

## **Municipal Courts**

A Crash Course for City Attorneys  
(10 Lessons, 13 Slides, in 30  
Minutes)

---

### **Ryan Kellus Turner**

General Counsel and Director of Education  
Texas Municipal Courts Education Center

Texas City Attorney Association  
The Thirteenth Annual Riley Fletcher Basic  
Municipal Law Seminar  
February 24, 2011

## **1. Origins of the Court**

---

In terms of their origin,  
municipal courts in Texas  
are **statutory** courts.

---

## Origins of the Court

---

Chapters 29 and 30 of the Texas **Government** Code contain general governing provisions relating to municipal courts.

Chapter 29: **Municipal Courts**

Chapter 30: **Municipal Courts of Record**

Municipal Judges are **Elected or Appointed** to a Term of Office of **2 or 4 Years**

- State Judicial Officers
- Representation on the Texas Judicial Council and State Commission on Judicial Conduct
- 36 Percent of Texas Judges are Municipal Judges (52 Percent are Attorneys)

Appointed Municipal Judges are Subject to  
Reappointment by Operation of Law (Sec. 29.005)

## 2. Bottom Line on City Attorneys and Municipal Courts

---

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Cities <u>Can</u> but are <u>Not Required</u> to Have an Appointed or Elected City Attorney</li> </ul> <p style="text-align: center;">BUT</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Cities That <u>Opt</u> to "Host" A <u>Municipal Court</u> are <u>Required</u> to Have an Attorney <u>Authorized by State Law</u> to Prosecute.           <ul style="list-style-type: none"> <li><input type="checkbox"/> In House? Solo? Law Firm?</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> The List is Exclusive:           <ul style="list-style-type: none"> <li><input type="checkbox"/> City Attorney (Art. 45.201, C.C.P. and Sec. 30.490, Govt. Code in Municipal Courts of Record)</li> <li><input type="checkbox"/> Deputy City Attorney (Art. 45.201, C.C.P.)</li> <li><input type="checkbox"/> Assistant City Attorney – Municipal Courts of Record (Sec. 30.490, Govt. Code)</li> <li><input type="checkbox"/> County Attorney (without Compensation) (Art. 45.201, C.C.P.)</li> <li><input type="checkbox"/> Criminal District Attorney (without Compensation) (Tex. Const. Art V. – Sec. 21)</li> <li><input type="checkbox"/> Attorney Pro Tem - Art. 2.07, C.C.P.</li> </ul> </li> </ul> |
|---|--|
-

### 3. The Constitutionality of City Attorneys as State Prosecutors

---

- The Statutory Authority of a “City Attorney” to Prosecute in the Name of the State of Texas Does Not Violate Texas Constitution Art. - V. Sec. 21:
    - Naff v. State, 946 S.W.2d 529 (Ft. Worth 1997)
    - Martin v. State, 13 S.W.3d 133 (Dallas 2000)
- 

### 4. Procedure in Municipal Court

---

Procedures for processing cases that come within the criminal jurisdiction of municipal and justice courts are contained in Chapter **45** of the Texas Code of Criminal Procedure.

It’s a “code of criminal procedure” within the Code of Criminal Procedure.

- Consistent with rules of code construction contained in Chapter 311 of the Government Code, if the Chapter does not provide a rule of procedure governing any aspect of the case, the judge is required to apply other general provisions of the Code of Criminal Procedure to the extent necessary to achieve the objectives of the Chapter. Article **45.002** Code of Criminal Procedure.
-

## 5. Jurisdiction of Municipal Courts

---

The jurisdiction of a municipal court is provided in Article **4.14** of the Code of Criminal Procedure.

- Be mindful of the “fine-only” misnomer.
- Compare Section 12.23, Penal Code with Section **12.41(3)**, Penal Code.

Municipal and Justice Courts have **concurrent** jurisdiction of fine only offenses originating in state law. (See, Article 4.16, Code of Criminal Procedure)

Prior to the Texas Court of Criminal Appeals decision in *Ex parte Wilbarger*, 55 S.W. 968 (Tex. Crim. App. 1900), controversy surrounded whether the Texas Constitution permitted jurisdiction of **state** law violations to be given to a municipal court.

---

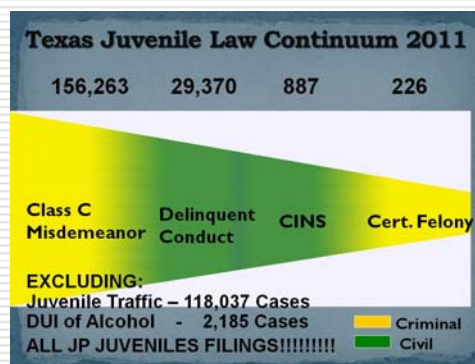
## 6. Jurisdiction of Ordinance Violations

---

- Municipal Courts have exclusive **original** jurisdiction of municipal ordinance violations punishable by the imposition of **fin**es.
    - Some ordinances authorized by the Local Government Code authorize jail time as part of the punishment. Example: **Sexually Oriented Businesses**
    - The scope of authority given to a municipality to pass ordinances depends on whether the city is “home rule” or “**general law**.” Chapters 5 and 51, Local Government Code)
-

## 7. Trends and Misnomers in Texas Municipal Courts

While state traffic law violations constitute a majority of the cases filed in municipal court, the fast growing and most time consuming cases involve **children and minors**.



## 8. Beyond the Trial Court Function

Separate from their roles as trial court judges, municipal judges serve an important gate-keeping function in the adjudication of all criminal matters (misdemeanors and felonies).

They do this in their roles as **Magistrates**.

- List 5 Magistrate Functions:
1. **Search and Arrest Warrants**
  2. **Presentation before the Magistrate (AKA "Magistration")**
  3. **Setting Bail**
  4. **Magistrate Orders of Emergency Protection**
  5. **Examining Trials**

## 9. Municipal Courts and Open Government

---

True or False: Municipal Courts **are not** governed by the Texas Public Information Act.

**TRUE.**

- Governed by Rule 12 of Judicial Administration
  - Texas common law right to inspection
- 

## 10. Judicial Ethics

---

True or False: Municipal judges **are not** governed by the Texas Code of Judicial Conduct.

**FALSE**

**See Canon 6C. The Canons apply 24/7.**

---

**Thank You  
For Your  
Attention**



Follow



ON

facebook

twitter

**E—MAIL: [RTURNER@TMCEC.COM](mailto:RTURNER@TMCEC.COM)**

**TWITTER: [@RKELLUSTURNER](https://twitter.com/RKELLUSTURNER)**