

LEVEL II Practice Test

Circle the correct answer.

RIGHTS & ROLES

1. What is equal protection?
 - a. Immunity from treating defendants wrongly
 - b. A constitutional guarantee against a second prosecution
 - c. A constitutional guarantee that every person enjoys the same protection under the law
 - d. A general law that guarantees that defendants have a right to be represented by an attorney
2. What is due process?
 - a. A course of legal proceedings according to rules and principles
 - b. Broad legal concept embodied in the 5th and 14th Amendments to the U.S. Constitution
 - c. A safeguard for the protection of individual rights
 - d. All of the above
3. When can personal information about jurors be released?
 - a. Anytime the public requests.
 - b. The information is confidential and can never be released.
 - c. The judge may release after application by a party in the trial or a bona fide member of the news media upon a showing of good cause.
 - d. It can be released only to certain persons under the Texas Rules of Evidence.
4. For what reason may a magistrate deny bail?
 - a. For violating a judicial order regarding community service
 - b. For violating a magistrate's order of emergency protection.
 - c. For violating judicial orders requiring an interlock device after an alcohol related arrest
 - d. All of the above
5. In offering those who appear in court the courtesy that a business might offer its customers, what must a court clerk do?
 - a. Be careful never to provide more information than the answer to the exact question being asked.
 - b. Ensure court participants have access to refreshments, especially during time consuming proceedings.
 - c. Be careful never to offer legal advice that may subject the city and the clerk to liability and/or charges of unlawful practice of law.
 - d. None of the above.
6. Municipal court defendants do not have the right to cross-examine a witness who is the victim.
 - a. TRUE
 - b. FALSE

7. A municipal court defendant has most of the same rights as a defendant in a federal or state district court.
 - a. TRUE
 - b. FALSE
8. When determining guilt or innocence, the judge may consider only evidence admitted during the trial.
 - a. TRUE
 - b. FALSE
9. If a court in a county with a population over 50,000 cannot locate a certified interpreter within 75 miles of the court and the language needed is not Spanish, the court may appoint a spoken language interpreter.
 - a. TRUE
 - b. FALSE
10. The victim of a crime who will testify at the trial has the right to be present at all public court proceedings related to the offense.
 - a. TRUE
 - b. FALSE
11. When a judge sets bail, he or she is required to take into account the safety of the victim and the community.
 - a. TRUE
 - b. FALSE
12. Only the victim can make a motion for an emergency protective order.
 - a. TRUE
 - b. FALSE
13. Socioeconomic status is protected from biased behavior by the *Code of Judicial Conduct*.
 - a. TRUE
 - b. FALSE
14. When a law enforcement officer decides to arrest someone, that person's due process rights are terminated.
 - a. TRUE
 - b. FALSE
15. A defendant may only secure bail through a bail bond or cash bond.
 - a. TRUE
 - b. FALSE
16. The court need only consider the issue of speedy trial if raised by the defendant.
 - a. TRUE
 - b. FALSE
17. In all municipal court trials, the defendant is required to be present
 - a. TRUE
 - b. FALSE

MUNICIPAL COURT PROCESSES

18. When a court *adjudicates* a case, it:
 - a. Grants deferred disposition
 - b. Makes a determination and formal pronouncement of judgment
 - c. Asks the defendant for a plea
 - d. Finds the defendant indigent
19. What is an affiant?
 - a. A person who complains about a neighbor's loud noise
 - b. A person who commits an offense
 - c. A person who has reason to believe that a person committed an offense and swears to a complaint
 - d. All of the above
20. What is municipal court jurisdiction over theft of service?
 - a. Less than \$500
 - b. Less than \$100
 - c. Less than \$50
 - d. Less than \$20
21. What *must* all complaints allege?
 - a. A culpable mental state
 - b. A specific location
 - c. A pecuniary loss
 - d. A date on or about when the offense occurred
22. What is a jurat?
 - a. The signature of the affiant swearing and signing the complaint
 - b. The certificate of the person administering the oath to the person swearing to an affidavit
 - c. The certificate of the person certifying that a record is a true and correct copy of an original
 - d. None of the above
23. When *can* a defendant be charged with the offense of failure to appear?
 - a. After being summoned to court
 - b. After defaulting on payment of fine
 - c. Upon failing to appear after being arrested
 - d. All of the above
24. When *can* a municipal judge take a plea?
 - a. When a defendant is issued a citation
 - b. When a code enforcement officer investigates a city ordinance violation
 - c. When a sworn complaint or a citation has been filed with the court
 - d. All of the above
25. A *motion* to quash means that the defendant is:
 - a. Asking the court to set aside and dismiss the complaint
 - b. Asking the court for permission to amend the complaint
 - c. Asking the judge to recuse himself or herself
 - d. None of the above

26. Who has authority to request and accept a plea and set fines?
 - a. Judge
 - b. City Council
 - c. Mayor
 - d. All of the above
27. When must a judge enter a judgment?
 - a. Payment of fine and costs
 - b. Plea of guilty or *nolo contendere*
 - c. Finding of guilty
 - d. All of the above
28. What is *voir dire*?
 - a. A motion stating that the jurors were selected with a bias
 - b. A request for a legal exemption from jury duty
 - c. Questioning of jurors under oath about their qualifications to sit on a jury
 - d. A request for a jury charge
29. What is a challenge to the array?
 - a. A request to shuffle jurors
 - b. A motion to withdraw request for jury trial
 - c. A challenge to the court process
 - d. A motion stating that the jurors were selected with a bias
30. When can a prosecutor charge a defendant with the offense of violation of promise to appear?
 - a. Anytime a citation has been issued and the defendant fails to appear
 - b. When a defendant fails to appear who is charged with a Subtitle C, Rules of the Road offense
 - c. When a defendant has been summoned for a city ordinance violation and then fails to appear
 - d. All of the above
31. A pre-trial hearing can be conducted only when either the defense or prosecutor requests one.
 - a. TRUE
 - b. FALSE
32. An adult defendant may pay a fine or may mail or deliver a plea and waiver of jury trial to the court.
 - a. TRUE
 - b. FALSE
33. If a defendant who requests a trial is indigent, the court is required to appoint an attorney to represent the defendant in all instances.
 - a. TRUE
 - b. FALSE
34. Defendants may call the court to request an extension and reset of their cases.
 - a. TRUE
 - b. FALSE
35. Municipal courts are not required to pay jurors.
 - a. TRUE
 - b. FALSE

36. A person who is deaf or hearing impaired may not be a juror.
- a. TRUE
 - b. FALSE
37. A summons issued by a judge may be served by mail by the court clerk because it does not arrest anyone.
- a. TRUE
 - b. FALSE
38. Judges may not grant deferred disposition for any offense that occurs in a construction maintenance zone when workers are present.
- a. TRUE
 - b. FALSE
39. Adult defendants represented by an attorney do not have to appear at trial as long as the prosecutor agrees.
- a. TRUE
 - b. FALSE
40. There is no time limit when a judge of a municipal court of non-record may grant a new trial as long as the judge determines that justice has not been done in the first trial.
- a. TRUE
 - b. FALSE
41. A motion for new trial is timely filed in a non-record municipal court if it is mailed on or before the date it was due and received by the clerk on or before the 10th business day that it was due to be filed.
- a. TRUE
 - b. FALSE
42. Defendants in a non-record municipal court who request to take a driving safety course but fail to complete the course, lose the right to appeal.
- a. TRUE
 - b. FALSE
43. Before a judge grants deferred disposition, the court must collect court costs from the defendant.
- a. TRUE
 - b. FALSE
44. Defendants who fail to complete the terms of deferred disposition must pay the \$15 time payment fee immediately with payment of the fine.
- a. TRUE
 - b. FALSE
45. If a defendant pays the judgment and then requests an appeal, the appeal is moot because the judgment has been satisfied.
- a. TRUE
 - b. FALSE

46. Defendants who fail to complete DSC or the terms of their deferral under deferred disposition do not lose their right to appeal in a non-record municipal court.
- TRUE
 - FALSE
47. If a defendant fails to present an appeal bond to the court by the required deadline, the municipal court may refuse to send it to the county court.
- TRUE
 - FALSE

APPLYING CRIMINAL CODES

48. What is the purpose of the Code Construction Act?
- Aid in understanding statutes
 - Provide guidance on construction of words and phrases
 - Help courts to ascertain and enforce the legislative intent of statutes
 - All of the above
49. What is the Rule of the Specific?
- If a statute specifically refers to a specific court, that law applies to that court and no other.
 - If there are two provisions that seem to cover the same topic, but one is specific to a certain court, the specific provision applies to that court.
 - If a law is passed by the Legislature at a later date, the law passed later controls.
 - All of the above
50. Which provisions contain rules regarding pleas and appearances for municipal court defendants?
- Chapter 45/45A and Article 27.14, C.C.P.
 - Chapter 4 and Article 49.02, C.C.P.
 - Chapters 24 and 15
 - All of the above
51. Which chapters of the Code of Criminal Procedure contain rules regarding municipal court appeals?
- Chapters 4 and 5
 - Chapters 19 and 20
 - Chapters 44 and 45/45A
 - All of the above
52. When researching Penal Code offenses, with what should the clerk be concerned?
- What has been harmed
 - How much harm has occurred
 - Definitions of words in the Penal Code
 - All of the above
53. What is an inchoate offense?
- A disorderly conduct offense
 - A culpable mental state
 - An attempted criminal act when the act was not completed
 - None of the above

54. What is venue?
- An ordinance
 - Location
 - A state law
 - A fine-only offense
55. The Code of Criminal Procedure governs criminal investigations and trials.
- TRUE
 - FALSE
56. The rules in the Code Construction Act for computing time require the courts to count the day that the action occurs and the last day of the action.
- TRUE
 - FALSE
57. The Code Construction Act provides that title headings of articles or sections do not limit or expand the meaning of a statute.
- TRUE
 - FALSE
58. Municipal court defendants do not have a right to a speedy trial.
- TRUE
 - FALSE
59. When a clerk researches a procedure, the clerk should first determine the statutes that are applicable.
- TRUE
 - FALSE
60. The Penal Code is a collection of criminal and civil statutes defining offenses and setting criminal penalties and civil remedies.
- TRUE
 - FALSE
61. Fine-only offenses outside the Penal Code are Class B misdemeanors if the fine is more than \$500.
- TRUE
 - FALSE
62. Cities can enact ordinances for conduct covered by the Penal Code as long as the ordinance does not set a criminal penalty different from the penalty provided in the Penal Code.
- TRUE
 - FALSE
63. Courts are required to notify DPS when a corporation or association is convicted.
- TRUE
 - FALSE
64. Both court clerks and deputy court clerks are public officials.
- TRUE
 - FALSE

65. If an offense does not specify a specific penalty, the court must look to the general penalty clause of the statute.
- TRUE
 - FALSE
66. The Penal Code does not provide a specific age for when a person can be prosecuted.
- TRUE
 - FALSE

CHILDREN AND MINORS

67. Of which of the following offenses does a municipal court have jurisdiction?
- Parent Contributing to Non-Attendance
 - Public intoxication (Defendants 10 years of age and older)
 - Speeding (Defendants 10 years of age and older)
 - All of the above
68. What is the definition of a child in Chapter 45/45A of the Code of Criminal Procedure?
- A person who is at least age 6 and under the age of 17
 - A person who is at least age 10 and under the age of 17
 - A person who is under the age of 17 (no minimum age)
 - A person who is at least age 13 and under the age of 18
69. What may a court do if an attorney appears in court to represent a child defendant?
- Waive the presence of the parents
 - Waive the presence of the child
 - Handle the case through the mail
 - None of the above
70. Which of the following is an eligibility requirement for youth diversion?
- The child must enter a plea.
 - The child has not entered into a diversion agreement in the last 365 days.
 - The child waived the right to trial.
 - All of the above
71. Who may issue and who may serve a summons for the parents of a juvenile?
- A judge issues and a peace officer serves.
 - A clerk may issue and serve.
 - A prosecutor may issue, and a clerk may serve.
 - All of the above
72. Which code contains specific handling provisions for defendants under age 17?
- Code of Criminal Procedure
 - Alcoholic Beverage Code
 - Penal Code
 - None of the above

73. Under which of the following is the court required to waive jurisdiction over a juvenile defendant?
- When the defendant is charged with possession of drug paraphernalia
 - When there are two prior convictions for non-traffic offenses
 - When the defendant has been granted deferred disposition for two prior offenses
 - All of the above
74. When is the court required to notify the child and parent of the child's right to an expunction?
- When the child is charged with penal offenses
 - When the child is charged with an Alcoholic Beverage Code offense
 - When the child is charged with a tobacco offense
 - All of the above
75. Defendants under age 17 charged with an Alcoholic Beverage Code offense do not have to appear with a parent in open court.
- TRUE
 - FALSE
76. When a minor fails to appear for a traffic offense, the court is required to notify DPS of the failure so that DPS will suspend or deny issuance of a driver's license.
- TRUE
 - FALSE
77. Municipal courts are required to suspend the driver's license of a person under the age of 21 convicted of the offense of public intoxication.
- TRUE
 - FALSE
78. Generally, persons under age 17 charged with Penal Code offenses are subject to the same penalties as adults.
- TRUE
 - FALSE
79. If a minor is 18 years of age, a municipal court retains jurisdiction over the third and subsequent Alcoholic Beverage Code offenses.
- TRUE
 - FALSE
80. The court must order the driver's license suspension of a minor convicted of the offense of driving under the influence of alcohol.
- TRUE
 - FALSE
81. Minors may petition the municipal court to expunge multiple Alcoholic Beverage Code convictions upon reaching the age of 21.
- TRUE
 - FALSE
82. A minor may petition the court to expunge multiple convictions of tobacco offenses only when the minor reaches age 18.
- TRUE
 - FALSE

83. All youth diversion records of a child must be expunged, without a motion or request, on the child's 18th birthday.
- TRUE
 - FALSE
84. Municipal courts are required to report to the Department of Public Safety convictions and orders for deferred disposition for all Alcoholic Beverage Code offenses.
- TRUE
 - FALSE
85. When a defendant is charged with any Alcoholic Beverage Code offense, the court must require as a term of the deferred an alcohol awareness course and community service.
- TRUE
 - FALSE
86. When a minor charged with a first-time offense of consuming a tobacco product completes a tobacco awareness program and presents evidence of completion to the court, the court is required to dismiss the case.
- TRUE
 - FALSE
87. The offense of failure to attend school can be prosecuted in the municipal court.
- TRUE
 - FALSE
88. All municipal courts are truancy courts.
- TRUE
 - FALSE
89. When a juvenile violates an order of the municipal court, including an order to pay a fine, the municipal court may find the child in contempt and assess a fine not to exceed \$500.
- TRUE
 - FALSE
90. Before a court may issue an arrest warrant for a person who turns 17 who committed an offense while younger than 17 and failed to appear, the court must have exhausted all the remedies available to obtain the defendant's appearance before the defendant turned age 17.
- TRUE
 - FALSE
91. Before a court may issue an arrest warrant for a person who committed an offense while under age 17, the court must issue a notice of continuing obligation to appear.
- TRUE
 - FALSE
92. If a person under the age of 17 fails to pay a fine, the court may issue a *capias pro fine* for the defendant's arrest.
- TRUE
 - FALSE
93. When a person under the age of 17 fails to pay and then turns age 17, the court may not issue a *capias pro fine* because the offense was committed while the person was a juvenile.

- a. TRUE
 - b. FALSE
94. Juveniles can be taken into custody and taken to a place of non-secure custody for failure to appear and failure to pay.
- a. TRUE
 - b. FALSE

FINANCIAL MANAGEMENT

95. What should be included in a sound financial management system?
- a. A means to safeguard assets
 - b. A reliable and timely bookkeeping and accounting data, and reports
 - c. Efficient operation and adherence to prescribed laws and regulations, policies, and procedures
 - d. All of the above
96. What is the purpose of internal control?
- a. To prevent errors
 - b. To require more audits
 - c. To safeguard assets and protect people who do their job
 - d. All of the above
97. What are the basic principles of internal control?
- a. Separate bank accounts for each fund
 - b. Appropriate division of duties; qualified personnel; and sound, written procedures
 - c. Announced periodic audits
 - d. None of the above
98. How should a person handle receipt of a change fund every day?
- a. Make sure the amount is different every day.
 - b. Use money from the change fund to balance receipts.
 - c. Sign a receipt for the amount received every day.
 - d. Make sure the change fund has sufficient money in it for petty cash purposes.
99. What are the basic guidelines for handling receipts?
- a. A receipt should be issued for each payment.
 - b. Receipts should periodically be accounted for.
 - c. Receipts should be signed for by person receiving them.
 - d. All of the above
100. State law requires municipal courts to maintain a bank account.
- a. TRUE
 - b. FALSE
101. Sound financial management procedures do not include opening the mail daily as long as the mail is kept in a secure place.
- a. TRUE
 - b. FALSE

102. Only the judge can authorize collection of fines, fees and costs by credit card, electronic means, or through the internet.
- TRUE
 - FALSE
103. There should be a written installment agreement every time the court allows time payments.
- TRUE
 - FALSE
104. It is not necessary to have community service orders in writing because no money is actually paid to the city.
- TRUE
 - FALSE
105. A receipt should not be given to a defendant posting a cash bond until the bond is forfeited.
- TRUE
 - FALSE
106. Any overages or shortages should be excluded from the reconciliation form unless it is known what the cause was.
- TRUE
 - FALSE
107. Defendants can only pay the fine, not court costs, by jail credit.
- TRUE
 - FALSE
108. When a court pro-rates court costs and fees, the costs and fees owed to the state must be paid before the costs and fees retained by the city.
- TRUE
 - FALSE
109. When courts receive a payment without documentation and are unable to determine to whom to credit the payment, the court or city is required to contact the Unclaimed Property Section in the Comptroller's Treasury Operations Division.
- TRUE
 - FALSE
110. Auditing is a process that examines court records and operations for mathematical accuracy, legality, and propriety.
- TRUE
 - FALSE
111. The state traffic fee is collected on all traffic convictions.
- TRUE
 - FALSE

COURT RECORDS

112. What is the purpose of a well-managed records management system?
- It is essential to administering justice.
 - The purpose is to ensure that juvenile records are kept confidential.
 - It is essential to determining case disposition after trial.
 - The purpose is to determine how to budget money for the court.
113. What is records management?
- Economical and efficient creation, organization, use, maintenance, and disposition of records
 - Systematic control of recorded information
 - Active supervision and control of records
 - All of the above
114. What are the six stages of a record's cycle?
- Plan, develop, test, monitor, train personnel, and develop a records manual
 - Creation, distribution, use, maintenance, storage, and disposition
 - Develop, file, manage, disposition, archive, and destroy
 - None of the above
115. What is a Gantt chart?
- A chart used to develop the six stages of a record's cycle.
 - A chart used to follow the active stage of a case.
 - A chart used to show planned times for tasks and actual dates of completion of a project.
 - A chart used to decide the goals of a records management program.
116. What do the steps to develop a records management program include?
- Determine what the court wants to accomplish
 - Set goals and objectives
 - Establish record retention periods
 - All of the above
117. The Local Government Records Act establishes requirements for custodian of records.
- TRUE
 - FALSE
118. When developing a records management program, the first issue the court needs to determine is the number of employees needed to staff the court.
- TRUE
 - FALSE
119. When considering the selection of filing cabinets, the court's only concern should be costs.
- TRUE
 - FALSE
120. To help maintain records properly, every clerk should be a file clerk.
- TRUE
 - FALSE
121. Record schedules should be reviewed once every six months.
- TRUE
 - FALSE

122. All documents in the court are considered local government records.
- TRUE
 - FALSE
123. The goal of a records inventory is to inventory every piece of paper.
- TRUE
 - FALSE
124. If records are stored in bound volumes, the retention period dates from the date of the first entry.
- TRUE
 - FALSE
125. Electronic mail is never considered a government document.
- TRUE
 - FALSE
126. The court does not need to keep a record of records that are destroyed.
- TRUE
 - FALSE
127. An electronic document system can scan and digitize documents.
- TRUE
 - FALSE
128. A court clerk commits a felony if he or she violates any requirements of the Local Government Records Act.
- TRUE
 - FALSE
129. The city can establish any costs that they want to for copying municipal court records.
- TRUE
 - FALSE
130. It is not necessary to monitor a case flow management system if it is properly set up.
- TRUE
 - FALSE
131. Time standards provide a basis for measuring the effectiveness of the court's case flow management system and a basis for case progress decisions in the management of individual cases.
- TRUE
 - FALSE
132. The monitoring of a case flow management system should provide methods of monitoring significant events in a case to determine if it has fallen within time guidelines.
- TRUE
 - FALSE
133. Event standards are standards that measure the disposition of cases.
- TRUE
 - FALSE

LEGAL RESEARCH

134. Which of the following types of law affects municipal courts?
- Administrative law
 - Statutory law
 - Case law
 - All of the above
135. What is stare decisis?
- A legal concept that requires courts to adhere to administrative law
 - A legal concept that municipal court jurisdiction is only over fine-only offenses
 - A legal principal that the decision of a court is a binding authority on the court that issued the decision and on lower courts in the same jurisdiction for the disposition of factually similar cases
 - A legal principal that provides courts guidance on how to interpret statutes
136. What is ratio decidendi?
- It is the holding or the principle of law on which a case is decided.
 - It is a legal principle that allows for Texas to have a bifurcated high court.
 - It is the idea that courts are able to make decision about the law.
 - All of the above
137. The court of last resort in Texas that hears criminal appeals is called the:
- County Court at Law
 - Texas Supreme Court
 - Texas Court of Criminal Appeals
 - None of the above
138. Rules created by agencies such as the Department of Public Safety and the Texas Parks and Wildlife Commission are which type of law?
- Statutory
 - Case
 - Administrative
 - None of the above
139. Which of the following is defined as any published source of law that sets forth rules and legal doctrine or that can be used as a basis for legal decisions?
- Legal authority
 - Case law
 - Legal research
 - All of the above
140. What is the common term for a proposed law?
- Bill
 - Session laws
 - Committee report
 - None of the above
141. When the legislature amends a statute, how does the bill depict that language will be deleted?
- Underlining
 - Strike-thru
 - Bolding

- d. All of the above
142. Which of the following types of opinions disagrees with the results and the reasoning of the majority?
- a. Plurality
 - b. Majority
 - c. Dissenting
 - d. None of the above
143. Who is authorized by statute to request an attorney general opinion?
- a. The chairman of the governing board of a river authority
 - b. The regent of a state educational institution
 - c. The Governor
 - d. All of the above
144. How are bound copies of the law updated?
- a. Pocket parts
 - b. Statute attachments
 - c. Slip opinions
 - d. All of the above
145. There is only one approach to legal research.
- a. TRUE
 - b. FALSE
146. A citation is the reference to the legal authority.
- a. TRUE
 - b. FALSE
147. The highest appellate courts in Texas are bifurcated.
- a. TRUE
 - b. FALSE