

# Overview of the Courts

## Table of Contents

<b>INTRODUCTION .....</b>	<b>2</b>
<b>PART 1 HISTORY OF THE JUDICIAL PROCESS .....</b>	<b>2</b>
Constitutional Law.....	3
Amendments.....	4
Federal and State Law .....	5
<b>PART 2 TEXAS JUDICIAL SYSTEM .....</b>	<b>6</b>
A. Court Structure of Texas.....	6
1. Appellate Courts.....	6
2. Trial Courts.....	8
B. Municipal Court Jurisdiction .....	11
C. Cooperation Within the Judicial System .....	13
D. Funding.....	13
<b>PART 3 THE MUNICIPAL COURT ROLE IN LOCAL GOVERNMENT .....</b>	<b>15</b>
A. Fine Collection and Quota Prohibition.....	15
B. Relations with City Departments .....	15
1. Mayors and City Managers .....	16
2. City Attorneys and Prosecutors .....	16
3. Law Enforcement .....	16
<b>PART 4 AGENCIES AND ORGANIZATIONS.....</b>	<b>17</b>
A. Texas Municipal Courts Education Center (TMCEC) .....	17
B. Attorney General’s Office (AG) .....	18
C. State Bar of Texas (SBOT) .....	18
D. State Commission on Judicial Conduct (SCJC) .....	18
E. State Comptroller of Public Accounts (CPA) .....	18
F. Texas Commission on Law Enforcement (TCOLE) .....	19
G. Texas Court Clerks Association (TCCA) .....	19
H. Texas Department of Motor Vehicles (TxDMV).....	19
I. Texas Department of Public Safety (DPS) .....	19
J. Texas Judicial Council .....	20
K. Office of Court Administration (OCA) .....	20
L. Texas Municipal Courts Association (TMCA).....	20
M. Texas Municipal League (TML).....	20
<b>APPENDIX A: COURT STRUCTURE OF TEXAS .....</b>	<b>22</b>
<b>ANSWERS TO QUESTIONS.....</b>	<b>23</b>

## INTRODUCTION

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

### PART 1 HISTORY OF THE JUDICIAL PROCESS

The American 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 over the course of centuries. In short, it is a legal system based on judicial decisions rather than legislative action. These judicial decisions create precedent. Precedent is a rule set down by that decision. Case law is based on precedent. Courts thereafter look to that precedent in case law when making similar decisions. The United States Supreme Court's decision in *Brown v. Board of Education of Topeka*, for example, established the rule that state laws mandating segregated public schools were unconstitutional. Lower courts look to that case as precedent when similar facts are before them.

#### Common Law

The body of law derived from judicial decisions and based on precedent. A common law court will generally look to case law for its decisions in similar cases.

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 45.025/45A.155, C.C.P.), the defense of necessity (Sec. 9.22, P.C.), and the defense of justification (Sec. 9.02, P.C.) all spring from English common law developed for hundreds of years prior to becoming a statute. There are other common law principles that have not become statutes, however,

such as the inherent judicial power of a court. The inherent judicial power of a court 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).

An important aspect of common law is the adversarial system. Generally, in an adversarial legal system, the case is ultimately viewed as a struggle between two opposing sides. In criminal cases, these sides are the State, represented by the prosecutor, and the Defense, either represented by a defense attorney, or a defendant acting as his or her own counsel. Thus, in a Texas criminal case, the prosecutor represents the interest of the State of Texas in enforcing its laws and seeing that justice is served. The defense attorney, on the opposing side, zealously represents the defendant, protecting his or her rights under the Constitution. The judge does not show preference to either the State or the Defense but remains neutral, like a referee. Notwithstanding this position, however, the judge is ultimately tasked with making important decisions at the trial level, including deciding

questions of law (disputed legal issues), and, when there is no jury, questions of fact (disputed factual issues). The theory of this process is that the trier of fact will be able to determine the truth under the law.

## **Constitutional Law**

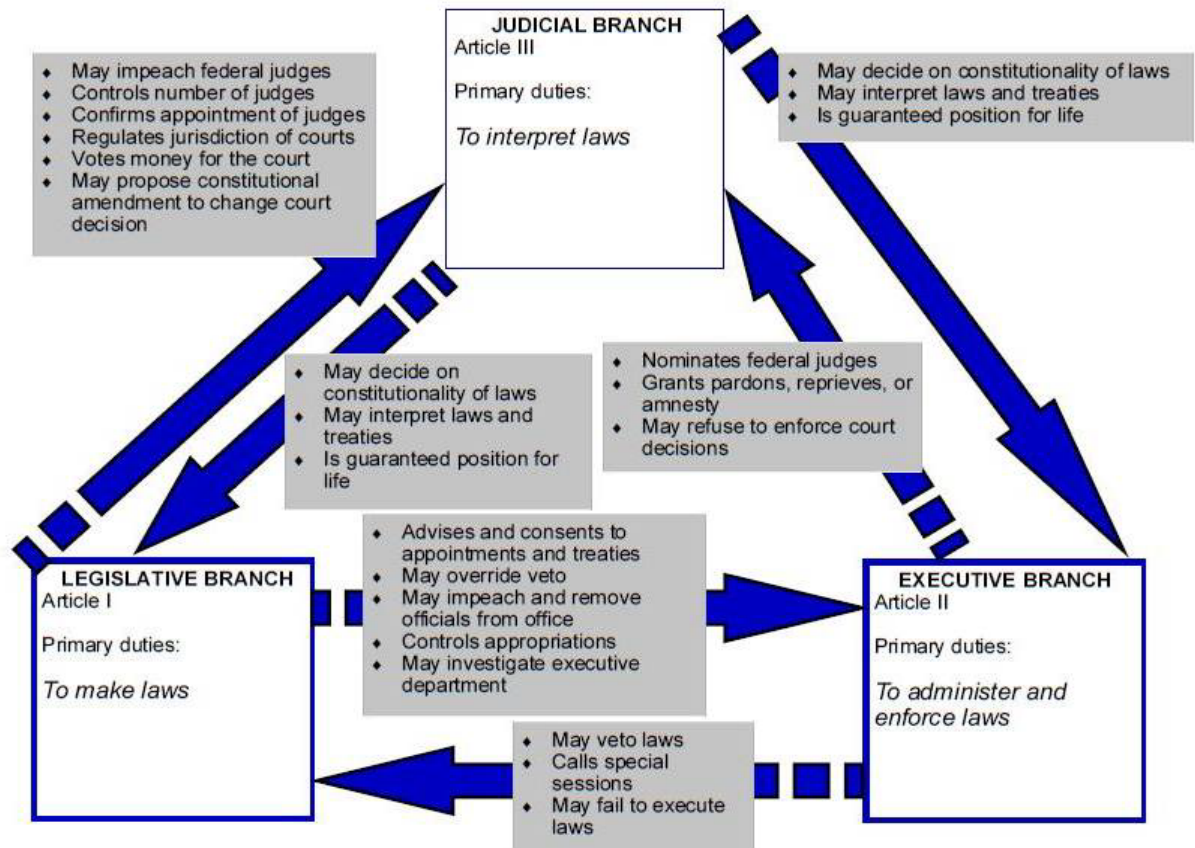
A constitution is a written document that establishes fundamental rights and principles by which a nation governs itself. The U.S. Constitution, in its original seven articles, establishes a system of government directed by laws and principles. This idea that government should operate under a set of written laws, rather than the rule of a single person or king is referred to as the “Rule of Law” in American jurisprudence. It is another basic cornerstone of the American legal system, but its origins predate the United States, going back to ideas proposed as early as the 16th century. During that time, most of Western Europe was governed by a concept known as the “Divine Right of Kings” or the “Rule of Man.” This is the idea that one person is the law and is not answerable to any authority. Far from an ancient concept, even in modern times this has played out around the world in the form of dictatorial governments. To prevent this from occurring in the United States and to anticipate one part of the government becoming too powerful, the U.S. Constitution divides the government into three branches: the legislative, the executive, and the judicial branches. 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.

### **Rule of Law**

The principle that laws should govern a nation state and every person should be subject to those laws.

Underlying the separation of powers 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. This theory has played out throughout American history, with one branch or the other providing a check on the power of another. The courts provide an important check on unrestrained power of Congress or the Executive branch, for example, when one of those bodies exceeds the legal authority granted to it by the Constitution. In the words of the fourth Chief Justice of the United States Supreme Court, John Marshall, “It is emphatically the province and duty of the judicial department to say what the law is. Those who apply the rule to particular cases must, of necessity, expound and interpret that rule. If two laws conflict with each other, the courts must decide on the operation of each. So, if a law be in opposition to the constitution...the court must determine which of these conflicting rules governs the case. This is of the very essence of judicial duty.” *Marbury v Madison*, 5 U.S. 137, 177-178 (1803).

## SEPARATION OF POWERS—CHECKS AND BALANCES



### Amendments

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

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

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

**4th Amendment:** Freedom from unreasonable searches and seizures

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

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

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

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

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

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

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

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

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

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

### **Federal and State Law**

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

1. Explain the term “adversarial legal system” as it relates to American criminal courts. \_\_\_\_\_  
\_\_\_\_\_
2. Define common law and give an example applicable to municipal courts. \_\_\_\_\_  
\_\_\_\_\_
3. Identify and briefly describe the role of each branch of government. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. Explain the reasoning and significance of separation of powers. \_\_\_\_\_  
\_\_\_\_\_
5. What are the first 10 amendments to the U.S. Constitution called? \_\_\_\_\_  
\_\_\_\_\_
6. List the courts established by the Texas Constitution. \_\_\_\_\_  
\_\_\_\_\_

## PART 2 TEXAS JUDICIAL SYSTEM

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

### **A. Court Structure of Texas**

The structure of the present court system was established in 1891 by an amendment to the Texas Constitution that allowed the Legislature to “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 to ensure judicial efficiency.

There are two basic types of courts in Texas: trial courts and appellate courts. Which court a case is in depends on the type of case, stage of litigation, pleadings filed in the case, and the court’s jurisdiction. Generally, a case will begin at the trial court level and could work its way up through the appellate system if one of the parties appeals. Texas has a bifurcated appellate system, which means two separate courts are the high appellate courts. This is not only different from the federal system, which only has one highest court, the Supreme Court of the United States, but it is also different from most other states. Oklahoma is the only other state that has a similar system. (See graphic summary of the Texas system). Note the bifurcation at the top, split between the Supreme Court of Texas (civil appeals) and the Texas Court of Criminal Appeals (criminal appeals). See Appendix A: 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 Supreme Court of Texas

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

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



## The Texas Court of Criminal Appeals

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

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

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

The map of the geographic locations of the courts of appeals and their respective boundaries can be found on OCA’s website: [https://www.txcourts.gov/media/10872/COA05\\_map2012.pdf](https://www.txcourts.gov/media/10872/COA05_map2012.pdf).

### The courts of appeals are located in 13 cities:

Houston (Districts 1 and 14)

Fort Worth (District 2)

Austin (District 3)

San Antonio (District 4)

Dallas (District 5)

Texarkana (District 6)

Amarillo (District 7)

El Paso (District 8)

Beaumont (District 9)

Waco (District 10)

Eastland (District 11)

Tyler (District 12)

Corpus Christi/Edinburg (District 13)

## 2. Trial Courts

Trial courts are 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 have the right to a trial by a jury of either six or twelve local citizens, depending on whether the case is a misdemeanor or felony. With the notable exception of 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. The Legislature can expand jurisdiction for these courts, but it cannot take away jurisdiction granted by the Constitution.



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, county, justice, and municipal 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 hosted in each municipality, and justice courts

Trial Court Comparison			
District Courts	County Courts	Justice Courts	Municipal Courts
487	530	798	950

exist in precincts of each county of the state. As the graphic above shows, there are more municipal courts than any other type of trial court in Texas. Further, municipal and justice courts comprise the majority of trial courts in Texas.

Original jurisdiction means that a court has authority to try a case and enter 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 with jurisdiction based on the geographical region.

### County-Level Courts

The Texas Constitution provides for a county court in each county. “Constitutional” county courts have concurrent jurisdiction with justice 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 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 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.

Justice 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 (i.e., Class C misdemeanors). This jurisdiction is concurrent with the municipal courts. Justice courts also have concurrent jurisdiction over municipal ordinance violations involving the regulation of signs in a city’s extraterritorial jurisdiction.

Trials in justice 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 means “new trial” in Latin. It is a term used to describe a trial court which hears a matter as though it is 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 is 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 Legislature. Municipal courts are presently operating in more than 900 cities in Texas. In addition, the large metropolitan cities usually have more than one municipal court.

As statutory courts, municipal courts are granted authority 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 primarily criminal (Class C misdemeanors, criminal offenses where the sentence entails the imposition of a fine and court costs). 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. Most municipal courts in Texas are not courts of record and appeals from non-record courts go to a county court for a trial 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.

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**

A criminal case is a legal action brought by the State of Texas against a person charged with committing a crime. There are thousands of crimes defined in both state law and local ordinances. There are more than 1,300 fine-only offenses in state law. For a list, see TMCEC's *Fine-Only Crimes* handbook (the "Green Book"). Texas has deemed traffic offenses, such as speeding or driving with no license, crimes in the state. This approach to traffic enforcement is not uniform around the country, and other states may not consider traffic violations to be a crime in that state's jurisdiction.

Municipal court jurisdiction in a criminal case is initiated when a complaint is filed with the court, charging a person with the commission of an offense. Art. 45.018(a)/45A.002(1); 45.018(b)/45A.101(g), 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 issued only 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(a) of the Code of Criminal Procedure provides that a complaint for any Class C misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward. However, under Article 12.02(b), a complaint for assault under Section 22.01 of the Penal Code (i.e., assault by threat with family violence) may be presented within three years from the date of the offense. The "statute of limitations" for such offenses found in these provisions is 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**

In Texas, city ordinance violations punishable by the imposition of a fine are typically adjudicated as criminal offenses. 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 its extraterritorial jurisdiction. There is one exception to a 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.

State law provides caps for violations of city ordinances punishable by a fine. Sec. 54.001, L.G.C. City ordinances are generally punishable by fines of up to \$500. Fines of up to \$2,000 may be established for violations of ordinances relating to fire safety, zoning, or public health and sanitation. Ordinances relating to illegal dumping of refuse are punishable by fines up to \$4,000. Within the limits provided by state law, a city council may proscribe by ordinance the fine or fine range for city ordinance violations.

### **Concurrent Original Jurisdiction**

Municipal courts have concurrent original jurisdiction with justice courts for offenses 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 of the maximum fine determined by the Legislature. For example, this includes passing a school bus, which is defined in the Transportation Code and punishable by a maximum fine of \$1,250. Courts may also impose sanctions in addition to the fine, not consisting of confinement in jail or imprisonment. The imposition of a sanction or the 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.

### **Appellate Jurisdiction**

Municipal courts are trial courts and generally have no appellate jurisdiction; however, there are two exceptions to the general rule. 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. Second, 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 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 1.19 million or more and a contiguous municipality is permitted to enter into agreements for concurrent municipal court jurisdiction (applies to fine-only offenses committed on the boundary of the municipalities or within 200 yards of the boundary, generally).
- 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 under state law or local ordinance that are punishable by fine only.

- 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

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

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

### D. Funding

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

7.	Define jurisdiction. _____ _____
8.	What are the two highest appellate courts in Texas? _____ _____
9.	Explain the difference between a civil and criminal case. _____ _____ _____
10.	Which is the highest Texas appellate court with jurisdiction over civil cases? _____ _____
11.	How are appellate courts different from trial courts? _____ _____

12. What is meant by trial de novo? \_\_\_\_\_  
\_\_\_\_\_
13. Explain how the jurisdiction of justice courts is different from municipal courts. \_\_\_\_\_  
\_\_\_\_\_
14. What authority creates and grants authority to municipal courts? \_\_\_\_\_
15. Name the two types of municipal courts, which dictate how municipal court proceedings are conducted. \_\_\_\_\_  
\_\_\_\_\_
16. What kind of cases must be initiated in municipal court and not in any other court? \_\_\_\_\_  
\_\_\_\_\_
17. With which courts does municipal court share jurisdiction? \_\_\_\_\_
18. Over which type of criminal offenses does municipal court share jurisdiction with the justice courts? \_\_\_\_\_
19. What is the geographic jurisdiction of the municipal court? \_\_\_\_\_
20. What are the penalty limits of offenses over which municipal courts have jurisdiction? \_\_\_\_\_  
\_\_\_\_\_
21. Can a municipal court case result in suspension of the defendant's driver's license by the Department of Public Safety? If so, why? \_\_\_\_\_  
\_\_\_\_\_
22. Give an example of an offense for which the penalty requires a sanction in addition to paying a fine. \_\_\_\_\_
23. What is the maximum amount of a fine for a Class C misdemeanor offense in the Penal Code? \_\_\_\_\_
24. What is the maximum amount of a fine for a Class C misdemeanor outside of the Penal Code? \_\_\_\_\_  
\_\_\_\_\_
25. What is the maximum penalty that a city council can establish for ordinance offenses involving public health and fire safety violations? \_\_\_\_\_
26. If both the municipal and justice court have concurrent jurisdiction over a criminal case, which court retains jurisdiction? \_\_\_\_\_
27. Why are lasting impressions of the American justice system often formed in municipal courts? \_\_\_\_\_  
\_\_\_\_\_
28. What court(s) have jurisdiction in the cases described below:
  - An appeal from a district court: \_\_\_\_\_
  - A divorce case: \_\_\_\_\_
  - A speeding ticket: \_\_\_\_\_
  - A felony murder case: \_\_\_\_\_
  - An appeal from a municipal court: \_\_\_\_\_

# PART 3 THE MUNICIPAL COURT ROLE IN LOCAL GOVERNMENT

## A. Fine Collection and Quota Prohibition

While municipal courts serve the important function of preserving public safety, protecting quality of life, and deterring future criminal behavior, the courts also collect fines and costs in relation to court cases processed. Municipal courts collect hundreds of millions of dollars in fines and costs annually. According to the OCA Activity Detail Report for municipal courts between the months of January 2022 to January 2023, approximately \$520 million in fines and costs were collected by Texas municipal courts. The bulk of the court costs are remitted to the State of Texas, but fines generally stay with the city. A portion of the city’s budget often comes from these fines, but this typically makes up only a small percentage of the city budget.

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

## B. Relations with City Departments

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

<div style="text-align: center;"><h3 style="margin: 0;">THE BRIEF</h3><p style="font-size: small;">Information for Texas Municipalities about Texas Municipal Courts (September 2019)</p><p style="font-size: x-small;">86<sup>th</sup> Legislature Recap: Big Issues and the Road Ahead for Municipal Courts</p><p style="font-size: x-small;">The August issue of <i>The Brief</i> focused on bills that were introduced prior to September 1, 2019. The majority of changes affecting Texas state and municipal courts were enacted September 1st. TMCEC summarized 127 bills for the 2019 Legislative Update. Courts members are invited to <a href="http://www.tmccec.com/municipaljudicialupdate">www.tmccec.com/municipaljudicialupdate</a>. Here is a summary of eight key bills.</p><p style="font-size: x-small;"><b>1. SB.1203 Constitution of Court Costs and Related Court Procedures</b></p><p style="font-size: x-small;">Cities control court costs and procedures are established in addition to cases related to courts. Consideration to improve the collection and audit process for local and state government. The bill:</p><ul style="list-style-type: none"><li>• Defines “cost” to include any fee imposed on a defendant by the justice of the peace or municipal judge at the time the defendant is arrested.</li><li>• In limited circumstances, allow defendants to request funding to determine whether a defendant representative handling on the defendant’s behalf, if so, whether there are alternative options to assist the defendant.</li><li>• Allow municipal court judges the discretion to allow a defendant to appear for the defendant’s collection of funding the defendant to make a private appearance would require a written finding on the defendant.</li><li>• Require the court to make a finding on whether the defendant can receive funding on the defendant’s behalf, including a written pre-filing and</li><li>• Provide criteria for determining “written finding” but ensure that a determination of written finding is ultimately at the court’s discretion.</li></ul><p style="font-size: x-small;"><b>2. SB.1202 Reform of the Collection Improvement Program</b></p><p style="font-size: x-small;">The Office of Court Administration’s (OCA) Collection Improvement Program (CIP) will be expanded September 1, 2019. The CIP required cities with a population of 50,000 or more and counties with a population of 50,000 or more to implement a program designed to improve collection of court costs, fees, and fines against agencies not prepared to pay all court costs, fees, and fines at the time of conviction. For districts of CIP, judicial expertise in negotiation for an amount of the payment of bills, reducing excessive litigation, the statute, ensuring debtors compliance with a payment plan, and offering alternative collection options (e.g., community service).</p><p style="font-size: x-small;"><b>3. SB.1201 Reform of the Driver Responsibility Program</b></p><p style="font-size: x-small;">The Driver Responsibility Program (DRP) required DPS to assess and impose an amount for certain traffic offenses in addition to other penalties and fines. A driver’s license for the multiple violations would be suspended if the driver’s license. The DRP will be expanded on September 1, 2019. This report is informative and applicable to any court proceedings.</p></div>	<h3 style="text-align: center; margin: 0;">Practice Note</h3> <p>The TMCEC initiative C3 (Councils, Courts, Cities) is aimed at filling the information gap between cities and municipal courts. The purpose of the C3 initiative is to highlight important court issues and increase awareness of municipal courts in Texas for mayors, city council members, city attorneys, and other local officials. Information is provided through seminars, resources, and a periodic email publication called <i>The Brief</i>. More information may be found at <a href="https://www.tmccec.com/cities/">https://www.tmccec.com/cities/</a>.</p>
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## 1. Mayors and City Managers

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

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

## 2. City Attorneys and Prosecutors

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

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

## 3. Law Enforcement

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

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

True or False

29. City managers may establish traffic revenue quotas as part of evaluating the court's performance. \_\_\_\_
30. Judges may consider factors related to revenue for the city in determining the fine and court costs in an individual's case. \_\_\_\_



31. Prosecutors help investigate and decide what complaints are filed in court. \_\_\_\_\_
32. The judge and clerk may help the prosecutor, police officer, and/or code enforcement officer investigate a crime. \_\_\_\_\_

## PART 4 AGENCIES AND ORGANIZATIONS

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

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



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

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

#### **Court Clerk Continuing Education**

Court clerk continuing education programs offered by TMCEC include regional clerk seminars, new clerks seminars, an annual court administrator seminar, and a Level III assessment clinic for the Texas Municipal Court Clerk Certification Program. Court clerks are not currently required by law to obtain continuing legal education; however, court clerk continuing legal education should be an essential part of any high performing Texas municipal court. TMCEC publishes an online academic schedule outlining educational opportunities for the year.

Additionally, court clerks who are participating in the 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. For more information, go to the TMCEC website ([www.tmcec.com/clerk-certification](http://www.tmcec.com/clerk-certification)) or email [certification@tmcec.com](mailto:certification@tmcec.com).

#### **TMCEC Publications & Resources**

TMCEC offers several publications that address court issues and aid in understanding municipal court procedures. These include a journal, *The Recorder*, the "Green Book," *Forms Book*, *Bench Book*, and *Municipal Courts and the Texas Judicial System*. TMCEC staff attorneys are available

to judges and court personnel to answer questions about municipal court procedures through the toll-free number 800.252.3718.

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

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

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

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

### **C. State Bar of Texas (SBOT)**

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

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

The State Bar's website is [www.texasbar.com](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. The Commission will be discussed at greater length in Chapter 3 (Ethics) of this book, but it is helpful to note that staff attorneys may be able to assist clerks in working through difficult ethical situations and issues they encounter. Contact the SCJC at 877.228.5750. The SCJC's website is [www.scjc.texas.gov](http://www.scjc.texas.gov).

### **E. State Comptroller of Public Accounts (CPA)**

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

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

The Texas Commission on Law Enforcement (TCOLE) is the regulatory agency for commissioned peace officers in Texas. Many cities have city marshal offices to employ officers who are available to assist the municipal court with service of process and court security. Marshal offices must be created and regulated by TCOLE. Questions regarding peace officer certification or city marshal offices should be directed to TCOLE through its website at [www.tcole.texas.gov](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. TCCA offers an annual meeting and training in their local chapters across the state. TCCA is also an affiliate of the Texas Municipal League (TML). It co-sponsors the Municipal Court Clerks Certification Program with TMCEC and Texas State University. For more information on TCCA, or for information on how to join a local chapter, contact the association through its website at [texascourtclerks.org](http://texascourtclerks.org).

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

The Legislature created the Texas Department of Motor Vehicles (TxDMV) in 2009 to oversee the registration and titling of vehicles. Cities can contract with the TxDMV and their local tax assessor-collector to deny renewal of vehicle registration for certain defendants who have failed to appear in court or who have failed to pay a fine for certain traffic offenses. This program is commonly referred to as Scofflaw. More information on the TxDMV can be obtained at its website at [www.txdmv.gov](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 the DPS. Sec. 543.203, T.C.

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

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

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

DPS forms and more information can be obtained from the DPS through its website at [www.dps.texas.gov](http://www.dps.texas.gov).

## J. Texas Judicial Council

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

### Judicial Council Monthly Court Activity Report

The monthly report that all Texas courts must submit to the OCA. Commonly known as "The OCA Report."

## K. Office of Court Administration (OCA)

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

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

## L. Texas Municipal Courts Association (TMCA)



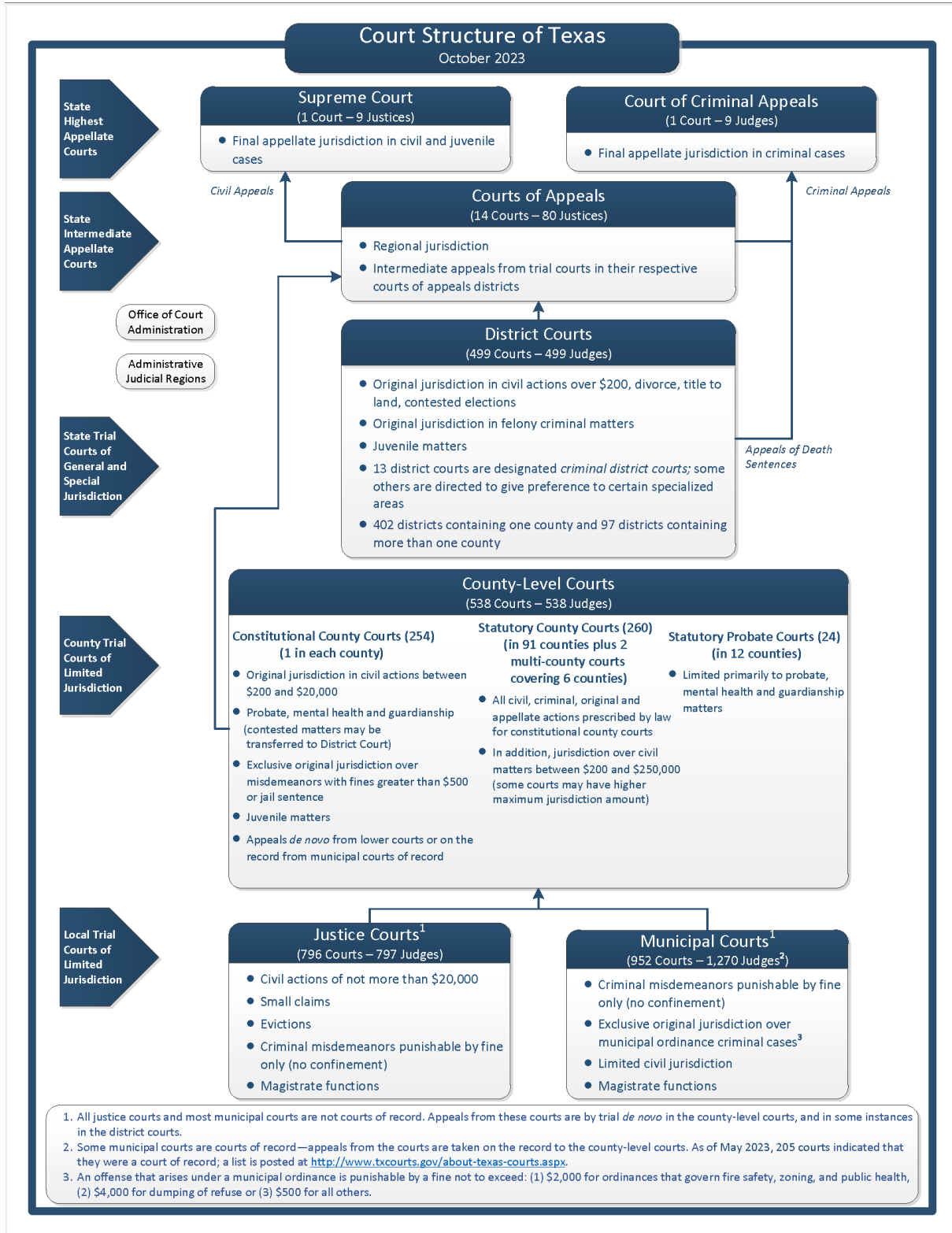
The Texas Municipal Courts Association (TMCA) is a 501(c)(4) non-profit association of municipal judges and court personnel. It currently has more than 1,000 members across Texas. TMCA is the professional trade association of municipal judges and municipal court personnel, including prosecutors. TMCA is the parent organization of TMCEC. By being elected to the TMCA Board of Directors, board members also serve on the TMCEC Board of Directors. TMCA hosts an annual meeting, an annual awards program for outstanding judges and clerks, and an active legislative program. For additional information visit the TMCA website at [www.txmca.com](http://www.txmca.com).

## M. Texas Municipal League (TML)

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

33. Indicate which office(s) to call if you need assistance on:
- Training and written materials on court process and procedure: \_\_\_\_\_
  - The proper forms to report traffic convictions: \_\_\_\_\_
  - Statistical data on other courts of your size: \_\_\_\_\_
  - Driving records: \_\_\_\_\_
  - Help with collecting the proper court costs: \_\_\_\_\_
  - General information on city government: \_\_\_\_\_
  - A question about judicial ethics: \_\_\_\_\_
  - A question about the crime victims program: \_\_\_\_\_
  - Questions about the court clerks' certification program: \_\_\_\_\_
  - A legislative proposal regarding prosecutors in municipal court: \_\_\_\_\_

# APPENDIX A: COURT STRUCTURE OF TEXAS



## ANSWERS TO QUESTIONS

### PART 1

1. An adversarial legal system is one in which the case is viewed as a struggle between two opposing sides. Each side acts in its own interest, presenting its case in the best possible light to the court. The judge remains neutral. The theory of this process is that the trier of fact will be able to determine the truth if the opposing parties present their best arguments. Decisions are based upon the evidence presented and the applicable law.
2. Common law refers to a legal system based on judicial decisions rather than legislative action. Today, many common law principles have been incorporated into current codes and statutes. Important rights and legal concepts such as the waiver of trial by jury (Arts. 1.13 and 45.025/45A.155, C.C.P.), the defense of necessity (Sec. 9.22, P.C.), and the defense of justification (Sec. 9.02, P.C.) all spring from the English common law.
3. The legislative branch enacts the laws; the executive enforces the laws; and the judiciary interprets and applies the laws.
4. To prevent the accumulation of too much power into too few hands, the U.S. Constitution divides the government into three equal branches: the legislative, the executive, and the judicial. The theory is that if legal power is divided into three branches, no one branch will be able to dominate the other two and impose its own theory of justice on the public.
5. The Bill of Rights
6. Supreme Court of Texas, Texas Court of Criminal Appeals, intermediate courts of appeals, constitutional county courts, district courts, and justice courts.

### PART 2

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

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

### **PART 3**

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

### **PART 4**

33. The answers to the subparts of question 33 are found below:
  - Training and written materials on court process and procedure: Texas Municipal Courts Education Center
  - The proper forms to report traffic convictions: Department of Public Safety
  - Statistical data on other courts of your size: Texas Judicial Council/Office of Court Administration



- Driving records: Department of Public Safety
- Help with collecting the proper court costs: State Comptroller of Public Accounts
- General information on city government: Texas Municipal League
- A question about judicial ethics: State Commission on Judicial Conduct
- A question about the crime victims' program: Attorney General's Office
- Questions about the court clerks' certification program: Texas Municipal Courts Education Center or Texas Court Clerks Association
- A legislative proposal regarding prosecutors in municipal court: Texas Municipal Courts Association or Texas Municipal League