

# Overview of the Courts

## Table of Contents

<b>INTRODUCTION .....</b>	<b>3</b>
<b>PART 1 HISTORY OF THE JUDICIAL PROCESS .....</b>	<b>3</b>
Common Law.....	3
Constitutional Law.....	3
Federal and State Law .....	5
<b>PART 2 TEXAS JUDICIAL SYSTEM .....</b>	<b>6</b>
A. Court Structure of Texas.....	6
1. Appellate Courts .....	7
2. Trial Courts .....	9
B. Municipal Court Jurisdiction .....	12
C. Cooperation Within the Judicial System.....	14
D. Funding .....	14
<b>PART 3 THE MUNICIPAL COURT ROLE IN LOCAL GOVERNMENT .....</b>	<b>16</b>
A. Revenue and Quotas.....	16
B. Relations with City Departments .....	16
1. Mayors and City Managers .....	16
2. City Attorneys and Prosecutors.....	16
3. Law Enforcement.....	17
<b>PART 4 AGENCIES AND ORGANIZATIONS .....</b>	<b>17</b>
A. Texas Municipal Courts Education Center (TMCEC) .....	18
B. Attorney General's Office (AG) .....	18
C. State Bar of Texas (SBOT).....	19
D. State Commission on Judicial Conduct (SCJC) .....	19
E. State Comptroller of Public Accounts (CPA).....	19
F. Texas Commission on Law Enforcement (TCOLE).....	19
G. Texas Court Clerks Association (TCCA) .....	20
H. Texas Department of Motor Vehicles (TxDMV).....	20
I. Texas Department of Public Safety (DPS).....	20
J. Texas Judicial Council/Office of Court Administration (OCA).....	21
K. Texas Municipal Courts Association (TMCA) .....	21
L. Texas Municipal League (TML).....	21
<b>APPENDIX A: COURT STRUCTURE OF TEXAS .....</b>	<b>22</b>

**ANSWERS TO QUESTIONS..... 23**

## INTRODUCTION

The judicial system in the United States is an adversarial system. An adversary in a legal proceeding is a contestant who, like a boxer in a boxing match, tries to win while working within the rules of the match or the boundaries of the law. Similarly, an adversarial legal system is one in which the lawsuit or case is viewed as a struggle between two sides. Each side acts in its own interest, presenting its case in the best possible light to the court. The judge remains neutral and decides *questions of law* (disputed legal contentions) and, when there is no jury, *questions of fact* (disputed factual contentions). The theory of this process is that the trier of fact (the judge or the jury) will be able to determine the truth if the opposing parties present their best arguments and show the weaknesses in the other's case. Decisions are based upon the evidence presented and the applicable law.

## PART 1 HISTORY OF THE JUDICIAL PROCESS

### Common Law

The American legal justice system has its origins in the English system of common law. Common law refers to the body of law that developed in England and the American colonies. It is a legal system based on judicial decisions rather than legislative action. Today, many common law principles have been incorporated into current codes and statutes. Important rights and legal concepts such as the waiver of trial by jury (Arts. 1.13 and 45.025, C.C.P.), the defense of necessity (Sec. 9.22, P.C.), and the defense of justification (Sec. 9.02, P.C.) all spring from the English common law. Other common law principles have not been written into statutes, such as the inherent power of a court. The inherent power of the judiciary is the authority that is essential to the existence, dignity, and functions of the court. "The inherent judicial power of a court is not derived from legislative grant or specific constitutional provision, but from the very fact that the court has been created and charged by the Constitution with certain duties and responsibilities. The inherent powers of a court are those which it may call upon to aid in the exercise of its jurisdiction, in the administration of justice, and in the preservation of its independence and integrity." *Eichelberger v. Eichelberger*, 582 S.W.2d 395, 398 (Tex. 1979).

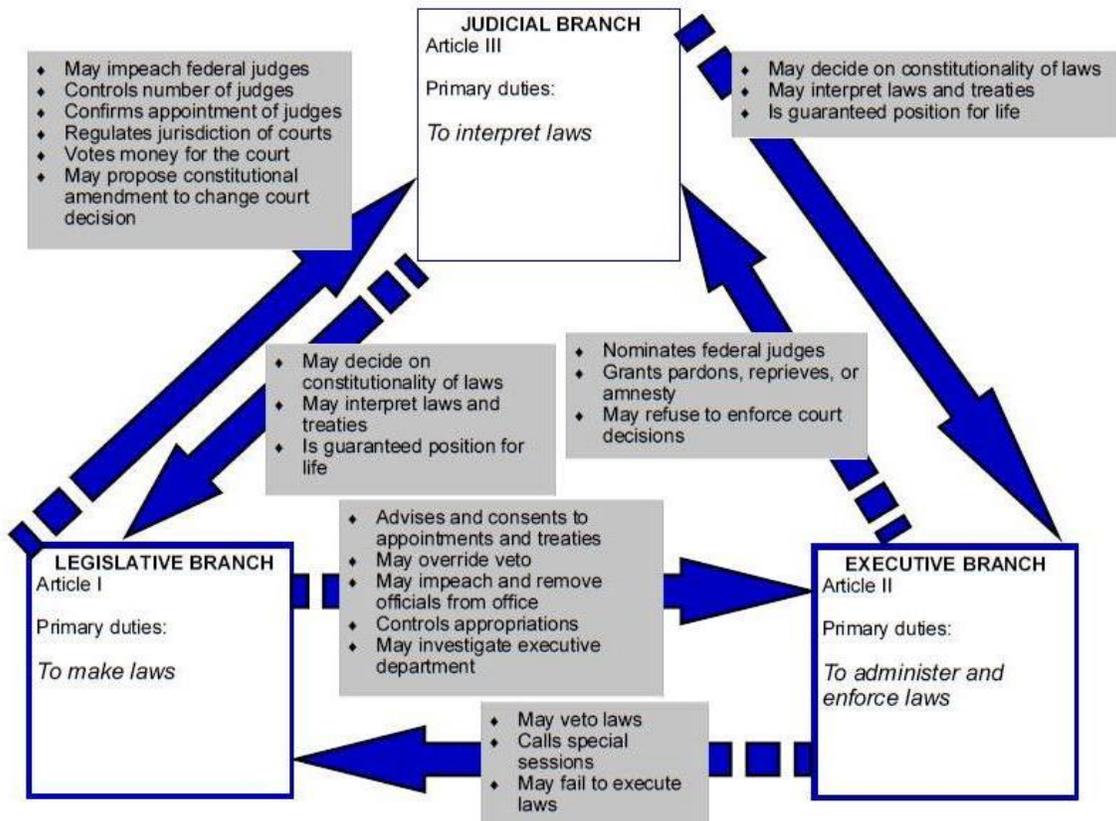
### Constitutional Law

A constitution is a written document that establishes fundamental rights and principles by which a nation governs itself. The U.S. Constitution, in its original seven articles, establishes a system of government directed by laws and principles. To prevent the accumulation of too much power into too few hands, the U.S. Constitution divides the government into three branches: the legislative, the executive, and the judicial. The legislative branch makes or enacts the law; the executive branch enforces the law; and the judicial branch interprets and applies the law. This principle is known as separation of powers.

Although the three branches must function together cohesively to fulfill the obligations of government, each branch must perform its duties independently. Every time a court does its job as it is supposed to, independent of the other branches of government and according to the law, that court is playing its part in the constitutional plan.

Underlying the separation of government into three branches is the theory of checks and balances. The authors of the Constitution believed that if governmental power was divided into three branches, no one branch would be able to dominate the other two or impose its own will on citizens. Separation of powers, while sometimes both cumbersome and the source of tension between the government's branches, is one of the fundamental principles of American democracy.

### SEPARATION OF POWERS—CHECKS AND BALANCES



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

The first 10 amendments to the U.S. Constitution are known as the Bill of Rights. These rights are intended to protect individual citizens against government tyranny and lawlessness. American courts are charged with interpreting the meaning of such protections. Many of the amendments have import to criminal law matters and are laid out below.

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

**4th Amendment:** No unreasonable searches and seizures

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

**6th Amendment:** Right to a speedy and public trial, right to counsel, right to confront your witnesses

**7th Amendment:** Right to a jury trial in civil suits

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

**14th Amendment:** Equal Protection and incorporation of the Bill of Rights to the states

The U.S. Constitution specifically reserves certain powers for the states and every state has its own constitution. The current Texas Constitution took effect in 1876. It has since been amended 491 times. Like the U.S. Constitution, the Texas Constitution establishes three branches of government and provides for the separation of powers between these branches. In addition, the Texas Constitution provides for the creation of certain courts. These courts named in the Texas Constitution are collectively referred to as constitutional courts and include the State’s highest appellate courts, the intermediate courts of appeals, the district courts, the constitutional county courts, and the justice courts.

Article I of the Texas Constitution—referred to as the State’s “Bill of Rights”—contains many similar provisions to those in the U.S. Constitution, including:

**Section 9. Searches and Seizures: Protection from Illegal Searches**

**Section 10. Rights of Accused in Criminal Prosecutions**

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

**Section 15. Right of Trial by Jury**

## **Federal and State Law**

Municipal courts are unique in that they are the only state trial courts to operate at the city-level of government. Municipal courts are not created by the text of the Constitution, but are authorized by the state legislature. Like all state courts, however, municipal courts are obligated to follow federal law and to give precedence to the U.S. Constitution over federal law, treaties, and state law. Accordingly, in adjudicating cases, municipal courts are required to apply common law, federal and state constitutional law, federal and state statutory law, and local ordinances. That is, undoubtedly, a large body of law. Fortunately, many of these protections and common law rights have been codified in the Texas Code of Criminal Procedure. Codify simply means that it has been organized in a written code or statute. For example:

- Article 1.04 codifies rights spelled out in the 14th Amendment to the U.S. Constitution
- Article 1.05 codifies the rights of the accused found in Section 10 of the Texas Constitution.
- Article 1.07 codifies the protection against unreasonable searches and seizures found in Section 9 of the Texas Constitution.

- Article 1.09 codifies the protection from cruel or unusual punishment found in Section 13 of the Texas Constitution.
- Article 1.12 provides that the right of trial by jury shall remain inviolate, just as in Section 15 of the Texas Constitution.

Q. 1. What is meant by the statement: “The American judicial system is an adversarial system”?

\_\_\_\_\_

Q. 2. Define common law and give an example applicable to municipal courts. \_\_\_\_\_

\_\_\_\_\_

Q. 3. Describe the role of each branch of government. \_\_\_\_\_

\_\_\_\_\_

Q. 4. Explain the reasoning and significance of separation of powers? \_\_\_\_\_

\_\_\_\_\_

Q. 5. What are the first 10 amendments to the U.S. Constitution called? \_\_\_\_\_

\_\_\_\_\_

True or False

Q. 6. Since municipal courts are local courts, they do not have to follow federal or state law.

\_\_\_\_\_

Q. 7. List the courts established by the Texas Constitution. \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## PART 2 TEXAS JUDICIAL SYSTEM

Municipal courts occupy a unique position in the Texas judicial system. More citizens come into contact with municipal courts than with all other Texas courts combined. Though the reason for the vast majority of appearances is for a traffic citation, for most citizens, whether appearing as a defendant, witness, or juror, this may be their only personal contact with the judicial system. As such, this contact in municipal court will form a lasting impression of the justice system as a whole. This section will provide both an overview of the Texas judicial system.

### A. Court Structure of Texas

The structure of the present court system was established in 1891 by an amendment to the Texas Constitution to allow the Legislature to “establish such other courts as it may deem necessary and prescribe the jurisdiction and organization thereof and... conform the jurisdiction of the district and inferior courts thereto.” In essence, the amendment modified the Constitution to allow the

Legislature to statutorily create additional courts as it deemed necessary in an effort to ensure judicial efficiency.

There are two basic types of courts in Texas: trial courts and appellate courts. Texas has a bifurcated appellate system, which means two separate courts are considered to be the high appellate courts, as opposed to one in the federal system. More information on the Texas court structure and the highest courts are in the following sections. Also, refer to the Appendix to see a graphic representation of the court structure of Texas.

## **1. Appellate Courts**

An appellate court is a court with jurisdiction to hear appeals and review a trial court's procedure. These courts review the actions and decisions of the lower courts on questions of law or allegations of procedural error.

### **The Texas Supreme Court**

The Texas Supreme Court has final appellate jurisdiction statewide in civil and juvenile cases. A civil case usually deals with private rights of individuals, groups, or businesses. A civil lawsuit may be brought when one person feels wronged or injured by another person. An example is a lawsuit for recovery of damages suffered in a car collision. Juvenile cases originating in juvenile court and truancy cases are also civil.

In addition to hearing oral arguments and writing decisions for cases on appeal, the Texas Supreme Court is empowered to make and enforce all necessary rules of civil trial practice and procedure. The Legislature has authorized the Texas Supreme Court and the Court of Criminal Appeals collectively to promulgate or publish the rules of evidence and appellate procedure used in both civil and criminal matters. To ensure the efficient administration of justice in Texas, the Supreme Court has many administrative duties that include issuing the rules of procedure for the State Commission on Judicial Conduct; equalizing the dockets of the intermediate courts of appeals; and supervising the operations of the State Bar of Texas. The Supreme Court is composed of one Chief Justice and eight Justices, who are elected in partisan elections on a statewide basis for six-year terms of office.

### **The Texas Court of Criminal Appeals**

The Texas Court of Criminal Appeals is the highest final state appellate court for criminal offenses. The jurisdiction of the Texas Court of Criminal Appeals extends to all criminal cases heard by the intermediate courts of appeals and those criminal cases coming directly from the district courts when the death penalty has been imposed. A criminal case is a legal action brought by the government against a person charged with committing a crime. Some examples are the offenses of assault and burglary. Traffic offenses such as speeding and driving without financial responsibility are also criminal cases.

The Court of Criminal Appeals consists of one Presiding Judge and eight Judges, who must have the same qualifications, and are elected in the same manner, as the justices of the Supreme Court.

## The Court of Appeals

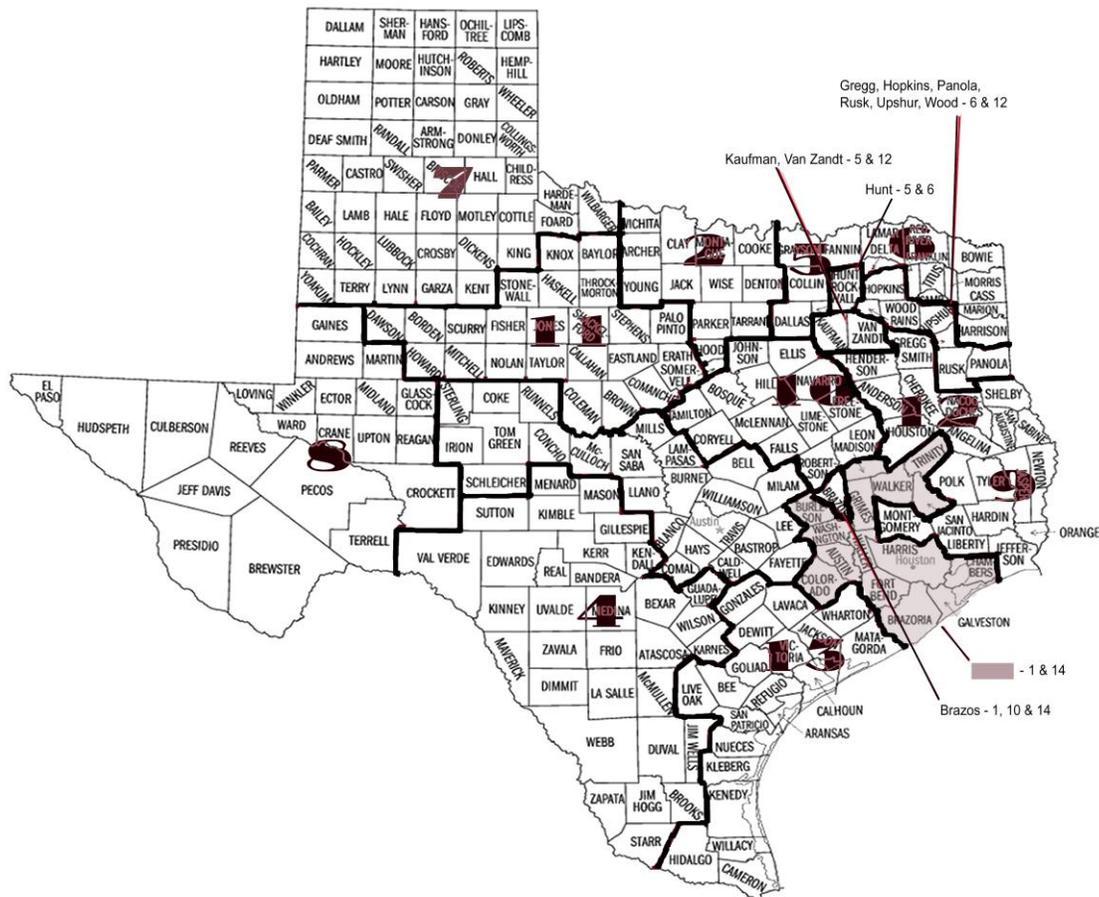
Each of the 14 intermediate courts of appeals has at least three judges: a Chief Justice and two other Justices. The Legislature, however, may increase the number whenever the workload of an individual court requires additional judges.

Courts of appeals hear the appeals from the trial courts located within their respective districts. The appeals are based upon the “record” (a written transcription of the testimony given, exhibits introduced, and the documents filed in the trial court) and the supplementary written briefs and oral arguments of the appellate lawyers. The courts of appeals do not receive testimony or hear witnesses when considering cases on appeal. Appeals are usually heard by a panel of three justices, unless in a particular case an en banc hearing is ordered. En banc means that a case is heard before all the judges of a court. In that case, all the justices would hear and consider the case, rather than a panel.

The courts of appeals are located in 13 cities:

- Amarillo (District 7);
- Austin (District 3);
- Beaumont (District 9);
- Corpus Christi/Edinburg (District 13);
- Dallas (District 5);
- Eastland (District 11);
- El Paso (District 8);
- Fort Worth (District 2);
- Houston (two courts: Districts 1 and 14);
- San Antonio (District 4);
- Texarkana (District 6);
- Tyler (District 12); and
- Waco (District 10).

Using the graphic on the next page, find the district where your municipality is located.



## 2. Trial Courts

Trial courts are those courts in which trials are held, witnesses are heard, testimony is received, and exhibits are offered into evidence. In a criminal case, the judge or the jury determines whether the defendant is not guilty or guilty beyond a reasonable doubt. Defendants in criminal cases and the parties in civil lawsuits have the right to a trial by a jury of either six or 12 local citizens, depending on the classification of the case. Except in capital murder cases, the parties may waive a trial by jury and request a trial by judge. In the latter, called a bench trial, the judge makes the final determination of guilt or innocence.

The trial court structure in Texas has several different levels, each level handling different classifications of cases. Jurisdiction is defined as the authority and legal power to hear and decide cases. Courts created by the Texas Constitution have jurisdiction granted to them by the Constitution. Courts created by the Legislature have jurisdiction granted to them solely by the Legislature; Legislature can expand jurisdiction for these courts, but it cannot take away jurisdiction granted by the Constitution. Courts created by the Legislature have jurisdiction granted to them solely by the Legislature.

The state trial courts of general jurisdiction are known as the district courts. A court of general jurisdiction has authority to hear unlimited civil and criminal cases, although the judgments remain subject to appellate review. In contrast, municipal, justice of the peace, and county courts are courts of limited jurisdiction, meaning they may only hear certain types of

matters (civil, criminal, or both). The county-level courts consist of the constitutional county courts, the county courts at law, and the statutory probate courts. Municipal courts are located in each municipality, and the justice of the peace courts are located in precincts of each county of the state.

Original jurisdiction means that a court has authority to try a case and pass judgment on the law and facts. This is contrary to appellate jurisdiction, where the transcript of an appealed case is reviewed to determine if any error has occurred. Exclusive jurisdiction means that a court's authority to try certain cases is not shared with another court. Therefore, exclusive original jurisdiction means that the court in which a case is filed has sole jurisdiction and no other court has jurisdiction to hear and determine the case. Concurrent jurisdiction, on the other hand, means that cases may be filed in any of the courts that have authority over certain types of offenses.

### **District Courts**

District courts are courts of general jurisdiction. They generally have original jurisdiction in all criminal offenses punishable by a year or more in prison, misdemeanors involving official misconduct, and misdemeanors transferred to the district court. The civil jurisdiction is more complex and extends to cases of divorce, suits for title to land or enforcement of liens on property, contested elections, suits for slander or defamation, and all civil matters wherein the amount in controversy is \$200 or more. In addition, district courts have the power to issue writs necessary to enforce judgments. Writs seen in municipal practice may include a writ of habeas corpus, writ of mandamus, and a writ of attachment.

Appeals from judgments of district courts are to the court of appeals that has jurisdiction over the district court.

### **County-Level Courts**

The Texas Constitution provides for a county court in each county. "Constitutional" county courts have concurrent jurisdiction with justice of the peace courts in civil cases and have jurisdiction over Class A misdemeanors and Class B misdemeanors. Constitutional county courts also have concurrent criminal jurisdiction with justice courts over state law fine-only offenses. In essence, this means that county courts share jurisdiction with justice and municipal courts over most fine-only offenses.

County courts generally have appellate jurisdiction over cases tried originally in the justice of the peace courts and most municipal courts.

Under its constitutional authorization to "establish such other courts as it may deem necessary," the Legislature has created statutory county courts and statutory probate courts, primarily in metropolitan counties, to provide assistance to the single "constitutional" county court.

### **Justice of the Peace Courts**

The Texas Constitution provides that each county is to be divided into at least one and not more than eight justice precincts. A justice of the peace is elected by voters of the precinct in

partisan elections for a four year term of office. There are no special statutory or constitutional requirements to hold this office.

Justices of the peace courts have original jurisdiction in misdemeanor criminal cases under state law where the punishment upon conviction may be fine only or by fine and, as authorized by law, sanctions not consisting of confinement or imprisonment. This jurisdiction is concurrent with the municipal court. Justice courts also have concurrent jurisdiction over municipal ordinance violations involving the regulation of signs in a city's extraterritorial jurisdiction.

Trials in justice of the peace courts are not of record. Appeals from these courts are trial de novo in the county court, the county court at law, or the district court. Trial de novo literally means "new trial." It is a term used to describe a trial court which hears a matter for the first time.

## **Municipal Courts**

Under its constitutional authority to create courts, the Texas Legislature passed the Corporation Court Law of 1899. This created corporation courts, an old term that describes the predecessor to municipal courts, in each municipality in Texas. This law has now been codified in Chapter 29 of the Government Code, making municipal courts statutory courts. Sec. 29.002, G.C. As the name implies, statutory courts are those created by statute through authorization granted to the state legislature. Municipal courts are presently operating in more than 900 cities in Texas. The large metropolitan cities usually have more than one municipal court.

As statutory courts, municipal courts are able to adjudicate any subject matter determined by the Legislature. "Subject matter" refers to the types of cases over which a court has jurisdiction. This type of jurisdiction is commonly called "subject matter jurisdiction." Municipal court subject matter jurisdiction is almost exclusively criminal, with limited exceptions. The Legislature has given municipal courts limited civil jurisdiction for bond forfeitures, cruelly-treated animal hearings under Chapter 821 of the Health and Safety Code, and dangerous dog hearings under Chapter 822 of the Health and Safety Code. Certain municipalities may also declare the violation of city ordinances relating to the parking and stopping of vehicles to be civil offenses and prescribe civil penalties.

A court of record is a municipal court that is required to keep a record of its proceedings. Chapter 30 of the Government Code creates a municipal court of record in 51 Texas cities. For all other cities, the governing body can choose to have a municipal court of record or a municipal court of non-record. A court of non-record does not keep a record of its proceedings. The majority of municipal courts are not courts of record, and appeals from non-record courts go to the county court, the county court at law, or the district court for trials de novo.

Under the authority of Chapter 30 and the Municipal Courts of Record Act passed in 1997, a municipal court may become a court of record through passage of a local ordinance. In a court of record, a formal record and transcript are made of the proceedings in the trial and appeals are made on the record. Such appeals are generally heard in the county court or county court at law. The Legislature has specifically authorized two cities, El Paso and

Dallas, to create municipal courts of appeals to hear appeals from those cities' municipal courts. The statutes creating these municipal courts of record require that the judges be licensed to practice law in Texas. No such provision is required of other municipal judges. The Office of Court Administration keeps current records of which municipalities are courts of record.

Municipal courts of record have additional jurisdiction in their territorial limits and their extraterritorial limits. Section 30.00005, G.C. This jurisdiction is concurrent with a district court or county court at law for the purpose of enforcing health and safety or nuisance abatement ordinances.

## **B. Municipal Court Jurisdiction**

Municipal court jurisdiction is initiated when a complaint is filed with the court, charging a person with the commission of an offense. Art. 45.018, C.C.P. Article 27.14(d) of the Code of Criminal Procedure permits the court to use a citation to initiate a case. In a criminal case, a citation is written notice to appear that is only issued by a peace officer. It may be used as the initial charging instrument in municipal court, or a complaint may be drafted by the prosecutor. Both the citation and complaint serve to give the defendant notice of the charge filed with the court. If a complaint or citation is not filed with the court, the court does not have jurisdiction over the defendant. Article 12.02(b) of the Code of Criminal Procedure provides that a complaint may be presented within two years from the date of the commission of the offense, and not afterward. This is the statute of limitations for such offenses, or the time after which prosecution is barred by law. When two or more courts have concurrent jurisdiction of a criminal offense, the court in which the complaint is first filed retains jurisdiction. Art. 4.16, C.C.P.

### **Exclusive Original Jurisdiction**

Municipal courts have exclusive original jurisdiction over violations of city ordinances and the resolutions, rules, and orders of a joint airport board that occur in the territorial jurisdiction of the city and on property owned by the city in the city's extraterritorial jurisdiction. There is one exception to municipal court's exclusive original jurisdiction over city ordinance violations, found in Article 4.11(c) of the Code of Criminal Procedure, which provides that justice courts have concurrent jurisdiction with municipal courts in certain sign ordinance violations in the city's extraterritorial jurisdiction. City ordinances are generally punishable by fines of up to \$500, but fines of up to \$2,000 may be established for violations relating to fire safety, zoning, or public health and sanitation. The city council would determine the fine range, within these limits, for city ordinance violations.

### **Concurrent Original Jurisdiction**

Municipal courts have concurrent original jurisdiction with justice courts in all cases under state law that (1) occur within the territorial limits of the city or on property owned by the city in the city's extraterritorial jurisdiction and (2) are punishable by fine only. Art. 4.14, C.C.P. and Sec. 29.003, G.C. Generally, a fine-only offense is a Class C misdemeanor in the Penal Code, punishable by a maximum fine of \$500. Sec. 12.23, P.C. The Penal Code, however, defines a Class C misdemeanor outside of the Penal Code as

any offense punishable by a fine only. Sec. 12.41, P.C. Consequently, any fine-only offense is considered a Class C misdemeanor regardless of the amount the maximum fine determined by the Legislature. For example, passing a school bus, defined in the Transportation Code, is punishable by a maximum fine of \$1,250. Courts may also impose sanctions not consisting of confinement in jail or imprisonment in addition to the fine. The imposition of a sanction or denial, suspension, or revocation of a privilege does not affect the original jurisdiction of the local trial courts in Texas. Arts. 4.11 and 4.14, C.C.P. and Sec. 29.003, G.C.

For a list of more than 1,300 fine-only offenses defined by state law, see the TMCEC “Green Book” (Class C and Fine-Only Misdemeanors).

### **Appellate Jurisdiction**

Municipal courts have incidental appellate jurisdiction in three instances. The owner of a motor vehicle determined by a hearing officer to be liable for a civil penalty of running a red light may appeal that determination to a judge by filing an appeal petition with the clerk of the municipal court. Sec. 707.016(a)(2), T.C. A person charged with violating the civil administrative parking ordinances of a city may appeal the order of the hearing officer by filing a petition with the clerk of the municipal court. Sec. 682.011, T.C. Lastly, the owner of a dog who is declared to be dangerous by the animal control authority can appeal that determination to the municipal court. Sec. 822.0421, H.S.C.

### **Geographic Jurisdiction**

The municipal court’s jurisdiction is limited to those cases that occur within the territorial limits of the city. This is called geographic jurisdiction. The Legislature, at the request of local governments, has experimented with the expansion of municipal court geographic jurisdiction in some of the following ways:

- A city that contracts with one or more municipalities for the operation of a joint police department may conduct its municipal court proceedings within the municipal limits of any municipality that is a party to the contract.
- A city with a population of 1.9 million or more and a contiguous municipality to enter into agreements for concurrent municipal court jurisdiction (applies to fine-only offenses).
- A city is permitted to enter into an agreement with a contiguous municipality or a municipality with boundaries that are within one-half mile of the city to establish concurrent jurisdiction of the municipal courts in both cities and provide original jurisdiction to a municipal court in which a case is brought as if the municipal court were located in the city in which the case arose for all criminal cases arising under city ordinance, cruelly-treated animal seizure cases (civil cases), or failure to attend school cases
- Cities with a population of 700 or less are permitted to conduct their municipal court proceedings within the corporate limits of a contiguous incorporated

municipality to apply to cities with a population of 3,500 or less. This applies to over half of the municipal courts in Texas.

### **C. Cooperation Within the Judicial System**

Each court is a member of the judicial branch of government that must conduct its business separately from and independently of the other two branches of government.

Courts are bound to interpret laws and apply them to the facts presented in the cases tried. They are bound by laws enacted by the Legislature and by rules like the Texas Rules of Evidence and Texas Rules of Appellate Procedure, promulgated by bodies given rule-making authority. Courts must also apply the principle of stare decisis. This legal concept makes legal precedent of higher courts binding on lower courts. It requires lower level trial courts to respect and follow the decisions of all Texas appellate courts and regional federal courts, when applicable, even when the individual judge disagrees with the decisions.

Courts also work with other agencies within the judicial system. For example, functions such as administrative adjudication of parking offenses or supervision of defendants performing community service are usually done by other persons or agencies—not the judge or the clerk.

### **D. Funding**

The State of Texas provides full funding and salaries for the Texas Supreme Court and the Texas Court of Criminal Appeals and provides the salaries for the appellate and district judges of Texas. Some counties supplement this base salary. Counties pay the costs of “constitutional” county courts, county courts at law, justice of the peace courts, and the operating costs of district courts. Municipalities finance the operation of the municipal courts and the salaries of all municipal court personnel.

Q. 8. Define jurisdiction. \_\_\_\_\_  
\_\_\_\_\_

Q. 9. What are the two highest appellate courts in Texas? \_\_\_\_\_  
\_\_\_\_\_

Q. 10. Explain the difference between a civil and criminal case. \_\_\_\_\_  
\_\_\_\_\_

Q. 11. Which is the highest Texas appellate court with jurisdiction over juveniles? \_\_\_\_\_  
\_\_\_\_\_

Q. 12. How are appellate courts different from trial courts? \_\_\_\_\_  
\_\_\_\_\_

Q. 13. What is meant by trial de novo? \_\_\_\_\_  
\_\_\_\_\_

Q. 14. Explain how the jurisdiction of justice courts is different from municipal courts.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Q. 15. What kind of courts are municipal courts? \_\_\_\_\_
- Q. 16. Name the two types of municipal courts a city may choose to have. \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
- Q. 17. What kind of cases must be initiated in municipal court and not in any other court?  
 \_\_\_\_\_
- Q. 18. With which courts does municipal court share jurisdiction? \_\_\_\_\_
- Q. 19. Over which type of criminal offenses does municipal court share jurisdiction with the justice courts? \_\_\_\_\_  
 \_\_\_\_\_
- Q. 20. What is the geographic jurisdiction of the municipal court? \_\_\_\_\_
- Q. 21. What are the penalty limits of offenses over which municipal courts have jurisdiction?  
 \_\_\_\_\_
- Q. 22. Why does municipal court have jurisdiction to hear cases where a conviction may result in the Department of Public Safety suspending the defendant's driver's license? \_\_\_\_\_  
 \_\_\_\_\_
- Q. 23. Give an example of an offense for which the penalty requires a sanction in addition to paying a fine. \_\_\_\_\_
- Q. 24. What is the maximum amount of a fine for a Class C misdemeanor offense in the Penal Code? \_\_\_\_\_
- Q. 25. What is the maximum amount of a fine for a Class C misdemeanor outside of the Penal Code? \_\_\_\_\_
- Q. 26. What is the maximum penalty that a city council can establish for ordinance offenses involving public health and fire safety violations? \_\_\_\_\_
- Q. 27. If both the municipal and justice court have concurrent jurisdiction over a criminal case, which court retains jurisdiction? \_\_\_\_\_
- Q. 28. Why are lasting impressions of the American justice system often formed in municipal courts? \_\_\_\_\_  
 \_\_\_\_\_
- Q. 29. What court(s) have jurisdiction in the cases described below:
- An appeal from a district court: \_\_\_\_\_
  - A divorce case: \_\_\_\_\_
  - A speeding ticket: \_\_\_\_\_
  - A felony murder case: \_\_\_\_\_
  - An appeal from a municipal court: \_\_\_\_\_
  - An child support or child custody case: \_\_\_\_\_

## **PART 3**

### **THE MUNICIPAL COURT ROLE IN LOCAL GOVERNMENT**

#### **A. Revenue and Quotas**

While municipal courts serve the express function of preserving public safety, protecting quality of life, and deterring future criminal behavior, there is no denying the function of revenue generation. A significant portion of the budget for many cities comes from fines collected in municipal court. But a judge may not consider the raising of revenue as an aspect of judicial duties. The judge should not increase fines for the purpose of enhancing his or her position before the city council as a revenue producer.

Section 720.002 of the Transportation Code prohibits state agencies and political subdivisions from imposing traffic revenue quotas on municipal or county court judges and justices of the peace. While the prohibition does not keep cities from getting budget information or projections from courts, it does forbid the establishment or maintenance of a system for evaluating, promoting, compensating, or disciplining these judges on the basis of revenues collected from traffic convictions.

#### **B. Relations with City Departments**

Municipal courts should recognize the necessity for cooperating with the other departments in administrative and other areas wherever possible without compromising the independence or integrity of the judiciary. The following section outlines some of the more pertinent areas of interdepartmental relations for municipal courts.

##### **1. Mayors and City Managers**

Judges should be aware that mayors and city managers have to be concerned with revenues—both expenditures and collections—because as the executive branch, they are responsible for the city’s budget. Because the court’s budget comes out of the city’s budget and because some of the fines and fees collected by the court are deposited in the municipal treasury, judges and clerks have some concerns and responsibilities regarding revenue. The recording, handling, and reporting procedures must meet city approval and will be audited by the city.

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

##### **2. City Attorneys and Prosecutors**

The municipal court and the city attorney interact during the prosecution of municipal court cases. The city attorney or a deputy city attorney has a duty to prosecute the State’s case in municipal court. The county attorney of the county in which the municipality is located may also represent the State if he or she so chooses. Close coordination with the city attorney’s office is necessary, particularly in the scheduling and reviewing of cases and the preparing and reviewing of complaints.

It is the prosecutor who decides which complaints should be filed. The prosecutor, not the judge or clerk, should advise and direct peace officers in preparing criminal cases. The court must

remain apart from investigating or filing cases, to preserve impartiality for judging the evidence presented at trial. It is the responsibility of the State, through the city attorney, to decide which cases to prosecute.

### **3. Law Enforcement**

Law enforcement may include police officers, code compliance officers, and animal control. These officers may look to the city prosecutor for advice in investigating and preparing for criminal cases.

In cities where the municipal court clerk also serves as police dispatcher or where the offices of the court are located in the same building as the police department, conflict is possible. Judges, clerks, and police departments must exercise great care to honor the separateness of each department to eliminate any suggestion of impropriety.

When citizens wish to present complaints or file criminal charges it is recommended that they go to the police department or the prosecutor, but not directly to the court. The police have the power and duty to investigate, which the court lacks, and may make a professional determination of whether or not to recommend the filing of criminal charges. However, in municipal court, there is no limitation on who can file a complaint (or charging instrument). Cities should create a policy to uniformly apply to citizens wishing to file complaints.

Various city department officials may file code violation complaints in municipal court in addition to or in the absence of code enforcement officers. The acceptance of these complaints for prosecution is a matter for the prosecutor to determine, not the court. As in all cases, the court should remain impartial in hearing evidence in these cases.

True or False

- Q. 30. City managers may establish traffic revenue quotas as part of evaluating the court's performance. \_\_\_\_\_
- Q. 31. It is proper for a court to follow the recommendations of a city auditor regarding recording, handling, and reporting procedures for court costs and fines. \_\_\_\_\_
- Q. 32. Judges may consider factors related to revenue for the city in determining the fine and court costs in an individual's case. \_\_\_\_\_
- Q. 33. Prosecutors help investigate and decide what complaints are filed in court. \_\_\_\_\_
- Q. 34. The judge and clerk may help the prosecutor, police officer, and/or code enforcement officer investigate a crime. \_\_\_\_\_

## **PART 4 AGENCIES AND ORGANIZATIONS**

Various state agencies, in addition to the Texas Municipal Courts Education Center, are available to lend assistance to municipal courts. The diverse agencies and courts that comprise the Texas justice system must work cooperatively and yet with some measure of independence.

There is interaction and cooperation among municipal courts, various state agencies, and professional organizations where duties overlap and interface. A selection of organizations that court personnel commonly encounter are profiled below.

### **A. Texas Municipal Courts Education Center (TMCEC)**

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

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

The TMCEC publishes a quarterly journal, *The Recorder*, as well as a *Forms Book*, *Bench Book*, *Municipal Judges' Book*, and the "Green Book," a reference guide to Class C and fine-only misdemeanors, among other publications. In addition, TMCEC provides resources to help judges and court support personnel perform their official duties, and understand and apply the law in its current form. TMCEC staff attorneys are available to judges and court personnel to answer questions about municipal court procedures through the toll-free number at 800.252.3718.

Annual attendance at judicial education programs for court support personnel is not mandated, but is highly recommended. Clerks who are participating in the Texas Municipal Court Clerk Certification Program are required to obtain certain educational requirements through TMCEC, TMCA, the Texas Court Clerks Association (TCCA), or other approved providers. Specific course locations and dates may be obtained by writing or calling the TMCEC at 800.252.3718. The mailing address is 2210 Hancock Drive, Austin, Texas 78756. The TMCEC's website is [www.tmcec.com](http://www.tmcec.com). Additionally, courses, webinars, and other vital information is available online at the Online Learning Center (OLC) at <http://online.tmcec.com>. Timely updates are also available by following TMCEC on Twitter and Facebook.

### **B. Attorney General's Office (AG)**

The Texas Attorney General is the chief legal officer of Texas. The Attorney General's Office (AG) publishes legal opinions on how laws might be interpreted when a provision is ambiguous or contradicts another part of the law. Copies of opinions are available online at the AG's website at [www.oag.state.tx.us](http://www.oag.state.tx.us). Although city officials do not have standing to request that the AG issue an opinion, the letter opinion process is available. Although less authoritative, it is

quicker than the formal opinion process and still provides a source of guidance. The AG's office can be contacted by phone at 512.463.2100.

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

### **C. State Bar of Texas**

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

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

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

### **D. State Commission on Judicial Conduct (SCJC)**

The State Commission on Judicial Conduct (SCJC) investigates and resolves complaints filed against judges. Their work will be discussed at greater length in Chapter 3 (Ethics) of the Study Guide, but it is helpful to note that staff attorneys may be able to assist clerks in working through difficult ethical situations and issues they encounter. The SCJC also sponsors a peer assistance program for judges troubled by substance abuse. Contact the SCJC at 877.228.5750. The SCJC's website is [www.scjc.state.tx.us](http://www.scjc.state.tx.us).

### **E. State Comptroller of Public Accounts**

The State Comptroller of Public Account's Office is ultimately responsible for the collection of court costs and for their final distribution. Municipal courts must report quarterly to the Comptroller. See Chapter 7 (State and City Reports) of the Study Guide for details on the quarterly report. The Comptroller has staff who are available to assist municipal courts and to answer questions about collecting and reporting state court costs on criminal convictions by contacting the Economic Development and Analysis Division toll-free at 800.531.5441, ext. 34679. The website is [www.texasahead.org/lga/](http://www.texasahead.org/lga/).

### **F. Texas Commission on Law Enforcement (TCOLE)**

The Texas Commission on Law Enforcement (TCOLE) (formerly known as TCLEOSE) is the regulatory agency for commissioned peace officers, jailers, and telecommunicators in Texas. The TMCEC contracts with TCOLE to provide continuing education training to licensed peace officers in Texas who work in the municipal courts. Many cities have created city marshal offices to employ officers who are available to assist the municipal court with service of process and in

providing court security. Marshal offices must be created and regulated by TCOLE. Questions regarding peace officer certification or city marshal offices should be directed to TCOLE at through its website at [www.tcole.texas.gov](http://www.tcole.texas.gov).

### **G. Texas Court Clerks Association (TCCA)**

The Texas Court Clerks Association (TCCA) is a non-profit organization established to increase the proficiency of judicial administrators and clerical personnel through education and networking. The TCCA offers an annual meeting and trainings in their local chapters.

The TCCA is an affiliate of the Texas Municipal League (TML). It sponsors the Municipal Court Clerks Certification Program in cooperation with the TMCEC and Texas State University.

For information on courses offered by the TCCA or its local chapters, contact the association through its website at [www.texascourtclerks.org](http://www.texascourtclerks.org).

### **H. Texas Department of Motor Vehicles (TxDMV)**

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

### **I. Texas Department of Public Safety (DPS)**

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

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

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

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

DPS forms and more information can be obtained from DPS through its website at [www.txdps.state.tx.us](http://www.txdps.state.tx.us).

## J. Texas Judicial Council/Office of Court Administration (OCA)

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

The Office of Court Administration (OCA) is a state agency and operates under the direction and supervision of the Supreme Court and the Chief Justice of the Supreme Court. All Texas courts are required to report various statistical data to the Texas Judicial Council on a monthly basis via OCA. The OCA also runs the Collection Improvement Program and provides assistance to courts with tools for collecting fines, fees, and costs. The data collected is published by the OCA in its *Annual Report of the Texas Judiciary*. The website for OCA is [www.txcourts.gov/oca](http://www.txcourts.gov/oca).

## K. Texas Municipal Courts Association

The Texas Municipal Courts Association (TMCA) is a 501(c)(4) non-profit association of municipal judges and court support personnel. Its primary purpose is to provide the municipal courts with an efficient organization for the purpose of continuing judicial education and to oversee the grant and programs of the TMCEC. The TMCA also hosts an annual meeting, an annual awards program for outstanding judges and clerks, and an active legislative program. The Board of Directors of the TMCA also serves as the Board of Directors for the TMCEC. For additional information, contact TMCEC at 800.252.3718 for the name of the regional director in your area or visit the TMCA website at [www.txmca.com](http://www.txmca.com).

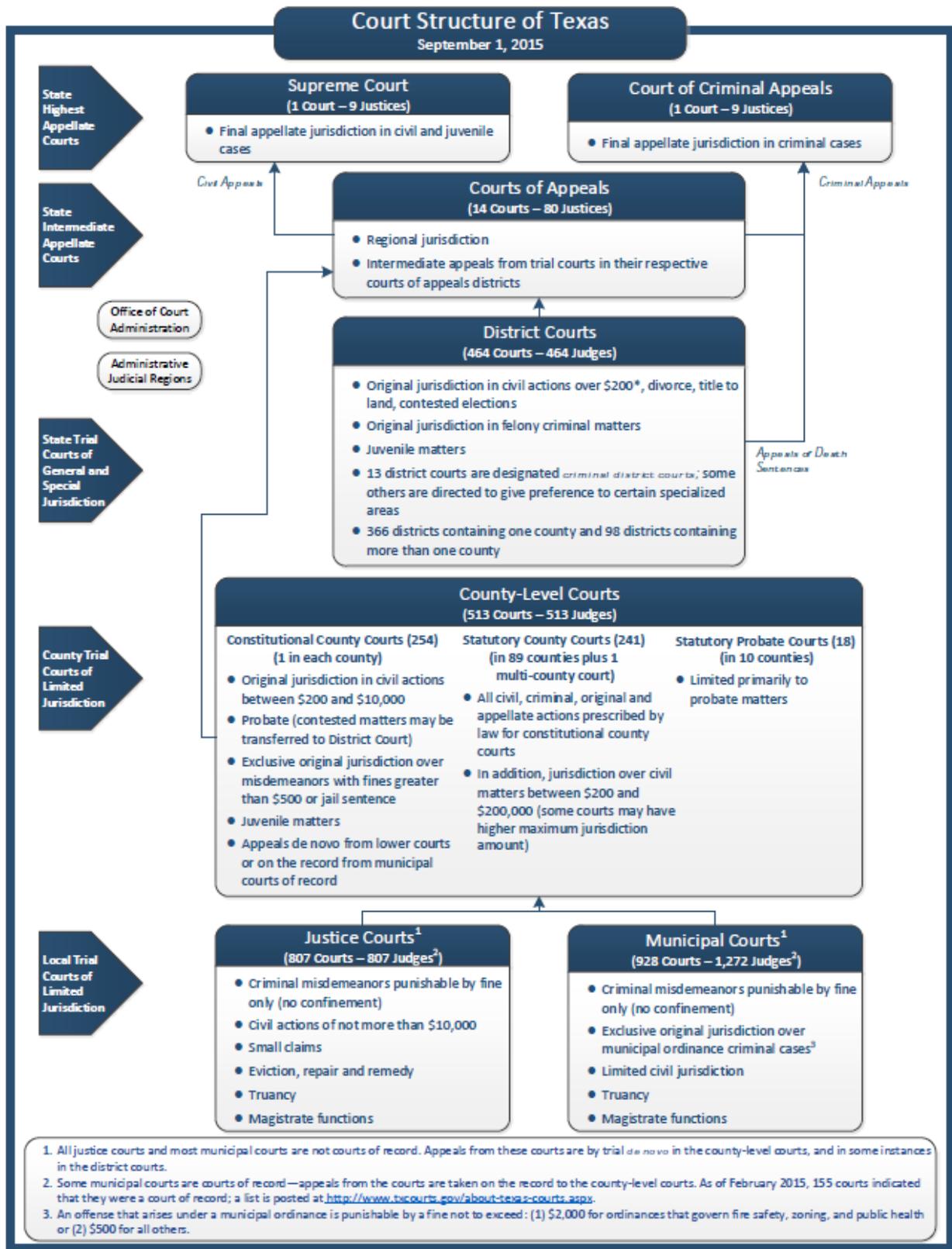
## L. Texas Municipal League (TML)

The Texas Municipal League (TML) provides a variety of services to municipalities. The TML's legal staff also provides assistance to courts on an "on call" basis. The TML monitors legislation proposed and passed by the Legislature to assure that the interests of municipalities are represented. Contact the TML at 512.231.7400. The TML website is [www.tml.org](http://www.tml.org).

Q. 35. Indicate which office(s) to call if you need assistance on:

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

# APPENDIX A: COURT STRUCTURE OF TEXAS



## ANSWERS TO QUESTIONS

### PART 1

- Q. 1. An adversarial legal system is one in which the lawsuit or case is viewed as a struggle between two sides. Each side acts in its own interest, presenting its case in the best possible light to the court. The judge remains neutral and decides *questions of law* (a disputed legal contention) and, when there is no jury, *questions of fact* (a disputed factual contention). The theory of this process is that the trier of fact (the judge or the jury) will be able to determine the truth if the opposing parties present their best arguments and show the weaknesses in the other's case. Decisions are based upon the evidence presented and the applicable law.
- Q. 2. Common law refers to the body of law that developed in England and the American colonies. It is a legal system based on judicial decisions rather than legislative action. Today, many common law principles have been incorporated into current codes and statutes. Important rights and legal concepts such as the waiver of trial by jury (Arts. 1.13 and 45.025, C.C.P.), the defense of necessity (Sec. 9.22, P.C.), and the defense of justification (Sec. 9.02, P.C.) all spring from the English common law.
- Q. 3. The legislative branch enacts the laws; the executive enforces the laws; and the judiciary interprets and applies the laws.
- Q. 4. To prevent the accumulation of too much power into too few hands, the U.S. Constitution divides the government into three branches: the legislative, the executive, and the judicial. The theory is that if legal power is divided into three branches, no one branch will be able to dominate the other two and impose its own theory of justice on an unconsenting public.
- Q. 5. The Bill of Rights
- Q. 6. False
- Q. 7. Texas Supreme Court, Texas Court of Criminal Appeals, intermediate courts of appeals, district courts, and justice courts.

### PART 2

- Q. 8. Jurisdiction is the authority and legal power to hear and decide cases.
- Q. 9. Texas Supreme Court and Texas Court of Criminal Appeals
- Q. 10. A civil case usually deals with private rights of individuals, groups, or businesses. A civil lawsuit can be brought when one person feels wronged or injured by another person. A criminal case is legal action brought by the government against a person charged with committing a crime.
- Q. 11. Texas Supreme Court
- Q. 12. The appellate courts hear cases based upon the "record" (a written transcription of the testimony given, exhibits introduced, and the documents filed in the trial court) and the written and oral arguments of the appellate lawyers. Unlike the trial courts, the courts of appeals do not receive testimony nor hear witnesses when considering cases on appeal.

- Q. 13. When a case is appealed from a non-record municipal court, it is retried at the higher level as though it is a new case since there is no record of the case from the lower court. Hence, trial de novo means trying a matter anew; the same as if it had not been previously heard before and as if no decision had been rendered.
- Q. 14. Justice courts do not have jurisdiction over city ordinances, except in one instance: a violation of a city ordinance that arises in a city's extraterritorial jurisdiction involving signs. They have jurisdiction over foreclosure and forcible entry and detainer cases; municipal courts do not. Justice courts have much greater civil jurisdiction than do municipal courts.
- Q. 15. Statutory courts
- Q. 16. Court of record or court of non-record
- Q. 17. Violation of city ordinances and the resolutions, rules, and orders of a joint airport board that occur in the territorial jurisdiction of the city and property owned by the city in the city's extraterritorial jurisdiction (ETJ).
- Q. 18. Justice courts and county courts. Some courts of record may share jurisdiction with district courts.
- Q. 19. State law, fine-only offenses
- Q. 20. Generally, within the territorial limits of the city.
- Q. 21. Fine-only or other sanctions, authorized by law, that do not consist of confinement in the jail or imprisonment.
- Q. 22. The imposition of a sanction or denial, suspension, or revocation of a privilege does not affect the original jurisdiction of the local trial courts in Texas.
- Q. 23. Minor DUI: alcohol awareness class, community service, DL suspension
- Q. 24. \$500
- Q. 25. As long as the offense is punishable by a fine only, maximum amount is set by the Legislature.
- Q. 26. \$2,000
- Q. 27. The court in which the complaint (or citation) is first filed retains jurisdiction.
- Q. 28. More citizens come into personal contact with municipal courts than with all other Texas courts combined. Persons in *any* court for the first time will form a lasting impression of the justice system. Public impression of the judicial system is affected and shaped in large measure by the proceedings of the municipal court.
- Q. 29. The answers to the subparts of question 29 are found below:
- An appeal from a district court: Court of Appeals
  - A divorce case: District Court
  - A speeding ticket: Municipal or Justice of the Peace Court
  - A felony murder case: District Court
  - An appeal from a municipal court: County Court
  - A child support or child custody case: District Court

### **PART 3**

- Q. 30. False (Section 720.002 of the Transportation Code prohibits quotas on municipal courts).
- Q. 31. True.
- Q. 32. False (judicial decisions may only be made on the basis of facts in evidence and laws).
- Q. 33. True.
- Q. 34. False (judges are neutral and unbiased).

### **PART 4**

- Q. 35. The answers to the subparts of question 41 are found below:
- Training and written materials on how to run your court: Texas Municipal Courts Education Center
  - The proper forms to report traffic convictions: Department of Public Safety
  - Statistical data on other courts of your size: Texas Judicial Council/Office of Court Administration
  - Driving records: Department of Public Safety
  - Help with collecting the proper court costs: State Comptroller of Public Accounts
  - General information on city government: Texas Municipal League
  - A question about judicial ethics: State Commission on Judicial Conduct
  - A question about the crime victims program: Attorney General's Office
  - Questions about the court clerks' certification program: Texas Municipal Courts Education Center or Texas Court Clerks Association
  - A legislative proposal regarding prosecutors in municipal court: Texas Municipal Courts Association or Texas Municipal League