



BANDERA MUNICIPAL COURT
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Your rights at trial

If you request a trial of your case in Municipal Court. You have certain rights and responsibilities when your case is set for trial. This brochure is not legal advice but is designed to make you aware of certain rights, responsibilities and procedures related to your case. If you are seeking legal advice regarding your case, you are encouraged to consult with an attorney.

Right to Attorney or to Represent Yourself: You have the right to have an attorney represent you. Since Municipal Court cases are punished by fine only, the Court cannot appoint an attorney for you, so if you want an attorney, you must hire your own. You also have the right to act as your own attorney. This is called appearing "pro se." If you appear pro se, the Court (judge) will expect you to follow the Texas Rules of Evidence, the Texas Code of Criminal Procedure, and all other applicable state laws. Additionally, the Court will expect you to exhibit appropriate courtroom demeanor while your case is being tried. The Court cannot assist you in these matters when the trial starts. Be aware that you will be prosecuted by a city attorney who conducts criminal trials on a regular basis.

Discovery. "Discovery" refers to evidence that may potentially be used at trial. You may view the citation and any reports or documents that may have been created related to your case. Some confidential information may be redacted in these documents as required by Art. 39.14 of the Texas Code of Criminal Procedure. You may also view videos, if any exist, related to your case. If you would like to view the discovery, you must make a written request to the Court at least 21 days prior to your trial date.

Pretrial Appearance Docket. At this docket, you will have the opportunity to speak with a prosecutor and receive a plea offer. If you and the prosecutor can agree on a way to resolve your case (a "plea bargain,") your plea will be presented to the Court at the docket. Most cases are resolved this way, but the Court is not required to follow the plea bargain. If the Court decides not to follow the plea bargain, you may withdraw your plea, and the Court will set your case for trial. If you and the prosecutor cannot agree on a plea bargain, or if you do not wish to speak with the prosecutor, then at the docket the Court will visit with you about how to resolve your case.

Continuances. If you need a continuance of your trial or docket date, you must put the reasons for your request in writing and submit it to the Court before the trial or docket date. The court will decide whether to grant your request. If you fail to appear for your trial or docket, and no continuance has been granted, then a warrant for your arrest will be issued.

Jury Trial. You have a right to a trial by a jury. If you waive (give up) your right to a jury trial, the Court will decide your case. In a jury trial, the case begins with selection of a jury from the jury panel. The state will question panel members about their qualifications to hear your case, and then you have the right to question the panel members. If you think that a juror will not be fair and unbiased, or if you are aware of some other reason why that juror is not qualified to serve, then you may ask the Court to excuse the juror. The court will decide whether to grant your request. You may also strike (mark out) names of up to three jurors from the list of panel members. The state may also strike up to three jurors. The jury is made up of the first six names that have not been marked out by either side. At the end of a jury trial, the Court will read a set of instructions to the jury prior to their deliberations. You have a right to review these instructions and make objections to them on legal grounds. In a jury trial, if the jury finds you guilty of the charge, they will assess a fine.

Complaint. Proceedings in court begin with a written complaint. You have a right to examine the complaint before trial, as well as the right to object to the complaint on legal grounds. The complaint may be read out loud by the prosecutor at the beginning of your trial. Any objection to the complaint must be made before the day of trial.

Trial Procedures. The state will present its case first by calling witnesses to testify against you. You have a right to hear all the testimony against you, and to cross-examine any witness who testifies against you. On cross-examination you may only ask questions about the facts and circumstances concerning the violation with which you are charged. You cannot argue with the witness or make a statement-you can only ask questions. The Court will expect you to ask your questions in accordance with the Texas Rules of Evidence.

After the state has presented its case, you may present your case. You are presumed to be innocent and are not required to present a defense but may do so if you choose. You have the right to call witnesses to testify on your behalf. You also have the right to have the Court issue subpoenas for your witnesses to ensure their appearance at trial. The request for subpoenas must be made at least two weeks before the scheduled trial date, in person or in writing to the Municipal Court. At trial, your witnesses may only testify to matters on which they have personal knowledge, and you must ask direct questions which are not leading questions.

During the presentation of your case, you have a right to testify. You also have a right not to testify. If you choose not to testify, your silence cannot be used against you in determining whether you are guilty of the charge. If you do testify, the prosecutor can cross-examine you.

You have the right to bring exhibits (such as documents or photographs) with you to your trial and offer your exhibits during the trial. The introduction of exhibits must comply with the Texas Rules of Evidence. The prosecutor may object to your exhibits, and the Judge will rule on any objections that are made. You may also make objections to the state's evidence based upon the Texas Rules of Evidence. You will not be granted access to a computer during your trial. Any exhibits that you wish to introduce must be in hard copy form and will become a part of your case if successfully introduced during your trial. If you are found guilty of the offense charged against you, the evidence successfully introduced during trial will remain with the trial court.

If during trial you have an objection to certain evidence, or to a question asked by the prosecutor, then you may stand and make your objection, but you must state the legal ground for your objection. You must also stand any time you are addressing the Court or the jury. When you are questioning witnesses, you will remain seated. After all the testimony is concluded, you may stand and make a closing argument to tell the Court or jury why you believe the evidence admitted in trial supports a not guilty verdict. Your argument may be based only on the evidence in the trial; that is, the testimony given under oath from the witness stand and the exhibits that were admitted. No new facts or evidence may be argued.

Judgment and Appeal. After the Court or jury makes its decision as to whether you are guilty or not guilty, the Court will enter a judgment. If you are found not guilty, you will be free to go after the trial and will owe no fine or court costs. If you are found guilty, the Court will advise you of the amount of the fine and court costs. You have 10 days in which to pay your fine and court costs, or you may ask the Court about payment arrangements. You also have a right to appeal a finding of guilt by filing a written motion for new trial within 5 days of the rendition of judgment and sentence. If the motion for new trial is not granted before the 11th day after the date the judgment is entered, it is considered denied. Regardless of whether you file a motion for new trial, if you wish to appeal you must file a notice of appeal and appeal bond no later than the 10th day after the date the judgment is entered. The appeal bond must be in the amount of twice the fine and court costs assessed. If you are found guilty, the Court will give you detailed instructions about the right to appeal and the procedures for appeal. You have a right to hire an attorney to represent you on appeal. The Municipal Court staff and prosecutors are not able to help you prepare your appeal or give you any legal advice.

If you are unsure about how to try your case or what your rights are, you are encouraged to contact an attorney.