

# **Municipal Courts**

## **A Crash Course for City Attorneys**

### **(10 Lessons, 30 Minutes)**

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Texas City Attorney Association

Riley Fletcher Basic Municipal Law Seminar

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# 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

- Cities Can but are Not Required to Have an Appointed or Elected City Attorney  
BUT
- Cities That Opt to “Host” A Municipal Court are Required to Have an Attorney Authorized by State Law to Prosecute.
  - In House? Solo? Law Firm?
- The List is Exclusive:
  - City Attorney (Art. 45.201, C.C.P. and Sec. 30.490, Govt. Code in Municipal Courts of Record)
  - Deputy City Attorney (Art. 45.201, C.C.P.)
  - Assistant City Attorney – Municipal Courts of Record (Sec. 30.490, Govt. Code)
  - County Attorney (without Compensation) (Art. 45.201, C.C.P.)
  - Criminal District Attorney (without Compensation) (Tex. Const. Art V. – Sec. 21)
  - Attorney Pro Tem - Art. 2.07, C.C.P.

### 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.

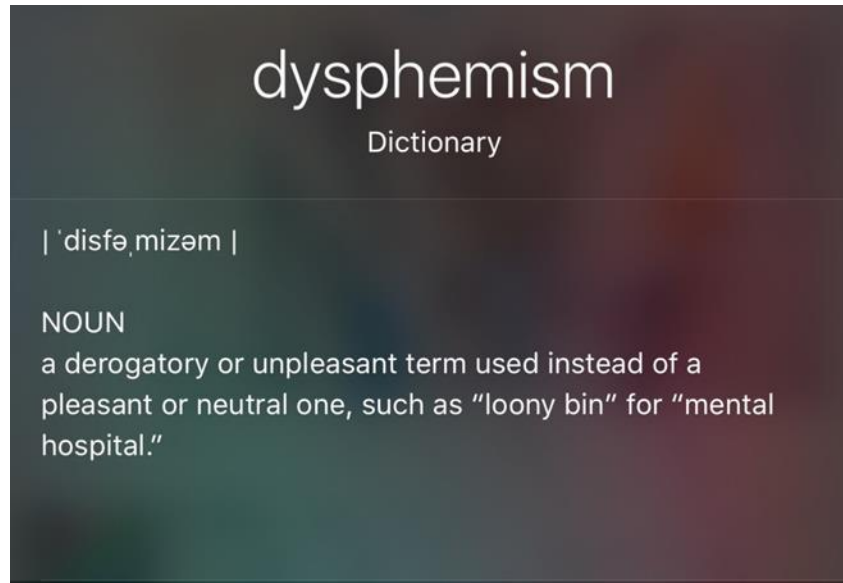
## 6. Jurisdiction of Ordinance Violations

- Municipal Courts have exclusive **original** jurisdiction of municipal ordinance violations punishable by the imposition of **fines**.
  - 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 in Texas Municipal Courts:

- Debt, Data, and Disphemism
- Impact Litigation
- Legislative Changes (2017-21)
  - Ability to pay
    - Open court inquiry
    - Reconsideration
  - Waiver of fine and costs → Waiver of all or part of fine or costs
  - Capias Pro Fine
  - Community Service Expansion
  - Safe Harbor
  - Jail Credit



# 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.**

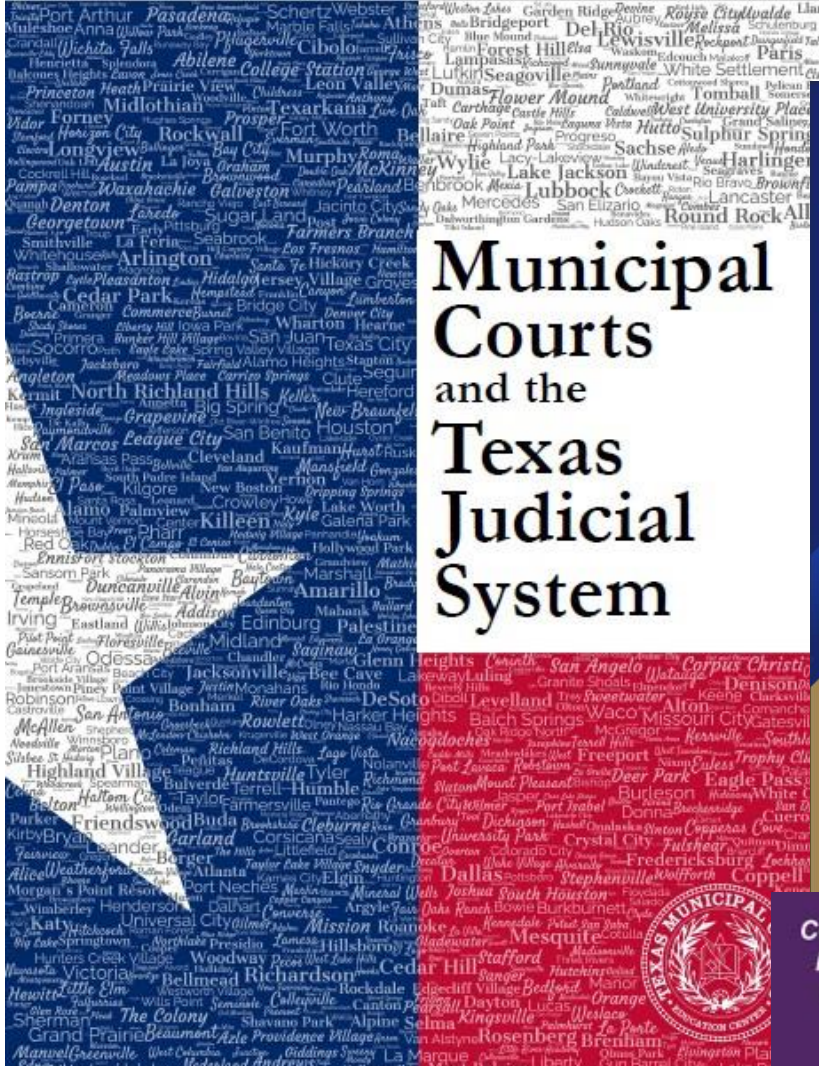
# **Texas Rules of Judicial Education: Municipal Judges**

- **16 hours every year**
- **Non-attorneys must attend a 32 hour program in year one, then 16 hours every year**
- **After year 2, judges may exercise flex-time**
- **Judges may opt out every other year (but still must complete 16 hours)**

# Resources

- **Publications**
- **1-800 Line for Legal Support**
- **Mentor Program**
- **Listserv**
- **Roundtables**
- ***The Recorder***
- ***The Brief***
- ***Full Court Press***





# Municipal Courts and the Texas Judicial System

## Texas Municipal Courts Education Center 2024 FORMS BOOK



## Texas Municipal Courts Education Center 2024 BENCH BOOK



## FINE-ONLY CRIMES EIGHTH EDITION | 2022 - 2023

Grant from the Criminal Appeals

### Court Interpreters' Municipal Court Legal Glossary

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Founded by a grant from the Texas Court of Criminal Appeals



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**MAKING IT PERSONAL: THE MISUNDERSTANDING,  
UTILITY, AND LIMITS OF PERSONAL BONDS IN TEXAS**

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The 8th Amendment prohibition against excessive bail is one of the few rights of criminal defendants that has not been expressly incorporated into the 14th Amendment.<sup>1</sup> Consequently, laws governing bail vary amongst the states.<sup>2</sup> In Texas, the right to bail is rooted in the state constitution, making Texas one of 41 “right-to-bail states.”<sup>3</sup> Subject to few limitations, Texas strongly favors the individual’s right to bail.<sup>4</sup>

Bail has attracted increasing scrutiny, particularly in the context of pre-trial bail. Criminal justice reform advocates claim that “money bail”—practices requiring defendants to pay money to procure release via either a surety bond (where money is paid to a surety) or cash bond (where money is deposited with the government)—disproportionately hurts many low-income defendants who, while presumed innocent, cannot afford to pay to



# **THE BRIEF**



**Information for Texas Municipalities about Texas Municipal Courts (January 2018)**

## **Judgment and Sentence Fines and Court Costs**

In Texas, it is the law that when a person accused of a Class C misdemeanor is convicted in municipal court, the judgment and sentence is that the defendant pays the fine and court costs. The law seems simple.

But is it? Consider the following: A defendant enters a plea of guilty to a traffic offense. After accepting the plea, the court gives the defendant an opportunity to be heard before sentencing. The judge imposes a lenient sentence and fines the defendant only one single dollar (\$1.00).

How much money does the defendant owe?

# Blog: Full Court Press



AUGUST 15, 2018

## Personal Bonds: What I Learned from What You Should Read

 by [Mark Goodner](#)

In the latest issue (July 2018) of *The Recorder: The Journal of Texas Municipal Courts*, the [article](#) gracing the front page is all about personal bonds. It is informative, straightforward, and succinct. Authors Ryan Kellus Turner (TMCEC's General Counsel and Director of Education) and Henry W. Knight (TMCEC's summer intern and a University of Texas Law student entering is final year) taught me a few things that I'd like to share with you.

**Personal Bonds are Not Personal Recognizance Bonds**



Conferences & Events



Publications



Resources



Clerk Certification



Traffic Safety

TMCEC creates unique learning opportunities and specialized resource materials for judges and court personnel.

Judges

Clerks & Court Administrators

Juvenile Case Managers

Prosecutors

Court Security Officers



### Latest News



Please review the **TMCEC COVID-19 Protocols for Live, In-person Events**.

#### Announcements

Stay up to date with what is happening at TMCEC. Click below for important announcements related to conferences, publications, resources, and current events.



### Get Started

#### Online Registration & Personal Profile

To review your **personal profile** and academic transcript, register for events, and review your clerk certification status, click the login button below. New to the court? Please fill out a **New Personnel Form**.



#### Online Learning Center (OLC)



### TMCEC Initiatives




#### C3 (Councils, Courts, and Cities)

C3 is a public information and education campaign created by TMCEC that aims to help fill the information gap between city halls and municipal courts in Texas. [Click here](#) for more information and to access issues of *The Brief*.

#### Procedural Justice

With funding from the State Justice Institute, TMCEC has partnered with organizations like the Center for Court Innovation and the National Center for State Courts on special projects related to procedural justice. [Click below](#) for more information on these

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For Your  
Attention**

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