

Level I

Study Questions and Answers

For certification exams administered beginning January 1, 2027

These questions are a supplemental study tool and do not replace the Level I and Level II Study Guides.

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Level I Chapter 1: Overview of the Courts

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: History of the Judicial Process

1. Explain the term "adversarial legal system" as it relates to American criminal courts.

Answer: 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. Define common law and give an example applicable to municipal courts.

Answer: 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. Identify and briefly describe the role of each branch of government.

Answer: The legislative branch enacts the laws; the executive enforces the laws; and the judiciary interprets and applies the laws.

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

Answer: 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. What are the first 10 amendments to the U.S. Constitution called?

Answer: The Bill of Rights

6. List the courts established by the Texas Constitution.

Answer: Supreme Court of Texas, Texas Court of Criminal Appeals, intermediate courts of appeals, constitutional county courts, district courts, and justice courts.

Part 2: Texas Judicial System

7. Define jurisdiction.

Answer: Jurisdiction is the authority and legal power to hear and decide cases.

8. What are the two highest appellate courts in Texas?

Answer: Supreme Court of Texas and Texas Court of Criminal Appeals

9. Explain the difference between a civil and criminal case.

Answer: 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. Which is the highest Texas appellate court with jurisdiction over civil cases?

Answer: Supreme Court of Texas

11. How are appellate courts different from trial courts?

Answer: 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. What is meant by trial de novo?

Answer: 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. Explain how the jurisdiction of justice courts is different from municipal courts.

Answer: 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. Which branch of government created municipal courts?

Answer: The Texas Legislature

15. Name the two categories of municipal courts in Texas that differ based on whether proceedings are formerly recorded.

Answer: Municipal court of record and non-record municipal court

16. What kind of cases can only be filed in municipal courts and not in any other court?

Answer: 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. With which courts do municipal courts share jurisdiction?

Answer: Justice courts and county courts. Some courts of record may share jurisdiction with district courts.

18. Over which type of criminal offenses do municipal courts share jurisdiction with the justice courts?

Answer: State law, fine-only offenses and sign ordinance violations in a city's extraterritorial jurisdiction

19. What is the geographic jurisdiction of the municipal court?

Answer: Generally, within the territorial limits of the city

20. What types of punishment may municipal courts impose for offenses within their jurisdiction?

Answer: Fine-only or other sanctions, authorized by law, that do not consist of confinement in jail or imprisonment

21. What is the maximum amount of a fine for a Class C misdemeanor offense in the Penal Code?

Answer: \$500

22. What is the maximum amount of a fine for a Class C misdemeanor outside of the Penal Code?

Answer: As long as the offense is punishable by a fine only, the maximum amount is set by the Legislature.

23. What is the maximum fine amount that a city council can establish for ordinance violations involving public health and fire safety?

Answer: \$2,000

24. If both a municipal court and a justice court have jurisdiction over a case, which court proceeds with it?

Answer: The court in which the complaint (or citation) is first filed retains jurisdiction.

25. Why are lasting impressions of the criminal justice system often formed in municipal courts?

Answer: 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. 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:

Answer: The answers to the subparts 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: The Municipal Court Role in Local Government

27. City managers may establish traffic revenue quotas as part of evaluating the court's performance. (True or False)

Answer: False (Section 720.002 of the Transportation Code prohibits quotas on municipal courts).

28. Judges may consider factors related to revenue for the city in determining the fine and court costs in an individual's case. (True or False)

Answer: False (judicial decisions may only be made on the basis of facts in evidence and laws).

29. Prosecutors help investigate and decide what complaints are filed in court. (True or False)

Answer: True.

30. The judge and clerk may help the prosecutor, police officer, and/or code enforcement officer investigate a crime. (True or False)

Answer: False (judges are neutral and unbiased).

Part 4: Agencies and Organizations

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:

Answer: The answers to the subparts 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

Level I Chapter 2: Role in the Court

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: Officers of the Court

1. The judge plays an adversarial role in court. (True or False)

Answer: False.

2. If there is not a prosecutor, the judge or the clerk should serve as the prosecutor and represent the State. (True or False)

Answer: False.

3. The prosecutor, with the consent of the judge, has the authority to dismiss a case. (True or False)

Answer: True.

4. The prosecutor is responsible for preparing and drafting complaints and may ask the clerk for assistance. (True or False)

Answer: True.

5. A court clerk may exercise judicial discretion. (True or False)

Answer: False.

6. What is the longest term of office that a city may set for municipal judge? How may a city provide for this term of office?

Answer: The Texas Constitution authorizes cities to provide for a term not to exceed four years for the municipal judge. A city may provide for this term through its city charter or by majority vote, depending on whether it is a home-rule or general-law city. For municipal courts of record, however, the term of office for judges is established by the ordinance that created the office, for a definite term of two or four years.

7. May a non-attorney parent represent his or her child in court if that person is named in a power of attorney? Why or why not?

Answer: No, a non-attorney may not represent another person in court proceedings regardless of any relationship or power of attorney document. A power of attorney, despite its name, does not permit a person to act as a licensed attorney representing others in court. A person must be an attorney at law, licensed to practice in Texas.

8. What is required for a person to serve as a court security officer in Texas?

Answer: Under Chapter 156 of the Government Code, a person may not serve as a court security officer for an appellate, district, statutory county, county, municipal or justice court in this state unless the person holds a court security certification issued by a training program approved by the Texas Commission on Law Enforcement (TCOLE).

9. How often must the statement of officer and oath of office be filed?

Answer: Every time appointment, election, reappointment, or reelection occurs; with each new term of office.

Part 2: Authority of a Judge

10. When can a mayor in a general-law city be the ex officio municipal judge?

Answer: In a general-law city, the mayor is the ex-officio judge of the municipal court. The mayor continues as municipal judge during his or her term as mayor unless the municipality, by ordinance, authorizes the election of a judge or provides for the appointment and qualifications of a judge by ordinance. After the ordinance is adopted by the city council, the mayor ceases to act in the capacity of a judge, even if the position of judge is vacant.

11. What governs the selection of municipal judges in a home-rule municipality?

Answer: The city's charter.

12. What must a general-law city do when a municipal judge is temporarily unable to act?

Answer: If a municipal judge of a general-law city is temporarily unable to act, the governing body may appoint one or more persons meeting the qualifications for the position to sit for the regular municipal judge. The appointee has all powers and duties of the office and is entitled to compensation.

13. What is a question of law?

Answer: A question of law is an issue involving application or interpretation of a law.

14. What is a question of fact?

Answer: A question of fact is an issue involving resolution of a factual dispute.

15. What is judicial discretion?

Answer: Judicial discretion is the exercise of judicial judgment. Judges' discretion to make decisions must be guided by law and be based on facts and is the power to determine what, under existing circumstances, is right or proper.

16. When does a judge not have discretion to perform an action?

Answer: When a law prescribes a certain way to perform a certain action, the judge has no discretion.

17. Which kind of duty may a judge delegate to a court clerk?

Answer: Judges can delegate a ministerial duty to the clerk.

18. Clerks may set and take bail from a defendant. (True or False)

Answer: False.

19. The clerk may ask the defendant how he or she wants to plea. (True or False)

Answer: False.

20. When a defendant calls the court to request that the clerk reset his or her case to another trial date, the clerk may grant the continuance and reset the case. (True or False)

Answer: False.

21. Clerks may not conduct trials. (True or False)

Answer: True.

22. Clerks may set fines. (True or False)

Answer: False.

23. Clerks may grant extensions and time payment plans to defendants. (True or False)

Answer: False.

24. Clerks may require a defendant to pay a fine by performing community service. (True or False)

Answer: False.

25. The judge has authority to waive all or part of the fine or costs if the defendant is indigent or does not have sufficient resources or income to pay all or part of the fine or costs and discharging the fine or costs by community service or installment payments would impose an undue hardship. (True or False)

Answer: True.

26. Clerks may not issue arrest warrants. (True or False)

Answer: True.

27. Municipal court clerks have the authority to issue a capias. (True or False)

Answer: False.

28. Only a judge may issue a summons for a defendant. (True or False)

Answer: True.

29. When a judge is not available, the clerk may grant deferred disposition or teen court. (True or False)

Answer: False.

30. Judges can permit clerks to perform judicial duties and then later adopt the actions of the clerk. (True or False)

Answer: False.

31. Municipal court clerks may stamp the judge's signature on court documents when the judge is on vacation. (True or False)

Answer: False.

32. When a judge is in the office part-time, the clerk may use the judge's signature stamp to sign judgments on cases in which a defendant pays a fine at the clerk's office. (True or False)

Answer: False.

33. Municipal court clerks may stamp the judge's signature on mental health commitments when the judge is not available and it is an emergency. (True or False)

Answer: False.

34. Municipal court clerks cannot be held liable for performing a judicial duty if the judge requires the clerk to perform the duty. (True or False)

Answer: False.

35. Municipal judges are magistrates. (True or False)

Answer: True.

36. Municipal judges may perform duties that a magistrate has the authority to perform. (True or False)

Answer: True.

37. Municipal judges, acting as magistrates, may issue emergency protection orders for an offense involving family violence. (True or False)

Answer: True.

38. Only justices of the peace may conduct peace bond hearings. (True or False)

Answer: False.

39. Municipal judges, acting as magistrates, may accept a complaint (probable cause affidavit) for a felony. (True or False)

Answer: True.

40. Municipal court clerks may give magistrate warnings after a defendant is arrested when the municipal judge is not available. (True or False)

Answer: False.

41. Municipal judges, acting as magistrates, may issue search warrants. (True or False)

Answer: True.

42. A defendant may waive a judge's mandatory disqualification if he or she believes the judge can still be impartial. (True or False)

Answer: False.

43. Usually, clerks are responsible for establishing and maintaining a financial management program for the court. (True or False)

Answer: True.

44. Although presiding judges have authority to administer the oath to someone swearing to a complaint, associate judges do not. (True or False)

Answer: False.

45. A municipal judge may dismiss a case filed by a citation if the peace officer asks for the dismissal. (True or False)

Answer: False (Only a prosecutor may request a case be dismissed).

46. When defendants present proof that they renewed an expired driver's license, the clerk may dismiss the case. (True or False)

Answer: False.

47. Clerks may dismiss an offense for failure to maintain financial responsibility if the judge is on vacation. (True or False)

Answer: False.

48. What power does a judge use to exercise control in the courtroom?

Answer: Contempt power.

49. What Code gives municipal judges the authority to conduct marriage ceremonies?

Answer: Family Code.

Part 3: Authority of a Court Clerk

50. What is a general-law city?

Answer: A general-law city is one with a population under 5,000 or with a population of more than 5,000 that does not have a home-rule charter and is, therefore, governed by the general laws of the State.

51. In a general-law city, is the municipal court clerk hired, appointed, or elected?

Answer: In general-law cities, the municipal court clerk may be either appointed or elected.

52. What is a home-rule city?

Answer: A home-rule city is one that has a charter that governs it, and therefore has a measure of self-government.

53. In a home-rule city is the municipal court clerk hired, appointed, or elected?

Answer: In a home-rule city, the municipal court clerk may be hired, appointed, or elected.

54. City secretaries may never hold the office of court clerk. (True or False)

Answer: False.

55. In a general-law city, a court clerk automatically serves for a two-year term unless the city provides by ordinance for a longer term. (True or False)

Answer: True.

56. In a general-law city, the city manager may fill a vacancy for the unexpired term of a court clerk's office. (True or False)

Answer: False.

57. Every time someone is elected, appointed, or reappointed, he or she is required to swear to an anti-bribery statement and to take an oath of office. (True or False)

Answer: True.

58. An elected or appointed official may perform official duties before filing the anti-bribery statement with the official records of the office. (True or False)

Answer: False.

59. List the general duties of the municipal court clerk.

Answer: General duties of the clerk include:

- keep minutes of the court proceedings;
- issue (prepare) process; and
- generally perform the duties for the municipal court that a county clerk performs for a county court.

60. If a city does not have an ordinance governing the destruction of records and a clerk wants to destroy records, what must the clerk do?

Answer: The clerk must get permission from the State Library and Archives Commission to destroy the records.

61. Both clerks and judges may establish and maintain a financial management program for the court. (True or False)

Answer: True.

62. Court clerks may prepare warrants but not sign them. (True or False)

Answer: True.

63. Only judges may grant driving safety courses, but clerks may give defendants the paperwork on court requirements for processing their cases. (True or False)

Answer: True.

64. What type of records is a municipal court clerk of a court of record required to keep regarding traffic offenses?

Answer: Municipal court clerks of courts of records are required to keep a record of each case in which a person is charged with a violation of law regulating the operation of vehicles on highways.

65. In non-record courts, who is required to keep records of traffic offenses?

Answer: In non-record courts, judges and magistrates are required to keep records of traffic offenses. Keeping these types of records is a ministerial duty that judges may delegate to the clerk.

66. Who is required to report convictions and bond forfeitures of traffic offenses to the Department of Public Safety?

Answer: Municipal court clerks, judges, and magistrates are required to report convictions and bond forfeitures of traffic offense to the Department of Public Safety.

67. When a prospective juror files a permanent exemption with the municipal court clerk, what is the clerk required to do?

Answer: The clerk is required to deliver a copy of the permanent exemption to the county voter registrar.

68. When either the defense or prosecution demands a jury shuffle, what is the clerk required to do?

Answer: The clerk is required to randomly select jurors by computer or another process of random selection and shall write or print the names in the order selected on the jury list. The clerk shall deliver a copy of the list to the prosecutor and to the defendant or his or her attorney.

69. When a defendant appeals his or her case, what is the clerk required to do?

Answer: The clerk has a mandatory ministerial duty to forward the appeal to the appellate court.

70. What is a clerk required to do when a bond forfeiture has been declared?

Answer: When a forfeiture has been declared, the judge or clerk shall docket the case upon the scire facias (a special docket for bond forfeiture) or upon the civil docket.

71. What is a clerk required to do when the victim is not present when an emergency order of protection is issued?

Answer: The clerk is required to send a copy of the order to the victim.

72. What must a clerk or magistrate do when the magistrate suspends a concealed handgun license in an emergency protection order?

Answer: The clerk or judge must immediately notify the Texas Department of Public Safety.

73. What is a clerk required to do after warrants have been executed?

Answer: Keep a copy of the warrants and supporting affidavits on file for public viewing.

74. Standing orders are a statutory requirement that all municipal courts must use to document the authority delegated to the clerk. (True or False)

Answer: False.

75. When a defendant does not waive a jury trial, when may the clerk summon prospective jurors?

Answer: A clerk may summon prospective jurors when the judge issues a writ commanding the clerk to summon a list of citizens from which six qualified persons shall be selected.

76. When may the clerk administer the oath to prospective jurors for voir dire?

Answer: The clerk may administer the oath to prospective juror for voir dire when directed to do so by the judge.

77. What information is required to be entered on the docket?

Answer: Information to be entered into the docket:

- the style and file number of each criminal action;
- the nature of the offense charged;
- the plea offered by the defendant and the date the plea was entered;
- the date the warrant, if any, was issued and the return made thereon;
- the date the examination of trial was held, and if a trial was held, whether it was by jury or by the justice or judge;
- the verdict of the jury, if any, and the date of the verdict;
- the judgment and sentence of the court, and the date each was given;
- the motion for new trial, if any, and the decision thereon; and
- whether an appeal was taken and the date of that action.

78. Why may judges delegate the maintenance of the docket to the clerks?

Answer: Because judges are required to keep a docket and there is no discretion as to the information required to be maintained, judges may delegate this ministerial duty to the clerk.

79. List what a clerk is required to do concerning fraudulent documents.

Answer: A municipal court clerk is required to notify in writing the aggrieved person against whom the purported judgment, act, order, directive, or oral process is rendered. If the document or instrument purports to create a lien on real or personal property, the clerk is required to notify in writing the person named in the document at his or her stated or last known address. The clerk is required to provide this written notice not later than the second business day after the date that the document or instrument is offered or submitted for filing. The clerk is also required to post a warning sign with letters at least one inch in height that is clearly visible to the general public near the clerk's office stating: IT IS A CRIME TO INTENTIONALLY OR KNOWINGLY FILE A FRAUDULENT COURT DOCUMENT OR INSTRUMENT.

80. Court clerks, deputy court clerks, and city secretaries may administer an oath to someone swearing to a complaint. (True or False)

Answer: True. This authority is found in Art. 45.019/45A.101, C.C.P.

81. Municipal court clerks may administer an oath pertaining to any matter in municipal court. (True or False)

Answer: True.

82. Judges may ask the clerk to administer the oath to the six persons chosen for a jury. (True or False)

Answer: True.

83. Why do municipal court clerks have authority to issue subpoenas?

Answer: Municipal court clerks have the authority to issue subpoenas because there is no discretion in issuing a subpoena; it is a ministerial duty.

84. What wording goes on a non-record municipal court seal?

Answer: The statute requiring the seal does not provide the wording of the seal.

85. What is the wording on a municipal court of record seal?

Answer: "Municipal Court of/in _____, Texas."

86. What is the purpose of the municipal court seal?

Answer: The purpose of the court seal is to authenticate the acts of the judge and clerk.

Part 4: Image of the Court

87. Explain, in your own words, court decorum.

Answer: Decorum includes observing correct judicial procedures and customs, as well as exercising courtesy before everyone who appears in court. Starting on time, allowing time to permit full hearings, and being courteous to all who appear in court are examples. (Answers may vary)

Level I Chapter 3: Ethics

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: Ethics and Integrity

1. Define ethics.

Answer: Ethics is the discipline dealing with what is good and bad and with moral duty and obligation. It is a set of moral principles or values.

2. Define integrity.

Answer: Integrity is strict personal honesty and independence. It is adherence to one's moral values or putting into practice one's values and beliefs.

Part 2: State Commission on Judicial Conduct

3. What are the three objectives of the Commission on Judicial Conduct?

Answer: The objectives of the Commission are:

- (1) to preserve the integrity of all judges in the State;
- (2) to ensure public confidence in the judiciary; and
- (3) to encourage judges to maintain high standards of both professional and personal conduct.

4. How does the Commission endeavor to achieve its objectives?

Answer: To achieve these goals, the Commission issues sanctions and secures the removal of judges from office who violate legal or ethical standards. In addition, the Commission participates as faculty members in continuing education programs at all levels of the judiciary.

5. What provides authority for the Commission on Judicial Conduct to operate?

Answer: The State Commission on Judicial Conduct was created by an amendment to the Texas Constitution in 1965. Article V, Section 1-a of the Texas Constitution and Chapter 33 of the Texas Government Code are the sources of authority under which the Commission operates.

6. A file is initiated with the Commission on Judicial Conduct when the Commission receives a telephone complaint. (True or False)

Answer: False (the complaint must be written).

7. Complainants may request the Commission on Judicial Conduct keep their identity confidential. (True or False)

Answer: True.

8. Information gathered by the Commission on Judicial Conduct may never be made public. (True or False)

Answer: False.

9. All proceedings of the Commission on Judicial Conduct are conducted publicly. (True or False)

Answer: False.

10. The Commission on Judicial Conduct may dismiss a case if a judge took corrective action in the case against him or her. (True or False)

Answer: True.

11. Improper conduct includes failure to conduct court business in a timely manner. (True or False)

Answer: True.

12. Judges could be reprimanded for incompetence in the performance of their duties. (True or False)

Answer: True.

13. Rank the following actions by the Commission in order of severity. (1= the most severe)

Answer: Rank the following actions in order of severity. (1=the most severe.)

1. Removal or Censure.
2. Public Reprimand.
3. Public Admonition.
4. Private Admonition.

Part 4: Texas Code of Judicial Conduct

14. Upon what principle is our legal system based?

Answer: Our legal system is based upon the principle that an independent, fair, and competent judiciary will interpret and apply the laws that govern us.

15. Why should clerks observe the same professional standards as judges?

Answer: It is required by the Code of Judicial Conduct. Canon 3C(2) of the Code says that judges should require staff, court officials, and others subject to the judge's direction and control to observe the standards of fidelity and diligence that apply to the judge.

16. What might happen to a judge if a clerk's conduct is improper?

Answer: The judge may be held responsible.

17. The judicial system is built on the principle of being independent from the other branches of government. (True or False)

Answer: True.

18. When the telephone for the court is answered "police department," it may give the public the impression that they will not be treated fairly or impartially. (True or False)

Answer: True.

19. Having a separate room away from the public where peace officers may swear to complaints and conduct other court business helps the court avoid any appearance of impropriety. (True or False)

Answer: True.

20. A municipal judge may use court letterhead to write members of a fraternity urging them to join the local chapter. (True or False)

Answer: False.

21. A municipal judge may voluntarily testify for someone else as a character witness. (True or False)

Answer: False.

22. A municipal judge or clerk may be a member of the Ku Klux Klan. (True or False)

Answer: False.

23. The Code of Judicial Conduct governs a municipal judge and clerk's behavior in and out of the courtroom. (True or False)

Answer: True.

24. Indicate whether the following behaviors are proper or improper for a clerk. (P=Proper; I=Improper)

Answer: Indicate whether the following behaviors are proper or improper for a clerk. (P=Proper; I=Improper):

- I - Telling the judge an opinion about a defendant scheduled for a bench trial.
- I - Recommending a specific driving safety school to a defendant.
- I - Using court stationery to offer a product or service for purchase to earn extra money.
- I - Looking up your girlfriend's traffic record.
- I - Drinking beer while working overtime at the office.
- I - Asking an officer to not file a traffic ticket against a friend.
- I - Closing the court or decreasing fines to put pressure on the city council to increase salary and benefits for court personnel.

25. A municipal judge has a duty to take some action against another judge who is violating the Code of Judicial Conduct. (True or False)

Answer: True.

26. A municipal court clerk should, but is not required under the Code of Judicial Conduct to, report to his or her judge unethical conduct of another court employee. (True or False)

Answer: True.

27. A municipal judge should report an attorney who presented false evidence to the court. (True or False)

Answer: True.

28. A judge would be disqualified from hearing her brother's speeding ticket because they are related by consanguinity within the second degree. (True or False)

Answer: True.

29. A judge should not hear her husband's speeding ticket because they are related by affinity within the first degree. (True or False)

Answer: True.

30. A municipal court clerk may use racial epithets to refer to witnesses. (True or False)

Answer: False.

31. A municipal court administrator may participate in a trip paid for by an attorney who practices before a municipal judge for whom the clerk works. (True or False)

Answer: False.

32. Indicate proper or improper conduct for a clerk. (P=Proper; I=Improper)**Answer:** Indicate proper or improper conduct for the clerk. (P=Proper; I=Improper):

P - Informing defendants about court rules, such as the dress code.

I - Shouting at a belligerent defendant.

I - Telling sexual or racial jokes to jurors while they are waiting to be called into the courtroom.

I - Not explaining all the court options to members of a certain ethnic group.

I - Helping out a news reporter who asks you to review an article for legal accuracy that contains information about a Class C misdemeanor assault that is pending in your court and is part of a larger civil suit for sexual harassment.

P - Developing a records management program to help the court manage the progress of the cases through the court.

P - Working with the judge to oversee the administration of the court.

P - Providing information requested under Rule 12.

33. Indicate proper or improper conduct for a clerk. (P=Proper; I=Improper)**Answer:** Indicate proper or improper conduct for a clerk. (P=Proper; I=Improper):

P - Writing a weekly column with the judge about legal matters and court activity for the local newspaper.

P - Teaching classes for TMCEC.

P - Speaking to high school students in a government class on "Your Rights in Traffic Court."

I - Selling tickets for your daughter's booster club to a group taking a driving safety course.

I - Traveling free to Las Vegas on a law firm's private plane. The law firm frequently handles traffic tickets in your court.

P - Accepting gifts from a friend or a relative on special occasions when the friend or relative is not before the court.

P - Accepting free legal publications from TMCEC.

I - Accepting an invitation to a Christmas party that is being conducted by a company that has a pending case in your court.

I - Using court stationery to write a letter to a company which has failed to provide you with promised service.

I - Having your title as court clerk listed by your name on a letter being sent by a local charity organization that is soliciting toys for disadvantaged children.

34. Indicate proper or improper conduct for a clerk. (P=Proper; I=Improper)**Answer:** Indicate proper or improper conduct for a clerk. (P=Proper; I=Improper):

I - Making public statements in support of persons running for city council.

P - Commenting privately to your spouse as to who would be the best candidate for mayor.

I - Wearing political T-shirts and buttons for local political races while at work.

I - Talking to defendants about who will be the best candidate for mayor.

35. When a citizen wants to file a case and the clerk is unsure whether the municipal court has jurisdiction, the judge may talk to the person to see if the case should be filed in municipal court. (True or False)**Answer:** True.**36. A judge may talk with a person regarding filing a civil claim in municipal court for restitution for \$700 for a fence that was damaged by a vehicle that lost control and drove through it. (True or False)****Answer:** True (the municipal court does not have jurisdiction of this case so the judge may talk with the defendant to explain that he or she has no authority over this case, and it must be filed in another court).**37. A letter to the judge from a defendant telling the defendant's side of his or her case is not considered ex parte communication. (True or False)****Answer:** False.**38. The officer's notes on the back of a citation are not considered ex parte communication. (True or False)****Answer:** False.

39. A judge may talk with a defendant on the telephone about the merits of his or her case. (True or False)

Answer: False.

40. It is not ex parte communication for a clerk to tell the judge about a death threat made by a defendant to the victim. (True or False)

Answer: True, because the clerk is not an interested party. It could, however, still be improper if the death threat related to the merits of the case being heard by the judge.

41. It is improper to inform the judge about information a defendant shared with a clerk concerning why he committed the offense he is charged with. (True or False)

Answer: True.

42. If a canon says a judge shall or shall not conduct him or herself in a certain manner, the judge does not have discretion in that matter. (True or False)

Answer: True.

43. “May” means that the judge has permissible discretion. (True or False)

Answer: True.

44. If a rule requires certain conduct of others, the judge must exercise reasonable direction and control over the conduct of anyone who is subject to the judge’s direction and control. (True or False)

Answer: True.

Part 5: Legal Advice v. Legal Information

45. A clerk may give legal advice if he or she is certain that the advice is correct. (True or False)

Answer: False.

46. If a clerk gives legal advice, it may compromise the impartiality of the court. (True or False)

Answer: True.

47. If a court provides a sample form to a defendant, the court is obligated to assist that defendant to complete the form. (True or False)

Answer: False (helping a defendant complete a form could be giving legal advice).

48. If a clerk determines that there is an error on a traffic citation, the clerk should tell the judge so that the judge can dismiss the case. (True or False)

Answer: False.

49. What may a clerk do when a defendant is unsure how to handle his or her case?

Answer: The clerk may explain the court procedures and processes and give the defendant a pamphlet that explains these processes and the defendant’s obligations and rights. The clerk may not advise the defendant on strategies to achieve a favorable outcome.

Part 6: Penal Offenses and Other Relevant Codes

50. A municipal court clerk is a public servant. (True or False)

Answer: True.

51. A deputy court clerk is a public servant. (True or False)

Answer: True.

52. A part-time employee of the court is a public servant. (True or False)

Answer: True.

53. Municipal court jurors are public servants. (True or False)

Answer: True.

54. An attorney representing a client in municipal court is not a public servant. (True or False)

Answer: False.

55. A bailiff is not a public servant. (True or False)

Answer: False.

56. A municipal court clerk violates Section 36.02 of the Penal Code when he or she accepts money from a citizen to destroy, conceal, or remove traffic citations from the court files even though the clerk never did destroy, conceal, or remove the citations. (True or False)

Answer: True.

57. A municipal court clerk may accept payment for making a speech that he or she has been asked to make because he or she is a court clerk. (True or False)

Answer: False.

58. A municipal court clerk may accept food, transportation, and lodging from an organization for whom he or she is making a speech. (True or False)

Answer: True.

59. A municipal judge or clerk may accept free tickets to a college football game from the dean of a private college that is in the city where the municipal judge's court is located. (True or False)

Answer: False.

60. A municipal court clerk may accept gifts from his or her mother. (True or False)

Answer: True.

61. Municipal court complaints are governmental records. (True or False)

Answer: True.

62. Correspondence received from the defendant is a governmental record. (True or False)

Answer: True.

63. The Office of Court Administration's monthly reports are governmental records. (True or False)

Answer: True.

64. Copies of state reports retained by the court are governmental records. (True or False)

Answer: True.

65. A municipal court clerk is in violation of Section 37.10, Tampering with a Government Record, if he or she knowingly puts false information in an arrest warrant before giving it to the judge to sign. (True or False)

Answer: True.

66. A municipal court clerk is in violation of Section 37.10, Tampering with a Government Record, if he or she erases and corrects a mistake he or she made in entering information on a docket. (True or False)

Answer: False.

67. The Code of Judicial Conduct is a “law relating to a public servant’s office or employment” for the purposes of the Abuse of Office offense. (True or False)

Answer: True.

68. The Code of Criminal Procedure is a “law relating to a public servant’s office or employment” for the purposes of the Abuse of Office offense. (True or False)

Answer: True.

69. A municipal judge or clerk may use a car furnished by the city for a vacation trip. (True or False)

Answer: False.

70. A municipal court clerk may use court letterhead to write a cover letter for an application for a job for which the clerk is applying. (True or False)

Answer: False.

71. A municipal court clerk may use court letterhead to write a recommendation for a deputy court clerk seeking another job. (True or False)

Answer: True.

72. A municipal judge may make a court clerk address the judge’s Christmas cards for him or her during the clerk’s workday. (True or False)

Answer: False.

73. A municipal judge may make listening to his or her dirty jokes a condition of employment for a court clerk. (True or False)

Answer: False.

74. A municipal court clerk who learns in a city staff meeting that the city wants to acquire a certain piece of property for a park may pass that information on to a friend who is a real estate agent. (True or False)

Answer: False.

75. A public official includes a judge of a court created by or under a statute of this State. (True or False)

Answer: True.

76. A parent and her child are related by consanguinity. (True or False)

Answer: True.

77. A parent and his adopted child have a degree of consanguinity between them. (True or False)

Answer: True.

78. Who are a municipal judge’s relatives within the first degree by blood?

Answer: The judge’s father, mother, and children.

79. Who are a municipal judge's relatives within the second degree by blood?

Answer: The judge's father, mother, children, brothers, sisters, grandparents, and grandchildren.

80. Who are a municipal judge's relatives within the third degree by blood?

Answer: The judge's father, mother, children, brothers, sisters, grandparents, grandchildren, great-grandparents, great-grandchildren, uncles, aunts, nephews, and nieces.

81. List your own living relatives within the third degree by consanguinity.

Answer: Answers will vary from clerk to clerk.

82. Is a municipal court clerk's spouse related to him or to her by consanguinity or by affinity?

Answer: Affinity.

83. Is a municipal court clerk's spouse's sister related to the clerk by consanguinity or by affinity?

Answer: Affinity.

84. If the municipal judge's spouse dies and the municipal judge has no living children, how is the dead spouse's sister related to the municipal judge?

Answer: Neither by consanguinity nor by affinity.

85. List a person's relatives within the first degree by marriage, second degree by marriage, and third degree by marriage.

Answer: Relatives within the first degree by marriage are his or her spouse, his or her spouse's parents, his or her spouse's children, his parent's spouse, or his children's spouses. Those within the second degree include those above plus his spouse's brothers, sisters, grandparents, and grandchildren, and his brothers, sisters, grandparent's or grandchildren's spouses. Those within the third degree include all those above plus his spouse's great-grandparents, great-grandchildren, uncles, aunts, nieces, and nephews, as well as any spouses of his great-grandparents, great-grandchildren, uncles, aunts, nieces, and nephews.

86. List your own living relatives within the third degree by affinity?

Answer: Answers will vary from clerk to clerk.

87. A municipal judge may hire his or her spouse's sister as a municipal court clerk. (True or False)

Answer: False.

88. A municipal judge may hire his or her brother's daughter to file a backlog of municipal court documents and pay her with the judge's own money. (True or False)

Answer: True.

89. The presiding municipal judge may hire the child of a sister of an alternate municipal judge to type the docket sheets. (True or False)

Answer: False.

90. A municipal judge may hire the mayor's daughter as a municipal court clerk in exchange for a job as the mayor's secretary for the municipal judge's first cousin. (True or False)

Answer: False.

91. A city with a municipal judge who is disabled and uses a wheelchair may hire the judge's daughter to be the judge's aide and pay her out of city funds. (True or False)

Answer: True.

92. If a person is about to be appointed municipal court clerk for a city and the prospective clerk's aunt is the city secretary, how long must the aunt have worked in that position to be able to keep her job after the municipal court clerk is appointed?

Answer: 30 days.

93. If the municipal court clerk's aunt stays with the city, may the aunt fill out the clerk's merit raise evaluation? (True or False)

Answer: No.

94. Generally, the city council has a choice about retaining an appointed municipal court clerk who is convicted of official misconduct in the form of nepotism. (True or False)

Answer: False.

95. A violation of the nepotism statute is an offense involving official misconduct. (True or False)

Answer: True.

96. What may happen to a municipal judge convicted of hiring his or her niece as a municipal court clerk?

Answer: He or she may be fined \$100 to \$1000 and be removed from office.

Part 7: Ethical Dilemmas

97. A clerk who had a personality clash with another employee went to her supervisor and said that the other employee did not know how to do the job. Is there an ethical problem here? If so what is it? What should the clerk have done?

Answer: A personality clash is not an ethical problem, but when the clerk told her supervisor that the other person did not know how to do her job just because of their personal differences, it became an ethical problem. The ethical problem is the clerk's lie about the other employee. If the two employees could not work out their differences, they should have asked a supervisor to mediate, and both demonstrated an effort to not let their differences affect their work.

98. A city secretary who supervises the deputy clerks is not familiar with many legal requirements; this causes a clash between the clerks and city secretary. Is this an ethical problem? What should the clerks do?

Answer: This is not an ethical problem. The city secretary's problem is a lack of training and education. This problem can be remedied by the city secretary reading materials from the Texas Municipal Courts Education Center.

99. Before trial, the judge comes to the clerk's office and wants to know if there is any information she should know about the cases before going to trial. What information may the clerk tell the judge that would not be considered ex parte communication?

Answer: The clerk may discuss with the judge administrative matters concerning the scheduling of the cases for trial or such matters as motions for continuances. The clerk may not discuss the merits of any of the cases, any information blurted out by defendants, or any conversations he or she had with any of the witnesses (usually peace officers).

100. A deputy court clerk, with whom you have become good friends, uses the judge's signature stamp to dismiss a case against her boyfriend. You find out about it. What do you do?

Answer: This is not only an ethical violation, but it is also a crime. It is tampering with a governmental record. You should report it to your supervisor, judge, and chief of police immediately.

101. Should a municipal court clerk report to the Commission on Judicial Conduct a judge's willful violation of the Code of Judicial Conduct?

Answer: Canon 3D requires judges to take appropriate action upon receiving information clearly establishing that another judge has committed a violation of the Code of Judicial Conduct. If the violation raises a substantial question as to the other judge's fitness for office, the judge shall inform the State Commission on Judicial Conduct or take other appropriate action. Depending on the circumstances, the appropriate action may be reporting the judge to the city council or the Commission. If in doubt, clerks should call the Commission to discuss the issue.

Level I Chapter 4: Charging and Pre-Trial

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: Charging Instruments

1. A citizen comes to court to complain about a neighbor's dog running at large but does not want to make a written complaint. No complaint is filed with the court. May the municipal court hear this case? Why or why not?

Answer: No, because no complaint has been filed, so the court has no jurisdiction over the case. The charging instrument must be filed with the court to vest jurisdiction of a case in the court.

2. For what Class C misdemeanor offenses is an officer required to issue a citation? [see attached image 3]

Answer: An officer shall issue a citation if the offense charged is speeding or use of a wireless communication device under Section 545.4251, T.C., or violation of the open container law under Section 49.031, P.C., and the person makes a written promise to appear.

3. If a municipal court does not have a complaint or citation filed, the court may not accept a plea of guilty from the defendant.

Answer: True.

4. Municipal court defendants do not have a right to notice of the crime with which they are being charged.

Answer: False (all defendants have a right to notice).

5. Defendants are entitled to notice—a copy of the complaint—at least five days prior to trial.

Answer: False (defendants are entitled to notice not later than the day before any proceeding).

6. If a person is arrested, the officer can file a citation with the court.

Answer: False (the citation is in lieu of the arrest, as a substitute for the custodial arrest).

7. The offense of public intoxication may not be filed in municipal court by citation but must be initiated by a sworn complaint.

Answer: True.

8. If a citation has been filed to initiate the proceedings in court, when does a sworn complaint generally have to be filed?

Answer: A sworn complaint must be filed when the defendant fails to appear or when the defendant pleads not guilty unless the defendant and prosecutor agree in writing to proceed on the citation.

9. Since the preparation of the complaint is a ministerial duty, who usually prepares the complaint?

Answer: The clerk

10. Why does the complaint have to allege the date of the offense?

Answer: The defendant is entitled to notice of the charge he or she is accused of committing and knowing the date may help the defendant prepare a defense. Also, the complaint must be filed within the statute of limitations.

11. Who may administer the oath to an affiant swearing to a complaint in a municipal court?

Answer: A municipal judge, court clerk, deputy court clerk, city secretary, city attorney, or deputy city attorney.

12. Define the word “jurat.”

Answer: The certificate of the person before whom the complaint is sworn. It is the clause written at the foot of a complaint stating when and before whom the complaint was sworn.

13. What words are required to be on the seal of a municipal court of record?

Answer: “Municipal Court of/in _____, Texas.”

14. May a court seal be created electronically?

Answer: Yes, under Article 45A.052 of the Code of Criminal Procedure.

15. What is the purpose of the court seal?

Answer: To authenticate the acts of the judge and clerk.

16. List the culpable mental states from the highest to the lowest.

Answer: Intentionally, knowingly, recklessly, criminal negligence.

17. If a statute does not state that a culpable mental state is required, which culpable mental state should be alleged in the complaint?

Answer: Intentionally, knowingly, or recklessly.

18. Which city ordinances must allege a culpable mental state even though the offense may not prescribe one?

Answer: If the ordinance violation is punishable by a fine exceeding \$500.

19. When the sworn complaint is filed, is this a new case or the same case that was initiated by the citation?

Answer: The same case. The sworn complaint replaces the citation.

20. When may the trial be on the citation instead of the sworn complaint?

Answer: When the defendant waives the filing of a sworn complaint, the prosecutor and defendant agree in writing, and the agreement is filed with the court.

21. If a citation is filed with the court and the defendant fails to appear, what must be filed?

Answer: A sworn complaint.

22. A complaint is a charging instrument filed in municipal court.

Answer: True.

23. Citizens have the right to file a complaint with the court.

Answer: True.

24. When an officer loses a citation and finds it three months later and then files it with the court, the court has jurisdiction to try the case.

Answer: True.

25. A complaint gives notice to a defendant of the offense with which he or she is charged so that the defendant can prepare a defense.

Answer: True.

26. A complaint must begin with the following words: “In the name and by the authority of the State of Texas.”

Answer: True.

27. A city ordinance complaint for the offense of a dog running at large may also conclude with the words "Contrary to the said ordinance."

Answer: True.

28. A complaint does not have to state that the offense was committed in the city in which it occurred.

Answer: False (the complaint must state the offense occurred in the territorial limits of the city).

29. The specific location where an offense occurs must always be stated in the complaint.

Answer: False.

30. If a defendant's name is misspelled on a sworn complaint, the court clerk may correct it and the prosecution may proceed on the complaint.

Answer: False.

31. Penal Code offenses do not require a culpable mental state.

Answer: False.

32. Many Transportation Code offenses do not require a culpable mental state.

Answer: True.

33. A person who recklessly damages someone else's property even though they might not have intended to do it may be charged with a crime.

Answer: True.

34. If someone swears to a complaint, he or she is declaring by oath the truth of the information contained in the complaint.

Answer: True.

35. A court clerk may serve as a hearsay affiant by reviewing an arrest report rather than personally observing the offense.

Answer: True.

36. A court clerk may not be an affiant on a complaint.

Answer: False.

37. A hearsay affiant is one who is acquainted with the facts of the case but did not personally observe the offense.

Answer: True.

38. A complaint that is not signed by the affiant is still a valid complaint.

Answer: False.

39. A complaint is defective if either the affiant or the jurat stamps their signature instead of handwriting it.

Answer: False.

40. A signature of the affiant or jurat can be electronically captured.

Answer: True.

41. A person swearing to a complaint must sign his or her name in front of the person administering the oath.

Answer: True.

42. The date the complaint is sworn does not have to be noted in the jurat.

Answer: False.

43. A complaint is valid as long as it has been sworn to even if the person administering the oath does not sign the jurat.

Answer: False.

44. If the prosecutor decides to file the offense of failure to appear on old cases that have already gone to warrant, the failure to appear must have occurred less than two years previously.

Answer: True.

45. If a defendant is being charged with more than one offense, the court may put all the offenses on one complaint.

Answer: False (it is not within the court's purview).

46. A defendant may plead guilty, not guilty, or nolo contendere to a filed citation.

Answer: True.

Part 2: Dockets

47. When a judge or clerk enters proceedings on a docket, what is he or she doing?

Answer: The judge or clerk is noting brief entries of the proceedings in a particular case.

48. Why does the court keep a docket?

Answer: The law requires that a judge keep a docket.

49. Why may a clerk enter proceedings on a docket?

Answer: The maintenance of a docket is a ministerial duty. A clerk may enter proceedings on a docket because the law specifically states the information that must be contained in it.

50. The style and file number of each case must be entered on the docket.

Answer: True.

51. A docket does not have to include the type of offense with which the person is charged.

Answer: False.

52. When a judge issues a warrant, only the date that it is issued must be noted on the docket.

Answer: False (the docket must also contain the return date).

53. The docket must show whether the trial was conducted by the judge or by the jury.

Answer: True.

54. Who has the authority to decide whether to process and store the information on the docket electronically?

Answer: The judge.

55. If information is stored electronically, does the court still have to maintain a simultaneous record in a docket book that is a bound book?

Answer: No.

Part 3: Uncontested Proceedings

56. A defendant who pleads nolo contendere will be found guilty by the court.

Answer: True.

57. A defendant involved in a collision who pleads nolo contendere to the traffic charge may have the plea held against him in a civil suit.

Answer: False.

58. Pleading guilty means that a defendant admits to having committed the crime.

Answer: True.

59. What is the purpose of an arraignment?

Answer: Arraignment is the procedure where the judge identifies the defendant, explains the charge, and requests a plea. There is no specific term for this process in the procedures that government municipal courts. Consequently, “arraignment” is commonly misused to describe a defendant’s initial appearance in municipal court.

60. When a defendant delivers a plea of guilty or nolo contendere to the court, what additional information must be included with the plea?

Answer: The waiver of jury trial.

61. May the court require an adult defendant’s personal appearance if the defendant delivers the plea of guilty or nolo contendere and a waiver on or before his or her appearance date?

Answer: Generally, Art. 27.14(b) of the Code of Criminal Procedure provides for entry of a plea by mail. That subsection, however, has an important exception for a defendant charged with a misdemeanor involving family violence. In that case, the defendant is required to appear in open court to enter a plea. Further, the judge is required to admonish the defendant using specific language regarding family violence that is provided by the Code of Criminal Procedure.

62. When a defendant delivers the plea and waiver to the court and requests the amount of fine and appeal bond, what is the court required to do?

Answer: The court must give the defendant notice of any fine and costs assessed, information regarding alternatives to full payment if the defendant is unable to pay the amount, and the amount of the appeal bond that the court will approve.

63. When a defendant pays a fine and court costs without sending in a plea, the payment constitutes a plea of nolo contendere and a written waiver of jury trial.

Answer: True.

64. If a defendant’s charge is the result of having caused a traffic collision, the judge has the authority to require that person to make an appearance in open court.

Answer: False.

65. A defendant has 31 days to either pay a fine or present the court with an appeal bond from the time that he or she receives notice of the amount owed following a plea by mail.

Answer: True.

66. When a defendant mails a plea of guilty or nolo contendere and waiver of jury trial to the court, the court considers that the defendant has made an appearance.

Answer: True.

67. If a defendant mails the plea and waiver to the court after his or her appearance date but at least five business days before a scheduled trial date, the court may make the defendant make a personal appearance.

Answer: False.

68. A defendant who makes an appearance by mail has the right to appeal his or her case.

Answer: True.

69. When the defendant mails the money to the court, he or she is pleading guilty.

Answer: False (it is considered a no contest plea).

70. If an adult defendant's attorney appears in open court, the defendant must also appear in open court.

Answer: False.

71. If a judge takes a plea from a person detained in jail on a Class C misdemeanor, the judge must grant any motion for new trial if made within five days of the judgment.

Answer: False (the judge must grant the motion if made within 10 days of the judgment).

72. Mailed pleas are considered timely made if deposited in the U.S. Postal Service properly addressed and stamped on or before the appearance date.

Answer: True.

Part 4: Failure to Appear

73. A defendant who has been served with a summons and then fails to appear should be charged with the offense of Failure to Appear.

Answer: False (the defendant has not been in or released from custody; custody is a required element of the offense of Failure to Appear).

74. A defendant who is released without bail and then fails to appear may not be charged with the offense of Failure to Appear.

Answer: False (the offense of Failure to Appear occurs when a person is lawfully released from custody, with or without bail, on condition that he subsequently appear, and the person intentionally or knowingly fails to appear in accordance with the terms of his release).

75. The culpable mental state of the offense of Failure to Appear is intentionally or knowingly.

Answer: True.

76. The offense of Failure to Appear is a Class C misdemeanor if the offense for which the person was required to appear is also a Class C misdemeanor.

Answer: True.

77. The maximum amount of fine that may be assessed for the offense of Failure to Appear is \$

Answer: False (the maximum fine is \$500).

78. A municipal court clerk may sign as affiant on a complaint for Failure to Appear.

Answer: True.

79. The culpable mental state for the offense of Violation of Promise to Appear is willful conduct.

Answer: True.

80. If the charge for which the defendant's appearance was required is dismissed, the offense of Violation of Promise to Appear must also be dismissed.

Answer: False (the two are separate charges).

81. When a defendant charged with the offense of Failure to Maintain Financial Responsibility fails to appear, he or she may be charged with Violation of Promise to Appear.

Answer: False (Failure to Maintain Financial Responsibility is not a Rules of the Road offense; the correct charge would be Failure to Appear).

82. The maximum fine that a court may assess for the offense of Violation of Promise to appear is \$

Answer: True.

Part 5: Warrant, Capias, Capias Pro Fine, and Summons

83. Clerks are required to have copies of warrants and affidavits on file for public viewing after the warrants have been executed.

Answer: True.

84. The amount of evidence necessary for a finding of probable cause is evidence that causes a judge to believe that a specific person has committed a crime.

Answer: True.

85. A judge does not need probable cause to issue a capias.

Answer: False.

86. Complaints alone are enough evidence to establish probable cause.

Answer: False. However, probable cause may exist if there is additional information which causes the judge to believe that this defendant has committed the crime alleged in the complaint.

87. Probable cause must always be in a separate affidavit from a complaint.

Answer: False.

88. Judges must always remain neutral when assessing probable cause.

Answer: True.

89. Why can a municipal court clerk not issue a warrant or capias?

Answer: A municipal court clerk may not issue a warrant or capias because he or she does not have the authority to determine probable cause. Only a judge or magistrate may determine probable cause.

90. When a city is situated in only one county, where may city peace officers execute municipal court warrants, summons, and capiases?

Answer: The city police officer may only serve process in the county in which the city is located.

91. When a city is situated in more than one county where may city peace officers execute warrants?

Answer: The city police officer may execute warrants throughout each county in which the city is located.

92. May a city peace officer execute a warrant of arrest in a neighboring city?

Answer: It depends on whether the neighboring city is located in the same county in which the peace officer's city is located.

93. What kind of order is a warrant of arrest?

Answer: A written order; a writ.

94. Mayors do not have the authority to issue warrants for felonies.

Answer: False (as a magistrate, a mayor does have the authority. See Art. 2A.151, C.C.P.).

95. In what name must a warrant be issued?

Answer: In the State of Texas.

96. To whom is a warrant directed?

Answer: To the proper officer.

97. When a person is arrested on a warrant, where should the officer take that person?

Answer: The officer is required to bring the accused before the court if the judge issued the warrant or before the magistrate if the warrant was issued by a magistrate.

98. If the court does not know the name of the person for whom the warrant is being issued, what description must be on the warrant?

Answer: The description in the complaint if the warrant is issued by a judge, or a reasonably definite description if the warrant is issued by a magistrate.

99. Must the warrant state the offense for which the person is being charged?

Answer: Yes.

100. Where must the judge's office be named in the warrant?

Answer: Either in the body of the warrant or in connection with the judge's signature.

101. A warrant issued by a magistrate must command that the person be brought before a magistrate.

Answer: True.

102. The officer's first responsibility when he or she arrests a person is to take the person before the magistrate named in the warrant within 10 hours of the arrest.

Answer: False (the officer must take the person before a magistrate without unnecessary delay, but not later than 48 hours after the arrest).

103. If a person is arrested in a county other than the one from which the warrant was issued, the peace officer must transport the person immediately to the magistrate who issued the warrant.

Answer: False.

104. Who has the authority to serve a warrant issued by a magistrate or a municipal judge?

Answer: Any peace officer or someone specially named in the warrant.

105. A warrant issued by a municipal judge may only be served in the county in which the city is located.

Answer: True.

106. A warrant issued by a judge must command that the person be brought before the court.

Answer: True.

107. A judge can issue a warrant of arrest for a defendant charged with a Class C or fine-only misdemeanor in the judge's court upon the filing of a sworn complaint or probable cause affidavit.

Answer: True.

108. The judge does not need to determine probable cause before issuing the arrest warrant for a defendant who has failed to appear in the court.

Answer: False (the judge must always determine probable cause).

109. Who must endorse a warrant issued by a mayor so that it can be served in any county in the state?

Answer: Either a judge of a court of record or a magistrate in the county in which the warrant is being executed must endorse a warrant issued by a mayor.

110. What is the required wording of the endorsement?

Answer: If a magistrate endorses the warrant, the wording is "Let this warrant be executed in the County of ____." If a judge of a court of record endorses the warrant, the wording is "Let this warrant be executed in any county of the State of Texas."

111. All mayors have authority to issue a capias.

Answer: False (a mayor who is also the judge of the city may issue a capias; however, a capias may only be issued by a judge with authority to hear the case and not by a magistrate. In general law cities that have not adopted an ordinance to create the position of municipal judge, the mayor is the judge).

112. A judge who has the authority to hear a case has the authority to issue a capias.

Answer: True.

113. A municipal court clerk has the authority to issue a capias.

Answer: False.

114. The court must know the name of the defendant before it can issue a capias.

Answer: False.

115. The capias does not have to state a time when it is returnable to the court.

Answer: False.

116. When a defendant is arrested on a capias, the officer must bring the person before the court immediately or on a certain day stated in the capias.

Answer: True.

117. When must a court issue a capias?

Answer: A capias is required to be issued when a forfeiture of bail is declared.

118. What happens if a peace officer does not execute a capias by the date fixed in the capias?

Answer: The capias is still valid and may be executed at any time.

119. Where is a capias returned to?

Answer: The return is made to the court from which the capias was issued.

120. What information is required to be on the return when the peace officer was unable to execute the capias?

Answer: The officer must state the reason for failing to execute the warrant, and if the defendant cannot be located, what efforts have been made to find the defendant.

121. A municipal court clerk has the authority to issue a summons.

Answer: False (there is no authority for a clerk to issue a summons).

122. A municipal judge may issue a summons.

Answer: True.

123. Mayors have no authority to issue a summons.

Answer: False (a mayor may issue a summons as a magistrate or if the mayor is also the municipal judge, the mayor may issue the summons as a judge).

124. A municipal court summons must follow the same form and procedure of the summons issued by the district court.

Answer: True.

125. A summons issued by the municipal judge is supposed to be in the same form as a felony warrant of arrest.

Answer: False (in the form of a felony capias).

126. A summons for a corporation or association requires the court to wait 20 days after service on the corporation or association before requiring an appearance by counsel for the corporation or association.

Answer: True.

127. The summons does not have to contain a notice in Spanish that it is an offense to intentionally influence, coerce, or harm a witness.

Answer: False.

128. A summons tells the defendant to appear in court at a stated time and place.

Answer: True.

129. The only time that a municipal judge may issue a summons is when the city prosecutor makes a request for its issuance.

Answer: True.

130. A summons issued for a corporation or associate must be served in person.

Answer: True.

131. A copy of the summons must be personally delivered to a defendant.

Answer: False See, Article 15.03(b), C.C.P. A summons for an individual may be mailed to the defendant's last known address.

132. A summons may be served by mailing it.

Answer: True.

133. Municipal court clerks have the authority to serve a summons.

Answer: False.

134. What is the form of a summons issued by a magistrate?

Answer: A summons issued by a magistrate is in the same form as a warrant except that it shall summons the defendant to appear before a magistrate at a stated time and place.

135. What does a summons issued by a magistrate do?

Answer: It gives notice to a person that charges have been filed in court against him or her and gives the defendant a day and time to appear in court.

136. When may a magistrate issue a summons?

Answer: Anytime that he or she may issue a warrant of arrest.

137. When a defendant fails to respond to a summons issued by the court (judge), what type of order does the court issue?

Answer: A capias.

138. When a defendant fails to respond to a summons issued by a magistrate, what type of order does the magistrate issue?

Answer: A warrant of arrest.

139. Courts only collect the arrest fee when a defendant is arrested and taken to jail.

Answer: False (the arrest fee is also assessed when a defendant is issued a citation by a peace officer).

140. The arrest reimbursement fee is \$

Answer: True.

141. The city must remit \$1 of the arrest reimbursement fee to the State for every arrest that a city officer makes.

Answer: False (the city need only remit to the State when the officer is employed by the State).

142. The warrant reimbursement fee can be collected upon conviction of a defendant only when a peace officer executes the warrant.

Answer: False (the warrant reimbursement fee applies also if a peace officer processes the warrant).

143. If another law enforcement agency executes the warrant, the court is required to send the \$50 warrant reimbursement fee to the other law enforcement agency even if the defendant is found not guilty.

Answer: False (the warrant reimbursement fee only is assessed upon conviction).

144. The warrant reimbursement fee must be allocated to the police department budget.

Answer: False (the warrant reimbursement fee goes into the city's general revenue fund).

145. A search warrant is a verbal order of a magistrate.

Answer: False (it is a written order).

146. A search warrant may command a peace officer to search for and seize a person's property.

Answer: True.

147. A municipal judge who is not a licensed attorney may issue any type of search warrant.

Answer: False.

148. After a search warrant is executed, the clerk must make a copy of the affidavit and have it available to the public.

Answer: True.

Part 6 and 7: Bail and Bond Forfeitures

149. When a defendant posts a bond with the court, he or she is promising to appear in court at a later date.

Answer: True.

150. Only a magistrate may set a bond.

Answer: False (a judge can require a defendant to post a bond in municipal court under Article 45A.107, C.C.P.).

151. Defendants may not use cash as security on a bail bond.

Answer: False.

152. When the court allows a personal bond, the defendant is released from custody on the defendant's word that he or she will appear in court without sureties or other security.

Answer: True.

153. A cash bond received by a peace officer must be deposited with the custodian of the funds of the court.

Answer: True.

154. Do defendants charged with Class C misdemeanors in municipal court have to follow the same bail rules as someone posting a bond for trial in district court?

Answer: No. See, Art. 45A.107, C.C.P.

155. When a defendant complies with the conditions of a bond by making all required appearances in court, may a court keep the bond to pay the fine if the defendant is convicted?

Answer: Legally, the bond is to be refunded and fines/costs assessed against the defendant. The defendant is entitled to jail credit, so the amount held in bond and the amount owed after judgment may not match up. Legally, the bond shall be refunded, and the defendant shall pay new money to satisfy the judgment. Practically, courts convert the bond to make it easier on both the defendant and the court.

156. When is the court required to forfeit a defendant's bail?

Answer: When the defendant fails to appear.

157. When a defendant fails to appear after having posted a bond, what must the court do?

Answer: Article 22.02 of the Code of Criminal Procedure requires that the court order the defendant's name called outside the courtroom. This is an element of the bond forfeiture lawsuit. This requirement makes sure that the defendant had notice that his or her case was being called before the court.

158. What is a judgment nisi?

Answer: A judgment nisi recites the amount of the forfeiture, who is liable for the judgment, and that the judgment will be made final unless good cause is shown as to why the defendant did not appear.

159. What is a scire facias docket?

Answer: It is a civil docket in which the court enters proceedings of a bond forfeiture.

160. When may a municipal judge forfeit a cash bond for a Class C misdemeanor without going through the bond forfeiture proceedings in Chapter 22?

Answer: A judge may take a bond for the fine and costs when a defendant has entered a written and signed conditional plea of nolo contendere and a waiver of jury trial, and the defendant fails to appear according to the terms of the defendant's release.

161. If the defendant wants a new trial, what must the defendant do?

Answer: The defendant must make a request for a new trial within 10 days from the date the judgment was entered.

162. When the defendant requests a new trial, what must the court do?

Answer: The court must allow the defendant to withdraw the plea of nolo contendere and enter a plea of not guilty and reinstate the defendant's bond.

163. When the defendant does not request a new trial, what does the court do with the bond money?

Answer: The court reports the court costs to the comptroller's office and deposits the fine portion of the bond in the general revenue fund of the city. If the defendant has been in jail, the court is also required to give jail-time credit and may have to refund that credit to the defendant.

Level I Chapter 5: Trial Process and Procedure

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: Rights of the Accused

1. Defendants have the right to a jury trial in a municipal court.

Answer: True.

2. Municipal court defendants have a right to a copy of the complaint.

Answer: True.

3. Defendants may represent themselves at trial.

Answer: True.

4. Defendants must request a jury trial if they want one.

Answer: False (Defendants have the right to a jury trial, meaning they automatically get a jury trial and must waive that right if they do not want one).

5. Defendants in municipal courts have a constitutional right to a speedy trial.

Answer: True.

6. The right to a speedy trial is violated if a municipal court case is not set for trial within 90 days.

Answer: False (The law does not provide a specific number of days or months. It is up to the judge to decide, based on the individual case).

7. A trial court's delay in hearing a case because of a backlog of cases set for trial cannot be used to justify denying a defendant's right to a speedy trial.

Answer: True.

8. An indigent defendant in a municipal court always has the right to have a court-appointed attorney.

Answer: False.

9. An indigent defendant may be entitled to a court appointed attorney in a municipal court if the judge concludes it is in the interests of justice.

Answer: True.

10. Defendants have the right to either a public or private trial.

Answer: False.

11. Defendants convicted of a city ordinance violation do not have the right to an appeal.

Answer: False.

Part 2: Clerk's Role in Trial Process

12. What is the role of the clerk in the trial process?

Answer: The clerk's role in the trial process includes providing information to defendants, managing administrative processes, scheduling cases for trial, issuing subpoenas, and summoning the jury.

13. A clerk may give legal advice to defendants who represent themselves.**Answer:** False.**14. List procedures that a clerk might want to consider when preparing for trials.****Answer:** Preparatory procedures may include:

- Complaint prepared;
- Complaint reviewed for typing errors, dates, properly sworn, and court seal affixed;
- Copy provided to defendant;
- Prosecutor has file or copy of file to prepare case for trial;
- Trial docket typed and posted;
- Subpoenas issued;
- Jury summonsed;
- Juror handbooks available;
- Interpreters notified to be available, if needed; and
- All trial forms reviewed and made available to the judge.

15. When may the court proceed to trial using the citation as the charging instrument?**Answer:** The court may go to trial on a citation when the defense and prosecution agree in writing to go to trial on the citation and file the agreement with the court.**16. List criteria that you use to establish trial dates.****Answer:** Each clerk will have a different answer for this question, but it may include such issues as peace officer's days and times off and on duty, availability of judge and prosecutor, type of case, type of trial (bench or jury), whether the individual is a juvenile or adult, etc.**17. List disadvantages of using a predetermined scheduling system.****Answer:** The disadvantages of a predetermined scheduling system are: (1) it is difficult for the court to manage the trial docket because the court never knows how many defendants will actually appear at that particular date and time; and (2) defendants may have to wait a long time for their cases to be called.**18. List advantages of using a predetermined scheduling system.****Answer:** The advantages of a predetermined scheduling system are: (1) it provides a definite date and time for defendants to appear when they are issued a citation; and (2) a judge will be available when the defendant appears.**19. Why should the police department or the code enforcement officer investigate a citizen's complaint?****Answer:** To determine if an offense has occurred.**20. What is the clerk's role in handling citizen complaints?****Answer:** The clerk's role is to establish procedures to coordinate the processing of citizen complaints with the police department, prosecutor, code enforcement, etc.**21. When a court uses the assignment by court clerk method of scheduling cases, who is responsible for obtaining a trial date?****Answer:** The defendant.**22. List the main disadvantage of using the assignment by court clerk method for controlling the docket.****Answer:** The disadvantage of using the assignment by court clerk method is that it causes the clerk's office to handle more telephone calls and foot traffic.

23. List the main advantage of using the assignment by court clerk method for controlling the trial docket.

Answer: The assignment by the court clerk method helps clerks to have better management control over the dockets because the court talks with the defendants before scheduling a hearing or trial. Only defendants who specifically request a trial are set on the trial docket. The number of defendants set on each docket is controlled by the court clerk.

24. What is a subpoena?

Answer: It is a writ issued to a person or persons giving an order to appear as a witness.

25. Who is entitled to a subpoena?

Answer: Both the defense and the prosecution.

26. Who has authority to issue a subpoena?

Answer: The judge, the court clerk, and the deputy clerk.

27. Courts are required to issue subpoenas when requested by either the State or the defense.

Answer: True.

28. The request for a municipal court subpoena must be in writing.

Answer: False (the Code of Criminal Procedure contains no such requirement for fine-only misdemeanor cases).

29. A person requesting a subpoena may request in writing that the subpoena not be mailed.

Answer: True.

30. A subpoena is not valid unless the municipal court seal is impressed on it.

Answer: False.

31. To bring in a child witness, who would the court subpoena?

Answer: The court may subpoena a person having custody, care, or control of the child to produce the child in court.

32. If a person is younger than 18 years of age, is the court required to subpoena the parent to bring him or her to court to testify?

Answer: No.

33. What is a subpoena duces tecum?

Answer: It is a subpoena that directs a witness to bring with him or her any instrument of writing or other tangible thing desired as evidence.

34. What type of description must the subpoena give of an item requested to be brought to trial?

Answer: The subpoena should give a reasonably accurate description of the document or item desired as evidence.

35. The clerk may serve a subpoena by sending it in the regular mail.

Answer: False (a clerk may not serve a subpoena and a mailed subpoena must be sent certified mail return receipt requested).

36. If a subpoena has been requested within seven business days of the trial, it may not be served by mail.

Answer: True.

37. A peace officer may be compelled to serve a subpoena.

Answer: True.

38. If a peace officer is unable to serve the subpoena, he or she must state the diligence used in attempting to locate the witness.

Answer: True.

39. Only the defense may request a writ of attachment.

Answer: False (the State can also request a writ of attachment).

40. Witnesses who fail to appear after being served with a subpoena may be fined up to \$100.

Answer: True.

41. Judges do not have discretion to reduce the fine or remit the fine if the witness subpoenaed eventually appears and testifies.

Answer: False.

42. When a witness is required to post bail, the clerk who issued the subpoena may set the bail.

Answer: False (the judge sets bail).

Part 3: Pre-Trial

43. How can pre-trial hearings be an effective means of caseflow management?

Answer: Pre-trials help courts in caseflow management by: (1) handling the defendant's challenges to the charges filed; (2) disposing of issues that do not relate to the merits of the case; or (3) assuring in advance that other times set for disposition of uncontested cases will not be taken up by other matters. Clerks may be able to list other ways that conducting pre-trials help manage their trial dockets.

44. List methods of giving notice of a pre-trial hearing to a defendant's attorney.

Answer: A defendant's attorney may be notified of a pre-trial hearing in one of the following ways: (1) in open court; (2) by personal service on the attorney; or (3) by mail at least six days prior to the date set for the hearing.

45. List ways in which the defendant is notified of a pre-trial hearing.

Answer: Defendants may be notified of a pre-trial hearing in one of the following ways: (1) in open court; (2) by personal service on the defendant; (3) by mail at least six days prior to the date set for hearing; or (4) if the defendant has no attorney, by mail addressed to the defendant at the address shown on the bond; if the bond shows no address, it should be sent to one of the sureties on the bond.

46. If a defendant refuses to plead, what must the court do?

Answer: The court must enter a plea of not guilty.

47. The law requires a pre-trial hearing to be set in every criminal case.

Answer: False.

48. The court may require defendants to file all motions at least seven days before the pre-trial hearing date.

Answer: True.

Part 4: Continuances

49. List reasons why a court would continue a case without a motion.

Answer: The reasons that a court would continue a case without a motion are: (1) the defendant has not been arrested; (2) a corporation or association has not been served with the summons; and (3) there is not sufficient time for trial at that term of court.

50. Who may request a continuance in open court?

Answer: The defense and the prosecution may by agreement request a continuance in open court.

51. How long can a continuance last?

Answer: A continuance may be only for as long as is necessary.

52. Who may request a continuance when the trial date falls on a religious holiday?

Answer: A defendant, defense attorney, prosecutor, or juror.

53. In what form must a request for a continuance for a religious holiday be made?

Answer: The request must be made by an affidavit.

54. What information must be in the request for the continuance for a religious holiday?

Answer: The request must state the grounds for the continuance and that the party holds religious beliefs that prohibit him or her from taking part in a court proceeding on the day for which the continuance is sought.

55. What is the role of the clerk when he or she receives a request for a continuance?

Answer: When a clerk receives a request for a continuance, the clerk should present it to the judge and notify the prosecutor or the defense, whichever the case may be, of the continuance.

56. A motion for continuance for cause may be requested by telephone.

Answer: False (motions must be in writing and sworn).

57. A clerk may not grant a motion for a continuance.

Answer: True.

58. If a defendant calls and wants to reset the case, the clerk has authority to reset the case.

Answer: False.

Part 5: Prospective Jurors and Jury Selection

59. What is a venire?

Answer: A list of prospective jurors to be summoned to serve for a particular term of the court.

60. How many jurors are selected to hear cases in municipal courts?

Answer: Six.

61. The judge is required to issue a writ of venire when a defendant does not waive his or her right to a jury trial.

Answer: True.

62. Jurors may be selected only from city tax rolls.

Answer: False.

63. When a person does not reside within a city, he or she may not serve as a juror in municipal court.

Answer: True.

64. A person who is not registered to vote may not serve on a jury.

Answer: False.

65. A person who is accused of or has been convicted of misdemeanor theft may not be a juror.

Answer: True.

66. A person must be able to read and write to be a juror.

Answer: True.

67. A juror must be unbiased.

Answer: True.

68. A person who has legal custody of a child under the age of 12 is automatically exempt from jury duty.

Answer: False (it is an exception but must be claimed first).

69. A person who is a full-time student may claim an exemption from jury duty.

Answer: True.

70. A person who is legally blind is prohibited by law from being a juror in a criminal case.

Answer: False (the statutes only contemplate a civil case).

71. An employee of the Texas Legislature may be eligible for an exemption from jury duty.

Answer: True.

72. A person who cares for a person who is unable to care for himself or herself is automatically exempt from jury duty.

Answer: False (it is an exception but must be claimed first).

73. The judge may reschedule a prospective juror's jury service for medical and hardship reasons.

Answer: True.

74. Persons who are over 75 years of age may request a permanent exemption from jury duty.

Answer: True.

75. The municipal court clerk is required to file a person's request for a permanent exemption with the voter registrar of the county.

Answer: True.

76. A person who is over 75 years of age may not be summoned to sit as a juror even if he or she does not request a permanent exemption.

Answer: False (it must be requested).

77. Municipal courts are not required to pay persons who serve as jurors in their courts.

Answer: True.

78. List information that the court may want to require from jurors.

Answer: The court may want to require the following information from jurors:

- home address;
- home telephone number;
- social security number;
- driver's license number;
- occupation;
- employer;
- length of employment;
- previous employer;
- former occupation, if retired;
- spouse's name and occupation;
- whether the juror has ever been involved in a lawsuit; and
- when and where the person has previously served as juror.

79. How can a juror request an exemption?

Answer: A prospective juror may establish an exemption without appearing in person by filing a signed statement of the grounds for the exemption with the clerk of the court at any time before the date of trial.

80. When may a clerk grant a juror's request to postpone jury service?

Answer: The clerk is required to grant the postponement of jury service if:

- the person has not been granted a postponement in that county during the one-year period preceding the date on which the person is summoned to appear; and
- the person and the clerk determine a substitute date on which the person will appear for jury service that is not later than six months after the date on which the person was originally summoned to appear.

81. What is the penalty for providing false information in a request for an exemption or excuse from jury service?

Answer: If a person answering a jury summons knowingly provides false information in a request for an exemption or excuse from jury service, he or she is subject to a contempt action punishable by a fine of not less than \$100 nor more than \$1,000.

82. What must a clerk do if a person claims an exemption from jury service based on lack of residence?

Answer: Clerks must maintain a list of names and addresses of persons who are excused or disqualified from jury service because of nonresidence in the county. On the third business day of each month, the clerk must send to the voter registrar of the county a copy of the list of persons excused or disqualified in the previous month because the persons do not reside in the county. The voter registrar must add these persons to the county's suspended voter list.

83. Since personal information about jurors is confidential, how should clerks handle paperwork containing this information?

Answer: Clerks should make sure that this information is not available to the public. It may not be disclosed by the court, the prosecuting attorney, the defense counsel, or any court personnel, except on application by a party in the trial or on application by a bona fide member of the news media acting in such capacity to the court in which the person is serving or did serve as a juror.

84. Under what circumstances may personal information about jurors be released?

Answer: On a showing of good cause, the court shall permit disclosure of the information sought on application by a party in the trial or on application by a bona fide member of the news media acting in such capacity to the court in which the person is serving or did serve as a juror.

85. What is the maximum penalty that may be assessed when a juror fails to appear in municipal court?

Answer: \$100.

86. When a juror fails to appear, with what offense can he or she be charged?

Answer: Contempt.

87. Who may challenge the membership of the jury?

Answer: The prosecutor, the defendant, or the defendant's attorney may challenge the membership of the jury.

88. Who may ask the court for a jury shuffle?

Answer: Either the prosecutor or the defendant or defendant's attorney may demand a jury shuffle.

89. Describe how the prospective jurors may be shuffled.

Answer: If the court is computerized, the court may have the computer shuffle and randomly select the names. If the court does not have a computer, the clerk should place the names of the jury panel in a receptacle, which should be shaken to mix up the names.

90. After the jury is shuffled, what should the clerk do with the new list of names?

Answer: Regardless of how the names are shuffled, the names are recorded in the order that they are drawn or selected by the computer. The prospective jurors are then seated in the order selected. A copy of this new list is then given to the prosecution, defense, and judge.

91. When a judge sustains the challenge to the array, what does the judge do?

Answer: The judge orders a new jury panel to be summoned. The judge must order someone other than the person who summoned the original panel to summon the new panel.

92. Voir dire is a process where jurors may be removed if they have preconceived opinions about a case.

Answer: True.

93. Only the defense may ask the court to remove a juror because the juror has already decided that the defendant is guilty.

Answer: False.

94. Removing a juror during voir dire is called removal for cause.

Answer: True.

95. What happens when either the prosecution or defense strikes a juror?

Answer: The juror is removed. The prosecutor or defendant does not have to state a reason for asking the court to remove the juror.

96. How many jurors may the prosecution and defense remove without cause?

Answer: Each side may remove three jurors without assigning a reason to the request for removal. A juror may be removed for any reason, except for an illegal one, such as race. This is called a peremptory strike.

97. How are the six persons selected for the jury?

Answer: After voir dire and peremptory challenges, both the prosecutor and defendant give their lists to the court clerk who writes or prints the first names on the lists that have not been struck by either party. Then the clerk gives a copy of the list to the prosecutor, defendant, and judge.

98. Why would a court have to order additional jurors to be summoned for a trial?

Answer: If the court does not have enough jurors to hear the case, the court would order a pick-up jury.

99. Usually, a peace officer is ordered to summons a pick-up jury.

Answer: Usually, a peace officer is ordered to summons a pick-up jury.

Part 6: Trials

100. In what ways may a defendant appear and enter a plea?

Answer: A defendant may enter a plea in person, by mail, or through an attorney.

101. Defendants who fail to appear may still be tried and found guilty in their absence.

Answer: False.

102. If a defendant refuses to plead, the court must enter a not guilty plea for him or her.

Answer: True.

103. Trials in municipal courts are not open to the public.

Answer: False.

104. According to the Code of Criminal Procedure, all proceedings in criminal courts are public.

Answer: True.

105. Municipal courts may not exclude the news media from attending trials.

Answer: True.

106. Witnesses may be excluded from trial only when “The Rule” is invoked.

Answer: True.

107. Victims must always be excluded when “The Rule” is invoked.

Answer: False.

108. What should clerks do with the juror information sheets?

Answer: The clerk should give a copy of the juror information sheets to the prosecutor, defendant, and judge. At the conclusion of the trial, the clerk should collect them and file them with the case.

109. If the defendant fails to appear for a jury trial, the judge may order him or her to pay a reimbursement fee for the costs of impaneling the jury.

Answer: True.

110. At trial, the prosecution presents its evidence first.

Answer: True.

111. The defense does not have a right to cross-examine the prosecution’s witnesses.

Answer: False.

112. The defendant cannot be compelled to testify.

Answer: True.

113. The charge to the jury is given after both the defense and prosecution have concluded their evidence.

Answer: True.

114. A jury charge is a statement of the law that applies in the case being tried.

Answer: True.

115. If a trial is before the judge, the judge makes the finding as to whether the defendant is guilty or not guilty.

Answer: True.

116. In addition to the facts a judge heard at trial, clerks may influence a judge's decision about a particular case if the defendant was difficult to handle.

Answer: False. In a bench trial, the judge hears the evidence and decides whether the defendant is guilty or not guilty based solely upon the evidence presented at trial.

117. What is a judgment?

Answer: The judgment is the decision of the judge.

118. Which two statutes contain the requirements of a valid judgment?

Answer: Chapter 42.01 is the general statute and the specific statute is 45.041/45A.251-45A.253. (Note: Effective January 1, 2025, Article 45.041 becomes three different statutes in new Chapter 45A).

119. During deliberation, if a juror has a question, the defense or prosecution may answer the question.

Answer: False.

120. When can a mistrial be declared in a jury trial?

Answer: If a jury fails to agree on a verdict after being kept together for a reasonable amount of time.

121. After a mistrial has been declared, when can the court conduct another trial?

Answer: Another trial may be conducted as soon as practicable.

122. What is a verdict?

Answer: A verdict is the final decision on the trial of a criminal case: either guilty or not guilty.

123. When a defendant is found not guilty, he or she must still pay court costs.

Answer: False.

124. When a defendant is found guilty, he or she may request a new trial or appeal the case.

Answer: True.

125. List three offense types in which the clerk must report convictions to the Department of Public Safety:

Answer: Three offense types: traffic violations, an Alcoholic Beverage Code violation under Chapter 106, or the Penal Code violation of theft of gasoline.

126. The judge is required to enter in the judgment the period of time for jail credit.

Answer: True.

127. Municipal courts must grant jail-time credit in the amount of at least \$150 for each day that a defendant has spent in jail before conviction.

Answer: False (the court must credit not less than \$150 for a period of time that is specified in the judgment—the “period of time” can be from eight hours to 24 hours).

Part 7: New Trial

128. Defendants in non-record municipal courts have two days from the date of judgment to request a new trial.

Answer: False (the law provides for five days).

129. When is the State entitled to a new trial?

Answer: The State is never entitled to a new trial in municipal court.

130. How does the mailbox rule affect how a motion for new trial is filed?

Answer: Under the mailbox rule, a document is timely filed with the clerk of a court if the document is deposited with the U.S. Postal Service in a first class postage prepaid envelope properly addressed to the clerk on or before the date the document is required to be filed with the clerk and the clerk receives the document not later than the 10th day after the date the document is required to be filed with the clerk.

131. What is the last day that a judge may rule on a motion for new trial?

Answer: The judge must rule on a motion for new trial not later than the 10th day after the date that the judgment was entered.

132. What happens if a court does not receive a motion for new trial by the deadline for the judge to rule on the motion?

Answer: The motion is overruled by operation of law.

Part 8: Court Interpreters**133. Defendants who do not speak English are required to bring an interpreter with them to translate court proceedings.**

Answer: False (the court is required to provide a licensed interpreter).

134. A family member or friend can be a language interpreter as long as he or she knows both English and Spanish.

Answer: False (if the court is in a county with a population of more than 50,000, the court must appoint a licensed interpreter; if the city is located in a county of less than 50,000, the court must qualify the interpreter under the Rules of Evidence).

135. Courts are required to appoint interpreters for witnesses who do not speak English.

Answer: True.

136. An interpreter for a defendant who is hard of hearing must be a certified interpreter.

Answer: True.

137. A court that is in a county under 50,000 in population does not have to appoint licensed or certified interpreters if certain requirements are met.

Answer: True (only a city located in a county that has a population of less than 50,000 may appoint an interpreter that is not licensed, and the interpreter must be qualified under the Texas Rules of Evidence).

138. When is a municipal court located in a county with a population of at least 50,000 not required to appoint a licensed court interpreter for a non-English speaking defendant?

Answer: A court in a county with population of at least 50,000 not required to appoint a licensed court interpreter for a non-English speaking defendant?

A court in a county with population of at least 50,000 may appoint a spoken language interpreter who is not certified or licensed if: (1) the language necessary in the proceeding is a language other than Spanish; and (2) the court makes a finding that there is no licensed court interpreter within 75 miles who can interpret in the language that is necessary in a proceeding.

139. When may a court use a qualified telephone interpreter?

Answer: A qualified telephone interpreter may be sworn to interpret for the person in any criminal proceeding before a judge or magistrate if: (1) an interpreter is not available to appear in person before the court; or (2) the only available interpreter is not considered to possess adequate interpreting skills for the particular situation or is unfamiliar with the use of slang. “Qualified telephone interpreter” is defined as a telephone service that employs: (a) licensed court interpreters as defined by Section 157.001 of the Government Code; or (b) federally certified court interpreters.

140. What are courts required to do if a juror is deaf or hard of hearing?

Answer: Provide an interpreter or some type of auxiliary aid.

141. Who is responsible for paying the costs of services for a deaf or hard of hearing juror?

Answer: The court.

142. What is the penalty for interpreting without being licensed by the State?

Answer: Class A misdemeanor.

Part 9: Court Reporters**143. Official court reporters are required to take an oath of office just like an elected or appointed official.**

Answer: True.

144. Court reporters must keep their records of a trial for a 20-day period beginning the last day of the trial or motion for new trial is denied or until an appeal is final.

Answer: True.

145. Courts of record must have a court reporter instead of a recording device.

Answer: False.

Part 10: Contempt**146. What is the purpose of contempt power?**

Answer: Contempt power is given to the courts so that the proceedings will be conducted with dignity and in an expeditious manner so that justice may be done.

147. Name the kinds of contempt and define them.

Answer: Direct contempt means an act that occurs in the judge’s presence and under circumstances that require the judge to act immediately to quell disruption, violence, disrespect, or physical abuse. Indirect contempt is an act that occurs outside the court’s presence and includes such acts as failure to comply with a valid court order, failure to appear in court, attorney being late for trial, or filing offensive papers with the court. If a person is charged with indirect contempt, the person has a right to notice of the charge, a right to a trial or hearing in open court, and the right to counsel. Civil contempt includes willfully disobeying a court order or decree. Criminal contempt includes acts that disrupt court proceedings, obstruct justice, are directed against the dignity of the court, or bring the court into disrepute.

148. What is the general penalty for contempt in municipal courts?

Answer: A fine not to exceed \$100 and/or three days in jail.

149. What is the penalty for contempt by an officer’s failure to execute process?

Answer: A fine of \$10 to \$200.

150. What is the penalty for failure to appear for jury duty in municipal court?

Answer: A fine of not more than \$100.

151. What is the penalty for a witness's failure to appear pursuant to a subpoena?

Answer: A fine not to exceed \$100.

Level I Chapter 6: Post-Trial Procedure

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: Sentencing

1. When a municipal judge enters a judgment, the penalty is the fine and costs and, in some cases, other sanctions. (True or False)

Answer: True.

2. Municipal courts may not require restitution. (True or False)

Answer: False. Article 45A.251(b)(2) of the Code of Criminal Procedure allows a municipal court to require a defendant to pay restitution to any victim of an offense.

3. Statutes do not establish limits on the amount of maximum possible penalties that municipalities may create in their ordinances. (True or False)

Answer: False.

4. If a judge believes that the maximum fine is not high enough, the judge may assess a higher fine. (True or False)

Answer: False.

5. Fine amounts for violations of state law offenses vary. (True or False)

Answer: True.

6. The maximum possible fine for a Class C Penal Code offense is \$500. (True or False)

Answer: True.

7. Offenses outside of the Penal Code that are fine-only, regardless of the amount of the fine, are Class C misdemeanors. (True or False)

Answer: True.

8. When a municipal court orders restitution upon convictions, it may be in an amount up to the amount of the fine assessed, except for the offense of issuance of bad check. (True or False)

Answer: False. There is no cap on restitution when ordered upon conviction, except on the offense of issuance of a bad check. When ordered as a condition of deferred, restitution can be in an amount up to the fine that could have been assessed.

9. The maximum restitution that municipal courts may require for the issuance of a bad check is \$5,000. (True or False)

Answer: True.

10. Clerks should keep records of restitution payments and coordinate payments to victims. (True or False)

Answer: True.

11. Judges who know that a defendant has had a prior conviction can impose a higher fine regardless of how the offense was charged by the officer or prosecutor. (True or False)

Answer: False.

12. What are judges required to do when a defendant is arrested, placed in jail, and later convicted?

Answer: The court is required to give the defendant credit on his or her sentence for the time that the defendant spent in jail from the time of his or her arrest and confinement until his or her sentence.

13. What constitutes a “period of time” for determining jail credit?

Answer: “Period of time” is defined as not less than eight hours or more than 24 hours as specified in the judgment of a case.

14. What is the clerk’s responsibility regarding records of defendants who have been in jail and later convicted?

Answer: As custodian of the records, clerks should properly record jail-time credit on a defendant’s case file and in the docket.

15. What amount may the electronic payment processing fee not exceed?

Answer: The processing fee may not exceed five percent of the amount of the fee, fine, court costs, or other charge being paid.

16. If a service charge is assessed when a defendant pays electronically, at what amount may it be set?

Answer: The amount of the service charge is the same as the fee charged for the collection of a bounced check (a check drawn on an account with insufficient funds).

17. When a defendant fails to pay a previously assessed fine, the court may require a defendant to perform community service to discharge the fine. (True or False)

Answer: True.

18. Judges must specify in a community service order the amount of hours to be worked. (True or False)

Answer: True.

19. Community service may only be performed for a governmental entity or a non-religious organization. (True or False)

Answer: False. The definition of community service is broad. It may be a governmental entity, a nonprofit, or another organization that provides services to the general public that enhance social welfare and the well-being of the community. What qualifies is up to the judge.

20. If a judge determines that working more than 16 hours a week will not be a hardship, the court may order more time. (True or False)

Answer: True.

21. When a judge determines that the defendant does not have sufficient resources to pay, and community service is an undue hardship, the court may waive payment of the fine and court costs. (True or False)

Answer: True.

22. The time payment fee is required to be paid by a defendant who pays any part of a fine, costs, or restitution on or after the 31st day after a judgment is rendered. (True or False)

Answer: True.

Part 2: Report of Conviction**23. Courts are required to report to the DPS all convictions for violations of laws regulating the operation of a vehicle on a highway. (True or False)**

Answer: True.

24. When a defendant posts a bond and fails to appear for traffic offenses, the court must report the bond forfeiture to the DPS when there is a final judgment on the forfeiture. (True or False)

Answer: True.

25. If a court fails to properly report traffic convictions to the DPS, the judge or clerk may be removed for misconduct in office. (True or False)

Answer: True.

26. Courts are required to report to the DPS within 30 days of the date of conviction. (True or False)

Answer: False (must be reported not later than the seventh day).

Part 3: Judgment Enforcement

27. What is a capias pro fine?

Answer: A capias pro fine is a writ issued after a hearing for failure to satisfy the judgment and sentence. The writ directs a peace officer to bring the person before the court immediately. See Article 43.015(2) and Article 45A.259 of the Code of Criminal Procedure.

28. What should every case file have, at a minimum, post-conviction?

Answer: At a minimum, every case file should have a written, signed judgment post-conviction. Without this, the court cannot proceed to any of the enforcement mechanisms available under the law.

29. Who has the authority to issue a capias pro fine?

Answer: Only the judge.

30. If a defendant is indigent, what must the court do?

Answer: The court has a duty to inquire into the defendant's ability to pay. There are alternative means through which the defendant can discharge the judgment; the judge may also determine that fine and costs should be completely waived.

31. What is the process called that may be used to sell a defendant's property to satisfy a fine?

Answer: Execution.

32. A contract with DPS for denial of driver's license renewal applies to what offenses?

Answer: Any fine-only offense.

33. When a city contracts with DPS, when is the \$10 reimbursement fee required before a court may send Omni a clearance notice?

Answer: When a defendant perfects an appeal of the case for which the warrant of arrest was issued or judgment arose; when a defendant posts bond or gives other security to reinstate the charge for which the warrant was issued; when the defendant pays the fine and costs owed on the outstanding judgment or makes suitable arrangement to pay the fine and costs within the court's discretion; when the case is dismissed for any reason except lack of evidence.

34. What kind of city may contract with the county and the Department of Motor Vehicles for the denial of vehicle registration?

Answer: Current law allows any city type to contract.

35. Vehicle registration may be denied for what offenses?

Answer: Vehicle registration may be denied for certain traffic offenses that have a maximum possible penalty of \$200.

36. What authority does the city have to contract with a vendor for collection of fines?

Answer: Article 103.0031 of the Code of Criminal Procedure provides authority for a city to contract with a private attorney or vendor to collect fines, fees, restitution, and other debts or costs.

37. When a city contracts with a private or public vendor, how old must the debt or failure to appear be before the court can require the defendant to pay 30 percent of the debt owed?

Answer: The debt or failure to appear must be owed on the 61st day after the defendant was ordered to pay or failed to appear.

Part 4: Probation**38. What traffic offenses are not eligible to be dismissed by completing a driving safety course?**

Answer: The following offenses cannot be dismissed through a driving safety course:

- Speeding 25 mph or more over the speed limit;
- Driving 95 mph or more;
- Offense committed in a construction or maintenance zone when workers are present;
- Passing a school bus loading or unloading children;
- Leaving the scene of a collision after causing damage to a vehicle that is driven or attended;
- Leaving the scene of a collision and failing to give information and/or render aid;
- Serious traffic violation; and
- Offense committed by a person who held a commercial driver's license at the time of the offense or holds a CDL at the time of the request for DSC, including when the person is driving his or her own vehicle.

39. When must a defendant enter a plea to be eligible to take a driving safety course?

Answer: On or before the answer date on the citation.

40. The defendant must be allowed to take a driving safety course if he or she requests one after being found guilty at trial. (True or False)

Answer: False (the defendant must enter a plea on or before his or her appearance date; after trial, it is within the judge's discretion to grant).

41. A defendant who took a driving safety course four months earlier cannot take a driving safety course for case dismissal. (True or False)

Answer: False (the judge can grant a DSC in his or her discretion).

42. A defendant must provide a valid Texas driver's license (or be military) and proof of financial responsibility to be eligible for a DSC. (True or False)

Answer: True.

43. Defendants completing a driving safety course do not have to pay court costs. (True or False)

Answer: False.

44. A defendant who is not entitled to take a driving safety course must pay an administrative fee equal to the amount of the fine that could have been imposed. (True or False)

Answer: False (defendants entitled to take a DSC may be required to pay an administrative fee of up to \$10 per charge; those granted a DSC under the court's discretionary power may be required to pay an administrative fee up to the amount of the fine that could have been imposed).

45. How long does a defendant have to take a driving safety course and present evidence of course completion to the court?

Answer: 90 days.

46. What evidence must a defendant present the court before a court can dismiss a charge for which a driving safety course was granted?

Answer: Evidence of completing the course (uniform certificate); a certified copy of his or her driving record as maintained by the Department of Public Safety; and an affidavit. (Note: If the defendant is on active military duty, the court most likely will not have the defendant's driving record from DPS.)

47. Who has authority to grant deferred disposition?

Answer: Only the judge.

48. List offenses for which a judge has no authority to grant deferred disposition.

Answer: The following offenses are not eligible for deferred disposition:

- Offenses committed in a construction work zone when workers are present.
- A minor charged with the offense of consuming an alcoholic beverage if the minor has been previously convicted twice or more of this offense.
- A minor charged with the offense of driving under the influence of an alcoholic beverage if the minor has been previously convicted twice or more of this offense.
- A minor who is not a child (under age 17) and who has been previously convicted at least twice of an offense to which Section 106.071 of the Alcoholic Beverage Code applies.
- A defendant charged with a traffic offense who holds a commercial driver's license or had one at the time the traffic offense was committed.

49. How may a court require a defendant to pay court costs when granting a defendant deferred disposition?

Answer: The judge can require the defendant to pay court costs before granting deferred disposition or allow the defendant to pay in installments; by performing community service; or by both installments and community service during the probation.

50. What is the maximum amount of time that a judge may place a defendant on probation under deferred disposition?

Answer: 180 days.

51. The judge may require a defendant who successfully completes his or her deferred to pay the potential fine assessed in the case. (True or False)

Answer: False, generally fines as punishment for the offense are only imposed upon conviction. It is worth noting here, however, that defendant could have been ordered to pay a special expense fee as a condition of the probation. If the defendant is unsuccessful, then the potential fine possible in the case, as provided for in the fine range for the specific offense and set by the judge, could be assessed. Any money paid as a special expense fee would be applied to that amount.

52. A judge may order a special expense fee when granting deferred. (True or False)

Answer: True.

53. When the judge grants deferred disposition for a defendant charged with an Alcoholic Beverage Code offense, the judge must require attendance at an alcohol awareness program or substance misuse education program. (True or False)

Answer: True.

54. When a defendant under the age of 25 charged with a moving violation is granted deferred, the judge must order the defendant to take a driving safety course as a term of the deferred disposition. (True or False)

Answer: True.

55. When a defendant with a provisional driver's license charged with a moving violation is granted deferred, the only mandatory requirement is to take a driving safety course. (True or False)

Answer: False (the defendant must also be examined by the Department of Public Safety).

56. List the information a clerk should document in the docket when a judge grants a defendant deferred disposition.

Answer: The following information should be entered in the docket when a judge grants deferred disposition: (1) the date the judge ordered the sentence to be suspended and the disposition deferred; (2) the deferral period; (3) the court costs paid; (4) the fine assessed; (5) whether there was a plea of guilty or nolo contendere, or whether there was a finding of guilt after a trial.

57. When a defendant complies with all the terms of deferred disposition, what is the judge required to do?

Answer: Dismiss the case.

58. What information should be entered in the docket when a defendant completes the terms of deferred disposition?

Answer: The clerk should note in the docket that the complaint is dismissed (after the judge signs the dismissal judgment).

59. When deferred disposition is granted, when may the court impose the special expense fee?

Answer: The court may assess a special expense fee to be paid before the end of the deferral period.

60. What is the amount of the special expense fee?

Answer: The special expense fee may not exceed the amount of the fine that could be imposed for the offense charged.

61. What must a judge do if a defendant fails to present evidence of completion of the terms of deferred disposition?

Answer: When a defendant fails to present satisfactory evidence of compliance of the terms of the deferral within the deferral period, the court shall notify the defendant in writing mailed to the address on file with the court to appear to show cause why the order of deferral should not be revoked.

62. When is a judge required to submit to the Department of Public Safety a report of a conviction in a traffic case if deferred disposition has been granted?

Answer: The court does not submit to DPS a record of a traffic case where deferred disposition has been granted unless the defendant fails to complete the terms of deferred disposition and the judge enters a final judgment of guilty.

63. For what offenses is the court required to report an order of deferred disposition?

Answer: The court is required to report an order of deferred disposition for all minor Alcoholic Beverage Code offenses as well as minor public intoxication.

64. When a defendant is placed on deferred disposition for an alcohol-related offense by a minor under Chapter 106 of the Texas Alcoholic Beverage Code, how many hours of community service are required for a first offense?

Answer: For a first offense, the court must require not less than eight or more than 12 hours community service.

65. Up to how many days may a judge defer proceedings when a defendant is ordered to attend a teen court program?

Answer: A court may defer proceedings for up to 180 days as part of a teen court program for a defendant who is under age 18 or enrolled in a secondary school.

66. What is required in order for a judge to defer proceedings against a committed chemically dependent person for 90 days?

Answer: Proceedings against a committed chemically dependent person may be deferred for up to 90 days if the court finds (1) the offense resulted from or was related to defendant's chemical dependency; and (2) an application for court ordered treatment of the defendant is filed in accordance with Chapter 462 of the Health and Safety Code.

Part 5: Appeals

67. Does someone charged with a criminal city ordinance violation have the right to appeal his or her conviction?

Answer: Yes.

68. Does someone who fails to appear and is later arrested and convicted have a right to appeal his or her conviction?

Answer: Yes.

69. Which court typically has jurisdiction over municipal court appeals?

Answer: The county court.

70. When a defendant fails to file his or her bond with the municipal court timely, what happens to the appeal?

Answer: If the defendant fails to file an appeal bond within the required time limit, the municipal court sends the appeal to the county court. The county court has to make the decision whether or not to take jurisdiction of the case.

71. What happens when an appellate court determines that it does not have jurisdiction to hear a case?

Answer: The appellate court sends the case back to municipal court, which can then collect its judgment.

72. What happens to a case appealed from a non-record court?

Answer: The trial in the appellate court is de novo, a new trial as if the case had originally commenced in that court.

73. What is the appeal based upon from a record municipal court?

Answer: The appeal is based upon errors reflected in the record of the trial.

74. List types of appeal bonds.

Answer: The types of appeal bonds are: cash appeal bond, surety appeal bond, and personal appeal bond.

75. What must the amount of an appeal bond be?

Answer: An appeal bond may not be less than two times the amount of the fine and court costs, but it may be more. In no case can it be less than \$50.

76. Appeal bonds must be given to the court in person. (True or False)

Answer: False.

77. When a defendant appears in open court, how long does he or she have to file the appeal bond with the court?

Answer: The defendant has 10 days after the judgment is entered to present the court with an appeal bond.

78. When calculating when a defendant is to file an appeal bond, does the court count the day judgment was entered?

Answer: No (the court counts the following day as day one).

79. When calculating time to present the court with an appeal bond, does the court count the 10th day?

Answer: Yes.

80. When calculating time to present the court with an appeal bond, does the court count the 10th day if it falls on a Saturday?

Answer: No.

81. Explain the mailbox rule.

Answer: The mailbox rule provides that a document may be filed with the court by mailing it in a first class postage prepaid envelope, properly addressed to the clerk, on or before the date the document is required to be filed. It is considered timely filed if the clerk receives it not later than the 10th day after the date that it is required to be filed. Hence, an appeal bond is timely filed if it is received timely under the mailbox rule.

82. When is a defendant's appeal completed?

Answer: A defendant's appeal is completed when the defendant presents the court with an appeal bond in the required time period.

83. What is the role of a clerk in the appellate process?

Answer: The clerk's role is characterized as ministerial. When a clerk receives an appeal bond from a defendant, he or she should immediately date stamp it with the date it was filed with the court and then give it to the judge. The clerk has a mandatory ministerial duty to send the appeal to the appellate court.

84. If a clerk makes a mistake on the transcript, does this cause the appeal to be dismissed?

Answer: No.

85. When a case is appealed, what does a non-record municipal court send to the appellate court?

Answer: Along with the transcript, the court is required to send all the original documents in the case. The court keeps copies for its file.

86. What happens to municipal court proceedings when an appeal bond is filed with the court?

Answer: All proceedings in municipal court cease.

87. What happens to the fine assessed in the county court against a municipal court defendant who has appealed his or her case from a non-record municipal court?

Answer: If there is a conviction in the county court, the county keeps the fine money and reports the court costs to the State.

88. May a defendant withdraw an appeal and pay the fine in a non-record municipal court?

Answer: No, not without a writ of procedendo.

89. If an appeal is from a court of record, can a defendant withdraw an appeal?

Answer: Yes.

Level I Chapter 7: State Reporting and Court Costs

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: Reports to the Department of Public Safety

1. Courts are required to keep and maintain certain information on defendants charged with traffic violations. (True or False)

Answer: True (the court is required to submit traffic conviction reports to DPS).

2. Courts must report nonresident defendants convicted of traffic violations within six months. (True or False)

Answer: True.

3. Courts must report to DPS forfeitures of bail on defendants charged with traffic violations even though the defendant has not been convicted. (True or False)

Answer: True.

4. Courts must report dismissals when a defendant charged with a traffic offense completes deferred disposition. (True or False)

Answer: False (courts report when a defendant completes a driving safety course, not a deferred disposition).

5. If a court fails to report traffic convictions to DPS, the judge or clerk could be removed from office for misconduct. (True or False)

Answer: True.

6. Courts must report traffic convictions not later than the seventh day of conviction. (True or False)

Answer: True.

7. When is a suspension or denial of a driver's license for a conviction of an Alcoholic Beverage Code offense effective?

Answer: It is effective 11 days after the judgment is entered.

8. What DPS form does the court use to report a conviction for an Alcoholic Beverage Code offense?

Answer: The DL-115.

9. What is the maximum driver's license suspension length a judge can order when a defendant fails to complete an alcohol awareness program?

Answer: Not to exceed six months.

10. What form is the court required to use to notify DPS of the court's order suspending the driver's license of a defendant who failed to complete the alcohol awareness program?

Answer: The DL-115.

11. When can the court order a driver's license suspension for a defendant under 17 who fails to pay a fine and costs?

Answer: The court can order DPS to suspend or deny issuance of the driver's license when a person fails to pay or violates a court order after conducting a contempt hearing under Article 45A.461 of the Code of Criminal Procedure, retaining jurisdiction, and ordering the suspension as a sanction.

12. When a defendant charged with an Alcoholic Beverage Code offense is granted deferred disposition, what must the court report to DPS?

Answer: The court must report that deferred disposition was granted and the date granted.

13. If a defendant is found not guilty of the offense of driving under the influence of alcohol by a minor, what is the court required to report to DPS?

Answer: The court is required to report the acquittal to DPS.

14. Although the offense of possession of an alcoholic beverage in a motor vehicle is a Penal Code offense, what is the court required to report to DPS?

Answer: Courts must report a conviction of this offense in the same manner as traffic offenses.

15. What is the court required to report for conviction of theft of gasoline?

Answer: The court is required to report convictions to DPS. When a judgment is entered for this offense, the court is required to note an affirmative finding in the judgment. If the offense is a subsequent offense, the court is required to enter a special affirmative finding. When DPS receives the second conviction report, DPS will suspend the driver's license.

16. Who is required to keep a record of defendants charged with traffic offenses?

Answer: Each magistrate, judge of a court of non-record, and clerk of a court of record is required to keep records of persons charged with traffic offenses.

17. Who may keep the records of defendants charged with traffic offenses?

Answer: Since keeping records is a ministerial duty, usually the clerk of the court maintains all the records including those cases where a traffic offense is charged.

18. The court must report final judgments on bond forfeitures for traffic offenses. (True or False)

Answer: True.

19. The court must notify DPS of convictions for city ordinance traffic offenses. (True or False)

Answer: True.

20. When a defendant is granted a time payment plan to pay a fine, the court waits until the final payment before reporting the conviction to the DPS. (True or False)

Answer: False.

21. The court is required to send notice of all traffic convictions to DPS. (True or False)

Answer: True.

22. When a defendant discharges a traffic fine by community service, the court does not report that traffic conviction to DPS because the court did not collect any money. (True or False)

Answer: False (the defendant remains convicted of the traffic offense, even if the fine was discharged through community service).

23. For offenses that require automatic driver's license suspension, what is the minimum and maximum amount of time the court may suspend the license?

Answer: Not less than 90 days or more than one year.

24. When a defendant is convicted of an offense that requires an automatic driver's license suspension, what form must the court use to report that conviction?

Answer: Courts are required to report on DPS form DIC-21.

25. When a court reports to the DPS a defendant's completion of a driving safety course, what information must the court report?

Answer: The date that the defendant completed the driving safety course.

26. What must the court report when a defendant charged with a traffic offense completes teen court?

Answer: The date the defendant completed the teen court program.

27. What does a court do when a defendant under the age of 17 fails to appear or fails to pay a fine for a traffic offense?

Answer: The municipal court conducts a contempt hearing. If the court retains jurisdiction of the juvenile and finds the juvenile in contempt, the court may order DPS to suspend or deny issuance of the driver's license as a sanction of the contempt. Art. 45A.461(c)(2), C.C.P.

28. If an out-of-state defendant fails to appear, what can the court do?

Answer: The court must first send the defendant notice reminding the defendant to take care of their business with the court. The court waits 15 days for a response from the defendant. The court should use the Nonresident Violator Compact form.

29. If an out-of-state defendant resolves the case with the court, what is the court required to do?

Answer: The court must mail the 4th copy (defendant's receipt) to the defendant and mail the 5th copy of the notice, which is the notice of withdrawal of suspension to DPS.

30. List violations committed by an out-of-state violator that the court may not report under the Nonresident Violator Compact.

Answer: No action will be taken under the terms of the Nonresident Violator Compact for the following violations:

- offenses which mandate personal appearance;
- moving traffic violations that alone carry a suspension;
- equipment violations;
- inspection violations;
- parking or standing violations;
- size and weight limit violations;
- violations of law governing the transportation of hazardous material;
- lease law violations; and
- registration law violations.

31. Why should clerks report an out-of-state violator as soon as they fail to appear or fail to pay?

Answer: Because DPS may not transmit a report on any violation if the date of the transmission is more than six months after the date on which the traffic citation was issued.

32. When a court grants deferred disposition to a defendant charged with a traffic offense, what does the court report to DPS?

Answer: Nothing. The court only reports a traffic conviction to DPS if the defendant fails to complete the terms of the deferred disposition. The report is submitted after the judge enters a final adjudication in the case (signs the final judgment of guilty).

33. What happens if a defendant appeals his or her traffic conviction?

Answer: The municipal court does not report the conviction to DPS until it is final.

34. When a defendant convicted of a traffic offense is granted a new municipal court trial, when does a court report a conviction?

Answer: The court only reports a conviction if the defendant is convicted in the new trial.

Part 4: Report to the Office of Court Administration

35. What is the Office of Court Administration (OCA)?

Answer: OCA is a state agency and operates under the supervision of the Texas Supreme Court.

36. List the names of offices that the city secretary is required to report to the Texas Judicial Council when a person is either elected or appointed to office.

Answer: The city secretary must notify the Texas Judicial Council of the name of each person who is elected or appointed as mayor, municipal judge, and clerk of the municipal court.

37. How long does the city secretary have to make the report?

Answer: Within 30 days after the date of the person's election or appointment.

38. When is a person presumed to have willfully refused to supply information to the Office of Court Administration?

Answer: If an official does not supply the information requested by OCA after a reasonable amount of time, he or she is presumed to have willfully refused the request.

39. How is the duty to supply information to the Office of Court Administration enforced?

Answer: The duty to supply information to OCA may be enforced with a writ of mandamus, an order from a court of superior jurisdiction compelling the municipal judge or clerk to perform a particular act that he or she has a duty to do.

40. Which courts are not required to submit monthly statistical reports to OCA?

Answer: The Texas Supreme Court and the Texas Court of Criminal Appeals are not required to submit monthly reports.

41. How often is court activity reported to OCA?

Answer: Court activity for each month must be reported to OCA by the 20th day following the end of the month being reported.

42. What identifying information must the court place on the form?

Answer: The court must identify the name of the municipality, the presiding judge, the court clerk, the mailing address of the court, the name of the person actually preparing the report, and the office telephone number of that person.

43. How often are appointments and fees reported to OCA?

Answer: Appointments and fees must be reported to OCA by the 15th day following the end of the month being reported.

44. What are the two reports that municipal courts must submit to OCA?

Answer: Every municipal court is required to submit (1) Monthly Court Activity Report; (2) Appointments and Fees Monthly Report.

45. If the court has no activity, how does the court report that fact?

Answer: If a court does not have activity, the court should not leave the space blank, but should show "zero" activity.

Part 6: Reports to State Comptroller of Public Accounts

46. May a city pass an ordinance to collect court costs without authorization by state law?

Answer: No.

47. For the purpose of collecting court costs, how is “conviction” defined?

Answer: For the purpose of collecting court costs, Section 133.101 of the Local Government Code defines conviction as:

- a judgment, a sentence, or both a judgment and a sentence imposed on the person;
- the person receives community supervision, deferred adjudication, or deferred disposition; or
- the court defers final disposition of the case or imposition of the judgment and sentence.

48. When must a city submit a report on court costs to the State?

Answer: Court cost reports must be filed with the State by the last day of the month following each calendar quarter.

49. If the city keeps the court costs in an interest-bearing account, what happens to the interest?

Answer: The city may keep the interest if it reports timely.

50. If the city does not report timely, what happens to the fee that a city may retain?

Answer: Cities may not keep a portion of the service fee and must remit it all to the State.

51. Even if the court deposits court costs into the city treasury, what type of records is the court required to keep?

Answer: Courts are required to keep separate records of the funds.

52. When the court collects only part of the fine and costs, the clerk may allocate all of the money to the fine. (True or False)

Answer: False (collected money goes first to costs and fees).

53. Courts may choose to wait until all court costs are collected before remitting them to the State. (True or False)

Answer: False.

54. When a court prorates court costs and fees, the costs and fees owed to the State must be paid before the costs and fees retained by the city. (True or False)

Answer: False (collected money is prorated among all costs and fees).

55. If a defendant discharges a fine and costs by community service, the city must pay the court costs from the city’s general revenue fund. (True or False)

Answer: False.

56. A defendant cannot discharge court costs by jail credit. (True or False)

Answer: False.

57. Courts may grant deferred disposition and allow defendants to pay court costs during the deferral. (True or False)

Answer: True.

58. If a defendant is granted a driving safety course, the defendant must pay court costs. (True or False)

Answer: True.

59. When a case is appealed, must the court collect the court costs?

Answer: No, because the conviction is not final—it is appealed.

60. When the Legislature changes court costs, when do the changes apply?

Answer: Notwithstanding the effective date of a legislative act, new court costs and fees are effective for offenses committed on or after January 1st following the date of the new law's effective date. This rule, however, does not apply to a court cost or fee if the legislative act takes effect on or after the January 1st following the regular legislative session that enacted the new cost or fee.

61. What must a city do if its court does not collect any court costs or fees during a calendar quarter?

Answer: The treasurer must still file a report with the Comptroller and report that no fees were collected.

62. The State Consolidated Fee is collected on all Class C misdemeanor convictions. (True or False)

Answer: False (it is not collected on parking and pedestrian offenses).

63. The court keeps a 10 percent handling fee on the Consolidated Fee if remitted and reported timely. (True or False)

Answer: True.

64. The State Traffic Fine is collected on all traffic convictions. (True or False)

Answer: False (it is only collected on Rules of the Road offenses).

65. The court keeps a 5 percent handling fee on the State Traffic Fine. (True or False)

Answer: False (for offenses on or after September 1, 2019, the city keeps four percent; for offenses prior to September 1, 2019, the city keeps five percent).

Part 7: Local Court Costs and Fines**66. The municipal court in a city with a population less than 1.3 million is required to collect a fine of up to \$5 on parking convictions if the city orders the collection. (True or False)**

Answer: False (it is optional).

67. When a defendant is convicted of a Subtitle C offense in a school-crossing zone, the defendant is required to pay an additional \$25 fine. (True or False)

Answer: True.

68. A defendant convicted of passing a school bus does not have to pay a \$25 fine to the Child Safety Fund unless the offense occurs within a school-crossing zone. (True or False)

Answer: False.

69. School-crossing zones are only at public schools. (True or False)

Answer: False.

70. Someone convicted of the offense of parent contributing to nonattendance does not have to pay a \$20 fine for the Child Safety Fund. (True or False)

Answer: False.

71. A city with a population of more than 1.3 million is required to use the Child Safety Fund for the purpose of providing school crossing guard services. (True or False)

Answer: True.

72. A city with a population of less than 1.3 million must use the money collected for the Child Safety Fund for a school crossing guard program if the city operates one. (True or False)

Answer: True.

73. The \$3 Local Traffic Fine must be collected on all traffic convictions. (True or False)

Answer: False (it only applies to Rules of the Road offenses).

74. The court must deposit money collected for the Local Traffic Fine into the city treasury. (True or False)

Answer: True.

75. The court is required to assess the \$5 arrest reimbursement fee when a defendant is convicted after a warrantless arrest. (True or False)

Answer: True.

76. The court is required to assess the \$5 arrest reimbursement fee when a defendant is convicted after being issued a citation. (True or False)

Answer: True.

77. If a defendant is convicted of the offense of failure to appear, the court is required to assess the \$5 arrest reimbursement fee. (True or False)

Answer: False (the offense of failure to appear is generally initiated by complaint, not a citation).

78. The warrant reimbursement fee may be collected only when a peace officer executes or processes the warrant, capias, or capias pro fine. (True or False)

Answer: True.

79. If an agency, other than the one issuing the warrant, executes the warrant, that agency may request the warrant reimbursement fee. (True or False)

Answer: True.

80. If a city wants to collect a fine not to exceed \$25 for the offense of failure to appear, the city must adopt an ordinance authorizing the collection of the fee. (True or False)

Answer: True.

81. When a peace officer serves a summons on a defendant, how much must the defendant pay if he or she is convicted?

Answer: \$35.

82. When a peace officer serves a subpoena, how much must a defendant pay if he or she is convicted?

Answer: \$5.

83. When a peace officer summons a jury, how much must a defendant pay if he or she is convicted?

Answer: \$5.

84. When an officer testifies during regular duty hours, the defendant, if convicted, must pay a reimbursement fee for the officer's time testifying in court. (True or False)

Answer: False.

85. When an off-duty peace officer appears at the trial but does not testify, the court may not assess a reimbursement fee for the peace officer appearing for the trial. (True or False)

Answer: True.

86. If a defendant fails to appear for a jury trial and the court assesses a reimbursement fee for impaneling the jury, how may the defendant be released from paying these costs?

Answer: For “good cause.”

87. What are some items that a clerk may consider when preparing an analysis for costs incurred for summoning and impaneling a jury?

Answer: Some items that a clerk may want to consider when preparing the analysis are costs of jury summons (paper and printing costs), costs of envelopes and stamps, and clerks’ salaries.

88. What is the fee that a municipal court of record must assess for an expunction petition filed under Chapter 55A of the Code of Criminal Procedure?

Answer: One hundred dollars.

89. The Local Youth Diversion Fund can be used to pay the salary of a court administrator if there is not a juvenile case manager. (True or False)

Answer: False.

90. For a city with a population of 100,000 or greater, the Building Security Fund may be used for bailiff education, but may not be used to pay for continuing education on court security issues for court clerks. (True or False)

Answer: False. Although the Building Security Fund may be used for x-ray machines and bailiff education, it may also be used for court clerks. See the Practice Tip in the Building Security section. Article 102.017(c)(12) of the Code of Criminal Procedure allows the fund to be used for “continuing education on security issues for court personnel and security personnel.”

91. The purpose of the Building Security Fund is to provide all city buildings with security. (True or False)

Answer: False (it only applies to municipal court buildings).

92. The Consolidated Municipal Court Building Security and Technology Fund may only be utilized if a city with a population under 100,000 establishes the fund by ordinance. (True or False)

Answer: False. The fund is a required allocation as part of the \$14 Local Consolidated Fee, which is assessed under state law.

93. For cities with a population of 100,000 or greater, the Municipal Court Technology Fund may only be used to pay for municipal court-related technology expenses. (True or False)

Answer: True.

Part 8: Weight and Commercial

94. When a city is not within 20 miles of an international border, the city must remit to the State 50 percent of the fines collected for over gross weight violations. (True or False)

Answer: True.

95. When a city enforces commercial motor vehicle safety standards, the city may keep fines from these offenses as long as the amount does not exceed 110 percent of the city’s actual expenses for enforcement in the preceding fiscal year. (True or False)

Answer: True.

Part 9: Special Fine Disposition Statutes

96. The Transportation Code requires all cities to allocate fine money collected for traffic convictions in a certain manner in the city's budget. (True or False)

Answer: True.

97. Cities with a population under 5,000 must pay the State all but \$1 of the fines collected for offenses under Title 7 of the Transportation Code after fines and special expenses reach 30 percent of their budget. (True or False)

Answer: True.

98. When a parent is convicted of contributing to nonattendance, the city must pay the fine to the school district. (True or False)

Answer: False. The city must only pay one half of the fine to the school district.

Part 10: Passive Enforcement

99. To deny the renewal of driver's licenses to defendants who fail to appear or fail to pay, cities must contract with DPS. (True or False)

Answer: True.

100. When a city contracts with their county to deny vehicle registration to defendants who fail to pay or appear, the court may collect upon conviction a \$30 reimbursement fee. (True or False)

Answer: False. The "Scofflaw" fee is \$20.

101. Vendor contracts can specify any amount of collection fee. (True or False)

Answer: False.

102. If a defendant makes a partial payment, the vendor is paid after local and state court costs are paid. (True or False)

Answer: False.

Level I Chapter 8: Traffic Law

How to use these questions: Try to answer each question in your own words, then read the answer and check your understanding.

Part 1: Transportation Code

1. How is the Transportation Code organized?

Answer: It is divided into titles, subtitles, chapters, subchapters, and sections.

2. Most traffic law matters handled by municipal court are located in which title of the Transportation Code?

Answer: Title 7.

3. In which subtitle do you find rules on license plates?

Answer: Subtitle A (Chapter 504).

4. In which subtitle do you find rules on driver's licenses?

Answer: Subtitle B (Chapters 521 and 522).

5. What are the Rules of the Road?

Answer: Offenses in Subtitle C of Title 7 of the Transportation Code (Chapters 541-600).

6. Where are the moving violations defined?

Answer: Title 37, Section 15.89 of the Texas Administrative Code.

7. In which subtitle do you find rules on maintaining financial responsibility?

Answer: Subtitle D (Chapter 601).

8. In which subtitle do you find rules about privileged (handicap) parking?

Answer: Subtitle H (Chapter 681).

9. In which subtitle do you find rules on the Nonresident Violator Compact?

Answer: Subtitle I (Chapter 703).

10. In which chapter do you find rules on contracting with DPS to deny renewal of a driver's license to defendants who fail to appear or fail to pay or satisfy a judgment in a manner ordered by the court?

Answer: Chapter 706.

11. What happened to Chapter 708 of the Transportation Code, regarding surcharges and the Texas Driver's Responsibility Program?

Answer: It was repealed.

Part 2: Citation Requirements

12. Where do peace officers get authority to issue citations to persons violating Subtitle C, Rules of the Road offenses?

Answer: Section 543.003 of the Transportation Code.

13. Under what authority may a peace officer issue a traffic citation for offenses outside of Subtitle C, Rules of the Road?

Answer: Article 14.06(b) of the Code of Criminal Procedure.

14. What is the consequence if a citation does not notify the defendant of his or her right to take a driving safety course?

Answer: The defendant can continue to exercise his or her right to take the course until the person is informed of the right or until the case is disposed.

15. What must a citation contain regarding the offense of failure to maintain financial responsibility?

Answer: The citation must contain notice in type larger than other type on the citation about a second or subsequent conviction resulting in suspension of the defendant's driver's license and motor vehicle registration. Section 601.233 of the Transportation Code provides specific text to include for this notice.

16. What should a citation tell a juvenile regarding his or her address?

Answer: The requirement to notify the court of any change of address and that the failure to do so is a Class C misdemeanor.

17. If a city contracts with DPS to deny renewal of driver's licenses, what information should be on the citation issued to traffic violators?

Answer: The notice should inform the violator that if he or she fails to appear or pay the fine or satisfy the judgment, he or she may be denied renewal of their driver's license.

18. What additional information should be on a citation issued to a person who is a commercial driver's license holder?

Answer: The additional information that should be on a citation issued to a person who holds a commercial driver's license includes the following: (1) whether the vehicle is a commercial motor vehicle as defined in Chapter 522 of the Transportation Code; (2) whether the vehicle was transporting hazardous materials; and (3) whether the offense was a serious traffic violation as defined in Chapter 522.

19. What general information is required to be on a citation?

Answer: Written notice of the time and place the person must appear before a magistrate, the name and address of the person charged, and the offense charged.

20. When a peace officer issues a citation for an offense in Subtitle C, Rules of the Road, what is the minimum number of days for a court appearance date from the date of the citation? (circle one)

- a. At least 10 days from the date of the citation.
- b. At most 10 days from the date of the citation.
- c. At least 30 days from the date of the citation.
- d. There is no minimum number of days for this type of citation.

Answer: a. At least 10 days from the date of the citation. Some courts set the appearance date more than 10 days, but the law provides that the number may not be less than 10.

Part 3: Culpable Mental State

21. In Texas, traffic cases are (circle one):

- a. civil violations
- b. infractions
- c. criminal offenses
- d. both a and b above are correct

Answer: c. criminal offenses.

22. In Texas, the state must generally prove that the traffic offense (circle one):

- a. was intentionally or knowingly committed by the defendant.
- b. was recklessly committed by the defendant.
- c. was committed by the defendant.
- d. was committed with evil intent by the defendant.

Answer: c. was committed by the defendant.

23. The culpable mental states defined in the Penal Code are (circle one):

- a. intentionally, knowingly, recklessly, and with criminal negligence.
- b. intentionally, willfully, recklessly, and with contributory negligence.
- c. intentionally, knowingly, dangerously, and with criminal negligence.
- d. Penal Code offenses are strict liability offenses.

Answer: a. intentionally, knowingly, recklessly, and with criminal negligence.

Part 4: Penalties

24. If an offense has a specific penalty, the general penalty does not apply. (True or False)

Answer: True.

25. All traffic fines have a maximum fine of \$200. (True or False)

Answer: False.

26. Municipal court has jurisdiction of racing on the highway. (True or False)

Answer: False (it is a Class B misdemeanor).

27. The court can apply enhanced penalties to offenses charged as first-time offenses as long as there are prior convictions. (True or False)

Answer: False (they must be alleged as such or enhanced by the officer or prosecutor).

28. If a Subtitle C, Rules of the Road offense is committed in a construction or maintenance work zone when workers are present and that fact is alleged and proven, the minimum and maximum fine amounts are doubled. (True or False)

Answer: True.

Part 5: Commonly Committed Traffic Offenses

29. A judge does not need a motion to dismiss from the prosecutor to dismiss a charge for which there is a compliance dismissal. (True or False)

Answer: True.

30. The court does not assess court costs when a case is dismissed pursuant to a compliance dismissal. (True or False)

Answer: True.

31. A judge may dismiss the charge of operating a vehicle with expired registration if the defendant purchased valid registration and paid the late fee three months after his first court appearance. (True or False)

Answer: False (the defendant has 20 working days after the date of the offense or before first court appearance date).

32. The maximum fine for driving without two license plates is \$500. (True or False)

Answer: False (the maximum fine is \$200).

33. Peace officers may issue citations to a person driving a vehicle if a license plate holder obscures the name of the state on the license plate. (True or False)

Answer: True.

34. The court may charge a dismissal fee for dismissing a charge of failure to display a driver's license if the defendant had a valid driver's license on the day of the arrest. (True or False)

Answer: True.

35. The offense of no driver's license is always a Class C misdemeanor. (True or False)

Answer: False (the offense can be enhanced on a third or subsequent conviction or if the defendant did not have financial responsibility and caused serious bodily injury or death to another in a crash).

36. If a person charged with an expired driver's license obtains a valid driver's license within 20 working days, the court may dismiss the charge and assess a \$20 fee. (True or False)

Answer: True.

37. It is a defense to the prosecution if a person produces in court a valid commercial driver's license that was valid when the offense occurred even though the license is not valid for the class of vehicle being driven. (True or False)

Answer: False (the commercial driver's license must also be valid for the class of commercial motor vehicle that was driven on the day of the offense).

38. The maximum fine for a first-time driving while license invalid conviction is \$500. (True or False)

Answer: True.

39. Speeding can be filed as a city ordinance violation. (True or False)

Answer: False (it is a state law violation, but the speed limit is set by city ordinance if it differs from that provided for under state law).

40. The penalty for failure to secure a child under eight in a child passenger safety seat is a minimum fine of \$25 and maximum fine of \$250. (True or False)

Answer: True.

41. Cities must remit one-half of all safety belt fines and fines for not securing a child in a passenger safety seat system to the State at the end of the city's fiscal year. (True or False)

Answer: False (cities must remit one-half of the fines collected upon conviction for a child not being secured in a passenger safety seat system or a safety belt, not of all safety belt fines).

42. A 15-year-old can be cited for failure to wear a safety belt and be fined not less than \$25 or not more than \$50. (True or False)

Answer: True.

43. Persons charged with passing a school bus are not eligible to take a driving safety course. (True or False)

Answer: True.

44. Passing a school bus carries a maximum penalty of \$200. (True or False)

Answer: False (minimum fine of \$500 and a maximum fine of \$1,250 for a first offense).

45. Improperly using a cell phone in a school crossing zone is a Class C misdemeanor with a maximum fine of \$500. (True or False)

Answer: False (the maximum fine is \$200).

46. Only a vehicle liability insurance policy is acceptable proof of financial responsibility. (True or False)

Answer: False.

47. There are no exceptions to the financial responsibility law. (True or False)

Answer: False.

48. Courts are required to dismiss a charge of failure to maintain financial responsibility if a defendant obtains insurance before appearing in court. (True or False)

Answer: False (the judge does not have authority to dismiss the case unless the defendant had valid insurance on the date of the arrest).

49. When a defendant presents proof of financial responsibility to the court, the court must verify it before dismissing the case. (True or False)

Answer: True.

50. The court may assess a dismissal fee of up to \$20 for dismissing a charge upon proof of financial responsibility. (True or False)

Answer: False.

51. The fine for a first conviction for failure to maintain financial responsibility is a minimum fine of \$175 and a maximum of \$350. (True or False)

Answer: True.

52. On a conviction for a second or subsequent offense of failure to maintain financial responsibility, the court is required to order the impoundment of the vehicle. (True or False)

Answer: True.

53. The penalty for not wearing a helmet is a maximum fine of \$200. (True or False)

Answer: False (the penalty is a minimum of \$10 and a maximum of \$50).

54. Only peace officers can enforce privileged parking. (True or False)

Answer: False.

55. Persons who are disabled and have the proper documentation may park at parking meters free of charge. (True or False)

Answer: True.

56. Persons convicted of a parking offense under the privileged parking law face escalating penalties depending on the number of prior convictions. (True or False)

Answer: True.

Part 6: Quotas

57. Although peace officers may not be evaluated on the number of tickets that they issue, they may be evaluated on the type of tickets that they issue. (True or False)

Answer: False.

58. City officials are prohibited from evaluating or disciplining a judge on the amount of money they collect from persons convicted of traffic offenses and may be removed from office for doing so. (True or False)

Answer: True.

59. Cities may not obtain budgetary information from a municipal judge because that would require the judge to estimate the amount of money he or she anticipates will be collected in the coming budget year. (True or False)

Answer: False.