alone decides guilt or innocence.

Jurisdiction is a court’s legal authority to hear and decide cases. Courts created by the Texas Constitution have constitutionally granted jurisdiction; courts created by the Legislature have only what the Legislature gives them — and the Legislature can expand, but not strip, constitutionally granted jurisdiction.

A few key jurisdiction terms:

- **Original jurisdiction** — authority to try a case and enter judgment for the first time
- **Appellate jurisdiction** — authority to review a lower court’s record for error
- **Exclusive jurisdiction** — sole authority over certain cases, shared with no other court
- **Concurrent jurisdiction** — shared authority, where a case may be filed in any qualifying court

Trial Court Comparison				
District Courts	Business Court	County Courts	Justice Courts	Municipal Courts
500	1	538	796	954

Texas trial courts fall into two broad categories. Courts of general jurisdiction — the district courts — may hear virtually any civil or criminal matter. Courts of limited jurisdiction — the business court, county courts, justice courts, and municipal courts — may only hear the types of cases the law authorizes.

District Courts

District courts have original jurisdiction over criminal offenses punishable by a year or more in prison (felonies), misdemeanors involving official misconduct, and transferred misdemeanors. On the civil side, they handle divorce, land title disputes, contested elections, defamation suits, and civil matters involving \$200 or more. They may also issue writs, including writs of habeas corpus, mandamus, and attachment, to enforce judgments. Appeals go to the applicable court of appeals based on region.

Business Court

Created by the 88th Legislature and effective September 1, 2024, the Texas Business Court is a statutory court with statewide jurisdiction. It shares jurisdiction with district courts over complex, high-value business disputes, including matters involving publicly traded companies. It does not hear personal injury, wrongful death, medical liability (Chapter 74), or legal malpractice cases. The court operates with five divisions and ten judges.

County-Level Courts

The Texas Constitution establishes a county court in each county. Constitutional county courts have concurrent jurisdiction with justice courts over civil cases, Class A and B misdemeanors, and state law fine-only offenses—meaning they share jurisdiction with both justice and municipal courts over most fine-only matters. County courts also have appellate jurisdiction over cases originally tried in justice courts and most municipal courts.

The Legislature has additionally created statutory county courts and statutory probate courts—primarily in metropolitan counties—to assist the single constitutional county court.

Justice Courts

Each county is divided into at least one and no more than eight justice precincts, each with an elected justice of the peace serving a four-year term. No special qualifications are required for the office.

Justice courts have original jurisdiction over Class C misdemeanors (fine-only offenses under state law), concurrent with municipal courts. They also share concurrent jurisdiction with municipal courts over sign ordinance violations in a city’s extraterritorial jurisdiction.

Justice courts have exclusive original jurisdiction in civil cases involving \$200 or less, and concurrent jurisdiction with county and district courts in civil matters up to \$20,000 (excluding interest), provided jurisdiction isn’t statutorily limited to those courts. They also have jurisdiction over evictions (forcible entry and detainer), mortgage foreclosures, and enforcement of liens on personal property, so long as the amount in controversy falls within their jurisdictional limits. Like municipal courts, justice courts may also exercise truancy court jurisdiction under Title 3A of the Family Code.

Trials in justice courts are not of record. Appeals go to the county court, county court at law, or district court as a trial de novo—completely new trial, as if the case had never been heard before.

Municipal Courts

Municipal courts were established by the Corporation Court Law of 1899, now codified in Chapter 29 of the Government Code. They are statutory courts, created by legislative authority, and currently operate in more than 900 Texas cities. Larger cities often have multiple municipal courts.

As statutory courts, municipal courts may adjudicate any subject matter the Legislature authorizes. Their jurisdiction is primarily criminal: Class C misdemeanors, where punishment is a fine only. The Legislature has also granted limited civil jurisdiction, including bond forfeitures, cruelly treated animal hearings (Chapter 821, Health and Safety Code), dangerous dog hearings (Chapter 822, Health and Safety Code), and, for certain cities, civil parking violations. Municipal courts, along with justice courts and certain county courts, are designated as truancy courts, having original, exclusive jurisdiction over allegations of truant conduct.

Courts of record vs. non-record: Chapter 30 of the Government Code designates 51 Texas cities as municipal courts of record. All other cities may choose by ordinance whether to operate as a court of record or non-record court. Courts of record maintain a formal transcript of proceedings, and appeals are heard on that record—generally in the county court or county court at law. Non-record courts do not keep a transcript; appeals go to county court for a trial de novo. Courts of record must have judges licensed to practice law in Texas; no such requirement applies to other

municipal judges. El Paso and Dallas have been specifically authorized to create municipal courts of appeals.

Municipal courts of record also have additional concurrent jurisdiction, shared with district courts and county courts at law, to enforce health and safety and nuisance abatement ordinances within their territorial and extraterritorial limits.

B. Municipal Court Jurisdiction in Detail

A criminal case is a legal action brought by the State of Texas against a person charged with a crime. Texas treats traffic offenses (speeding, driving without a license, and similar violations) as crimes, an approach not universal across states. There are more than 1,300 fine-only offenses in state law; see TMCEC's Fine-Only Crimes handbook (the "Green Book") for a comprehensive list.

Municipal court jurisdiction in a criminal case begins when a complaint or citation is filed with the court. Arts. 45A.002(1); 27.14(d), C.C.P. A citation (written notice to appear issued by a peace officer) may serve as the initial charging instrument; alternatively, a prosecutor may draft a complaint. Both give the defendant notice of the charge. Without a filed complaint or citation, the court has no jurisdiction over the defendant. Most Class C misdemeanors carry a two-year statute of limitations from the date of the offense. Art. 12.02(a), C.C.P. The exception: assault by threat with family violence (Section 22.01, Penal Code) carries a three-year limitations period. When two or more courts share concurrent jurisdiction, the court where the complaint is first filed retains jurisdiction. Art. 4.16, C.C.P.

Exclusive Original Jurisdiction

Municipal courts have exclusive original jurisdiction over violations of city ordinances—and resolutions, rules, and orders of a joint airport board—that occur within the city's territorial limits or on city-owned property in its extraterritorial jurisdiction. The sole exception: justice courts share concurrent jurisdiction with municipal courts over certain sign ordinance violations in the city's extraterritorial jurisdiction. Art. 4.11(c), C.C.P.

State law caps fines for city ordinance violations: generally up to \$500, up to \$2,000 for fire safety, zoning, or public health and sanitation violations, and up to \$4,000 for illegal dumping. Within those caps, the city council sets the fine or fine range by ordinance. Sec. 54.001, L.G.C.

Concurrent Original Jurisdiction

Municipal courts share original jurisdiction with justice courts over state law offenses that (1) occur within the city's territorial limits or on city-owned property in its extraterritorial jurisdiction, and (2) are punishable by fine only. Art. 4.14, C.C.P. and Sec. 29.003, G.C. Generally, a Class C misdemeanor under the Penal Code carries a maximum \$500 fine. However, for jurisdictional purposes, any offense punishable by fine only—no matter which code it comes from or the maximum fine set by the Texas Legislature—is treated as a Class C misdemeanor. Secs. 12.23, 12.41, P.C. For example, passing a school bus is defined in the Transportation Code and carries a maximum fine of \$1,250, but it remains a fine-only Class C offense. Municipal courts may also impose non-confinement sanctions in addition to fines.

Appellate Jurisdiction

Municipal courts are trial courts and generally have no appellate jurisdiction, with two narrow exceptions: (1) a person cited for a civil administrative parking violation may appeal a hearing

officer's order by filing a petition with the municipal court clerk (Sec. 682.011, T.C.); and (2) the owner of a dog declared dangerous by animal control may appeal that determination to the municipal court (Sec. 822.0421, H.S.C.).

Geographic Jurisdiction

The geographic jurisdiction of municipal courts is generally limited to cases arising within the city's territorial limits. The Legislature has, however, authorized several expansions:

- A city contracting with other municipalities for a joint police department may hold its municipal court proceedings within any party municipality's limits.
- A city with a population of 1.19 million or more may enter agreements with a contiguous municipality for concurrent jurisdiction over fine-only offenses committed on or within 200 yards of the shared boundary.
- Any city may enter an agreement with a contiguous municipality—or one whose boundaries fall within half a mile—to grant each court original jurisdiction over fine-only cases as though it were located in the city where the offense occurred.
- Cities with populations of 700 or less may conduct court proceedings within the limits of a contiguous incorporated municipality (applicable to cities up to 3,500 in population)—a provision that affects more than half of Texas's municipal courts.

C. Cooperation Within the Judicial System

Courts are bound to interpret laws and apply them to the facts presented in the cases tried. They must follow laws enacted by the Legislature and rules like the Texas Rules of Evidence and Texas Rules of Appellate Procedure, promulgated by bodies given rule-making authority. Other bodies may have administrative rules that courts must adhere to, including the Texas Department of Public Safety (DPS) and the Office of Court Administration (OCA). Courts regularly work with other state and federal agencies connected to the judicial system. For example, the DPS plays a crucial role in maintaining driver's license records. Although municipal courts do not control driver license records or manage the issuance of a license, municipal courts are required to report information to the DPS that may ultimately result in a license suspension.

Finally, courts must apply the doctrine of stare decisis. This legal doctrine requires courts to follow precedent, principles of law laid down in previous judicial decisions with similar issues or facts. This means that the legal precedent of higher courts is binding on lower courts. Practically speaking, it requires lower-level trial courts to respect and follow the decisions of Texas appellate courts or federal courts, even when the individual judge disagrees with the decisions.

D. Funding

The State of Texas provides full funding and salaries for the Supreme Court of Texas and the Texas Court of Criminal Appeals. In addition, it also provides the salaries for the appellate and district judges of Texas. Some counties supplement this base salary. Counties, in turn, pay the costs of constitutional county courts, county courts at law, justice courts, and the operating costs of district courts. Municipalities alone finance the operation of the municipal courts and the salaries of municipal court personnel.

7. Define jurisdiction. _____

8. What are the two highest appellate courts in Texas? _____
9. Explain the difference between a civil and criminal case. _____
10. Which is the highest Texas appellate court with jurisdiction over civil cases? _____
11. How are appellate courts different from trial courts? _____
12. What is meant by trial de novo? _____
13. Explain how the jurisdiction of justice courts is different from municipal courts. _____
14. Which branch of government created municipal courts? _____
15. Name the two categories of municipal courts in Texas that differ based on whether proceedings are formerly recorded. _____
16. What kind of cases can only be filed in municipal courts and not in any other court? _____
17. With which courts do municipal courts share jurisdiction? _____
18. Over which type of criminal offenses do municipal courts share jurisdiction with the justice courts? _____
19. What is the geographic jurisdiction of the municipal court? _____
20. What types of punishment may municipal courts impose for offenses within their jurisdiction? _____
21. What is the maximum amount of a fine for a Class C misdemeanor offense in the Penal Code? _____
22. What is the maximum amount of a fine for a Class C misdemeanor outside of the Penal Code? _____
23. What is the maximum fine amount that a city council can establish for ordinance violations involving public health and fire safety? _____
24. If both a municipal court and a justice court have jurisdiction over a case, which court proceeds with it? _____
25. Why are lasting impressions of the criminal justice system often formed in municipal courts? _____

26. What court(s) have jurisdiction in the cases described below:
- An appeal from a district court: _____
 - A divorce case: _____
 - A speeding ticket: _____
 - A felony murder case: _____
 - An appeal from a municipal court: _____

PART 3

THE MUNICIPAL COURT ROLE IN LOCAL GOVERNMENT

A. Fine Collection and Quota Prohibition

While municipal courts serve the important function of preserving public safety, protecting quality of life, and deterring future criminal behavior, the courts also collect fines and costs in relation to court cases processed. Municipal courts collect hundreds of millions of dollars in fines and costs annually. According to the OCA Activity Detail Report for municipal courts between the months of September 1, 2023 to August 31, 2024, approximately \$553 million in fines and costs were collected by Texas municipal courts. The bulk of the court costs are remitted to the State of Texas, but fines generally stay with the city. A portion of the city's budget often comes from these fines, but this typically makes up only a small percentage of the city budget.

Regardless of the amounts and percentages, a judge may not consider the raising of revenue as an aspect of judicial duties. The judge should not increase fines for the purpose of enhancing his or her position before the city council or to act as a revenue producer for the city. Section 720.002 of the Transportation Code specifically prohibits state agencies and political subdivisions from imposing traffic revenue quotas on municipal or county court judges and justices of the peace. While the prohibition does not keep cities from getting budget information or projections from courts, it does forbid the establishment or maintenance of a system for evaluating, promoting, compensating, or disciplining judges based on revenues collected from traffic convictions.

B. Relations with City Departments

Municipal courts should recognize the necessity for cooperating with the other departments in administrative and other areas without compromising the independence or integrity of the judiciary or public confidence in the integrity and impartiality of the judiciary. Unlike other trial courts at the county and district court level, municipal courts outside of the state's largest cities often do not have the luxury of physical separation between city management, law enforcement, court, and the office of the prosecutor. Court clerks may fulfill many roles, including city secretary or even judge. This may sometimes require careful balancing of the city's authority while respecting the essential independence of the court. The following section outlines some of the more pertinent areas of interdepartmental relations for municipal courts.

Practice Note

THE BRIEF

Information for Texas Municipalities about Texas Municipal Courts (September 2019)

86th Legislature Recap: Big Issues and the Road Ahead for Municipal Courts

The August issue of *The Brief* focused on bills that were effective prior to September 1, 2019. The majority of changes affecting Texas state and municipal courts were introduced after September 1st. TMCEC summarized (28 NMs) for the 2019 Legislature. Update Courts committee on website at <https://www.tmccec.com/cities/brief>. Here is a summary of rights key bills.

1. HB 3021 Consolidation of Court Cases and Related Court Procedures

Courts created court cases and procedures on reallocated to address issues related to court administration to improve the efficiency and quality of case for local and state government. The bill:

- Defines "case" to include any fee imposed on a defendant by the state or municipal judge at the time the defendant is arrested.
- The bill also establishes a new definition to require a hearing to determine whether a defendant appears either in person or by video conference.
- If a defendant does not appear in person or by video conference, the court may issue a bench warrant or a writ of habeas corpus to require the defendant to appear in person or by video conference.
- Requires the court to hold a hearing to determine whether the defendant is unable to appear in person or by video conference.
- Provides criteria for determining "unable to appear" but states that a determination of unable to appear is ultimately at the court's discretion.

2. HB 3022 Reform of the Collection Improvement Program

The Office of Court Administration (OCA) Collection Improvement Program (CIP) will be repealed September 1, 2019. The CIP required cities with a population of 10,000 or more to submit a percentage of 100,000 cases to implement a program designed to improve collection of court costs, fees, and fines against persons who appear in person or by video conference, but do not pay the amount due. For citizens of CIP, including taxpayers or employees for an individual or the person due the case, violating court rules, including failure to appear, including failure to comply with a payment plan, and affecting otherwise enforcement system (e.g., community service).

3. HB 3023 Reform of the Driver Responsibility Program

The Driver Responsibility Program (DRP) required DRP to assess penalties on drivers for certain traffic offenses in addition to any other penalties and costs. It also allows to pay the penalties and costs in installments to the driver's license. The DRP will be repealed on September 1, 2019. The report is extensive and applicable to any exchange pending in

The TMCEC initiative C3 (Councils, Courts, Cities) is aimed at filling the information gap between cities and municipal courts. The purpose of the C3 initiative is to highlight important court issues and increase awareness of municipal courts in Texas for mayors, city council members, city attorneys, and other local officials. Information is provided through seminars, resources, and a periodic email publication called *The Brief*. More information may be found at <https://www.tmccec.com/cities/>.

1. Mayors and City Managers

It is important for court personnel to understand that mayors and city managers tend to focus on revenues, including both expenditures and collections, because they are generally responsible for the city's budget. Some of the fines and fees collected by the court are deposited in the municipal treasury, and financial procedures must meet city approval.

Nonetheless, judicial decisions may only be made based on facts proved by evidence and should not be influenced by the city's financial needs. The clerk must be careful to avoid becoming the messenger of information, thereby unethically influencing the judge.

2. City Attorneys and Prosecutors

The municipal court and the city attorney interact not only during the prosecution of municipal court cases but also on potential legal issues that may affect the city. A city attorney provides legal advice to city council and management but balances this with his or her separate role as the representative of the State of Texas in a municipal prosecution. In addition, the law provides that a county attorney of the county in which the municipality is located may also represent the State. Most municipal court prosecutions, however, are typically conducted by an attorney either employed or contracted by the municipality.

The prosecutor decides, working with law enforcement, whether to pursue formal criminal charges in any given case. The prosecutor, not the judge or clerk, should advise and direct peace officers in preparing criminal cases. The court does not represent the prosecution or defense and must remain separate from the investigation to preserve impartiality at trial. It is ultimately the responsibility of the State, through the prosecutor, to decide which cases to prosecute.

3. Law Enforcement

Law enforcement may include police officers, code compliance officers, and animal control. These officers may look to the city prosecutor for advice in investigating and preparing for criminal cases. In cities where the municipal court clerk also serves as police dispatcher or where the offices of the court are in the same building as the police department, conflict is possible. Judges, clerks, and police departments must exercise great care to honor the separation of each department to eliminate any suggestion or perception of impropriety.

When citizens wish to present complaints or file criminal charges, it is recommended that they go to the police department or directly to the prosecutor. The police have the power and duty to investigate, which the court lacks, and make a professional determination whether or not to recommend the filing of criminal charges. Under the law, anyone may make a complaint that could result in a criminal case. Various city department officials may also file code violation complaints in municipal courts. The acceptance of these complaints for prosecution is a matter for the prosecutor to determine, not the court. As in all cases, the court should remain impartial in hearing evidence in these cases.

True or False

27. City managers may establish traffic revenue quotas as part of evaluating the court's performance. ____
28. Judges may consider factors related to revenue for the city in determining the fine and court costs in an individual's case. ____
29. Prosecutors help investigate and decide what complaints are filed in court. ____
30. The judge and clerk may help the prosecutor, police officer, and/or code enforcement officer investigate a crime. ____

PART 4

AGENCIES AND ORGANIZATIONS

In addition to the Texas Municipal Courts Education Center, several state agencies are available to lend assistance or provide resources and information to municipal courts. These organizations are summarized below.

A. Texas Municipal Courts Education Center (TMCEC)



The Texas Municipal Courts Education Center (TMCEC) was formed in 1984 by the Texas Municipal Courts Association (TMCA) to provide extensive continuing education and training programs for municipal judges and court support personnel. TMCEC is financed by a grant from the Texas Court of Criminal Appeals out of funds appropriated by the Legislature to the Judicial and Court Personnel Training Fund. In 2006, TMCEC was incorporated as a 501(c)(3) non-profit corporation exclusively for charitable, literary, and educational purposes of providing: (1) judicial education, technical assistance, and the necessary resource material to assist municipal judges, court personnel, and city attorneys in obtaining and maintaining professional competence in the fair and impartial administration of criminal justice; and (2) information to the public about the Texas judicial system and laws relating to public safety and quality of life in Texas communities.

TMCEC conducts courses in various locations throughout the State to facilitate compliance by municipal judges with the Court of Criminal Appeals' order mandating continuing education on an annual basis. Courses are regularly offered for judges, clerks, court administrators, prosecutors, and juvenile case managers.

Court Clerk Continuing Education

TMCEC's continuing education programs for clerks include regional clerk seminars, new clerks seminars, an annual court administrator seminar, and a Level III assessment clinic for the Texas

Municipal Court Clerk Certification Program. Court clerks are not currently required by law to obtain continuing legal education; however, such education should be an essential part of any high performing Texas municipal court. TMCEC publishes an online academic schedule outlining educational opportunities for the year.

Additionally, court clerks who are participating in the Municipal Court Clerk Certification Program are required to obtain certain educational requirements through TMCEC, the Texas Court Clerks Association (TCCA), or other approved providers like TMCA. For more information, go to the TMCEC website (www.tmcec.com/clerk-certification) or email certification@tmcec.com.

TMCEC Publications & Resources

TMCEC offers several publications that address court issues and aid in understanding municipal court procedures. These include a journal, *The Recorder*, the “Green Book,” *Forms Book*, *Bench Book*, and *Municipal Courts and the Texas Judicial System*. TMCEC staff attorneys are available to judges and court personnel to answer questions about municipal court procedures through the toll-free number 800.252.3718.

Additionally, courses, webinars, and other vital information and resources are available online at the Online Learning Center (OLC). Visit register.tmcec.com. Timely updates are also available by following TMCEC on social media.

B. Attorney General’s Office (AG)

The Texas Attorney General is the chief legal officer in the State of Texas. The Attorney General’s Office (AG) publishes legal opinions on how laws might be interpreted when a provision is ambiguous or contradicts another part of the law. Copies of opinions are available online at the AG’s website at www.oag.state.tx.us. Although city officials do not have standing to request an AG opinion, the letter opinion process is available. Although less authoritative, it is quicker than the formal opinion process and still provides a source of guidance.

The AG also administers the Crime Victims Compensation Fund that provides benefits to crime victims. For additional information on the Crime Victims Compensation Fund, call 800.983.9933.

C. State Bar of Texas (SBOT)

The State Bar of Texas, an administrative agency of the State’s judicial branch, is charged with many responsibilities, including providing educational programs for legal professionals and the public, administering the mandatory continuing education for attorneys, and managing the attorney grievance procedure.

For additional information or to learn about the grievance process against attorneys, call 512.427.1463. The State Bar sponsors the Texas Lawyers’ Assistance Program (TLAP), a peer assistance program for lawyers and judges with alcohol and drug abuse problems. To refer a lawyer or judge, contact 800.343.8527.

The State Bar’s website is www.texasbar.com. The website has a search function that the public can use to access public information on every attorney licensed in Texas. This includes information on whether the attorney is eligible to practice law, the attorney’s business address, and practice areas.

D. State Commission on Judicial Conduct (SCJC)

The State Commission on Judicial Conduct (SCJC) investigates and resolves complaints filed against judges. The Commission will be discussed at greater length in Chapter 3 (Ethics) of this book, but it is helpful to note that staff attorneys may be able to assist clerks in working through difficult ethical situations and issues they encounter. Contact the SCJC at 877.228.5750. The SCJC's website is www.scjc.texas.gov.

E. State Comptroller of Public Accounts (CPA)

The State Comptroller of Public Account's Office is ultimately responsible for the collection of court costs and for their final distribution. Municipal courts must report quarterly to the Comptroller. See Chapter 7 (State and City Reports) of this book for details on the quarterly report. The Comptroller has staff members that are available to assist municipal courts and to answer questions about properly reporting state court costs on criminal convictions.

F. Texas Commission on Law Enforcement (TCOLE)

The Texas Commission on Law Enforcement (TCOLE) is the regulatory agency for commissioned peace officers in Texas. Many cities have city marshal offices to employ officers who are available to assist the municipal court with service of process and court security. Marshal offices must be created and regulated by TCOLE. Questions regarding peace officer certification or city marshal offices should be directed to TCOLE through its website at www.tcole.texas.gov.

G. Texas Court Clerks Association (TCCA)

The Texas Court Clerks Association (TCCA) is a non-profit organization established to increase the proficiency of judicial administrators and clerical personnel through education and networking. TCCA offers an annual meeting and training in their local chapters across the state. TCCA is also an affiliate of the Texas Municipal League (TML). It co-sponsors the Municipal Court Clerks Certification Program with TMCEC and Texas State University. For more information on TCCA, or for information on how to join a local chapter, contact the association through its website at texascourtclerks.org.

H. Texas Department of Motor Vehicles (TxDMV)

The Legislature created the Texas Department of Motor Vehicles (TxDMV) in 2009 to oversee the registration and titling of vehicles. Cities can contract with the TxDMV and their local tax assessor-collector to deny renewal of vehicle registration for certain defendants who have failed to appear in court or who have failed to pay a fine for certain traffic offenses. This program is commonly referred to as Scofflaw. More information on the TxDMV can be obtained at its website at www.txdmv.gov.

I. Texas Department of Public Safety (DPS)

The Transportation Code requires municipal courts to report all traffic convictions or bond forfeitures in traffic cases to the Texas Department of Public Safety (DPS). Sec. 543.201, T.C. This report should be made in a form acceptable to the DPS. Sec. 543.203, T.C.

Through the Nonresident Violator Compact (NVC), compliance with traffic laws may be enforced even when citations are issued to motorists who live outside Texas. The police, municipal and justice courts, and DPS must cooperate to enforce the NVC. The DPS is the Texas "licensing agency" responsible for receiving reports from local authorities on failure of out-of-state motorists to comply with the terms of traffic citations. Ch. 703, T.C.

The DPS also provides and maintains statewide driving records. Such information may be helpful to the courts in assessing punishment or prescribing rehabilitative techniques for defendants. For information on reporting, call the DPS at 512.424.2031 or email data.submission@dps.texas.gov.

Cities may contract with the DPS to deny renewal of the driver's license of a person who has failed to appear in court or who has failed to pay a fine. For information on this program, commonly referred to as Omnibase, visit the website at www.omnibase.com.

DPS forms and more information can be obtained from the DPS through its website at www.dps.texas.gov.

J. Texas Judicial Council

The Texas Judicial Council is the policy-making body for the State judiciary. The Council's membership consists predominantly of state judicial officers (including two municipal judges), legislators, and individuals appointed by the Governor and the State Bar of Texas. The Council studies methods to simplify judicial procedures, expedite court business, and better administer justice. It examines the work accomplished by the courts and submits recommendations for improvement of the system to the Legislature, the Governor, and the Supreme Court.

K. Office of Court Administration (OCA)

The Office of Court Administration (OCA) is a state agency and operates under the direction and supervision of the Supreme Court of Texas and its Chief Justice. The OCA is tasked by the Texas Government Code to, among other things, collect statistics on all Texas courts. Every court in Texas is required to report various statistical data to the Texas Judicial Council monthly through the OCA. This data is often used by state legislators to get a picture of what is occurring across the state in the courts. The data is also considered public information and may be searched online through the OCA website. The two primary monthly reports that courts must submit to the OCA are the Judicial Council Monthly Court Activity Report, often referred to by court clerks as the "OCA Report," and the Appointment and Fees Monthly Report that documents certain appointed attorneys. The data collected is published by the OCA in its Annual Report of the Texas Judiciary. The website for the OCA is www.txcourts.gov/oca.

The OCA also provides technical assistance and various resources to courts, including training and education on areas such as court security and reporting.

L. Texas Municipal Courts Association (TMCA)



The Texas Municipal Courts Association (TMCA) is a 501(c)(4) non-profit association of municipal judges and court personnel across Texas. TMCA is the professional trade association of municipal judges and municipal court personnel, including prosecutors. TMCA is the parent organization of TMCEC. By being elected to the TMCA Board of Directors, board members also serve on the TMCEC Board of Directors. TMCA hosts an annual meeting, an annual awards program for outstanding judges and clerks, and an active legislative program. For additional information visit the TMCA website at www.txmca.com.

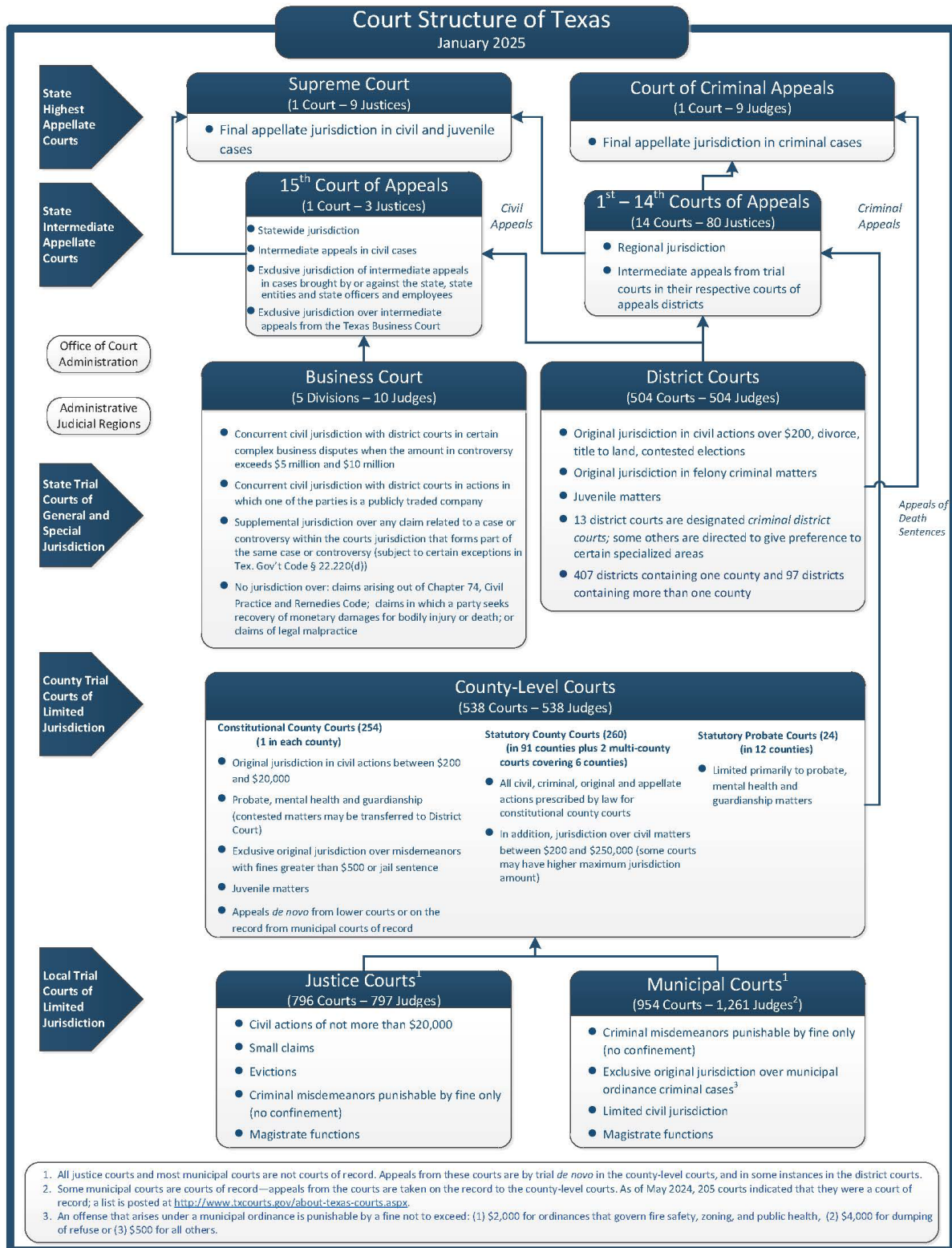
M. Texas Municipal League (TML)

The Texas Municipal League (TML) provides a variety of services to municipal courts. TML monitors legislation proposed and passed by the Legislature to assure that the interests of municipalities are represented. Contact TML at 512.231.7400. The TML website is www.tml.org.

31. Indicate which office(s) to call if you need assistance on:

- Training and written materials on court process and procedure: _____
- The proper forms to report traffic convictions: _____
- Statistical data on other courts of your size: _____
- Driving records: _____
- Help with collecting the proper court costs: _____
- General information on city government: _____
- A question about judicial ethics: _____
- A question about the crime victims program: _____
- Questions about the court clerks' certification program: _____
- A legislative proposal regarding prosecutors in municipal court: _____

APPENDIX A: COURT STRUCTURE OF TEXAS



ANSWERS TO QUESTIONS

PART 1

1. An adversarial legal system is one in which the case is viewed as a struggle between two opposing sides. Each side acts in its own interest, presenting its case in the best possible light to the court. The judge remains neutral. The theory of this process is that the trier of fact will be able to determine the truth if the opposing parties present their best arguments. Decisions are based upon the evidence presented and the applicable law.
2. Common law refers to a legal system based on judicial decisions rather than legislative action. Today, many common law principles have been incorporated into current codes and statutes. Important rights and legal concepts such as the waiver of trial by jury (Arts. 1.13 and 45A.155, C.C.P.), the defense of necessity (Sec. 9.22, P.C.), and the defense of justification (Sec. 9.02, P.C.) all spring from the English common law.
3. The legislative branch enacts the laws; the executive enforces the laws; and the judiciary interprets and applies the laws.
4. To prevent the accumulation of too much power into too few hands, the U.S. Constitution divides the government into three equal branches: the legislative, the executive, and the judicial. The theory is that if legal power is divided into three branches, no one branch will be able to dominate the other two and impose its own theory of justice on the public.
5. The Bill of Rights
6. Supreme Court of Texas, Texas Court of Criminal Appeals, intermediate courts of appeals, constitutional county courts, district courts, and justice courts.

PART 2

7. Jurisdiction is the authority and legal power to hear and decide cases.
8. Supreme Court of Texas and Texas Court of Criminal Appeals
9. A civil case usually deals with private rights of individuals, groups, or businesses. A civil lawsuit can be brought when one person is wronged or injured by another person. A criminal case is legal action brought by the State of Texas against a person charged with a crime.
10. Supreme Court of Texas
11. Trial courts are where cases are heard and decided. Witnesses testify, exhibits are entered into evidence, and a judge or jury determines the outcome. The appellate courts hear cases based upon the “record” (a written transcription of the testimony given, exhibits introduced, and the documents filed in the trial court) and the written and oral arguments of the appellate lawyers. Unlike the trial courts, the courts of appeals do not receive testimony nor hear witnesses when considering cases on appeal.
12. Trial de novo means a completely new trial, as if the case had never been heard before. When a case is appealed from a non-record municipal court, it is retried at the higher level as though it is a new case since there is no record of the case from the lower court.
13. Justice courts do not have jurisdiction over city ordinances, except in one instance: a violation of a city ordinance involving signs that arises in a city’s extraterritorial jurisdiction. They have jurisdiction over foreclosure and evictions (forcible entry and detainer cases); municipal courts do not. Justice courts have much greater civil jurisdiction than municipal courts.
14. The Texas Legislature
15. Municipal court of record and non-record municipal court

16. Violation of city ordinances and the resolutions, rules, and orders of a joint airport board that occur in the territorial jurisdiction of the city and property owned by the city in the city's extraterritorial jurisdiction (ETJ).
17. Justice courts and county courts. Some courts of record may share jurisdiction with district courts.
18. State law, fine-only offenses and sign ordinance violations in a city's extraterritorial jurisdiction
19. Generally, within the territorial limits of the city
20. Fine-only or other sanctions, authorized by law, that do not consist of confinement in jail or imprisonment
21. \$500
22. As long as the offense is punishable by a fine only, the maximum amount is set by the Legislature.
23. \$2,000
24. The court in which the complaint (or citation) is first filed retains jurisdiction.
25. More citizens come into personal contact with municipal courts than with all other Texas courts combined. Public impression of the judicial system is affected and shaped in large measure by the proceedings of the municipal court.
26. The answers to the subparts of question 28 are found below:
 - An appeal from a district court: Court of Appeals
 - A divorce case: District Court
 - A speeding ticket: Municipal or Justice Court
 - A felony murder case: District Court
 - An appeal from a municipal court: County Court

PART 3

27. False (Section 720.002 of the Transportation Code prohibits quotas on municipal courts).
28. False (judicial decisions may only be made on the basis of facts in evidence and laws).
29. True.
30. False (judges are neutral and unbiased).

PART 4

31. The answers to the subparts of question 33 are found below:
 - Training and written materials on court process and procedure: Texas Municipal Courts Education Center
 - The proper forms to report traffic convictions: Department of Public Safety
 - Statistical data on other courts of your size: Texas Judicial Council/Office of Court Administration
 - Driving records: Department of Public Safety
 - Help with collecting the proper court costs: State Comptroller of Public Accounts
 - General information on city government: Texas Municipal League

- A question about judicial ethics: State Commission on Judicial Conduct
- A question about the crime victims' program: Attorney General's Office
- Questions about the court clerks' certification program: Texas Municipal Courts Education Center or Texas Court Clerks Association
- A legislative proposal regarding prosecutors in municipal courts: Texas Municipal Courts Association or Texas Municipal League