

Level II

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 II Chapter 1: Rights and Roles

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

1. In municipal courts all persons are presumed guilty until proven innocent. (True or False)

Answer: False (all persons are presumed innocent until proven guilty).

2. Only when arrested without a warrant must a defendant appear before a magistrate without unnecessary delay. (True or False)

Answer: False (also when arrested with a warrant).

3. Bail is the security given by an accused to guarantee the appearance of the accused before the proper court. (True or False)

Answer: True.

4. Bail may be secured only through a bail bond or a cash bond. (True or False)

Answer: False (or a personal bond).

5. If a defendant requests a trial, the state must prove the defendant guilty beyond a reasonable doubt of an offense charged in the complaint. (True or False)

Answer: True.

6. A municipal judge may grant a new trial if the judge is persuaded that justice has not been done in a specific case. (True or False)

Answer: True.

7. Defendants have a right to appeal a conviction in a municipal court. (True or False)

Answer: True.

8. List two components of procedural due process.

Answer: The right to notice of a hearing or trial that adequately informs the accused of the charges against him or her and the right to a hearing.

9. What does the right to a fair hearing or trial include?

Answer: The right to a hearing or trial includes the right to present evidence on the accused person's behalf before an impartial judge or jury, the right to the presumption of innocence until proven guilty by legally obtained evidence, and the right to have the verdict supported by the evidence presented at trial.

10. A complaint provides notice to a defendant of charges against him or her. (True or False)

Answer: True.

11. A defendant cannot waive the right to proceed to trial on a complaint. (True or False)

Answer: False.

12. If a complaint uses plain and intelligible language, it does not have to establish all the elements of the offense. (True or False)

Answer: False.

13. For a hearing to be fair, it must be conducted publicly and without needless delay. (True or False)

Answer: True.

14. Although the Texas speedy trial provision was declared unconstitutional, there is still a general due process right to a speedy trial. (True or False)

Answer: True.

15. A failure to request a jury trial is a waiver of the right to a jury trial. (True or False)

Answer: False.

16. According to the Code of Criminal Procedure, what is the general time limit under the statute of limitations for filing a complaint?

Answer: Two years from the date of the offense.

17. When is a judge disqualified from hearing a case?

Answer: The judge is disqualified as a matter of law when a judge is the injured party; has been counsel for the State or the accused; or is connected to the accused or the party injured by consanguinity or affinity within the third degree as determined under Chapter 573 of the Government Code.

18. Defendants in municipal courts have the right to a court appointed attorney. (True or False)

Answer: False.

19. If a defendant does not request counsel, the defendant is presumed to have waived the right to counsel. (True or False)

Answer: False.

20. The municipal court can allow non-attorney friends and family members to legally represent defendants at trial. (True or False)

Answer: False.

21. In municipal courts, defendants can waive the right to be present at trial and appear by counsel only if the prosecutor agrees. (True or False)

Answer: True.

22. Before defendants can be tried in a municipal court, they must be competent and understand the proceedings. (True or False)

Answer: True.

23. In municipal courts, the defendant can ask the court to subpoena witnesses. (True or False)

Answer: True.

24. The defendant has both the right to testify and the right to choose not to testify. (True or False)

Answer: True.

25. What rules govern the presentation of evidence?

Answer: The Texas Rules of Evidence.

26. What does it mean when a defendant "pleads the 5th?"

Answer: The defendant is invoking the right against self-incrimination.

27. What must the State prove for a jury or a judge to find a defendant guilty?

Answer: The State must prove each element of the offense charged beyond a reasonable doubt.

28. What does the 4th Amendment to the U.S. Constitution guarantee?

Answer: It guarantees protection against unreasonable searches and seizures.

29. What is the “Exclusionary Rule?”

Answer: This rule generally excludes evidence obtained from unreasonable searches and arrests.

30. What is the principle of “standing?”

Answer: A claim that a defendant was personally subjected to the unconstitutional conduct.

31. All persons who are deaf and hearing impaired learn American Sign Language. (True or False)

Answer: False.

32. Court interpreters should always offer verbatim translations. (True or False)

Answer: False (it might lead to a distortion of meaning).

33. A court procedure brochure and signs explaining a defendant’s rights are a proper substitute for the services of an interpreter. (True or False)

Answer: False.

34. What group constitutes the largest group of Americans with disabilities?

Answer: Those with hearing disabilities.

35. What are the three basic categories of sign language?

Answer: Independent languages, such as American Sign Language; speech-equivalent-signing systems; and finger-spelling systems.

36. Why is an oral interpreter sometimes needed for defendants who read lips?

Answer: Only 26 percent of speech can be understood through lip-reading.

37. Define minimally language competent persons.

Answer: Persons who do not have a systematic way of communication and need relay or intermediary interpreters.

38. Give three examples of environmental noise that should be reduced when hard of hearing persons appear in court.

Answer: These may include reducing noise from fans, air conditioners, outside traffic or construction, and typing in an adjacent room.

39. Explain how CART works.

Answer: A court reporter keys in the spoken language, which then can be read on a personal computer.

40. Defendants must pay the costs of an interpreter. (True or False)

Answer: False.

41. Interpreters must be appointed by the court if a defendant or witness cannot understand English. (True or False)

Answer: True.

42. A family member or friend can be a language interpreter as long as he or she knows both English and the other language that requires interpreting. (True or False)

Answer: False.

43. An interpreter with a basic designation can interpret in a municipal court of record. (True or False)

Answer: False (a master designation is required for a court of record).

44. The law requires that a person with mental illness or intellectual or developmental disability be treated the same as those without disabilities when bond is set. (True or False)

Answer: False (the magistrate is required to release on personal bond in most cases).

45. A municipal court must only comply with ADA requirements if it employs more than 15 persons. (True or False)

Answer: False (all municipal courts must comply).

46. The ADA protects jurors and witnesses, as well as court employees. (True or False)

Answer: True.

47. Even if it costs an excessive amount and poses an administrative hardship, a municipal court must accommodate the needs of one employee with a disability. (True or False)

Answer: False (action is not required if it demands undue financial or administrative burden).

48. How does federal law define a person with a disability?

Answer: A person with a disability: has a physical or mental impairment that substantially limits one or more of the individual's major life activities; has a record of such an impairment; or is regarded as having such an impairment.

49. In the clerk's area and the court's window or counter, what accessibility problems often exist?

Answer: This answer may include high public counters, water fountains, and telephones; no accessible elevators; stairs instead of ramps; and inaccessible restrooms.

50. Within the courtroom, what areas must be accessible?

Answer: Judge's bench, jury boxes, witness boxes, counsel table, public seating, and microphones.

51. Give four examples of what an accessibility ombudsman might do in your court.

Answer: The accessibility ombudsman may assist in arranging reasonable individualized accommodations such as making physical changes to the work environment, restructuring jobs, modifying schedules, or providing qualified readers.

52. What policies or practices could be evaluated either formally or informally for evidence of potential bias occurring in the courts?

Answer: Court assessments of how court users are treated can be formally or informally conducted by court personnel in areas such as wait time at the window, access and placement on court dockets, and wait time to speak to the prosecutor.

53. Under Texas law, does the definition of family violence include "dating violence"?

Answer: Yes.

54. What is an emergency protection order?

Answer: A court order that prohibits the arrestee from committing family violence, stalking, communicating directly with or threatening the victim or a member of her family, going near the residence, place of employment, business, child care facility, or school where the person protected under the order reside or attend. This is also called a MOEP (magistrate's order of emergency protection).

55. Who can make a motion for an emergency protection order?

Answer: Any of the following: a victim; a guardian of the victim; a police officer; a prosecutor; or a magistrate. Art. 17.292, C.C.P.

56. Can a clerk issue an emergency protection order?

Answer: No. This magisterial function must be performed by a judge or magistrate.

57. What must be done if the victim is not present when the emergency protection order is signed?

Answer: The clerk must mail him or her a copy.

58. Witnesses do not qualify for accommodation under the ADA. (True or False)

Answer: False.

59. There is a juror handbook that the clerk is responsible for providing to all jurors. (True or False)

Answer: True.

60. What type of crime is threatening or harming a juror?

Answer: Second degree felony.

61. A member of the militia requests the home addresses and telephone numbers of jurors who heard his or her traffic case. Do you release this information?

Answer: No.

62. The clerk may sit in and converse with the jury during its deliberations. (True or False)

Answer: False.

Part 2: Role of the State**63. The prosecutor makes decisions about who to charge and what cases to dismiss. (True or False)**

Answer: True.

64. Judges may dismiss cases anytime they determine it is necessary. (True or False)

Answer: False.

65. The prosecutor may discuss a case with a judge before trial. (True or False)

Answer: False.

Part 3: Role of the Court**66. List five end-users in municipal courts.**

Answer: End-users include: defendants; victims; witnesses; prosecutors; defense lawyers; bail bondsmen; and jurors.

67. Once a defendant has been found guilty, he or she should be treated as a criminal and no longer as a court customer. (True or False)

Answer: False.

68. Judicial immunity only covers judicial acts, not ministerial duties of the clerk. (True or False)

Answer: True.

69. Cities can be held liable for procedural errors made by court clerks following city policy. (True or False)

Answer: True.

Level II Chapter 2: Municipal Court Processes

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

Part 1: Municipal Court Jurisdiction

1. Original jurisdiction means that a court has authority to adjudicate a case. (True or False)

Answer: True.

2. Municipal courts have exclusive original jurisdiction over all offenses filed in their court. (True or False)

Answer: False (municipal courts do not have exclusive original jurisdiction over all offenses; some are concurrent with justice courts).

3. Municipal courts have concurrent jurisdiction with justice courts over state law violations that occur in the geographic jurisdiction of the city. (True or False)

Answer: True.

4. Municipal courts of record automatically have concurrent jurisdiction with district and county courts for the purpose of enforcing junked vehicle ordinances. (True or False)

Answer: False.

5. Municipal courts have geographic jurisdiction over fine-only offenses that occur within the territorial limits of the county. (True or False)

Answer: False.

6. Municipal courts have jurisdiction over fine-only offenses that occur on city-owned property in the city's extraterritorial jurisdiction. (True or False)

Answer: True.

7. Municipal courts of record in home-rule cities have some jurisdiction over city ordinance offenses which abate nuisances that occur within any part of the extraterritorial jurisdiction of the city. (True or False)

Answer: True.

8. Municipal courts do not have jurisdiction over offenses that include as part of the sanctions suspension of the driver's license. (True or False)

Answer: False (the imposition of a sanction by an agency other than the court, like a license suspension, does not affect the court's original jurisdiction).

9. State statutes specify maximum amounts of penalties that cities may establish for city ordinance violations. (True or False)

Answer: True.

10. The maximum amount of fine jurisdiction of municipal courts is \$500. (True or False)

Answer: False (it is up to \$2,000 in certain cases like zoning or public health, and up to \$4,000 for dumping refuse).

11. Municipal courts may waive their jurisdiction over persons under the age of 17 for all Class C misdemeanor offenses. (True or False)

Answer: False.

Part 2: Charging Instruments

12. A defendant must be given at least 10 days' notice of a pre-trial hearing to allow them sufficient time to raise or file preliminary matters. (True or False)

Answer: True.

13. The filing of a complaint in municipal courts initiates the proceedings in municipal courts. (True or False)

Answer: True.

14. Only peace officers, not citizens, may be affiants for complaints filed in municipal courts. (True or False)

Answer: False (any credible person acquainted with the facts may swear to a complaint).

15. All complaints must begin with the words, "In the name and by the authority of the State of Texas." (True or False)

Answer: True.

16. State statutes require that all complaints end with the words, "Against the peace and dignity of the State," including complaints for city ordinance offenses. (True or False)

Answer: True.

17. Failure to allege all the elements of an offense in the complaint makes the complaint defective. (True or False)

Answer: True.

18. All complaints must allege a specific location in the complaint. (True or False)

Answer: False (a specific location is not required if the offense is one that could occur anywhere in the court's jurisdiction).

19. A complaint must allege that the offense occurred within the city. (True or False)

Answer: True.

20. City ordinance offenses punishable by a fine of more than \$500 are not required to allege a culpable mental state. (True or False)

Answer: False (a culpable mental state is required for city ordinance offenses punishable by a fine exceeding \$500).

21. A culpable mental state must be alleged in a complaint for all traffic offenses. (True or False)

Answer: False (offenses charged under the Transportation Code generally function as strict liability and do not require pleading a culpable mental state).

22. If an abbreviation is well-defined and well-understood, it can be used in the complaint without rendering the complaint defective. (True or False)

Answer: True.

23. Grammatical and spelling errors always make a complaint defective. (True or False)

Answer: False.

24. The owner of stolen property does not have to be identified in the complaint. (True or False)

Answer: False (the complaint must indicate who owns the property).

25. The complaint charging the offense of theft must describe the property stolen. (True or False)

Answer: True.

26. It is not necessary to allege the specific value of stolen property in a complaint. (True or False)

Answer: False (the value must be pled with enough sufficiency to show that the amount falls within the court's jurisdiction).

27. The prosecutor is not allowed to allege the name of a victim in a complaint because the names of all victims are confidential. (True or False)

Answer: False (the victim must be named, except where certain victims are legally entitled to pseudonyms).

28. The doctrine of idem sonans means that a name in a complaint may be amended. (True or False)

Answer: False (it refers to names sounding the same despite a variance in spelling, rendering them sufficient).

29. The manner of committing an assault must be alleged in a complaint. (True or False)

Answer: True.

30. A complaint must allege the date of the offense on or about as definitely as the affiant can provide. (True or False)

Answer: True.

31. A person swearing to a complaint must do so in front of the person administering the oath. (True or False)

Answer: True.

32. An affiant is required to have personal knowledge of an offense before swearing to a complaint. (True or False)

Answer: False (the affiant can swear based on personal knowledge or hearsay, such as reviewing an arrest report).

33. Complaints must state that an affiant has reason to believe and does believe. (True or False)

Answer: True (specifically that they have good reason to believe and do believe).

34. A jurat is the signature of the person swearing to a complaint. (True or False)

Answer: False (it is the certificate/clause of the person before whom the complaint is sworn, stating when and before whom it was sworn).

35. If the person administering the oath to an affiant does not have authority to do so, the complaint is still valid. (True or False)

Answer: False (it renders the complaint invalid).

36. If a jurat does not state a specific date, the complaint is defective. (True or False)

Answer: True.

37. Municipal court complaints are required to have a court seal. (True or False)

Answer: True.

38. A motion to quash a complaint means that the defendant is asking the court to set aside the complaint because of some defect in the complaint. (True or False)

Answer: True.

39. When a court grants a motion to set aside a complaint, the prosecutor cannot file a new complaint in the case. (True or False)

Answer: False (the State can refile by a new complaint as long as the statute of limitations has not run).

40. If a complaint is amended, the affiant can “re-swear” to the amended complaint so that the complaint will not be defective. (True or False)

Answer: True.

41. Court clerks may enhance charges filed by citation if there are prior convictions. (True or False)

Answer: False (only the prosecutor decides whether to pursue an enhancement).

42. A complaint must be enhanced to increase the second or subsequent punishment. (True or False)

Answer: True.

43. All Class C misdemeanor charges can be filed by a citation. (True or False)

Answer: False (e.g., public intoxication generally requires a sworn complaint).

44. A citation may serve as a complaint only when the defendant has been given a legible duplicate copy. (True or False)

Answer: True.

45. The citation may never serve as a complaint at trial. (True or False)

Answer: False (it may serve as the complaint if the defendant and prosecutor sign a written agreement to go to trial on the citation).

46. A sworn complaint based on probable cause or a probable cause affidavit must be on file with the court before a warrant may be issued. (True or False)

Answer: True.

Part 3: Dismissals

47. Because some statutes create a mandatory judicial duty to dismiss cases in certain instances, judges are allowed to dismiss without a prosecutor motion. (True or False)

Answer: True (statutes like those for DSC, deferred disposition, teen court, and chemical dependency treatment create mandatory exceptions).

48. Municipal judges do not have any discretionary authority to dismiss cases. (True or False)

Answer: False (they have discretion for compliance dismissals as authorized by specific statutes).

Part 4: Docket

49. A docket is a formal record of each case in the court. (True or False)

Answer: True.

50. If a court maintains and stores a docket electronically, the court must also maintain a paper copy of the docket. (True or False)

Answer: False (dockets may be kept manually or, at the judge's discretion, electronically).

51. A judgment is the official decision of a judge showing the conviction, acquittal, or dismissal of charges against a defendant. (True or False)

Answer: True.

52. A judgment may be signed electronically and then entered in the docket. (True or False)

Answer: True.

Part 5: Non-Contested Proceedings

53. A plea is only valid if it is given intelligently and voluntarily. (True or False)

Answer: True.

54. When defendants do not want to contest the charges filed against them, they must plead either guilty or nolo contendere and waive their right to a jury trial in writing. (True or False)

Answer: True.

55. When defendants appear in municipal courts, they submit themselves to the authority and jurisdiction of the court. (True or False)

Answer: True.

56. A family member of the defendant who is not an attorney may deliver to the court a signed nolo contendere plea to the court. (True or False)

Answer: False (appearing or submitting a plea on behalf of another constitutes the practice of law and can only be done by licensed attorneys).

57. Adult defendants may appear by counsel in open court to plead guilty or nolo contendere. (True or False)

Answer: True.

58. If an adult defendant delivers a plea to the court on or before his or her scheduled appearance date, the court must dispose of the case without requiring a court appearance. (True or False)

Answer: True.

59. A defendant is considered to have made an appearance when he or she mails in a plea and/or fine payment. (True or False)

Answer: True.

60. Clerks may ask defendants who appear in their office for a plea to determine how to process the defendant's case. (True or False)

Answer: False (clerks must not present bias, provide legal advice, or unconsciously sway a defendant to pick one option over another).

61. Clerks have the authority to accept or reject a mail-in payment if it is an incorrect amount. (True or False)

Answer: False (clerks do not have independent authority to accept/reject incorrect payments; they must present them to the judge for direction).

62. When clerks receive fine payment from defendants who either deliver or mail the payment to the court, there is not a conviction until the judge accepts the payment and signs a judgment. (True or False)

Answer: True.

Part 6: Failing to Appear

63. All defendants who fail to appear can be charged with the Penal Code offense of failure to appear. (True or False)

Answer: False (Penal Code 38.10 applies to someone lawfully released from custody with or without bail; those released on a written promise to appear are charged under the Transportation Code).

64. The offense of violation of promise to appear may be charged when a defendant fails to appear for any traffic offense. (True or False)

Answer: False (VPTA applies only to offenses under Subtitle C, Rules of the Road, of the Transportation Code).

65. Courts can contract with DPS to deny driver's license renewal to defendants who fail to appear. (True or False)

Answer: True (commonly referred to as OmniBase or Omni).

66. Cities can contract with the Texas Department of Motor Vehicles for denial of vehicle registration renewal for defendant's failure to appear. (True or False)

Answer: True (commonly referred to as Scofflaw).

67. The purpose of the Nonresident Violator Compact is to assure that nonresident motorists receiving traffic citations in member states will receive the same treatment accorded resident motorists. (True or False)

Answer: True.

Part 7: Warrants, Capiases, and Summonses

68. Before a warrant or capias may be issued, the judge must have probable cause. (True or False)

Answer: True.

69. In some instances, court clerks may determine probable cause. (True or False)

Answer: False (only a judge or magistrate has the authority to determine probable cause).

70. A complaint is not sufficient to issue a warrant unless it contains probable cause. (True or False)

Answer: True.

71. City police officers have countywide authority to serve municipal court warrants. (True or False)

Answer: True.

72. A municipal judge has authority as a judge and as a magistrate to issue arrest warrants. (True or False)

Answer: True.

73. The judge's authority, under Art. 45A.104, C.C.P., to issue warrants of arrest is for fine-only misdemeanors filed in the judge's court. (True or False)

Answer: True.

74. When a bond forfeiture is declared, the court is required to issue a capias. (True or False)

Answer: True.

75. A capias may be issued by either a municipal court clerk or a municipal judge. (True or False)

Answer: False (the capias is issued by the court, or by the clerk at the direction of the judge).

76. Since a summons does not order an arrest but gives notice to a defendant to appear in court, clerks may issue and serve it. (True or False)

Answer: True.

77. Before a court can issue a summons, the prosecutor must request the issuance. (True or False)

Answer: True (except for summonses to corporations or associations under Ch. 17A, C.C.P.).

78. When a corporation or an association has been served with a summons, they have until the Monday next after the expiration of 20 days after service of the summons to appear. (True or False)

Answer: True.

79. Since a summons does not command a peace officer to arrest the defendant, clerks can serve the summons by mailing it. (True or False)

Answer: False (summons service must be executed by a peace officer, although mailing is one of the officer's authorized methods).

80. Service of summons on a corporation must first be attempted on the registered agent for service. (True or False)

Answer: True.

81. Defendants who fail to appear in response to a summons can be arrested on a capias. (True or False)

Answer: True.

82. Municipal judges can order the seizure of animals being cruelly treated. (True or False)

Answer: True.

83. All municipal judges have the authority to issue a search warrant for the purpose of investigating a health and safety or nuisance abatement ordinance violation. (True or False)

Answer: True.

84. Only municipal judges of municipal courts of record, after an ordinance is adopted by the city, may issue a seizure warrant for the purpose of securing, removing, or demolishing property that is a nuisance. (True or False)

Answer: True.

Part 8: Trial Processes

85. Defendants must ask for a jury trial if they want one. (True or False)

Answer: False (the right to a jury trial is automatic and must be actively waived in writing).

86. All trials, including trials involving juveniles, are required to be open in municipal court. (True or False)

Answer: True.

87. Since municipal courts cannot assess confinement in jail as a punishment, municipal courts are not required to provide speedy trials. (True or False)

Answer: False (there is still a constitutional right to a speedy trial).

88. Defendants have a right to be represented by an attorney in municipal court cases. (True or False)

Answer: True.

89. Defendants have a constitutional right to represent themselves. (True or False)

Answer: True.

90. A non-attorney parent may represent his or her child in court if the child is charged with a crime. (True or False)

Answer: False (a non-attorney may not represent another person in court, as this is the unauthorized practice of law).

91. Clerks have the authority to issue subpoenas. (True or False)

Answer: True.

92. The municipal courts have specific authority to issue subpoenas for out-of-county witnesses. (True or False)

Answer: False (the C.C.P. is silent on out-of-county subpoenas for fine-only cases, making them generally unenforceable outside the county).

93. If a witness is younger than 18, the court may subpoena his or her parents to produce the witness in court. (True or False)

Answer: True.

94. A subpoena duces tecum is a subpoena that orders the witness to bring other witnesses with him or her. (True or False)

Answer: False (it orders the witness to bring physical documents or other tangible evidence).

95. If a peace officer serves a subpoena by mail, the subpoena can be mailed regular mail. (True or False)

Answer: False (it must be sent by certified mail with return receipt requested).

96. A defendant can request in writing that a subpoena be served in person rather than by mail. (True or False)

Answer: True.

97. All municipal courts are required to have a court reporter. (True or False)

Answer: False (only municipal courts of record are required to provide a court reporter or electronic recording device).

98. Court reporters must take the oath of office required of other officers of the State of Texas. (True or False)

Answer: True.

99. Court reporters are required to sign an oath administered by the district clerk. (True or False)

Answer: True.

100. Court reporters may use a combination of transcribing equipment, video or audio recording equipment, and written notes to record court proceedings. (True or False)

Answer: True.

101. If a court reporter uses a recording device, the recording must be kept for 20 days, beginning after the last day of proceeding, trial, denial of motion for new trial, or until any appeal is final, whichever occurs last. (True or False)

Answer: True.

102. Before the court can schedule a pre-trial, the court must have a motion from either the prosecutor or the defense. (True or False)

Answer: False (the court may set any criminal case for pre-trial on its own motion).

103. Pre-trial is for the purpose of determining the merits of the case. (True or False)

Answer: False (it is for preliminary matters, resolving motions, and scheduling, not deciding the guilt or innocence on the merits).

104. Generally, pre-trial procedures help expedite the trial process. (True or False)

Answer: True.

105. Notice of a pre-trial hearing must be given to the defendant in person. (True or False)

Answer: False (notice can also be given in open court, by personal service, or by mail).

106. The court may require all motions filed with the court before a pre-trial to be filed at least seven days prior to the date of the pre-trial hearing. (True or False)

Answer: True.

107. Continuances by operation of law can be because a defendant has not been arrested. (True or False)

Answer: True.

108. Continuance by agreement is by consent of both parties in open court. (True or False)

Answer: True.

109. Clerks have the authority to grant a continuance and reset a case when a defendant calls the court. (True or False)

Answer: False (only the judge can grant a motion for continuance; this authority cannot be delegated to clerks).

110. A request for a continuance for cause is required to be in writing. (True or False)

Answer: True.

111. Only the defendant can request a continuance for a religious holy day. (True or False)

Answer: False (a defense attorney, prosecutor, or juror can also request a continuance for a religious holy day).

112. Defendants must waive their right to a jury trial in order to have a bench trial. (True or False)

Answer: True.

113. Before the court summons prospective jurors, the judge must issue a writ of venire. (True or False)

Answer: True.

114. A venire is a list of prospective jurors to be summoned for a particular term of court. (True or False)

Answer: True.

115. State statutes require that municipal court jurors reside in the city in which the city is located. (True or False)

Answer: True.

116. A person must be a registered voter before he or she can serve on a jury. (True or False)

Answer: False (they must be a qualified voter, but do not have to be actually registered to vote).

117. A person who is enrolled in college can be required to sit on a jury if the trial is scheduled at a time when the person is not in class. (True or False)

Answer: False (the student exemption is absolute upon the student's request, regardless of class schedules).

118. To request a permanent exemption from jury service, a person must be at least 75 years of age. (True or False)

Answer: True.

119. A clerk who receives a request for permanent exemption from jury service must deliver a copy of the exemption to the voter registrar of the county. (True or False)

Answer: True.

120. A prospective juror may establish an exemption by filing a written statement of the ground of the exemption with the clerk. (True or False)

Answer: True.

121. The clerk may never grant a postponement of jury service. (True or False)

Answer: False (the clerk is required to grant an initial postponement if statutory requirements are met).

122. A person who provides false information in a request for exemption is subject to contempt and can be fined up to \$1,000. (True or False)

Answer: True (specifically not less than \$100 or more than \$1,000).

123. Since personal information on jurors collected by the court is confidential, it cannot be released for any reason. (True or False)

Answer: False (exceptions exist for parties to the case or the news media upon a showing of good cause).

124. State law does not require municipal courts to pay their jurors. (True or False)

Answer: True (unless the municipality specifically authorizes juror compensation).

125. A person who fails to appear for jury service can be charged with the offense of failure to appear and assessed a \$100 fine. (True or False)

Answer: False (failing to appear for jury duty is subject to contempt of court with a fine of up to \$100, not a separate criminal charge of failure to appear).

126. Only the defense can ask for a jury shuffle since the statutes only allow one shuffle in a trial. (True or False)

Answer: False (either the prosecution or the defense may demand a jury shuffle).

127. If a challenge to the array of a jury is made, the clerk must reseal the jury in random order. (True or False)

Answer: False (if the challenge is sustained, the judge will order a completely new jury panel to be summoned by someone else).

128. If after voir dire there are not enough jurors, the trial must be rescheduled for another trial date. (True or False)

Answer: False (the judge can order a peace officer to summon qualified individuals to form a new panel, known as a 'pick-up jury').

129. Since clerks are court officers, they may converse with jurors after the case has been submitted to the jury for a decision. (True or False)

Answer: False.

130. If a defendant wants a jury to decide punishment, the defendant must have elected before the trial for the jury to do so. (True or False)

Answer: True.

131. Clerks should provide guidance about proper conduct and dress to court participants during the day of trial. (True or False)

Answer: True.

132. A defendant who has been in custody and then failed to appear for trial, may be charged with the Penal Code offense of failure to appear. (True or False)

Answer: True.

133. When a defendant who has a bond filed with the court fails to appear, the prosecutor can request the court forfeit the bond. (True or False)

Answer: True.

134. If a defendant fails to appear for a jury trial, the court may assess the defendant the costs for impaneling a jury. (True or False)

Answer: True.

135. Docket call is when the court determines if all the prospective jurors appeared. (True or False)

Answer: False (docket call is calling the names of defendants set on the trial docket).

136. Municipal courts may close a trial to the public if it is in the best interest of the defendant. (True or False)

Answer: False (all criminal trials must be public, with limited witness exclusion exceptions).

137. The court may, upon request of either the prosecution or the defense, exclude witnesses from hearing each other's testimony. (True or False)

Answer: True (commonly referred to as invoking 'The Rule').

138. In a bench trial, the judge renders judgment. (True or False)

Answer: True.

139. The jury's decision is called a verdict. (True or False)

Answer: True.

140. If a mistrial is declared, the case must be tried within two days. (True or False)

Answer: False (it may be tried again as soon as practicable).

141. If a jury finds a defendant not guilty, the defendant is still liable for the costs of the trial. (True or False)

Answer: False (an acquitted defendant is discharged without any liability).

142. The judge may require defendants to pay the entire fine and costs when sentence is pronounced. (True or False)

Answer: False (the judge must ask about the defendant's ability to pay and determine if alternative options are required).

143. Defendants convicted in non-record municipal courts must request a new trial within one day of the judgment. (True or False)

Answer: False (they have five days after the rendition of judgment).

144. When a motion for a new trial is filed with the court, the judge has 10 days to decide whether to grant or deny the motion. (True or False)

Answer: True.

145. If a defendant makes a motion for new trial by mail, the motion must be received by the court within 10 business days from the date of judgment to be properly filed. (True or False)

Answer: False (it must be postmarked on or before the due date, and the clerk must receive it not later than the 10th working day after the filing deadline).

146. If a new trial is granted, the court must try the case within 10 days of granting the motion. (True or False)

Answer: False (the judge shall proceed as soon as practicable to try the case again).

147. If a defendant in a municipal court of record wants a new trial, the defendant must submit a written motion to the court not later than 10 days after the judgment. (True or False)

Answer: True.

148. Defendants in a municipal court of record may not file an amended motion for new trial. (True or False)

Answer: False (amended motions are allowed under specific time limits).

Part 9: Contempt

149. Direct contempt means that an act occurred in the judge's presence. (True or False)

Answer: True.

150. Indirect contempt is an act that occurs outside the court's presence. (True or False)

Answer: True.

151. If a person is charged with either indirect or direct contempt, the person is not entitled to a hearing. (True or False)

Answer: False (indirect contempt requires notice, a hearing, and the right to counsel; direct contempt does not require a prior hearing if immediate action is needed).

152. Civil contempt includes willfully disobeying a court order. (True or False)

Answer: True.

153. Criminal contempt means that a person disrupted court proceedings or obstructed justice. (True or False)

Answer: True.

154. If a peace officer fails to execute a summons, subpoena, or attachment, the officer may be punished by contempt. (True or False)

Answer: True.

155. Failure to appear for jury duty includes three days in jail as a punishment. (True or False)

Answer: False (jury duty non-attendance is punishable by a maximum fine of \$100 for contempt, without confinement).

Part 10: Post-Trial Procedures

156. When a defendant is entitled to jail credit, the clerk should properly record jail credit. (True or False)

Answer: True.

157. If a defendant discharges a fine and costs by jail credit, the city is liable for payment of the court costs to the State Comptroller. (True or False)

Answer: False (the State Comptroller does not require the court to remit court costs that were not collected in money).

158. Only the judge may authorize defendants to pay fines and costs by credit card. (True or False)

Answer: False (credit card collection must be authorized by the governing body of the municipality).

159. Clerks are not allowed to collect payments through the internet unless the judge authorizes that method of payment. (True or False)

Answer: False (the governing body of the municipality must authorize payment via the internet/electronic means).

160. If payment is not honored by a credit card company, the municipality may collect a service charge from the defendant. (True or False)

Answer: True.

161. Defendants may discharge a fine, but not the costs by community service. (True or False)

Answer: False (both the fine and costs may be discharged by community service).

162. The court may require an indigent defendant to discharge a fine by community service. (True or False)

Answer: True.

163. The court must credit the defendant with not less than \$50 for every eight hours of community service performed. (True or False)

Answer: False (under current Texas law, a defendant is credited not less than \$150 for each eight hours of community service performed).

164. A municipal judge may waive a fine and court costs for those determined to be indigent by law, but not for those that simply do not have sufficient resources to pay. (True or False)

Answer: False (the waiver statute authorizes waiver for those who are indigent OR lack sufficient resources/income to pay).

165. Describe the judge's authorization to waive fine or costs under state law. (Short Answer)

Answer: The judge's authorization to waive fine or costs is broad under current law. If the judge makes certain determinations, he or she could decide to waive any part of the fine or any cost depending on the judge's determination of sufficient resources or indigency.

Part 11: Fine Enforcement and Collection

166. A capias pro fine is a written order of the court issued because a defendant failed to satisfy the judgment and sentence according to its terms. (True or False)

Answer: True (it is a writ issued after a required hearing for failure to satisfy the judgment).

167. A capias pro fine may be issued once a defendant fails to complete community service to satisfy a fine as previously ordered by the court. (True or False)

Answer: False (the court must first send notice and hold a required hardship hearing before issuing a capias pro fine).

168. What is a peace officer authorized to do upon serving a capias pro fine? (Short Answer)

Answer: A peace officer is authorized to bring the person before the court immediately or place the defendant in jail until the business day following the date of the defendant's arrest if the defendant cannot be brought before the court immediately.

169. Where should the hearing prior to issuance of a capias pro fine be reported on the OCA Monthly Activity Report? (Short Answer)

Answer: The capias pro fine hearing, called a show cause hearing by the OCA, is reported on Line 13 with show cause hearings held.

170. What documents are sufficient, and should be in the court's file, to authorize confinement of a defendant following commitment proceedings under Article 45.046/45A.261 of the Code of Criminal Procedure? (Short Answer)

Answer: Article 45A.261(b) of the Code of Criminal Procedure provides that a certified copy of the judgment, sentence, and order is sufficient to authorize confinement following commitment proceedings.

171. The process of execution is started by the city attorney. (True or False)

Answer: True.

172. A writ of execution is a written order showing the debt of the defendant and commanding a peace officer to take property and sell it. (True or False)

Answer: True.

173. Only the judge can issue the writ of execution. (True or False)

Answer: False (the clerk issues the writ of execution upon request).

174. Only sheriffs and constables can serve a writ of execution. (True or False)

Answer: False (city police officers can also serve municipal court writs of execution).

175. An abstract of judgment requires the defendant/debtor to pay a municipal court judgment immediately. (True or False)

Answer: False (it is a simplified notation of judgment recorded with the county clerk to create a lien; it does not force immediate payment but leads to passive recovery).

176. An abstract of judgment can be filed with the county clerk's office claiming a judgment against a defendant. (True or False)

Answer: True.

177. What two statements must appear in a communication to defendant regarding collections under a contract with a collections vendor? (Short Answer)

Answer: Notice of the person's right to enter a plea or go to trial on the offense, and a statement that if the person is unable to pay the full amount, they should contact the court regarding alternatives.

Part 12: DSC and Deferred Disposition

178. The copy of the citation given to the defendant for a traffic offense by a peace officer must contain a statement of the person's right to take a driving safety course. (True or False)

Answer: True.

179. A driving safety course may be taken for any traffic offense. (True or False)

Answer: False (there are statutory exceptions, such as speeding 25+ mph over the limit, passing a school bus, or possessing a CDL).

180. A person with a commercial driver's license driving his or her personal vehicle is not eligible to take a driving safety course for a violation of a traffic offense. (True or False)

Answer: True.

181. Offenses committed in a construction maintenance work zone when workers are present are not eligible for a driving safety course. (True or False)

Answer: True.

182. Defendants who want to exercise their right to take a driving safety course must plead either guilty or nolo contendere. (True or False)

Answer: True.

183. Defendants must have a Texas driver's license and evidence of financial responsibility to be eligible to exercise their right to a driving safety course. (True or False)

Answer: True (active military, spouses, or dependents have special exceptions, but a license/permit is generally required).

184. When a judge grants a driving safety course under the permissive provisions, the judge may require a fine not to exceed the maximum possible fine for the particular offense. (True or False)

Answer: True.

185. Defendants who are granted the right to take a driving safety course must take the course and submit evidence of completion within 120 days. (True or False)

Answer: False (the statute grants 90 days to successfully complete and present evidence of completion).

186. If a defendant's driving record submitted with the DSC completion certificate shows that the defendant was not eligible, the court must still dismiss the traffic charge if the defendant completed the driving safety course. (True or False)

Answer: False (if the driving record shows they were ineligible, such as having completed another course within the prior 12 months, the court cannot dismiss).

187. If a defendant's driving record shows the defendant was eligible and the defendant completed the driving safety course timely, but the defendant fails to file the required affidavit, the court may not dismiss the traffic charge. (True or False)

Answer: True (all three requirements—completion certificate, certified driving record, and signed affidavit—must be presented).

188. If a defendant fails to submit the required evidence of course completion, the court must conduct a show cause hearing. (True or False)

Answer: True.

189. Courts must report the dismissal date of a driving safety course to DPS. (True or False)

Answer: False (the court reports successful completion by noting the course completion date, not the date of dismissal).

190. A person who holds or held a commercial driver's license at the time of the offense is generally not eligible for deferred disposition. (True or False)

Answer: True (specifically if charged with an offense involving motor vehicle control).

191. A person who commits an offense in a construction and maintenance work zone when workers are present is eligible for deferred disposition. (True or False)

Answer: False (such offenses are explicitly barred from deferred disposition eligibility).

192. Defendants who agree to deferred disposition must either plead guilty or nolo contendere or be found guilty. (True or False)

Answer: True.

193. Before a judge can grant deferred disposition, the defendant is required to pay court costs. (True or False)

Answer: False (the judge may allow costs to be paid in installments, discharged via community service, or even waived depending on judicial interpretation).

194. The maximum deferral period for deferred disposition is 180 days. (True or False)

Answer: True.

195. When the judge grants deferred disposition to a defendant under 25 charged with a moving traffic violation, the judge must require as a term of the deferred a driving safety course. (True or False)

Answer: True.

196. When a court grants a deferred disposition to a defendant with a provisional license charged with a moving traffic violation, the court must require the defendant to retake the driving test at DPS. (True or False)

Answer: True.

197. If a defendant over the age of 25 fails to complete the terms of deferred disposition, the court may reduce the fine. (True or False)

Answer: True.

198. If a traffic offense is dismissed under deferred disposition, the court is required to report the deferral to DPS. (True or False)

Answer: False (courts may not report deferred disposition deferral orders for traffic offenses to DPS, only subsequent convictions).

199. If an Alcoholic Beverage Code offense is deferred under deferred disposition, the court is required to report the deferral to DPS. (True or False)

Answer: True (the report is made at the time deferred is granted).

Part 13: Appeals

200. Defendants charged with a city ordinance violation do not have a right to appeal. (True or False)

Answer: False (all defendants in criminal actions, including city ordinance violations, have a right to appeal).

201. Most appeals from a municipal court are heard in the county court. (True or False)

Answer: True.

202. If a defendant fails to present the appeal bond to the court within the required time, the court can refuse to send it to the county court. (True or False)

Answer: False (the clerk has a mandatory ministerial duty to forward the appeal package to the county court so that the appellate court can decide on its own jurisdiction).

203. If a county court refuses to take jurisdiction of a municipal court appeal, the defendant must pay the municipal court's fine. (True or False)

Answer: True (the county court will issue a writ of procedendo and return jurisdiction to the municipal court to collect the judgment).

204. When a defendant appeals a case from a municipal court of non-record, the defendant gets a new trial at the appellate court. (True or False)

Answer: True (this is known as a trial de novo).

205. The amount of the bond must be at least two times the amount of the fine and court costs. (True or False)

Answer: True (in non-record courts; in record courts, it is \$100 or double the fines/costs, whichever is greater).

206. Defendants in non-record municipal courts can plead guilty and appeal a case. (True or False)

Answer: True.

207. If a court receives through the mail a plea of nolo contendere and waiver of jury trial and a request for the amount of an appeal bond, the court can notify the defendant of the amount of the appeal bond by regular mail. (True or False)

Answer: True.

208. A defendant who makes a plea by mail and wants to appeal his or her case must present the court with an appeal bond before the 31st day from the judgment. (True or False)

Answer: True (they must pay the fine or give the bond before the 31st day after receiving the notice).

209. Defendants who appear in open court have 10 days from the time the judgment is entered to present the court with an appeal bond. (True or False)

Answer: True (specifically within 10 days after the sentence was rendered).

210. When counting the appeal time, the court counts the day the judgment is entered. (True or False)

Answer: False (the standard calculation excludes the first day and includes the last day).

211. If the last day of the appeal falls on a Saturday, Sunday, or a holiday, the court must give the defendant to the next working day of the court to file the appeal bond. (True or False)

Answer: True.

212. If a defendant mails an appeal bond to the court, the court must receive the bond by the 10th day after judgment is entered. (True or False)

Answer: False (the bond is timely filed if postmarked on or before the due date and received no later than the 10th day after the filing deadline).

213. Municipal court clerks have a mandatory ministerial duty to send a case to the county court regardless of whether the appeal bond was timely filed. (True or False)

Answer: True.

214. When there is a conviction on an appealed case from a court of non-record, the fine money is deposited into the county treasury for the use and benefit of the county. (True or False)

Answer: True (for record courts, affirmed fines go to the city treasury).

215. There is nothing to appeal when a defendant pays his or her fine because the judgment has been satisfied. (True or False)

Answer: True (voluntary payment satisfies the judgment and renders any appeal moot).

Level II Chapter 3: Applying Criminal Codes

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

Part 1: Code Construction Act

1. What is the purpose of the Code Construction Act?

Answer: To help courts ascertain and appropriately enforce the legislative intent of statutes.

2. Where is the Code Construction Act located?

Answer: Chapter 311 of the Government Code.

3. How are statutes to be interpreted?

Answer: Statutes must be reasonably construed (interpreted) in accordance with general principles of law.

4. How does the Code Construction Act require that words and phrases be interpreted?

Answer: Words and phrases shall be read in context and interpreted according to the rules of grammar and common usage.

5. How are words with a technical or particular meaning to be interpreted?

Answer: They shall be interpreted according to their technical meaning.

6. Summarize the Code Construction Act rules regarding tense, number, and gender.

Answer: Words in the present tense include the future tense; the singular includes the plural; the plural includes the singular; and words of one gender include the other genders.

7. Explain the Code Construction Act rule for the computation of time.

Answer: The first day is excluded and the last day is included. If the last day is a Saturday, Sunday, or legal holiday, the period is extended to include the next day that is not a Saturday, Sunday, or legal holiday.

8. What is presumed when a statute is enacted?

Answer: Section 311.021 of the Government Code provides that when a statute is enacted, it is presumed that:

- there is compliance with the U.S. and Texas Constitutions;
- the entire statute is intended to be effective;
- a just and reasonable result is intended;
- a result possible of execution is intended; and
- the public interest is favored over any private interest.

9. List the statute construction aids provided in Section 311.023 of the Government Code.

Answer: Section 311.023 of the Government Code provides that in interpreting statutes, whether or not the statute is considered ambiguous on its face, a court may consider among other matters the:

- object or purpose sought to be achieved;
- circumstances under which the statute was enacted;
- legislative history;
- common law or former statutory provisions, including laws on the same or similar subjects;
- consequences of a particular construction;
- administrative construction of the statute; and
- title (caption), preamble, and emergency provision.

10. According to the Court of Criminal Appeals, when are the statute construction aids to be used?

Answer: When the statute in question is ambiguous.

11. The Code Construction Act applies to all current statutes. (True or False)

Answer: True.

12. The heading of a statute limits the meaning of the statute. (True or False)

Answer: False.

13. If part of any statute is unconstitutional, the rest of the statute is always also invalid. (True or False)

Answer: False (the statute may have a severability provision).

14. Since case law interprets statutes, courts should research all sources of law when determining how to administer statutes. (True or False)

Answer: True.

15. Chapter 45A of the Code of Criminal Procedure is an example of a chapter containing specific statutes. (True or False)

Answer: True.

16. Documents mailed to the municipal court must follow the specific rule in Chapter 45A for filing documents through the mail. (True or False)

Answer: True.

17. Chapter 17 of the Code of Criminal Procedure, which provides rules for bonds, contains general statutes that apply to all courts. (True or False)

Answer: True.

18. What is a severability clause commonly called?

Answer: A savings clause.

19. What is the purpose of a severability provision?

Answer: A severability provision is a provision in a statute that saves part of a statute from a declaration of unconstitutionality when one or more other parts are declared unconstitutional. Section 311.032 of the Government Code provides that if a statute contains a severability clause, that provision prevails in interpreting that statute. That means that should a court declare part of a statute containing a severability clause unconstitutional, the other parts would still be valid if they are self-sustaining and capable of separate enforcement without regard to the invalid portion. Some statutes have a provision for non-severability, which means that if part of the statute is declared unconstitutional, the whole statute is invalid. Other statutes do not contain severability clauses. If any provision of one of these statutes or their application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute if the provisions can be effective without the invalid provisions or application.

20. Define the "date rule."

Answer: If two rules conflict, but one is more recent than the other, the more recent rule applies.

21. What does "latest in date of enactment" mean and when does it come into play?

Answer: If amendments to the same statute are enacted at the same session, the amendments shall be harmonized if possible so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment prevails.

22. Define general statutes.

Answer: General statutes are ones that apply to all courts unless there is a specific statute.

23. Define the "rule of the specific."

Answer: If two rules conflict, the special or local provision prevails over the general provision.

Part 2: Code of Criminal Procedure**24. What types of investigations and trials do the Code of Criminal Procedure govern?**

Answer: Criminal trials and investigations.

25. List the objectives of the Code of Criminal Procedure.

Answer: The objectives are:

- adopt measures to prevent crime;
- create rules to prevent criminals from escaping;
- set out trial procedures;
- make available as much evidence as possible;
- guarantee guidelines for fair and impartial trials; and
- provide rules to make sure sentences are properly executed.

26. List the courts that the Code of Criminal Procedure applies to.

Answer: It applies to all courts with criminal jurisdiction: the Court of Criminal Appeals, the courts of appeals, district courts, county courts, county courts at law with criminal jurisdiction, county criminal courts, magistrates appointed in certain counties, justice of the peace courts, and municipal courts.

27. Explain the basic format of the Code of Criminal Procedure.

Answer: The code is divided into two parts (Title I and Title 2) that are divided into chapters and articles.

28. Where in the Code of Criminal Procedure can municipal courts find their jurisdiction?

Answer: Article 4.14.

29. Where in the Code of Criminal Procedure are the rules regarding the statutes of limitation?

Answer: Chapter 12.

30. Where in the Code of Criminal Procedure can you find criminal responsibility of corporations and associations?

Answer: Chapter 17A.

31. Where in the Code of Criminal Procedure are most rules found governing municipal court appeals?

Answer: Chapter 45A.

32. What is the title of Chapter 45A of the Code of Criminal Procedure?

Answer: Justice and Municipal Courts.

33. What information is contained in Chapter 101 of the Code of Criminal Procedure?

Answer: Chapter 101 provides the purpose of Title 2, that the Code Construction Act applies to the construction of Title 2, and the general provisions about references to chapters and articles in Title 2.

34. What are some examples of fees/funds in Chapter 102 of the Code of Criminal Procedure that are applicable to municipal court proceedings?

Answer: The following fees/funds are applicable to municipal court proceedings: reimbursement fees for services of a peace officer, expunction fees, fines for Child Safety Fund, Municipal Court Building Security Fund, Municipal Court Technology Fund, and Consolidated Municipal Court Building Security and Technology Fund.

35. In which chapter of the Code of Criminal Procedure is information on collection contracts for fines, fees, and restitution?

Answer: Chapter 103.

36. Explain who is a public servant.

Answer: The definition is found in Section 1.07 of the Penal Code, which states that a public servant is a person who is elected, selected, appointed, or employed as one of the following, even if he or she has not yet qualified for office or assumed his or her duties:

- an officer, employee, or agent of the government;
- juror or grand juror;
- an arbitrator, referee, or other person who is authorized by law or private written agreement to hear or determine a cause or controversy;
- an attorney at law or notary public when participating in the performance of a governmental function;
- a candidate for nomination or election to public office; or
- a person who is performing a governmental function under a claim of right although he or she is not legally qualified to do so.

Since municipal judges, court clerks, and deputy court clerks are elected, appointed, or employed by a governmental agency, they are public servants.

37. What is jurisdiction?

Answer: Jurisdiction is a court's legal power or authority over certain geographical areas and certain crimes.

38. What statute lists the rights of all criminal defendants?

Answer: Article 1.05, C.C.P.

39. Is an indigent municipal court defendant entitled to have an attorney appointed to represent him or her?

Answer: No. All municipal court defendants are entitled to hire and consult with counsel and have representation but are not entitled to appointed counsel. The court may appoint counsel for an indigent defendant if the interest of justice requires representation.

40. What must be determined before a warrant of arrest may be issued?

Answer: Probable cause upon oath or affirmation.

41. Why do all municipal court defendants have a right to bail?

Answer: Article 1.07 states that all people have a right to bail, unless for capital offenses when the proof is evident.

42. What is double jeopardy?

Answer: No person may be tried twice for the same offense after a verdict of not guilty in a court of competent jurisdiction.

43. Why do municipal court defendants have a right to a jury trial?

Answer: Article 1.12 states that the right of a trial by jury shall remain inviolate, which means that the right cannot be violated and is free from any impairment.

44. Why are all municipal court proceedings and trials open to the public?

Answer: Article 1.24 states that the proceedings and trials in all courts shall be public.

45. Why must a municipal court provide a copy of the complaint to the defendant?

Answer: Article 1.05 states that defendants have a right to know the nature and cause of an accusation against them and to have a copy of the complaint.

46. How much notice is a defendant entitled to if a complaint is filed against him or her?

Answer: Defendants are entitled to notice of a complaint not later than the day before any proceeding in the prosecution.

47. What can serve as the complaint for a defendant to plead to?

Answer: The written notice to appear (citation) when a legible duplicate copy was given to the defendant.

48. When must a sworn complaint be filed with the court?

Answer: If a defendant pleads not guilty, a sworn complaint must be filed unless the defendant and prosecutor agree to go to trial on the written notice (citation). The agreement must be in writing and filed with the court. In addition, a sworn complaint must be filed when the defendant fails to appear in court. This will toll (stop) the statute of limitations from running so that prosecution can continue.

49. Define "docket."

Answer: A docket is a formal record with brief entries of the proceedings in a case.

50. List the different ways in which a defendant can make an appearance to enter a plea.

Answer: A defendant can make an appearance:

- in person in open court;
- by attorney in open court;
- by mail;
- by delivering a plea and waiver of jury trial to the court; or
- by paying the fine.

51. Who can enter a plea for a defendant?

Answer: The defendant or the defendant's attorney.

52. What types of pleas can be entered by a defendant?

Answer: Not guilty, guilty, nolo contendere, or a special plea.

53. When a defendant refuses to plea, what must the judge do?

Answer: Enter a not guilty plea.

54. Before a warrant can be issued, what must be filed with the court?

Answer: A complaint or affidavit based on probable cause.

55. What type of warrants does Article 45A.104 of the Code of Criminal Procedure authorize a judge to issue?

Answer: Warrants for charges filed in the judge's court.

56. Define a capias.

Answer: A capias is a written order issued by a judge of a court having jurisdiction of a case after commitment or bail and before trial.

57. When is a capias required to be issued?

Answer: When a bond forfeiture has been declared.

58. When can a summons be issued?

Answer: When a prosecutor makes a request that it be issued.

59. Which statute provides the geographical jurisdiction for city peace officers to serve municipal court process?

Answer: Article 45A.103 of the Code of Criminal Procedure.

60. If there is a personal bond office in the county, what must the court do when a personal bond is granted?

Answer: The court releasing a defendant on his or her personal bond must forward a copy of the bond to the personal bond office in that county.

61. Must the court set a case for pre-trial?

Answer: No, but the court may set a case for pre-trial before it is set for trial upon its merits.

62. Why may municipal court clerks issue subpoenas?

Answer: Because defendants have a right to subpoena witnesses and there is no discretion in issuing subpoenas, municipal court clerks may issue subpoenas.

63. Define "judgment."

Answer: The judgment is the written declaration of the court signed by the trial judge showing the conviction or acquittal of the defendant. If it is a guilty judgment in municipal court, it will order the defendant to pay a fine and certain costs or provide some other sanction as authorized by law.

64. What article states that a defendant in any criminal action has the right of appeal?

Answer: Article 44.02 of the Code of Criminal Procedure.

65. What process may be issued to collect a fine and costs in the same manner as a judgment in a civil suit?

Answer: A writ of execution.

66. Which city officials are magistrates?

Answer: Municipal judges and mayors.

Part 3: Penal Code**67. What is the Penal Code?**

Answer: It is a collection of statutes defining criminal offenses and setting penalties.

68. List the goals included in the statement of objectives of the Penal Code.

Answer: The goals are:

- to ensure public safety through deterrence, rehabilitation of offenders, and punishment of those who commit offenses;
- to define and grade offenses so citizens will know what they can and cannot do;
- to define punishments appropriate for each particular offense;
- to safeguard innocent conduct;
- to guide law enforcement officials; and
- to make the criminal laws apply to everyone in the same way.

69. What do the objectives in the Penal Code show about the intent of the Legislature?

Answer: The objectives show that the intent of the Legislature is to prevent crime through deterrence and punishment and to limit the power of the State from interfering too much with innocent citizens.

70. How is the Penal Code organized?

Answer: It is divided into titles, chapters, subchapters, and sections.

71. In what chapters of the Penal Code are the general principles of criminal responsibility located?

Answer: Chapters 6 through 9.

72. In what chapter of the Penal Code are punishments defined?

Answer: Chapter 12.

73. What is an inchoate offense?

Answer: It is an offense that is attempted but not completed.

74. What is the chapter in the Penal Code that prohibits public servants from accepting an honorarium?

Answer: Chapter 36.

75. Where is the offense of "failure to appear" located in the Penal Code?

Answer: Chapter 38 (Section 38.10).

76. What chapter in the Penal Code contains offenses relating to abuse of office?

Answer: Chapter 39.

77. Where is the offense of "disorderly conduct" located in the Penal Code?

Answer: Chapter 42 (Section 42.01).

78. Where is the offense of "public intoxication" located in the Penal Code?

Answer: Chapter 49 (Section 49.02).

79. Where are definitions found in the Penal Code?

Answer: Definitions are scattered throughout the Penal Code. General definitions are listed in Section 1.07.

80. Explain presumption of innocence.

Answer: A person does not have to prove that he or she is innocent. The State must prove that the person is guilty beyond a reasonable doubt by proving each element of the offense.

81. When does conduct constitute an offense?

Answer: When the conduct is defined as an offense by statute, municipal ordinance, order of a county commissioner's court, or rule authorized and lawfully adopted.

82. Explain what constitutes committing an offense.

Answer: A person commits an offense only if he or she voluntarily engages in conduct, including an act, an omission, or possession.

83. How does the Penal Code define the words act, omission, and possession?

Answer: Act means a bodily movement, whether voluntary or involuntary and includes speech. Omission means a failure to act when the person had a duty to act. Possession means actual care, custody, control, or management.

84. What is a culpable mental state?

Answer: A culpable mental state is the state of the mind in which a person voluntarily engages in certain conduct or fails to perform an act when there is a duty to act.

85. List the four culpable mental states.

Answer: Intentionally, knowingly, recklessly, and criminally negligent.

86. What is criminal attempt?

Answer: When a person specifically intends to commit the offense and does an act amounting to more than mere preparation that tends, but failed, to effect the commission of the offense intended.

87. When is a person criminally responsible?

Answer: A person is criminally responsible if the result would not have occurred but for his or her conduct.

88. When is a corporation or association criminally responsible?

Answer: When conduct constituting an offense is performed by an agent acting on behalf of a corporation or association and within the scope of his or her office or employment.

89. It is an affirmative defense if a defendant relied upon an interpretation of a statute by an opinion issued by an Attorney General. (True or False)

Answer: True.

90. It is not a defense if a person is compelled by a threat of force to commit a Class C misdemeanor offense. (True or False)

Answer: False.

91. A person cannot be convicted of a crime when he or she is unaware that the act was a violation of law. (True or False)

Answer: False.

92. A person who is charged with public intoxication can be prosecuted because the intoxication is voluntary. (True or False)

Answer: True.

93. Explain why cities cannot enact ordinances for conduct covered by the Penal Code.

Answer: Section 1.08 of the Penal Code prohibits governmental subdivisions from enacting or enforcing laws that make any conduct covered by the Penal Code an offense subject to criminal penalty.

94. How are offenses designated?

Answer: As felonies or misdemeanors.

95. List the three classifications of misdemeanors.

Answer: Class A, Class B, and Class C misdemeanors.

96. If a misdemeanor offense in the Penal Code does not specify a punishment or a category, what classification of offense is it?

Answer: Class C misdemeanor.

97. How does the Penal Code define Class C misdemeanor?

Answer: The Penal Code defines a Class C misdemeanor as an offense that is punishable by a fine not to exceed \$500.

98. List the five classifications of felony offenses.

Answer: Capital felonies, first degree felonies, second degree felonies, third degree felonies, and state jail felonies.

99. If an offense outside of the Penal Code is punishable by fine only, what classification of offense is it?

Answer: Class C misdemeanor.

100. If a corporation or association is adjudged guilty of a Class C misdemeanor offense that does not provide for a specific penalty, what is the maximum possible punishment?

Answer: \$2,000.

101. When a corporation is convicted of an offense, who can the court require the corporation or association to notify?

Answer: Any person the court deems appropriate.

102. Who is the court required to notify when a corporation or association is convicted?

Answer: The Texas Attorney General.

103. What section of the Penal Code defines the age of a person who can be prosecuted?

Answer: Section 8.07.

104. For what fine-only misdemeanor offenses can persons under the age of 15 be prosecuted in municipal court?

Answer: Traffic offenses, except for traffic offenses punishable by incarceration or:

- Section 550.021 (accident involving person injury or death);
- Section 550.022 (accident involving damage to vehicle);
- Section 550.024 (accident involving striking unattended vehicle);
- Other state law misdemeanors punishable by fine only; and
- City ordinances.

105. What is the youngest age that a person can be prosecuted for a criminal offense?

Answer: Age 10.

106. Children between the ages of 10 and 14 are presumed not to be what?

Answer: Criminally responsible for any misdemeanors punishable by a fine only or a violation of a penal ordinance of a political subdivision, except for traffic offenses.

107. What are the elements of an offense?

Answer: The elements of an offense are the forbidden conduct; the required culpability and required result; and the negation of any exception to the offense.

108. Must all acts that are considered crimes be committed in a public place?

Answer: No (e.g., assault).

109. List the elements of the offense of a Class C assault.

Answer: The elements of the offense of a Class C assault are:

- person;
- location (city and county);
- date of offense;
- intentionally or knowingly; and
- threatens another, including the person's spouse, with imminent bodily injury.

Level II Chapter 4: Children and Minors

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

Part 1: Criminal Responsibility and Procedure

1. The term juvenile is not defined by statute. (True or False)

Answer: True.

2. The terms “child” and “minor” are synonymous. (True or False)

Answer: False.

3. Define status offender.

Answer: Section 51.02(15) of the Family Code states that a status offender is “a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult.”

4. List examples of status offenses.

Answer: Status offenses include: running away from home; violation of a provision of the Alcoholic Beverage Code applicable to minors only; or violation of any other fine-only offense under Section 8.07(a)(4) and (5) of the Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

5. When must a municipal court waive its jurisdiction over a child’s case and transfer it to the juvenile court?

Answer: Section 51.08(b)(1), F.C., states that a municipal court shall waive jurisdiction and transfer a child’s case to the juvenile court if the complaint pending against the child alleges a violation of a misdemeanor offense under Section 43.261 of the Penal Code (sexting), that is punishable by fine only, or if the child has been previously convicted of: two or more prior fine-only offenses other than traffic; two or more violations of a penal ordinance of a political subdivision other than a traffic offense; or one or more of each of the types of misdemeanors described above if the court does not have a juvenile case manager program established under Article 45A.451, C.C.P. If the court does have such a program, waiver of original jurisdiction is permitted, but not required.

6. When does a municipal court have discretion to waive jurisdiction of a case involving a child?

Answer: A municipal court has discretion to waive jurisdiction and refer a child to juvenile court if the child has not been charged with sexting under Section 43.261 of the Penal Code or has not been previously convicted of a fine-only misdemeanor other than traffic or tobacco/e-cigarette offenses, or has only been convicted once of a fine-only misdemeanor or twice of a penal ordinance violation, other than traffic.

7. List offenses over which municipal courts may not waive jurisdiction over a defendant.

Answer: Traffic offenses, tobacco/e-cigarette offenses, and sexting committed by a minor.

8. When may a court retain jurisdiction over a child after there are more than two convictions for non-traffic offenses?

Answer: The court may retain jurisdiction if the court has a juvenile case manager program under Article 45A.451, C.C.P.

9. When a municipal court waives jurisdiction over a child’s case in municipal court, what information should be sent to the juvenile court?

Answer: All pertinent documents in the case. The form used to waive jurisdiction should contain the name of the court, name of the defendant, name of the judge, offense charged, cause number assigned to the case, and prior convictions.

Part 2: Transportation Code

10. Traffic offenses are not eligible for youth diversion. (True or False)

Answer: True.

11. A judge may require a 15-year-old defendant to discharge fines and costs by community service, regardless if the child has the ability to pay. (True or False)

Answer: True.

12. The punishment is the same penalty for a conviction of a traffic offense regardless of whether the defendant is an adult or a person under the age of 17. (True or False)

Answer: True.

Part 3: Penal Code

13. Procedures for taking the plea of a child under the age of 17 accused of a Penal Code offense are contained in the Penal Code. (True or False)

Answer: False.

14. If a municipal court dismisses a complaint under Section 8.08, Penal Code, it is required to keep jurisdiction over any future cases involving the same child. (True or False)

Answer: False. (A prior dismissal under Section 8.08 requires the court to waive jurisdiction and transfer subsequent cases involving that child to juvenile court.)

15. The court is required to tell the parent and the child of his or her right to expunge a conviction of a Penal Code offense and to give them a copy of the statute that provides the expunction procedures. (True or False)

Answer: True.

16. A person under the age of 17 may request the court to expunge multiple convictions of Penal Code offenses. (True or False)

Answer: False.

17. A person under the age of 17 charged with a Penal Code offense that has been dismissed under the deferred disposition statute may request the municipal court to expunge the records. (True or False)

Answer: True.

Part 4: Alcoholic Beverage Code

18. The Alcoholic Beverage Code defines a minor as a person under the age of 21. (True or False)

Answer: True.

19. Municipal courts have jurisdiction over all fine-only offenses in the Alcoholic Beverage Code regardless of how many prior convictions. (True or False)

Answer: False.

20. If a minor age 17 is charged with a subsequent Alcoholic Beverage Code offense after two prior convictions, the potential penalty for third and subsequent offenses may include confinement in jail. (True or False)

Answer: True.

21. Judges may, but do not have to, require minors convicted of the offense of minor consuming alcohol to perform a certain number of community service hours upon conviction. (True or False)

Answer: False. (The court must require the defendant to perform a certain number of community service hours.)

22. Courts must require minors convicted for the first time of any Alcoholic Beverage Code offense to complete either an awareness or education program. (True or False)

Answer: True.

23. If an alcohol awareness program is not available in a county of 75,000 or less, the court may order alcohol-related community service instead, which also replaces other required community service. (True or False)

Answer: False. (The community service ordered in this situation is in addition to any other community service required by law, not a replacement.)

24. For defendants under age 18 ordered to complete an alcohol awareness or substance misuse education program after placement on deferred disposition for an applicable offense, the court may also require the parent or guardian to attend the program with the child. (True or False)

Answer: True.

25. Minors must complete the alcohol awareness program within 120 days from the date of conviction. (True or False)

Answer: False. (Within 90 days after conviction.)

26. The court does not have any authority to grant an extension of time if the minor fails to complete the alcohol awareness program. (True or False)

Answer: False. (Sec. 106.115(c), A.B.C. The court may extend this period by not more than 90 days for good cause.)

27. Clerks should notify the Department of Public Safety of an order of driver's license suspension immediately upon conviction of a minor of an Alcoholic Beverage Code offense because the suspension is effective on the 11th day after the judgment of conviction. (True or False)

Answer: True.

28. If a minor fails to complete an alcohol awareness program, the law requires a court to order the Department of Public Safety to suspend the minor's driver's license for a period of time not to exceed six months. (True or False)

Answer: True.

29. Courts do not have to require minors convicted of the offense of driving under the influence of alcohol to perform community service. (True or False)

Answer: False.

30. The court must order the Department of Public Safety to suspend the driver's license of defendants convicted of the offense of driving under the influence of alcohol. (True or False)

Answer: False.

31. Fine-only offenses under the Alcoholic Beverage Code that are dismissed upon completion of deferred disposition may be used to enhance subsequent charges under the Alcoholic Beverage Code. (True or False)

Answer: True.

32. Minors charged with an Alcoholic Beverage Code offense are eligible for deferred disposition regardless of how many times they have been convicted of an Alcoholic Beverage Code offense. (True or False)

Answer: False.

33. Minor defendants charged with an Alcoholic Beverage Code offense who are granted deferred disposition do not have to take either an awareness program or education program. (True or False)

Answer: False.

34. Courts must require minor defendants charged with the offense of driving under the influence who are granted deferred disposition to complete a certain number of community service hours as a term of the deferral. (True or False)

Answer: False.

35. Minors may petition a municipal court to expunge an Alcoholic Beverage Code conviction only if the minor has just one Alcoholic Beverage Code conviction upon reaching the age of 21. (True or False)

Answer: True.

36. When a court orders an expunction, the clerk must destroy or seal the paper records of the court. (True or False)

Answer: True.

Part 5: Health and Safety Code

37. The Health and Safety Code, for the purpose of tobacco offenses, provides that an individual commits an offense if the individual is younger than 21 years of age. (True or False)

Answer: True.

38. The Health and Safety Code contains special handling provisions for individuals under the age of 17. (True or False)

Answer: False.

39. The court must order an individual convicted of a first-time tobacco offense to attend an e-cigarette and tobacco awareness program. (True or False)

Answer: True.

40. When a defendant completes an e-cigarette and tobacco awareness program for a first-time offense and presents evidence of completion to the court, the court may, but is not required to, dismiss the case. (True or False)

Answer: False.

41. If a court dismisses a first-time tobacco offense, it may still be used to enhance consequences for a subsequent offense. (True or False)

Answer: True.

42. The defendant must complete an e-cigarette and tobacco awareness program within 90 days of having the execution of the sentence suspended. (True or False)

Answer: True.

Part 6: Education Code Offenses and School Attendance Law

43. The Education Code defines “child” for the purpose of attending school to be between the ages of 10 years of age and younger than 18 years of age. (True or False)

Answer: False. (Younger than age 17.)

44. A child who is attending a private or parochial school is exempt from attending public school. (True or False)

Answer: True.

45. A child at least 17 years of age attending a course of instruction to obtain a GED is exempt from attending school. (True or False)

Answer: True.

46. Failure to Attend School is a Class C criminal offense that may be filed in municipal court against a truant student. (True or False)

Answer: False. (Failure to Attend School was repealed in 2015.)

47. All municipal courts in Texas are also truancy courts and have jurisdiction over truant conduct. (True or False)

Answer: True.

48. A complaint for Parent Contributing to Non-Attendance must be filed in truancy court and handled under civil procedures. (True or False)

Answer: False. (It is a criminal Class C misdemeanor and is filed in municipal or justice court under Chapter 45A criminal procedures.)

49. Parent Contributing to Non-Attendance carries a maximum fine of \$500 for a first offense. (True or False)

Answer: False.

50. A school district is required to take preventative measures before referring a student to truancy court. (True or False)

Answer: True.

51. If a parent is convicted of the offense of Parent Contributing to Non-Attendance, the court must remit to the school district or the juvenile justice alternative education program that the child has been ordered to attend one-half of the parent’s fine. (True or False)

Answer: True.

Part 7: General Procedures

52. Judges should determine the sophistication and maturity of a child or minor at the time of appearance in court. (True or False)

Answer: True.

53. A judge must allow a defendant who is a child to elect at the time of conviction how to discharge the fine and costs. (True or False)

Answer: True.

54. Whenever a person under the age of 17 is charged with an offense in a municipal court, the court must summon the parent, managing conservator, or custodian. (True or False)

Answer: True.

55. If a child is convicted of a fine-only offense in a municipal court, the child is required to pay the \$35 reimbursement fee for the peace officer summoning the parents. (True or False)

Answer: True.

56. When a parent, managing conservator, or custodian fails to appear with his or her child, the court may charge the parent with the Penal Code offense of Failure to Appear. (True or False)

Answer: False.

57. The court may never waive the presence of the parents. (True or False)

Answer: False.

58. The court should notify the parents of their obligation to provide the court with the current address and residence of the child. (True or False)

Answer: True.

59. Defendants who are at least 10 years of age and younger than age 17 charged with a fine-only offense may not be ordered confined. (True or False)

Answer: True.

60. If a defendant under the age of 17 fails to appear, the court should use all the available procedures under Chapter 45A, including a nonsecure custody warrant to obtain the defendant's appearance. (True or False)

Answer: True.

61. A notice about a defendant's obligation to appear issued to a defendant who turns age 17 may be served by a court clerk. (True or False)

Answer: False.

62. If a 17-year-old defendant is arrested after failing to respond to a notice to appear, the court may not handle the charges that occurred when the defendant was under the age of 17. (True or False)

Answer: False.

63. If a child defendant fails to obey a court order under circumstances that would constitute contempt, the court must give the child notice of a hearing. (True or False)

Answer: True.

64. If a court retains jurisdiction over a child whose conduct constitutes contempt, the court may order the Department of Public Safety to suspend or deny issuance of a driver's license. (True or False)

Answer: True.

65. If the court orders the suspension of the driver's license, the court may not order the defendant to pay a fine for contempt. (True or False)

Answer: False.

66. If the court decides to issue a capias pro fine for a defendant who committed an offense under the age of 17, the court must wait until the defendant turns age 17. (True or False)

Answer: True.

67. After a juvenile defendant fails to pay a fine, the court may just wait until the person turns age 17 and then issue a capias pro fine. (True or False)

Answer: False. (More than waiting is required. A court must also consider the criteria in Article 45A.259, C.C.P.)

68. When a defendant under the age of 17 commits conduct constituting contempt, but the court could not conduct a contempt hearing before the defendant turned age 17, the court has lost authority to do anything with that defendant. (True or False)

Answer: False.

69. A peace officer who takes a person under the age of 17 into custody for a fine-only offense may take the person to a place of nonsecure custody. (True or False)

Answer: True.

70. A juvenile processing office may not be used as a place of nonsecure custody. (True or False)

Answer: False.

71. A court may not issue arrest warrants for any Class C misdemeanor found in the Education Code committed by a person under the age of 17 years. (True or False)

Answer: True.

72. If a person is taken into custody for committing a status offense, the officer may only take the person to a place of nonsecure custody. (True or False)

Answer: False.

73. Judges may not require defendants under the age of 17 to perform community service because of the risk of injury. (True or False)

Answer: False.

74. A court may order additional rehabilitative sanctions under Article 45A.457, C.C.P., for all Class C misdemeanors. (True or False)

Answer: True.

75. When a court requires parents to attend a special program with their child, the court may require the parents to pay an amount not greater than \$100 for the program. (True or False)

Answer: True.

76. When a child fails to fulfill the requirements of an additional sanction, the court may only enforce the order by taking the child into custody. (True or False)

Answer: False.

77. If a parent fails to comply with additional sanctions, the court may find the parent in contempt. (True or False)

Answer: True.

78. Early youth intervention services apply to a child seven years of age or older and under the age of 17. (True or False)

Answer: True.

79. Early youth intervention services are for children and families who are in at-risk situations. (True or False)

Answer: True.

80. Cities may contract with the Department of Human Resources for early youth intervention services. (True or False)

Answer: True.

81. Defendants under the age of 17 charged with a traffic offense may request to take a teen court program. (True or False)

Answer: True.

82. To participate in a teen court program, the program must be approved by the court. (True or False)

Answer: True.

83. List the eligibility requirements to attend teen court under Article 45A.401, C.C.P.

Answer: To be eligible, the defendant must:

- enter a plea of guilty or no contest in open court in the presence of parents or guardian and request either in writing or orally the teen court program;
- be under the age of 18 or enrolled full-time in an accredited secondary school in a program leading toward a high school diploma for 90 days;
- be charged with a misdemeanor punishable by fine-only or a violation of a penal ordinance of a political subdivision, including a traffic offense punishable by fine-only; and
- not have successfully completed a teen court program in the two years preceding the date that the alleged offense occurred.

84. What fees may the court require the defendant to pay when he or she is ordered to complete a teen court program under Article 45A.401, C.C.P.?

Answer: Two \$10 reimbursement fees.

85. Defendants under the age of 17 may request to take a driving safety course through the mail. (True or False)

Answer: False.

86. If the child fails to complete the driving safety course or submit the required evidence or documentation, the court must summon a parent to appear at a show cause hearing with the child. (True or False)

Answer: True.

87. A minor who commits the offense of driving or operating watercraft under the influence of alcohol and has been previously convicted twice or more of that offense is eligible for deferred disposition. (True or False)

Answer: False.

88. A person under the age of 17 who requests deferred disposition must make a personal appearance in open court with a parent or guardian. (True or False)

Answer: True.

Part 8: Reports

89. Courts are required to report to the juvenile court the filing and disposition of non-traffic offenses. (True or False)

Answer: True.

90. When a defendant under the age of 17 fails to appear for a traffic offense, the court must notify DPS of the failure. (True or False)

Answer: True.

91. If a defendant under the age of 17 fails to pay a fine or violates a court order, the court may order DPS to suspend or deny issuance of a driver's license after finding the defendant in contempt. (True or False)

Answer: True.

92. Municipal courts must report to the DPS convictions and orders for deferred disposition for all Alcoholic Beverage Code offenses in which minors are charged. (True or False)

Answer: True.

93. Municipal courts must report to the DPS acquittals of all Alcoholic Beverage Code offenses. (True or False)

Answer: False.

Level II Chapter 5: Financial Management

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

1. It is OK to create a procedures manual that never refers to the judicial standing orders. (True or False)

Answer: False.

2. A procedures manual should include a description of how payments should be collected, processed, deposited, or remitted. (True or False)

Answer: True.

3. A procedures manual is an essential part of a sound internal control system. (True or False)

Answer: True.

4. A good procedures manual guides employees in performing their jobs correctly and helps train new employees. (True or False)

Answer: True.

5. In addition to personnel within the municipal court, what other city offices should be consulted to help ensure financial management procedures are sound and practical?

Answer: The treasurer's office, the accounting department, and the internal auditor's office.

6. How often should a procedures manual be reviewed and updated?

Answer: At least annually.

7. A sound system of internal control can mitigate errors and misuse of funds. (True or False)

Answer: True.

8. Good internal control systems simplify the work of auditors. (True or False)

Answer: True.

9. There is an increased need for awareness and understanding of internal controls at all levels of government. (True or False)

Answer: True.

10. An internal control system only needs three of the four basic principles to be considered a strong internal control system. (True or False)

Answer: False.

11. An appropriate division of duties is a basic principle of internal control. (True or False)

Answer: True.

12. Fraud is more difficult if the same person collects cash, prepares the bank deposit, or records the receipts in the general ledger. (True or False)

Answer: False (it is easier).

13. Staff positions do not require specialized training in court processes. (True or False)

Answer: False.

14. Personnel should understand how their duties fit in with the duties of others in the municipal court and with duties of other offices in the city. (True or False)

Answer: True.

15. Procedures should be broad and general so the reader will not get bogged down in detail. (True or False)

Answer: False.

16. If personnel clearly understand what is expected of them and how they are supposed to do their job, they will more likely do a better, more accurate job. (True or False)

Answer: True.

17. Even if a municipal court's performance is being checked by the city's internal audit department, the court should still check its own performance. (True or False)

Answer: True.

18. In addition to actual monetary losses that can result from poor internal controls, perhaps the biggest loss is:

Answer: The decline in the public's perception of and confidence in government.

19. As a general rule, the cost of internal control should not exceed the

Answer: Expected benefit.

20. In addition to safeguarding assets, an internal control system should

Answer: Protect those people who do their job and do it right.

21. The three basic functions that should, if at all possible, be performed by three different people in a municipal court are:

Answer: Authorization (approval) of transactions; recording of transactions; and custody of assets (cash and other property).

22. Three other means that take on added importance in helping assure reliable internal control when a strict separation of duties cannot be maintained due to a limited staff size are

Answer: Rotation of duties among personnel; more strict supervision; special double-checking of work; enforced vacations; additional training to improve quality of work; and more frequent internal audits.

23. The most important thing to remember about an appropriate division of duties is

Answer: That no person should handle a transaction from beginning to end.

24. Two examples of items that should be prenumbered and controlled are

Answer: Receipts and checks.

25. In a municipal court, three of the tasks that sound procedures should provide for include

Answer: Use and control of prenumbered forms/documents; cross-referencing of documents; periodic reconciliation of subsidiary records to control totals; proper authorization of transactions; effective, timely reporting of transactions; safeguarding of assets; appropriate flow of documents; reasonable amount of checking the work of others; and bonding of all employees with access to cash and other valuables.

26. At a minimum, how frequently should a municipal court assess the adequacy of its internal controls?

Answer: Annually.

27. State law requires municipal courts to maintain a bank account. (True or False)

Answer: False.

28. The fewer the number of bank accounts a city has, the easier it is to keep up with and reconcile them. (True or False)

Answer: True.

29. Fewer bank accounts for a city can result in lower bank service charges and higher interest rates. (True or False)

Answer: True.

30. If a municipal court can operate effectively without a bank account, it should consider doing so. (True or False)

Answer: True.

31. State court costs and fees must be kept in a separate bank account pending transfer to the State. (True or False)

Answer: False.

32. It is best for checks to have an expiration date printed on them. (True or False)

Answer: True.

33. If a municipal court maintains a bank account, it should be because

Answer: It will somehow enhance overall city operations (e.g., better safeguarding of money or more efficient handling of court operations).

34. If an account is maintained, the court should make sure that the person signing the checks is

Answer: Not also someone who has recordkeeping or custodial functions.

35. A small municipal court staff is an argument against the court having a bank account because

Answer: It makes it even more difficult to appropriately divide duties.

36. Petty cash consists of

Answer: A sum of money set aside for making small cash purchases on a contingency basis.

37. A change fund is used for

Answer: The purpose of making change for customers.

38. There should be a separate change fund for

Answer: Each individual receiving money and issuing receipts.

39. It is helpful to have signs posted in a municipal court stating

Answer: Checks and money orders will be accepted for amount of payment only; checks will not be cashed; when paying in cash, please have as close to the exact amount as possible.

40. It is preferable for municipal courts to have petty cash funds and make their own small purchases. (True or False)

Answer: False.

41. Petty cash funds and change funds should be commingled. (True or False)

Answer: False.

42. A change fund should be maintained at a very high dollar value to cover all possibilities. (True or False)

Answer: False.

43. An individual receiving a change fund amount should sign a receipt for the amount received. (True or False)

Answer: True.

44. Change fund amounts should be verified at the beginning and end of each work day. (True or False)

Answer: True.

45. For reasons of convenience, change funds should be used to cash personal checks. (True or False)

Answer: False.

46. Change funds should not be used to make advances to officials or employees. (True or False)

Answer: True.

47. Prenumbered receipts are not necessary as long as the court is audited frequently. (True or False)

Answer: False.

48. Receipts should not be prepared for mailed payments unless a self-addressed stamped envelope is included with the payment. (True or False)

Answer: False.

49. The municipal court should periodically account for all receipts, both issued and unissued. (True or False)

Answer: True.

50. If computer-generated receipts are the norm, what should be available if there are computer problems?

Answer: Regular prenumbered, hardcopy receipts.

51. Regular hardcopy receipts should be ordered by

Answer: Centrally by the city and distributed to the municipal court as needed.

52. When should a receipt be prepared?

Answer: Each time a payment is received.

53. Eight things a receipt form should provide adequate space for include:

Answer: Date issued; docket number; amount received; who the money is being received from; what the money is being received for; method of payment (i.e., cash, check, money order, credit card) and check or money order number when applicable; signature, electronic signature or initials of individual preparing the receipt; and any other information relevant in the circumstances.

54. Why is proper management of mailed payments particularly important?

Answer: Because the payee is not present and no receipt is issued at the time of payment.

55. If the person opening the mail also has responsibilities for other monies, when and where should mail be opened?

Answer: Mail should be opened at a time of the day and in a location where other monies are not being handled.

56. Name two possible benefits to accepting credit card payments.

Answer: Decreasing outstanding amounts owed; reducing the number of defendants on installment agreements; increasing taxpayer service by providing a convenient way to make payment; and reducing administrative costs of the municipal court.

57. The goals concerning installment payments include

Answer: Ensuring that payments are made timely and that missed payments are promptly followed up on.

58. A written installment agreement should clearly explain what?

Answer: The terms of the agreement, including payment amounts and dates.

59. Employees with access to cash should be adequately bonded. (True or False)

Answer: True.

60. Each person receiving payments should have a separate cash box or drawer. (True or False)

Answer: True.

61. It is best to have the change fund amount vary each day to keep everyone on their toes. (True or False)

Answer: False.

62. An individual receiving payments should allow trustworthy co-workers access to their cash box or drawer in their absence. (True or False)

Answer: False.

63. It is best to handle as many transactions at a time as possible. (True or False)

Answer: False.

64. It is best to always arrange currency, coins, and checks in a box or drawer in a consistent manner. (True or False)

Answer: True.

65. Each individual receiving payments should balance out his or her cash box or drawer each day. (True or False)

Answer: True.

66. Bank deposits or remittances to the city treasurer should be made daily. (True or False)

Answer: True.

67. If possible, a city should avoid having the police department accept municipal court payments and issue receipts. (True or False)

Answer: True.

68. When the police department does receive municipal court payments, it should not issue receipts, since that should be done by the municipal court. (True or False)

Answer: False.

69. A separate listing should be made of each day's receipts and it should be forwarded to the city auditor or to the city treasurer if there is no auditor. (True or False)

Answer: True.

70. The daily drop/lock box collections report should be signed or initialed and dated by the person preparing it. (True or False)

Answer: True.

71. All mail should be opened daily, with the exception of weekends or holidays. (True or False)

Answer: True.

72. Mail should be opened by someone while he or she is receiving payments and issuing receipts. (True or False)

Answer: False.

73. Mail should be opened out in the open, not in an enclosed office. (True or False)

Answer: True.

74. The law provides that a city council may authorize a city official to collect payment for court costs, fees, and fines by credit card. (True or False)

Answer: True.

75. In deciding whether or not to accept credit card payments, the city should compare the cost of processing fees with the expected benefits. (True or False)

Answer: True.

76. Since the decision rests with the judge in each case, it is best not to have a written description of when installment payments are generally utilized. (True or False)

Answer: False.

77. There should be a written installment agreement any time a payment plan is granted. (True or False)

Answer: True.

78. There should be an efficient way to keep up with payments and indicate past due amounts. (True or False)

Answer: True.

79. If the court does not have an automated means of handling and keeping up with installment payments, some sort of manual system should be used. (True or False)

Answer: True.

80. The goal in recording both jail time and community service credit should be to properly apply any credit and establish a clear audit trail. (True or False)

Answer: True.

81. A copy of a completed form showing when the defendant was placed in jail and released from jail should be forwarded to the municipal court. (True or False)

Answer: True.

82. There should be an order signed and dated by the judge authorizing the defendant to participate in community service. (True or False)

Answer: True.

83. An entity or organization supervising community service should specifically indicate how many hours the defendant worked. (True or False)

Answer: True.

84. The court should rely on the defendant to determine if the defendant has timely completed and documented completion of community service. (True or False)

Answer: False.

85. A policy on cash bonds should include guidance that will ensure that the right amount of money gets to the right place in a timely manner. (True or False)

Answer: True.

86. A receipt should not be given to a defendant posting a cash bond until the bond is forfeited. (True or False)

Answer: False.

87. If all or part of the bond is refunded to the defendant, any interest earned on the bond shall be

Answer: Returned to the defendant as well.

88. If the court is using the provisions in Article 45A.256 of the Code of Criminal Procedure, what should be included in any paperwork once the bond is forfeited?

Answer: The paperwork should: indicate to the treasurer that the bond amount should now be applied to court costs, fees, and fines and how much to apply to each; and indicate the amount to be refunded to the defendant if the defendant is entitled to jail-time credit.

89. If the court is using the civil bond forfeiture provisions in Chapter 22 of the Code of Criminal Procedure, and the money has been kept in a cash bond account in the court, where should the money be deposited?

Answer: As general revenue for the city.

90. The person identifying the money should document in writing what was found, where it was found, how it was found, and then sign and date the documentation. (True or False)

Answer: True.

91. If it can be determined to whom the money belongs, the money should be kept in the municipal court until it is claimed by the rightful owner. (True or False)

Answer: False.

92. Receipts should be balanced out daily. (True or False)

Answer: True.

93. If there are three individuals in the court receiving money and issuing receipts, the one with the most tenure should be responsible for balancing out all three cash boxes or drawers. (True or False)

Answer: False (each person should balance their own).

94. Any overages or shortages should be excluded from the reconciliation form unless it is known what the cause was. (True or False)

Answer: False.

95. The total amount shown on the receipts issued for the day should equal

Answer: The total amount of money in the cash box or drawer less the amount of the change fund.

96. The report should show the beginning balance the court was responsible for at the start of the month. (True or False)

Answer: True.

97. The report should be signed and dated by the person preparing it and by the person reviewing and approving it. (True or False)

Answer: True.

98. Define auditing.

Answer: Examining information and operations for mathematical accuracy, legality, and propriety. It is a process of determining whether all transactions are properly recorded in the accounts and appropriately reflected in statements and reports.

99. List at least three specific objectives of auditing.

Answer: Objectives of auditing include assuring that: the court has collected all the money they are supposed to; money collected was properly remitted to the appropriate party; property is properly managed; money and other property is properly accounted for, properly reported, and adequately safeguarded; and operations conform to laws, rules, and prescribed procedures.

100. List at least four examples of the type of audit work that should be done in a municipal court.

Answer: Examples of the type of audit work that should be done in a municipal court are: conducting surprise cash counts; reviewing bank reconciliations; accounting for all receipts; auditing receipts for proper amount collected, deposited, or remitted and correct bookkeeping; confirming amounts paid (or the fact that nothing was paid) with defendants; and reviewing reports.

101. List at least five items an auditor may want to examine during the course of an audit.

Answer: Items an auditor may want to examine during the course of an audit are: procedures manual, including any internal control procedures used in the court; bookkeeping system, including reports, ledgers, and journals; docket books; monthly bank reconciliations for each bank account, including canceled checks and bank statements for the period covered by the audit; fixed assets assigned to the court; change funds, receipts (issued and unissued), and monies collected; and office files and related correspondence.

102. Auditing can be a means for minimizing and providing for early detection and correction of material mistakes and irregularities. (True or False)

Answer: True.

103. An internal audit is an audit done by someone who does not work for the organization being audited. (True or False)

Answer: False (that is an external audit).

104. State law requires that cities have annual audits conducted by independent certified public accountants. (True or False)

Answer: False (it is recommended it be conducted by an independent person).

105. At least quarterly, some sort of audit work should be done relating to municipal court operations. (True or False)

Answer: True.

106. A municipal court will always be notified when an internal audit is going to be conducted. (True or False)

Answer: False.

107. Some audit steps are almost always done on a surprise basis (without any notification), such as a cash count. (True or False)

Answer: True.

Level II Chapter 6: Court Records

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

Part 1: Records Management

1. What does the Local Government Records Act establish?

Answer: It establishes requirements for local governments, record management officers, and custodians of records.

2. What is a record?

Answer: A record is any form of recorded information. It may be paper, microfilm, audiotapes, video tapes, photographs, slides, or any computer-readable medium such as computer tapes, disks, compact disks, or USB drives.

3. What is records management?

Answer: Records management is the active supervision and control of records. It is the economical and efficient creation, organization, use, maintenance, and disposition of records. In other words, it is the systematic control of recorded information from creation to final disposition. Records management also includes the development of records control schedules.

4. What are records control schedules?

Answer: Records control schedules provide retention periods for the records created and maintained in all city departments, including municipal court. The schedules can also contain information about how the records are maintained, whether they are sent to storage, and how they are destroyed.

5. List the benefits of having a records management program.

Answer: A records management program helps retrieve information faster, reduces lost or misplaced records, saves space, minimizes expenditures for filing equipment and supplies, protects records, and complies with state regulation for maintaining public records.

6. List the stages of a records life cycle.

Answer: The stages of a record's life cycle are: Creation; Distribution; Use; Maintenance; Storage; and Disposition.

7. What happens during the active and inactive stages of a record?

Answer: During the active stage of records, the record is distributed, efficiently stored for fast retrieval for use, and then maintained during its use. During the inactive stage, the record must still be properly maintained for retrieval and kept in a manner that will not harm or destroy the record until such time as the record may be legally disposed. During both the active and inactive stage, protection of the record is essential.

8. What might staffing a records management program include?

Answer: Staffing a records management program generally includes filing personnel, document imaging operators, data entry individuals, and records center staff.

9. List the steps to develop a records management program.

Answer: The steps to develop a records management program are: Determining what the court wants to accomplish; Setting goals and objectives; Developing time frames with deadlines; Determining how records are created (manual and computer); Determining where records will be stored; Determining what filing equipment and systems will be used; Establishing records retention periods (governed by statute); Establishing a system for the maintenance and retrieval of records; Establishing a system for archiving records; and Establishing a system for the destruction of records.

10. List the steps that will contribute to a successful case filing program.

Answer: The steps that contribute to a successful case filing program are: Conduct studies on the creation or improvement of case filing systems; Establish pilot installations to test all aspects of a case file plan prior to final adoption; Require the standardization and centralization of each case file; Develop techniques for maintaining, using, and disposing of case files; Do a cost/benefit analysis of file equipment and supplies; Issue written instructions or manuals for the establishment and operation of case files; and Conduct periodic reviews to ensure compliance with overall objectives of the case filing program.

11. What steps should be taken to improve existing case files?

Answer: Steps that should be taken to improve existing case files are: Select and examine a cross section of filing systems in different city departments; Identify areas that need improvement in the court files; Explore potential modifications; Study the present system and its needs; Develop a revised system, including new forms and records; Implement the revised system for trial operation and modify it as needed; and Prepare the final system for adoption, and prepare written instruction for implementation and maintenance.

12. List what the court would consider when determining the future volume of cases.

Answer: The court would consider when determining the future volume of cases: The last five years of cases filed in court to determine a trend in the number and type of cases filed; The previous two to three years funding for police officers and future projections for more officers and thus, more cases filed; Traffic and crime statistics for the city to determine the number and types of crimes occurring in the city; and Future projections of the police department for number of cases that might be filed.

13. What are the issues that a court will want to consider when determining the court's reference needs regarding case files?

Answer: Issues that a court will want to consider when determining the court's reference needs regarding case files are: Appearance date; Bond filed; Plea; Pre-trial date; Trial date; Payment schedule; Driving safety course—appearance date, due date of DSC certificate, show cause hearing date; Deferred disposition—appearance date, due date of evidence, show cause hearing date; Warrants, capias, capias pro fines; Appeals; Notice of final convictions; Court costs quarterly reports; and Monthly reports to OCA.

14. What should a court consider when establishing case folders?

Answer: Issues that should be considered when establishing case folders are: Whether to create one folder per defendant or create one folder per citation/case filed; Whether to create temporary folders for active files or the same folder as archived files; or Whether to have folders or staple the documents together, or use a case jacket.

15. Why is it necessary to determine what information should be posted on the outside of case file?

Answer: Because the court has many reference needs and posting information on the case file helps courts keep track of the actions occurring in the case and when and how it should be referenced.

16. What information on the outside of a case file might be useful as a reference tool?

Answer: The following information on the outside of a case file would be useful as a reference tool: Docket number; Defendant's name; Date case was filed; Prosecuting attorney; Defense attorney, if any; Complainant's name; Bond (if any) and whether personal, cash, surety, amount of bond, and date of judgment nisi if one is entered; Plea entered, method of plea, and date of plea (in open court, in clerk's office, by mail, in person, through attorney); Type of trial requested (jury or bench) and date(s) of trial setting; Continuances if any; Deferred disposition if granted, and due date of evidence of completion; Driving safety course if requested and granted, and due date of evidence of completion; Witness and dates subpoenas issued, if any; Motions filed if any, date filed, and judge's ruling; Judgment; Fines or fees assessed; Jail time credit; Extensions for payment or payment plan due dates; Receipt numbers and dates written; Appeal, if any (date notice given, date bond approved or not approved, date transcribed, type of bond, date sent to county); Date notice of final conviction sent to the State; and Date warrant, capias, or capias pro fine issued and served.

17. What are the factors that should be considered when determining the physical type of a case file folder?

Answer: The factors that should be considered when determining the physical type of a file folder are: Identifying the documents that will be filed in jacket; Determining the arrangement of documents in jacket; Deciding on the file cabinet size and orientation; and Evaluating the cost of file folder or jacket.

18. What are the advantages and disadvantages of filing papers loose in a case file?

Answer: The advantages are: requires less time to file papers; costs less money initially; and permits easy removal of documents for reference. The disadvantages are: Papers may be lost or misplaced easily; and The lack of uniform arrangement of the folder contents makes it more difficult to find a particular document.

19. When are fastened files usually preferred?

Answer: They are usually preferred for large case files that receive extensive use, have long retention periods, and are likely to be taken out in their entirety for extended periods of time.

20. What questions should a clerk ask when evaluating file arrangement systems?

Answer: Questions that a clerk should ask when evaluating file arrangement systems are: Is the system logical? Is the system practical? Is the system simple? Is the system functional? Is the system retention-conscious? Is the system flexible? Is the system standardized?

21. What is the first determining factor in the selection of file arrangement?

Answer: The nature of the records and how they will be retrieved should be the first determining factor in the selection of file arrangement.

22. What is a direct access filing system?

Answer: A direct access filing system is a system that allows a person to locate a particular record by going directly to the files and looking under the name of the record.

23. What is an indirect access filing system?

Answer: An indirect access filing system is a system that requires an index that must be consulted before a file can be retrieved.

24. What is an alphabetical file arrangement?

Answer: Alphabetic files are arranged according to the last name of the defendant.

25. What are the advantages and disadvantages of an alphabetical filing system?

Answer: The principal advantage of the alphabetical system is that it is not necessary to look up a docket number when files must be retrieved. The disadvantages are that the system does not lend itself to expansion as readily as does the numerical system and requires more shifting of folders.

26. What is a numerical file arrangement?

Answer: A numerical file arrangement may have numbers (usually a docket number) assigned to the case files arbitrarily or under a standard plan.

27. What is straight- or consecutive-numeric filing?

Answer: This is where files are arranged consecutively in ascending numerical order according to docket number.

28. What is a terminal-digit numeric system?

Answer: It is a system where the last digit or group of digits is the primary unit used for filing.

29. What is a middle-digit system?

Answer: It is a system where the file numbers in the index are still listed in consecutive numeric sequence; however, the middle group of digits becomes the primary indexing unit, the first group is the secondary indexing unit, and the terminal group the tertiary unit.

30. What is a duplex-numeric system?

Answer: It is a system that uses two or more sets of code numbers for records, with the sets separated by dashes, commas, periods, or spaces. Records are filed consecutively by the first number, then sequentially by the second number, and so on.

31. What is a decimal-numeric system?

Answer: It is a system developed initially for library use and is based on 10 general categories. The major numeric groups are each further divided into 10 parts, which are then subdivided into 10 subunits.

32. What are the advantages and disadvantages of a numerical filing system?

Answer: The advantages are: the rapidity and accuracy of refiling and the opportunity for unlimited expansion. The disadvantages are the need for maintenance of the auxiliary card index and the necessity of making two searches when files must be retrieved—one for the index and one of the files.

33. What is an alphanumeric system?

Answer: It is a system where the files use a combination of personal or business names and numbers, or more commonly, subject headings and numbers. The numbers are sequentially filed.

34. It is better to have multiple filing places than to centralize control of the files.

Answer: False.

35. To help maintain records properly, every clerk should be a file clerk.

Answer: False.

36. How records are retrieved can affect file arrangement.

Answer: True.

37. Having a manual on filing procedures ensures that filing decisions are not erratic.

Answer: True.

38. When setting up files in filing cabinets, clerks should pack the files as tightly as possible to save on the number of filing cabinets the court must have.

Answer: False.

39. The court should have a check-out and check-in system to keep track of case files.

Answer: True.

40. What basic questions should a clerk consider when selecting filing cabinets?

Answer: The basic questions are: What are the physical characteristics of the case records? What is their volume, physical form, and size? What is the cost of purchasing, installing, maintaining, and operating the available types of equipment? How much office space is available, and how is it laid out? Who needs to refer to the records, and how frequent and urgent is the need to do so? What safeguards are needed to protect the files from unauthorized use, theft, fire, insects, dust, and other potential hazards?

41. What does the intensity and severity of a fire depend on?

Answer: The intensity and severity of a fire depend on the type of building construction and height, the fuel load that comprises the building's combustible contents, including the kinds of furnishings, and the quantity of files and the type of equipment used for them.

42. What factors should be considered to assess fire safety when purchasing filing equipment?

Answer: Space utilization and fire protection factors, such as automatic sprinkler systems, smoke detection systems, and the quantity of other combustible materials.

43. What is the purpose of a records inventory?

Answer: The purpose of a records inventory is to determine what records a court has, where they are located, and how many records there are.

44. What is the goal of a records inventory?

Answer: The goal of a records inventory is not to inventory every piece of paper, but to determine and identify records categories.

45. What are the benefits of a records inventory?

Answer: The benefits of a records inventory are: Helps save space; Releases equipment for more productive use; Provides a proper evaluation of file functions and activities; Assists in the detection of unnecessary copies of records; Provides a way of assessing the length of usefulness of records; and Helps in the appraisal of legal implications of records.

46. What steps will help make a records inventory successful?

Answer: The steps that will help make a records inventory successful are: Define objectives; Communicate plans to management and staff; Specify data to be collected; Determine file locations; Prepare an inventory form (a separate inventory worksheet should be used for each records series); Establish work schedules and completion dates; and Select personnel for the inventory process.

47. What information will a successful records inventory provide?

Answer: It will provide: Identity of records by category or record series; Physical location of all records; Categorization of equipment and supplies; Reference activity; Methods used for disposing of obsolete records; and Analysis of the cost of recordkeeping.

48. What is the official copy of a record?

Answer: An official record is one that supplies information on organization, function, policy, procedure, operation, or it is the original case file of a defendant.

49. What are non-records?

Answer: Non-records are generally copies or duplicates of official records.

50. What is an example of a non-record that is also an official copy?

Answer: An example of a non-record that is an official copy is the copy of a case that has been appealed from a non-record court to an appellate court. Because an appealed case is still active until the appeal has been completed, the copy of the case should be handled the same as the original official copy.

51. What are administrative files?

Answer: Administrative files often times contain duplicate information or miscellaneous information that nobody knows where to file but does not want to destroy.

52. A person performing an inventory would need to know what information when inventorying computer records?

Answer: He or she would need to know what the current policy is on information back-up and the policy on writing over the data stored on the media.

53. List the types of information that an inventory should collect.

Answer: Types of information that an inventory should collect are: Title of records series; Purpose or description of the records series; Time span covered by the series (inclusive dates); Linear measurement of the series; Physical description (media, size, and color); Description of storage equipment; Frequency of use; Rate of accumulation; Date of inventory; Source of the information used to create the records series; What records are created from the information contained in the records series; Original and secondary purposes of the records series; and Where duplicate sources are located.

54. List the information that should be included on an inventory worksheet.

Answer: The inventory worksheet should include a records series title, the record's function, a floor plan showing the physical location and the organization location of records for office space and storage locations.

55. When was every city required to establish a records management program by ordinance?

Answer: On or before January 1, 1991.

56. What are the general duties of a records management officer?

Answer: Generally, the records management officer is responsible for coordinating the city's records management program and making certain that it complies with state regulations.

57. What commission establishes mandatory retention schedules for local governments?

Answer: The Texas State Library and Archives Commission.

58. Define records retention period.

Answer: Retention period means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

59. What is the court clerk's responsibility in the citywide records management program required by Texas State Library and Archives Commission?

Answer: Court clerks are required to cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records, and in carrying out the requirements of state statutes regarding public records.

60. What is a local government record?

Answer: A local government record is any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of the physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the State, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.

61. List documents that are not considered to be local government records.

Answer: Documents that are not considered to be local government records are: Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government; Notes, journals, diaries, and similar documents created by an officer or employee of the local government for officer's or employee's personal convenience; Blank forms; Stock of publications; Library and museum materials acquired solely for the purposes of reference or display; or Copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552 of the Government Code or other state law.

62. Unless stated otherwise, how are retention periods figured?

Answer: Retention periods are figured in calendar years from the date of the records' creation.

63. Retention periods apply to all local government records.

Answer: False (they apply only to official records unless otherwise noted).

64. If records are stored in bound volumes, the retention period dates from the date of the last entry.

Answer: True.

65. When records are maintained together, the combined record must be retained for the length of time of the component with the longest retention period.

Answer: True.

66. For administratively valuable records, the retention period is at the discretion of the city.

Answer: True.

67. Municipal court dockets may be stored electronically.

Answer: True.

68. Documents that are stored electronically have a different retention period from paper documents.

Answer: False.

69. The hardware to access electronically stored data must always be maintained by the city for documents that are stored.

Answer: False (it must be retained for the retention period assigned to the record).

70. When is electronic mail considered to be a government document?

Answer: If email that is created or received meets the definition of a local government record, it is subject to the same rules that govern other local government records. Local government records include email created or received by a local government or any of its officers or employees pursuant to law or in the transaction of public business.

71. When may a damaged record be destroyed?

Answer: They may be destroyed when they have been so badly damaged by fire, water, or insect or rodent infestation that they are unreadable, or if portions of the information have been so thoroughly destroyed that the remaining portions are unintelligible.

72. When may a damaged record that has a permanent retention period be destroyed?

Answer: These records may not be destroyed unless authorization to dispose of the records is obtained from the director and librarian of the Texas State Library and Archives Commission.

73. The court does not need to keep a record of records that are destroyed.

Answer: False.

74. The court should periodically perform a records audit to determine if record schedules have been properly maintained.

Answer: True.

75. What should an auditor conducting a records audit look for?

Answer: The person conducting the audit should: Verify that an up-to-date records manual is available; Check all the major records categories to ensure compliance with records schedules; Spot check individual offices, computer terminals, and files for compliance; and Verify compliance with records management criteria.

76. How often should records schedules be reviewed?

Answer: They should be reviewed once a year.

77. Who must approve new records schedules?

Answer: The Texas State Library and Archives Commission.

78. When can non-record copies be destroyed?

Answer: Copies of records generally are non-records and are maintained only as long as they are useful. Then they are destroyed.

79. List records that are copies of records that should be maintained as original copies.

Answer: The copy of the case papers of the appealed case maintained by the municipal court is now the official copy and maintained according to the records retention schedule. Other examples of copies of records in municipal court that are subject to records retention include the following state reports that are required to be submitted by municipal courts: Notice of final conviction reports submitted to the Department of Public Safety; Quarterly reports of court costs submitted to the State Comptroller's Office; and Monthly reports submitted to the Office of Court Administration.

80. Define essential records.

Answer: An essential record is any record necessary to the resumption or continuation of government operations in an emergency or disaster, to the recreation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the State.

81. List some ways that municipal court records can be secured from disasters such as fire.

Answer: Some ways that municipal court records can be secured from disasters such as fire are: Secure, fire-resistant filing cabinets; Specially designed vaults; Computer passwords; Duplicate copies; Back-ups maintained at different locations; and Off-site storage.

82. What is the most efficient method of indexing court records?

Answer: By computer.

83. What is a decentralized filing system?

Answer: A decentralized filing system is one where the files are maintained in separate locations.

84. What is a centralized filing system?

Answer: A centralized filing system is one where all active files—except those that are being created or used at that time—are maintained in a central file room.

85. What is a bar coding system?

Answer: Bar coding is a system of checking in and out files. The bar code is scanned into the system when it is checked out and rescanned when it is brought back.

86. What is a floating file?

Answer: A floating file, for example, occurs when a clerk checks out a file and then passes it on to the prosecutor without checking it back in and having the prosecutor check it out.

87. What does an electronic document imaging system do?

Answer: Documents are scanned and digitized.

88. How can digitized images be stored?

Answer: The digitized images can be stored on a hard drive, optical disk, or other computer-readable media.

89. How can records be organized for storage?

Answer: A method to organize records is to assign box numbers that would also indicate where in the storage area the box is to be stored. This will assist in the retrieval process. The person in charge of archiving records should maintain an index of boxes and their contents. To assist in locating stored records, two numbers should be used. One number for the location in the storage area and the other number for identifying the contents of the box. For easy retrieval, the court might consider bar coding cartons and shelves instead of using numbers. When a box is shelved, both the box bar code, shelf bar code, and content bar code must be scanned.

90. List questions that should be considered when determining how to index stored records.

Answer: Questions that should be considered when determining how to index stored records are: Do you want to index every file or document in the box? How do you want to index the records? How do you want to sequence the index and summarize the contents? How do you link the storage of the records to the retention schedules so that the destruction date of the records is easily tracked? How are control box numbers and location numbers assigned to the indexed records? How is the listing of the index records to be maintained? What type of system will be used to retrieve the records?

91. What should a plan for transferring records to storage include?

Answer: It should include who is responsible for verifying that the records belong in storage, boxing up the records, labeling the records, and transporting the records.

92. List the type of documentation that a records management manual should include.

Answer: The type of documentation that a records management manual should include are: A records management policy; Instructions on the use of records retention schedules; Procedures for updating records retention schedules; Forms used to manage records; Procedures on implementing the program on an ongoing basis; Procedures on internal operation; Staff procedures; Disaster recovery procedures; Filing procedures; Procedures on transferring and storing records; and Procedures for updating the manual.

93. What questions help evaluate a court's maintenance program?

Answer: Questions that would help evaluate a court's maintenance program are: Does your court have a files handbook, manual, or other directive to provide uniform files maintenance procedures? Are file maintenance procedures correlated with approved records control schedules for the prompt removal of inactive records from office space? Is physical access to records controlled to prevent unauthorized disclosure or access? Is each records series arranged in its own internally consistent pattern, such as alphabetical, chronological, numerical, or subject order? Is each records series arranged based on the way people in the office usually ask for the records? Are cross references prepared when needed? Are periodic checks made for misfiles? Are records filed on a daily basis? Are out-cards or other charge-out controls used whenever documents or files are removed from the official file stations? Before filing, are documents examined to ensure that they are complete and that the following materials have been removed: envelopes, paper clips, routing slips, cover sheets, superseded drafts showing no substantive changes, and duplicate copies, other than those needed as cross reference.

94. When may a record not be destroyed?

Answer: A record that is currently in litigation or pending an open records request may not be destroyed.

95. List the criteria for when a local government record may be destroyed.

Answer: A local government record may be destroyed if: it appears on the local government's records control schedule that has been accepted for filing by the TSL and its retention period has expired on the schedule; it appears on a list of obsolete records approved by the TSL; a request for authorization to dispose of unscheduled records is submitted to the TSL and approved; its destruction or obliteration is ordered by a court expunction order issued by a district court pursuant to state law; the record is listed as exempt from the destruction request requirement on a records retention schedule issued by the TSL; the retention period on a records retention schedule issued by the TSL has not yet expired, but the record is non-permanent and it has been microfilmed according to TSL standards (if the record is a permanent record on the state-issued schedule, a destruction notice must be submitted and approved); the retention period on a records retention schedule issued by the TSL has not yet expired, but the record has a retention period of less than 10 years and it has been converted to an electronic medium in accordance with Chapter 205 of the Local Government Code; or the retention period on a records retention schedule issued by the TSL has not yet expired and the record has a retention period of 10 years or more, and the local government has submitted to the TSL and has approved an electronic storage authorization request.

96. Who in the city maintains a list of original records that have been microfilmed and destroyed?

Answer: The records management officer.

97. When can a permanent record that has been microfilmed be destroyed?

Answer: It may be destroyed after a Destruction Authorization Request has been submitted to and approved by the Texas State Library and Archives Commission.

98. What is a Notice of Intent to Dispose of Records?

Answer: It is a notice to the Texas State Library and Archives Commission to destroy certain records.

99. List the methods that a city may use to destroy records.

Answer: The methods that a city may use to destroy records are: Burning; Shredding; Pulping; Burying in landfill; and Selling or donating for recycling.

100. What records may a city not sell or donate for recycling purposes?

Answer: Records that are confidential under the Texas Public Information Act or other state laws.

101. Where may the city sell, donate, loan, or transfer records?

Answer: A city record may not be sold or donated except for the purpose of being recycled, loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the Texas State Library director and librarian and after the expiration of its retention period under the city's records control schedule.

102. When may the court clerk temporarily transfer the custody of court records?

Answer: A clerk may temporarily transfer custody of records to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

103. What type of offense does a court clerk commit if he or she violates any requirements of the Local Government Records Act?

Answer: A Class A misdemeanor.

Part 2: Records Requests**104. Why does the Public Information Act not apply to judiciary?**

Answer: The PIA specifically excludes the judiciary to maintain the independence of the judicial branch. The PIA applies to governmental bodies and the law specifically states that a governmental body does not include the judiciary.

105. Why does the public have a right to inspect municipal court records?

Answer: Courts have long recognized that the public has a common law right to inspect and copy court records under the Common Law Right of Inspection.

106. When and to whom may the court disclose personal information about jurors?

Answer: Only on a showing of good cause by a party to the case or a bona fide member of the media shall the court permit disclosure of the information.

107. When the public requests a record that contains a social security number, what should a clerk do?

Answer: The clerk should always pass requests for records to the judge to determine whether it should or can be released.

108. What is Rule 12?

Answer: A Rule of Judicial Administration designed to define public access to judicial records. The definition of judicial records makes an exception to the adjudicative records filed in the courts.

109. Under Rule 12, a record relating to a case filed in the court is a judicial record.

Answer: False.

110. Under Rule 12, a court that receives a request for a judicial record has 14 days to allow the requestor to copy or inspect the record.

Answer: True (it must be as soon as practicable but not to exceed 14 days).

111. Under Rule 12, if a judge refuses to release the requested information, the requestor can appeal to the Attorney General.

Answer: False (the appeal goes to the Administrative Director of the Office of Court Administration).

Part 3: Caseflow Management**112. What is caseflow management?**

Answer: Caseflow management is the process of managing time and events involved in the movement of a case through the court system.

113. In order for the court to effectively oversee the movement of a case, what must the court determine?

Answer: The court must determine its phases, how it is maintained, and the disposition.

114. Why should courts create multiple tracks for case processing?

Answer: Because of the complexity of cases, not all cases will be subject to the same processing procedures and time frames. The court should create multiple tracks for case processing each with different procedures and time frames designed to reflect the range of management and preparation requirements of the cases filed.

115. What are the goals of caseflow management?

Answer: The goals of caseflow management are: Make the sequence and time of events more predictable and timely; Provide equal treatment of all defendants; Have timely disposition consistent with the circumstances of the individual case; Enhance the quality of the court process; and Enhance public confidence in the court.

116. What resources should be considered when developing a caseflow management system?

Answer: The resources that should be considered when developing a caseflow management system are: People (court employees and other city employees); Equipment (computers, software, printers, etc.); Forms (forms for assessing current system and forms used by current system); State agencies; Outside consultants; and Any other resources that the city can provide.

117. What is project management?

Answer: Project management is a dedicated effort with a distinct beginning and end, conducted by people to develop or produce a new project or service that meets defined specifications and quality standards within specific parameters of costs, schedules, and resources.

118. What is a project's life cycle?

Answer: The conceptual phase, the planning phase, and the implementation phase.

119. What issues should be considered as part of an action plan for project management?

Answer: Issues that should be considered as part of an action plan for project management are: Developing goals and objectives; Developing significant events for project; Determining information to be monitored; Determining what constitutes successful monitoring; Determining accountability procedures; Developing task list; Developing checkpoint events for the project; Determining time estimates; Developing a new system; Developing test pilot policy; Installing and testing new system; Determining implementation policy; Developing documentation; and Training users.

120. What information should be included in the documentation of a caseflow management system?

Answer: Documentation should include case processing procedures that include how files are created, used, and maintained; judicial activity; disposition; and archival and destruction procedures.

121. What do time standards define?

Answer: Time standards define the direction of the system. The time standards provide a basis for measuring the effectiveness of the court's caseflow management system and a basis for case progress decisions in the management of individual cases.

122. What are the two general main categories of time standards?

Answer: Generally, time standards fall into two categories: management (as in comparing each case against the time limit for completion for intermediate events and overall disposition) and statistics (for example, summary reports concerning the age of cases at disposition or the age of the pending case load).

123. List the three general types of overall time standards.

Answer: The three general types of overall time standards are: A specified acceptable median age of cases at disposition; A maximum time interval between filing and disposition; and A specified percentage of cases concluded within a stated interval after filing.

124. What is a possible problem with any time standard?

Answer: A possible problem with any time standard is to measure compliance solely by computing the age of cases at disposition. This type of measurement fails to take into account cases that are still pending, some of which may be very old. To achieve a comprehensive caseflow management system, courts should measure and monitor all cases in the various stages in the system and not just the disposition.

125. What are event standards?

Answer: Event standards are standards that measure cases in the various stages in the system and not just the disposition.

126. Why should a caseflow management system be monitored?

Answer: It should be monitored because information derived from monitoring supports the caseflow management system.

Level II Chapter 7: Legal Research

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

Part 1: Types of Law

1. What is the general name that refers to laws created by the legislature: statutory law or administrative law?

Answer: Statutory law.

2. What is common law?

Answer: Common law consists of oral traditions derived from general customs, principles, and rules handed down over the years and reflected in the decisions of the courts.

3. Explain the principle of stare decisis.

Answer: Stare decisis, which means to "stand on what has been decided," is the principle that the decision of a court is binding authority on the court that issued the decision and on lower courts in the same jurisdiction for the disposition of factually similar cases.

4. The American court system is hierarchical in organization and higher courts have authority over lower courts. (True or False)

Answer: True.

5. Appellate courts review the facts of a case, hear testimony, and determine the weight of the evidence. (True or False)

Answer: False (this is the role of trial courts).

6. Where are Texas agency rules and regulations typically published?

Answer: In the Texas Register, published by the Secretary of State, or in the Texas Administrative Code.

Part 2: Sources of Law and Legal Authority

7. Explain the three concepts under the term "source of law."

Answer: The term "source of law" can refer to three concepts:

- concepts and ideas, such as customs, traditions, principles of morality, and economic, political, philosophical, and religious thoughts;
- statutory formulations from the federal, state, and local governments; and
- literature, such as books, online content, law reviews, journals, and periodicals.

8. What is the difference between primary legal authority and secondary legal authority?

Answer: Primary authorities are authorized statements of law by governmental institutions, such as written opinions of the court, constitutions, statutes, and rules of court. Secondary authorities are statements about the law that are used to explain, interpret, develop, locate, or update primary authorities.

9. What is meant when it is said that a legal authority is binding or mandatory?

Answer: Binding (or mandatory) authority must be followed by any court lower in the hierarchy. Binding authority is always primary authority, but not all primary authority is binding.

10. What is meant when it is said that a case is "on point?"

Answer: A case is "on point" if it shares the same significant facts with the case at issue and does not differ in any significant facts from the instant case.

11. When can a court reject a decision of a higher court?

Answer: A court can reject a decision of a higher court as not being binding by distinguishing the cases on their facts or issues, and thus finding that the previous case is different in some significant way.

12. A secondary source can be binding authority. (True or False)

Answer: False (secondary sources can only be persuasive authority).

Part 3: Materials of Legal Research**13. Name the three broad categories of published legal resources.**

Answer: The three broad categories are primary sources, secondary sources, and legal research tools.

14. Explain the difference between primary and secondary sources and give an example of each.

Answer: Primary sources are authoritative statements of legal rules by governmental bodies. They include court opinions, constitutions, statutes, and rules of court. Secondary sources are materials about the law that are used to explain, interpret, develop, locate, or update primary sources. Examples include law reviews, legislative histories, journal articles, newsletter articles, bench books, and procedure guides. These secondary sources can be interpretive and may include analysis and critical commentary.

15. Explain how AI can assist legal research.

Answer: AI can assist with summarizing legal materials, identifying research topics, organizing information, and drafting preliminary documents.

16. Identify at least two risks associated with using AI-assisted legal research.

Answer: Risks include hallucinations, inaccurate citations, outdated information, and confidentiality concerns.

17. What important step should a researcher take before relying on AI-generated information?

Answer: AI-generated information should always be independently verified using authoritative legal sources.

18. Texas statutes are accessible on the internet. (True or False)

Answer: True.

Part 4: Citing Sources of Law**19. What is a citation, in the legal research sense?**

Answer: A citation is a reference to a law or case, or a reference to a source of legal authority that allows a researcher to locate a cited source.

20. What are the Bluebook and Redbook, and what are they used for?

Answer: They are reference guides that explain the form and meaning of legal citations, as well as give the proper way to reference and cite legal material.

21. Identify what the following abbreviations stand for:**U.S.C.****S. Ct.****F.2d****S.W.2d****v.****Answer:** The following abbreviations stand for:

- U.S.C.: United States Code
- S. Ct.: Supreme Court Reporter
- F.2d: Federal Reporter, 2nd Series
- S.W.2d: South Western Reporter, 2nd Series
- v.: versus

22. Identify what codes the following abbreviations stand for:**A.B.C.****C.C.P.****E.C.****F.C.****G.C.****H.S.C.****P.C.****Answer:** The following abbreviations stand for:

- A.B.C.: Alcoholic Beverage Code
- C.C.P.: Code of Criminal Procedure
- E.C.: Education Code
- F.C.: Family Code
- G.C.: Government Code
- H.S.C.: Health and Safety Code
- P.C.: Penal Code

Part 6: Reading and Interpreting Statutes**23. How often does the Texas Legislature meet?****Answer:** Every two years (in odd-numbered years) for 140 days and when the Governor calls a special session.**24. What are the two houses of the Texas Legislature called?****Answer:** The House of Representatives and the Senate.**25. A bill must be approved in identical form by both houses before being sent to the Governor. (True or False)****Answer:** True.

26. Below is an excerpt from a recent piece of legislation. Which phrases were added? Which were deleted?

SECTION 1. Section 545.066(c), Transportation Code, is amended to read as follows:

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$500 [~~\$200~~] or more than \$1,250 [~~\$1,000~~], except that the offense is:

(1) a misdemeanor punishable by a fine of not less than \$1,000 or more than \$2,000 if the person is convicted of a second or subsequent offense under this section committed within five years of the date on which the most recent preceding offense was committed;

(2) a Class A misdemeanor if the person causes serious bodily injury to another; or

(3) [(2)] a state jail felony if the person has been previously convicted under Subdivision (2) [(1)].

Answer: The following phrases were added: \$500, \$1,250, and "a misdemeanor punishable by a fine of not less than \$1,000 or more than \$2,000 if the person is convicted of a second or subsequent offense under this section committed within five years of the date on which the most recent preceding offense was committed."

The following were deleted: \$200, and \$1,000.

The underlined text is new language that is to be added to a statute or code. The "strikethru" or bracketed text indicates language that is to be deleted.

27. What are session laws?

Answer: All of the laws passed by a legislative session that are published in volumes in chronological sequence.

28. Where can you get a copy of a bill?

Answer: The Texas Legislative Council website or the Texas Legislature Online website.

Part 7: Reading and Interpreting Cases

29. How are cases named or identified?

Answer: By the names of the parties to the lawsuit.

30. What is the significance of "In re" when shown in a cited case?

Answer: In re is used in a case citation to signify that there are no adversarial parties. It means in the affair; in the matter of; concerning.

31. What is the significance of "Ex parte" when shown in a cited case?

Answer: Ex parte in a case citation means that a special proceeding was involved. It means by or for one party; done for; on behalf of.

32. Who usually writes the headnote to a case?

Answer: The legal editors (rather than the court) write the headnotes.

33. What is the main difference between a majority and concurring opinion?

Answer: A majority opinion is usually written by one judge and represents the principles of law that the majority of the court deemed operative in a given decision. It has the greatest precedential value. A concurring opinion agrees with the result reached by the majority, but does not necessarily agree with the precise reasoning of the majority.

34. What is a plurality opinion?

Answer: A plurality opinion is agreed to by less than a majority as to the reasoning of the decision, but it is agreed to by a majority as to the result.

35. What does "affirmed" mean?

Answer: Affirmed denotes that the appellate court reached a decision that agrees with the result reached in the case by the lower court.

36. What does it mean when a court reverses a case?

Answer: Reversed denotes that the appellate court disagrees with the result reached by the lower court in the case.

37. Why should a researcher check the validity of a case or statute?

Answer: Because it is possible that the case is no longer "good law."

Part 8: Reading and Interpreting Attorney General Opinions**38. How are attorney general opinions organized?**

Answer: Attorney general opinions are organized by the name of the Attorney General at the time the opinion was released and then numbered chronologically. Example: JC-0247 (2000) or DM-1 (1991).

39. Are attorney general opinions binding on the court?

Answer: No, attorney general opinions are persuasive authority but are not binding on courts.

Part 9: The Legal Research Process**40. There is only one correct method in conducting a legal research project. (True or False)**

Answer: False (there are several).

41. Name at least three questions that should be asked to help define the legal issue.

Answer: Some questions that should be asked to help frame the legal issue are:

- Is the issue governed by federal, state, or local law?
- Does it involve criminal, civil, or administrative law?
- Which branch of government is involved?
- What jurisdiction controls the issue?
- What sources are binding, and what sources are persuasive?

42. Why would a secondary authority be consulted in defining the legal issue to be researched?

Answer: Often it is useful to consult secondary sources to gain context and identify legal terminology.

43. Because case law interprets statutes, researchers should review both statutes and relevant case law when researching how a statute is applied. (True or False)

Answer: True.

44. After completing research on the legal issue, why is it important to update the search one last time?

Answer: It is important to update the search one last time to ensure that the law has not changed since the research was first conducted. This step helps confirm that statutes and cases have not been amended, reversed, or superseded and that the researcher is relying on the most current legal authority.