

2019-20 Level 1 Criminal Certification Exam

Study Guide

This guide is aimed at helping a clerk study for and pass the Court Personnel Level 1 Criminal Certification Exam. You will be directed to resources that will give you the information you will need to pass the exam. For the best chance of passing this admittedly difficult exam, we recommend that you:

- 1) Review all test-taking tips and information
- 2) Look up all materials recommended in this guide, reading them critically
- 3) Discuss any questions/concerns about what the materials may mean with another clerk or judge
- 4) Answer the practice exam questions at the end of this guide
- 5) Attack the test with confidence, knowing steps 1-4 have prepared you to succeed

DO NOT show up at school expecting to learn every piece of information that will be on the test. If you do this, **YOU WILL NOT PASS THE EXAM**. It is critical that you prepare in advance, learning the material you understand, and arriving with questions about the material you do not.

What Does the Exam Look Like?

The exam consists of **50 multiple choice** questions. You need to get **35** total questions correct to earn your Level 1 Criminal Certification.

The questions will not ask you which specific section of the law covers a topic, but may ask you which code something is in. So, for example, you will not see a question like:

1. Which section of the Code of Criminal Procedure covers Driving Safety Courses (DSC)?
 - a. 45.051
 - b. 45.0511
 - c. 45.049
 - d. 27.14

But may see:

1. Which code lays out the procedure for Driving Safety Course dismissals?
 - a. Transportation Code
 - b. Education Code
 - c. Penal Code
 - d. Code of Criminal Procedure

Also, be advised, some of the questions do address substantive law issues. The committee elected to have some questions of this type on the test, because clerks frequently have case screening responsibilities, research responsibilities, etc., that make it beneficial to have such knowledge.

For example, a clerk should know what is needed in order to waive costs and fines, even though the clerk cannot order costs and fines waived, only a judge can.

Exam Schedule

The Level 1 Criminal Exam at Court Personnel seminars begins at 8 AM on Day 3 of the seminar. From 8-8:45, there is a last-minute review session. You should arrive at this session fully prepared for the exam, with questions over sections of the material that you did not understand. This review session on its own is not enough for you to pass the exam.

Following a 15 minute break, test materials will be distributed at 9:00 AM, and the test will begin around 9:05 AM. You will have 75 minutes to take the test, meaning you will have until around 10:20 AM. Announcements will be made of the exact end time, and of time remaining. When you have completed and turned in your test, you are free to go until the post-test review begins.

TJCTC staff will grade the exams, and once they are graded, the post-test review will begin. The start time of this review will be around 10:30 AM. During this session, participants will see which questions they missed, see what the correct answers are, and have the opportunity to ask why the correct answers are correct. You **may not** take written notes during this process.

Following the post-test review, TJCTC staff will pick the exams back up. You will not be able to take your exam home with you. Certificates for those who pass will be provided at the registration desk. No announcements will be made in class indicating anyone's score or who passed.

If you do not pass, you can schedule a re-test at least 30 days after your original exam date at another court personnel seminar or at the TJCTC office in south Austin.

Test-Taking Tips & Strategies

1. Do not “overthink” the questions. Although the questions may be tough, they are not designed to be trick questions. Any information you need to answer the question will be in the question. Don’t make random assumptions about facts that are not stated in the question.
2. Carefully read the question and **all** of the answers. “Skimming” the question may make you misunderstand what is being asked. And if you read answer A and think “yep!” and mark A and move on, you missed that B and C were also correct and D was “all of the above.”
3. Don’t waste too much time on a single question. The time limit isn’t overly restrictive, as long as you keep moving. Stopping to think for 5 minutes on one question will put you behind schedule. If you think you know an answer but can’t think of it at the moment, skip it and come back. If a question is asking about something that you have never heard of, make an educated guess and move on.
4. Don’t leave any questions blank. There is no penalty for guessing. If you can eliminate one or more choices on a multiple choice question, great, choose from the rest.
5. Don’t second-guess yourself. Of course, change an answer if lightning strikes and you remember **for sure** that something else is the answer. But if you put B first, and then think “welllll, I dunno, maaayyyybe it’s C?”, you are almost certainly better off leaving it as B.
6. RELAX. You will perform your best if you are relaxed. Prepare diligently, and then relax knowing you did all that you could. The worst-case scenario is that you get a timed run at the exam, including a full review of every question and answer, so you know what to study for next time. That’s not too bad!

Study Materials

Many of these topics are discussed in detail in non-legalese in our Deskbook series. The topics you need to study are listed by the Deskbook they are covered in, with reference to the rule, statute, or opinion that guides the answer. This guide will refer you to discussions in those deskbooks with the following designations: CRD – Criminal Procedure Deskbook; JD – Juvenile Deskbook; MD – Magistration Deskbook; OD – Officeholding Deskbook.

Additional good resources are the Webinar and Newsletter Archives at www.tjctc.org under the Resources tab, for further discussion of many of these issues. Also, it would be well worth your while to study the Legal Terms and Definitions handout, also downloadable from our website.

IMPORTANT NOTE – The 2019 Legislative Session changed the laws regarding several of these items. We strongly recommend reviewing the 2019 Legislative Update materials, found at <https://www.tjctc.org/tjctc-resources/2019-Legislative-Update-Materials.html>. Additionally, any item that changed in the Deskbook section, we have marked with an *. **FOR THESE ITEMS, BE SURE AND REVIEW THE UPDATED STATUTES AND LEGISLATIVE UPDATE MATERIALS, AS THE DESKBOOKS HAVE NOT YET BEEN UPDATED TO INCLUDE THE NEW CHANGES.**

For laws that go into effect **on or after** September 1, 2019, do not apply the new law unless the facts of the question show that you should. For example, if the question asks “What is the amount of the Time Payment Reimbursement Fee that is effective on and after January 1, 2020?”

In this guide, PC means Penal Code, CCP means Code of Criminal Procedure, HSC is Health & Safety Code, ABC is Alcoholic Beverage Code, and TC is Transportation Code. Statutes may be found at www.statutes.legis.state.tx.us.

Criminal Deskbook

1. Describe the criminal jurisdiction of justice courts, including Class C misdemeanors, and fine-only misdemeanors. P. 2-3, CCP 4.11, PC 12.23.
2. Describe the proper venue for criminal cases in justice court and what happens if cases are filed in an improper venue. P. 3-4, CCP 4.12.
3. Distinguish between citations (“tickets”) and complaints, and the requirements for each. P. 4-7, CCP 14.06, 27.14, 45.018, 45.019.
4. Identify the statute of limitations for misdemeanor cases. P. 7-8, CCP 12.02, 12.04.
5. Describe what must be in the docket, when it must be posted in a public place, and if it can be maintained electronically. P. 8, CCP 17.085, 45.017.

6. Identify the procedure that must be followed before an arrest warrant can issue in a criminal case, including warrants based on the defendant not appearing. P. 10-11, CCP 45.014.
7. Distinguish between FTA and VPTA, and when each (or neither) is appropriate. P. 11-15, PC 38.10, TC 543.009.
8. Identify what "Rules of the Road" offenses are. P. 12.
9. Understand how someone gets reported to Omni, how they get out, what the Omni fee is, and when it is assessed. P. 15-17,61-63, TC 706.004-.006.*
10. Understand when someone may be reported to collections, what the collection fee is, and when it is collected. P. 17-18, 61, CCP 103.0031.
11. Identify the procedure and timeframe for reporting a defendant under the NRVC. P. 18-19, TC Ch. 703.
12. Understand the bond forfeiture process. P. 19-21, CCP Ch. 22.
13. Identify the types of pleas a defendant may enter, and how they may enter them. P. 24-26, CCP 45.020, 45.024, 27.14.
14. Describe an appearance bond, and the requirements of them. P. 26-27, CCP 45.016.
15. Describe the procedure for deferred disposition, including eligibility, timeframes, fees, show cause hearings, and consequences for noncompliance. P. 28-34, CCP 45.051.*
16. Describe the procedure for DSC dismissal, including eligibility, timeframes, fees, show cause hearings, and consequences for noncompliance. P. 35-42, CCP 45.0511.*
17. Understand if a defendant has to "pick" jury or bench trial, what happens if they remain silent, and whether there is a fee for a jury trial. P. 45, 52, CCP 45.024, 45.025.
18. Understand when an interpreter is required, and who pays for the interpreter. P. 48-50, CCP 38.30, 38.31.
19. Know how many jurors are on a criminal jury, and how many must agree on the verdict. P. 52-53, CCP 33.01, 45.036.
20. Know how the jury is charged in a criminal case. P. 53, CCP 45.033.
21. Identify the burden of proof in a criminal case. P. 53.
22. Identify the standard for when a court may and when a court must grant a continuance. P. 55, CCP 29.035.
23. Describe the options for when a prosecutor doesn't appear. P. 55, CCP 45.101.
24. Distinguish between judgments of acquittal, dismissal, and conviction, when each is appropriate, and the contents of each. P. 56-57, CCP 45.041.
25. Describe a bill of costs. P. 57, CCP 103.001.
26. Understand "debtor's prison", "indigence", "inability to immediately pay", and "alternative satisfaction of fine and costs." P. 58-61, CCP 45.041.*
27. Describe the Time Payment Fee and when it applies. P. 59, Local Gov't Code 133.103; CCP 102.030. *
28. Describe the requirements for community service, including the need for a written order, and the minimum credit that a defendant must receive. P. 60. CCP 45.049.
29. Explain when fines and costs may be waived. P. 61, CCP 45.0491. *
30. Define capias pro fines and the process that must be followed to issue one. P. 63-65, CCP 45.045. *
31. Describe an order of commitment and when it may be issued. P. 66, CCP 45.046.

32. Identify the timeframe and standard for requesting and granting a motion for new trial, including when a plea was entered in jail. P. 68, CCP 45.038, 45.023, 45.039, 45.040.
33. Describe the appeal process, including timeframe and bond amount, as well as the special process when a written plea is mailed and appeal bond requested. P. 68-70, CCP 45.042, 45.0426, 45.0425, 27.14(b).
34. Identify whether a defendant can appeal once they pay the judgment. P. 69, *Fouke v. State*.
35. Identify which records are confidential, and who confidential records can be released to. P. 72, CCP 45.0218.
36. Describe the process, including eligibility, petition requirements, and filing fees for expunction of arrest records. P. 72-79, CCP 55.01, 55.02.
37. Identify fine ranges for:
 - a. Class C Misdemeanors. PC 12.23.
 - b. General Transportation Code Provisions. TC 542.401.
 - c. Other Transportation Code Provisions
 - i. DWLI. TC 521.457.
 - ii. Seat Belt. TC 545.413.
 - iii. Child Passenger Safety Seat. TC 545.412.
 - iv. FMFR. TC 601.191.
 - v. Passing a School Bus. TC 545.066.
 - vi. Overweight Offenses. TC 621.506 & 623.019.
 - vii. Texting and other Electronic Communication Offenses. TC 545.424, 545.425, 545.4251.
 - d. Tobacco Offenses. Health & Safety Code Ch. 161
 - e. Parent Contributing to Nonattendance. Education Code 25.093.
38. Identify how the fine is distributed in Parks & Wildlife cases. P. 80, PWC 12.107.
39. Describe when traffic offenses are reported to DPS. P. 87, TC 543.203. See also the 2019 TJCTC Justice Court Reporting Guide, available at <https://www.tjctc.org/tjctc-resources/publications.html>.
40. Identify the three offenses that must be given a ticket instead of being taken to jail. P. 89, TC 543.004.
41. Describe the offense of Parent Contributing to Nonattendance. P. 90, Education Code 25.093.
42. Identify when the offenses of Theft and Issuance of Bad Check are Class C misdemeanors. P. 91, PC 31.03, 32.41.
43. Identify the fees and costs that apply to offenses beginning on January 1, 2020 as well as the State Traffic Fine change that occurred on September 1, 2019. Fees and Costs Cheat Sheet, www.tjctc.org. *
44. Identify the proper usages of the Justice Court Tech Fund, including changes made September 1, 2019. Legislative Update Handout, slide 41; CCP 102.0173. *

Magistration Deskbook

1. Know how long the record of a magistration must be kept. P. 7, CCP 15.17.
2. Understand the requirements related to EPOs, including reporting handgun license suspensions, modifications, and sending a copy to the victim. P. 27-29, CCP 17.292.*

3. Identify when a warrant is available for public inspection. P. 45, CCP 15.26.

Juvenile Deskbook

1. Define a “child” in criminal cases, and when a justice court has jurisdiction over criminal cases involving children. P. 46, FC 51.02, CCP 45.058.
2. Describe when a court may and when a court must transfer a case to juvenile court. P. 46-47. FC 51.08.
3. Describe when a child must enter their plea in open court and when a parent must be present in regular criminal cases and in alcohol cases. P. 48-49, 75, CCP 45.0215, ABC 106.10.
4. Explain the court’s responsibility in explaining expunction rights. P. 49-50, CCP 45.0216.
5. Know what can be done if a child doesn’t appear as directed for a criminal case and describe the process for a notice of continuing obligation. P. 51-54, CCP 45.057, 45.060.
6. Identify what is different about deferred disposition for people under 25 on traffic offenses. P. 58-59, CCP 45.051.
7. Describe the procedure when a child fails to comply with an order issued upon conviction. P. 64-65, CCP 45.050.
8. Know if and when a *capias pro fine* can issue for an offense occurring before the defendant’s 17th birthday. P. 70-71, CCP 45.045.*
9. Define a “minor” under the Alcoholic Beverage Code. P. 72, ABC 106.01.
10. Identify the 7 offenses that justice courts get under the Alcoholic Beverage Code. P. 72-73, ABC Ch. 106, PC 49.02.
11. Identify the penalties and sanctions for convictions of those 7 offenses, including when there is a prior conviction. P. 79-87. ABC 106.071, 106.041, 106.115.
12. Describe expunction rights related to alcohol cases. P. 88-89, ABC 106.12.
13. Identify DPS reporting requirements related to alcohol cases. P. 89-90, ABC 106.117. See also the 2019 TJCTC Justice Court Reporting Guide, available at <https://www.tjctc.org/tjctc-resources/publications.html>.
14. Identify what a tobacco offense is and the penalty, procedure, and expunction rights. P. 92-96, HSC 161.252-.255.*
15. Define a “school offense” and know when or if citations can be filed on them, and what the proper age range is. P. 97, 99-100, Education Code 37.141, 37.143, CCP 45.058.
16. Identify distracted driving offenses related to minors, including the fine amounts. P. 101, TC 545.424.
17. Describe which records involving juveniles are confidential, and who those records can be released to. P. 103-104, CCP 45.0217.
18. Describe which records involving juveniles may be expunged, and the procedure for doing so. P. 104-106, CCP 45.0216.

Officeholding Deskbook

1. Identify the duties of the clerk, including when a signature stamp can be used. P. 17-18, Gov’t Code 27.056, Attorney General Opinion JM-373.

2. Describe the different types of contempt and the punishments for each. P. 25-32, Gov't Code 21.002, Code of Criminal Procedure 45.050, Prop. Code 92.009, 92.0091.
3. Recordkeeping and reporting duties. P. 44-47; 52-55; 58-61. See also the 2019 TJCTC Justice Court Reporting Guide, available at <https://www.tjctc.org/tjctc-resources/publications.html>.
4. Identify the costs that can be charged for copies. P. 64, Local Gov't Code 118.121.
5. Distinguish between case records and judicial records and describe the rules for public access to each. P. 121-129.
6. Identify the requirements of a clerk to post self-help resources for self-represented litigants. Gov't Code 51.808.