

Municipal Courts

A Crash Course for City Attorneys

(10 Lessons, 30 Minutes)

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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.

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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**
- **39.97 Percent of Texas Judges are Municipal Judges (57 Percent are Attorneys)**

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

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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. 45A.005, C.C.P. and Sec. 30.490, Govt. Code in Municipal Courts of Record)
 - Deputy City Attorney (Art. 45A.005, C.C.P.)
 - Assistant City Attorney – Municipal Courts of Record (Sec. 30.490, Govt. Code)
 - County Attorney (without Compensation) (Art. 45A.005, C.C.P.)
 - Criminal District Attorney (without Compensation) (Tex. Const. Art V. – Sec. 21)
 - Attorney Pro Tem - 45A.158, C.C.P. Judges authorized to appoint any competent attorney as attorney pro tem.

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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)

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4. Procedure in Municipal Court

Procedures for processing cases that come within the criminal jurisdiction of municipal and justice courts are contained in Chapter 45A 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 45A.003 Code of Criminal Procedure.**

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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.

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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)

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7. Trends in Texas Municipal Courts:

- Debt, Data, and Disphemism
- Impact Litigation



- **Legislative Changes (2017-23)**

- 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
- Youth Diversion

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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**

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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

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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.

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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)

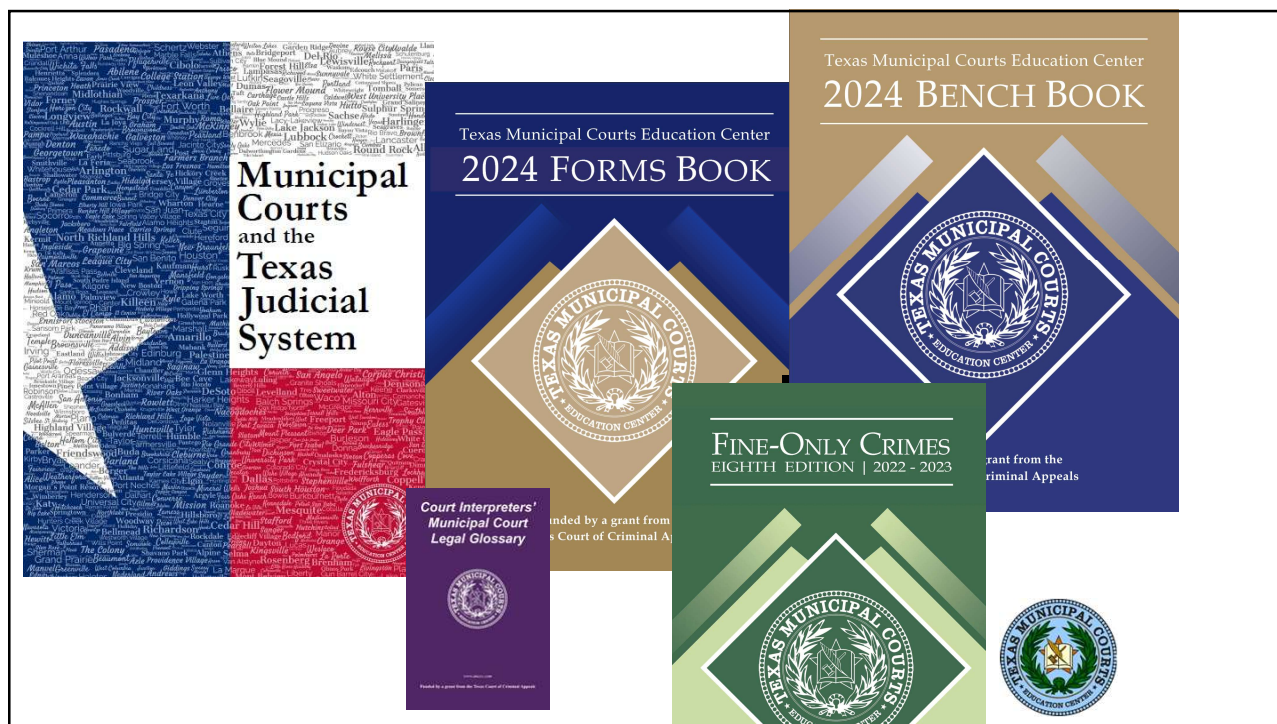
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Resources

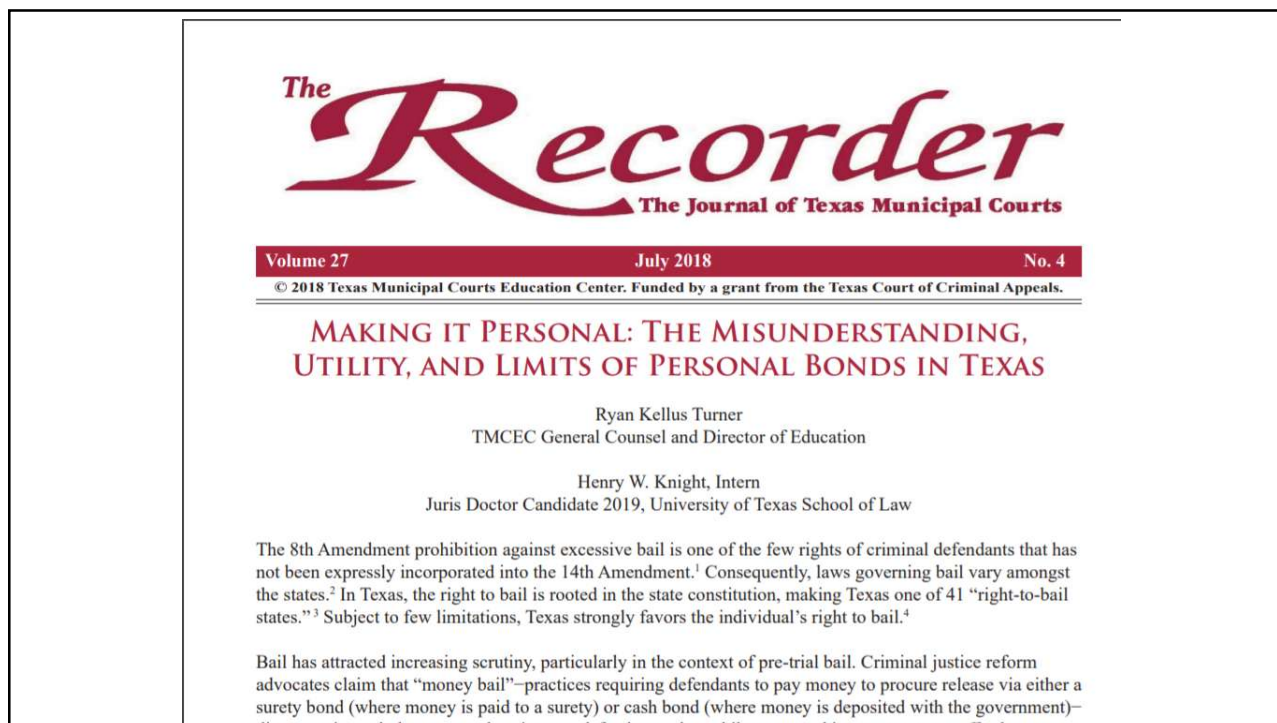
- Publications
- 1-800 Line for Legal Support
- Listserv
- Roundtables
- *The Recorder*
- *The Brief*
- *Full Court Press*



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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?

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Blog: Full Court Press

Full Court Press

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Prosecutors Seminar

- March 2-4, 2026 – San Antonio
- June 2-4, 2026 – Conroe
- 3 day seminars: Up to 14 hours of CLE

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Prosecutor Professionalism Program

Basic Requirements

- Active Prosecutor: Applicants must hold a current post as a prosecutor for a Texas municipality (part time or full time).
- Hours: Applicants must complete 20 hours of education in a two-year period
 - 16 hours in attendance at the annual three-day Prosecutors Conference and
 - 4 hours additional TMCEC training

Recognition

- Recognition by name and city in The Recorder, on the TMCEC website, and via TMCEC social media.
- Downloadable certificates, awarded on a year-to-year basis, designating the holder as a member of the TMCEC Prosecutors Professionalism Program class for a given academic year.
- Name badge ribbons at live events.

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