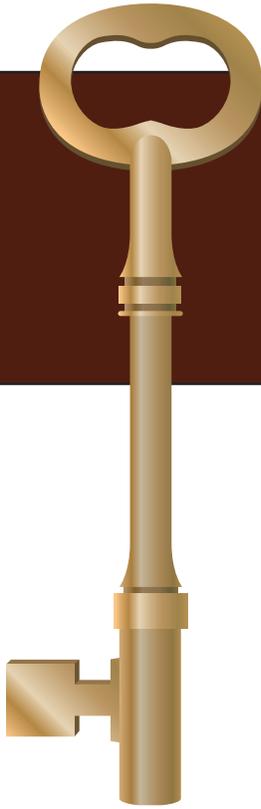


Chapter 3

Justice Process at the County Level



Brooks County Courthouse



Chapter Three:

Judice Process at the County Level

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| Developmental Assets: | 10. Safety 30. Responsibility |
| Life Skills: | Critical Thinking, Personal Safety |
| TEKS: | Grade 7, 113.23 (16), understand the rights and responsibilities of Texas citizens Grade 7, 113.23 (14A), identify how the Texas Constitution reflects the principles of limited government, checks and balances, federalism, separation of powers, popular sovereignty, and individual rights Grade 12, 113.35 (14E), explain the importance of due process rights to the protection of individual rights and to the limits on the powers of government |
| Objectives: | Students will: -identify the limits of county law enforcement -understand their part in keeping their county safe |

Counties play a major role in the administration of *justice* in Texas. Each county's justice system is based on the county's size. If counties need special help to investigate criminal matters they can call upon the Texas Rangers.

Justice—the legal system, or the act of applying or upholding the law

These are the components of county law enforcement.

Sheriff—The sheriff is the chief law enforcement officer of the county. The office of sheriff was created by the state constitution and its duties are prescribed by the legislature. These include:

- operating the county jails
- investigating crimes
- making arrests
- enforcing traffic regulations on county roads
- serving writs
- seizing property after judgment

Though the sheriff has countywide *jurisdiction*, most sheriff's departments concentrate their patrol and law enforcement activities outside city limits, usually leaving municipal police officers to patrol inside their own jurisdictions. The sheriff is elected every 4 years and is responsible for security in both the county and district courts.

Jurisdiction—area over which legal authority extends

Constable—There is a county constable within each justice precinct. Constables serve 4-year terms. The number of constables in each county depends on the population. Constables carry out the decisions of the justice of the peace courts. They serve witnesses with subpoenas, act as bailiffs, execute judgments, and serve papers. *Subpoena* is a Latin word meaning “under penalty.” If a person fails to appear as directed, he or she may be punished by a fine or jail time. Also, constables may perform patrol functions and conduct criminal investigations.

The sheriff and constables enforce laws in the county. When a resident of the county believes a law has been broken, he or she contacts the sheriff’s department. The sheriff or a deputy investigates the crime to determine who perpetrated the crime. They talk to witnesses and examine physical evidence at the crime scene. When a sheriff or deputy believes there is sufficient evidence to suspect a person of a crime, the sheriff or deputy arrests the person. Once arrested, the accused person enters the justice system. This is a branch of the state judicial court system and is mandated by the Texas Constitution.

If you think of the judicial system as having a pyramid shape, the **justice of the peace courts** would be the base. Justices of the peace have the authority to judge minor *civil* cases, to impose small fines (not more than \$200) for misdemeanors, and to hold preliminary hearings on more serious crimes. The justice of the peace court can function as a *small claims* court in disputes involving less than \$10,000. A justice of the peace can be a coroner, issue warrants, conduct investigations and preliminary hearings, and perform marriages. Periodic training is required to hold this office and the justice does not have to be an attorney.

The next level in the pyramid is the **county court**. The county judge presides over the county court. In rural areas, he or she is judge in *criminal* (*misdemeanor* cases only), *civil*, *probate* and mental competency cases. County court has jurisdiction in civil cases involving small amounts of money.

In more populated counties, the state legislature has created **county courts-at-law** to relieve the county constitutional courts. In these counties, civil and criminal jurisdictions are transferred to the county courts-at-law. The court-at-law judges must be licensed attorneys and are helped by the county clerk.

Moving up another level we find the **district courts**, which are the chief trial courts in Texas. District courts handle most major *litigation* and are the trial courts of general jurisdiction of Texas. The geographical area served by each district court is established by the legislature, but each county must be served by at least one district court. In sparsely populated areas of the state, several counties may be served by a single district court, while an urban county may be served by many district courts.

District courts have original jurisdiction in all *felony* criminal cases, divorce cases, cases involving *title* to land, election contest cases, civil matters in which the amount in controversy (the amount of money or damages involved) is \$200 or more, and any matters in which jurisdiction is not placed in another trial court. While most district courts try both criminal and civil cases, in the more populous counties the courts may specialize in civil, criminal, juvenile or family law matters.

District judges are state officials whose salaries are paid by the state. Domestic relations courts and juvenile courts are county offices and by law these judges are paid by the county the same salary as the district judges.

Subpoena—written legal order summoning a witness or requiring evidence to be submitted to a court

Civil—law involving individual people or groups in legal action other than criminal proceedings

Small claims—an informal, uncomplicated proceeding to resolve small disputes (less than \$10,000) that do not involve enough money to warrant the expense of formal litigation

Criminal—involving a crime

Misdemeanor—crime less serious than a felony and resulting in a less severe punishment

Probate—to certify legally that a will is valid

Litigation—act or process of bringing about or contesting a lawsuit

Felony—a serious crime

Title—a document giving the legal right to property

So what happens if someone is accused of a crime in a Texas county? We will now explore the steps leading to a trial. A person suspected of committing an *offense* is generally apprehended, advised of their *Miranda rights*, and then arrested by the sheriff or another law enforcement officer. Once arrested, the *alleged* offender (people are presumed innocent until proven guilty) is taken to a criminal justice facility.

The accused person is allowed to contact an *attorney* to make arrangements for bail. The arresting officer will then go to the county or criminal district attorney's office to file a formal complaint. After reviewing the complaint, the *prosecutor* will file the information in the county clerk's office if the *defendant* (the offender) is not being charged with a felony.

The case is then put on the criminal court docket. The defendant will then appear at the appointed time for *arraignment*. At this hearing the county judge will *admonish* (advise) the defendant of the charge and of the right to counsel and trial by jury (should the defendant plead "not guilty"). The defendant will also be advised of the consequences of a plea of guilty.

If the defendant is not able to hire counsel or legal representation the court will appoint an attorney to represent the defendant. The defendant may waive the right to trial by jury and to an attorney. In this case, the defendant would plead guilty and have the case tried immediately. The judge would then enter a judgment and declare the sentence or punishment the defendant will have to serve.

Should the defendant plead not guilty, bail (bond) is set and the case is subsequently set for trial.

In order to work, the court system needs citizens to take their turn serving as jurors. A *jury* is a group of people who listen to a court case. The jury may decide which person in a dispute is right concerning disputed facts. It also may decide whether a person committed the crime of which he or she is accused. A juror must be at least 18 years old, a U.S. citizen, a resident of the county, and able to understand English. He or she cannot have any handicap that would get in the way of jury duty and must never have been found guilty of a major crime.

Names of potential jurors are taken from lists of registered voters and driver's license holders. A person on these lists is likely to be called to jury duty about once every 3 years. Potential jurors are mailed letters that tell them to appear at the court. Anyone who gets a jury duty notice must report. Only a few reasons can excuse a person from jury duty. The jurors who serve are often paid a small daily fee.

The attorneys in each case are permitted a role in choosing the people who will sit on the jury. Each attorney tries to choose jurors who might favor the person for whom he or she is working. *Voir dire* is the system used by judges and attorneys to determine which potential jurors will actually serve so that there is an impartial jury representing a cross section of the community.

In Texas, a felony case can proceed only after an *indictment* by a grand jury, unless the accused waives this right. The grand jury is responsible for reviewing evidence in a criminal case to determine if the accused could be guilty of the charge and should stand trial. At least nine of the 12 grand jurors must believe the evidence shows the accused could be guilty and formally vote a true bill before an indictment can take place.

Offense—official crime or a crime against moral, social or other accepted standards

Miranda rights—rights read by an officer to a person in custody before the person is interrogated; if rights are not read before interrogation, the answers to the questions may be kept out of court

Alleged—believed to be true

Attorney—any person (usually someone with a law degree) authorized by another to represent him or her

Prosecutor— someone who initiates a legal prosecution

Defendant—a person or company accused of wrongdoing

Arraignment—formal accusation

Admonish—advise

Jury—a group of people chosen to give a verdict on a legal case presented before them in a court of law

Voir dire—(from the French term that means literally "to see to speak") the system judges and attorneys use to examine potential jurors to determine who will serve on a jury

Indictment—a formal accusation of a serious crime, presented to a grand jury

Other than the attorneys and the defendant, there are some other important persons in the county court. The judge acts as a referee during the trial and determines the applicable legal issues. It is the judge's job to make sure legal court rules are followed. The judge must decide what to do if an attorney *objects* to something said or done in the trial. The judge also keeps order during the trial.

The court reporter's job is to take down every word said by the attorneys, judge and witnesses during the trial. Court reporters have machines that help them take down every word quickly.

The district clerk receives and files papers related to criminal proceedings, issues all processes, and holds all filed documents for use by the courts.

Contempt of court is the failure to do what the court orders. It is a crime, punishable by a fine or jail time. The bailiff makes sure the courtroom is quiet and orderly during the trial. He or she also escorts the jury and the defendant in and out of the courtroom at the necessary time.

Object—to be opposed to something, or express opposition to it