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User Notes

This deskbook on *Recordkeeping and Reporting* (2nd ed. November 2021) represents the Texas Justice Court Training Center's ongoing commitment to provide resources, information and assistance on issues of importance to Texas Justices of the Peace and Constables and their court personnel, and continues a long tradition of support for judicial education in the State of Texas by the Justices of the Peace and Constables Association of Texas, Inc.

We hope you will find it to be a valuable resource in providing fair and impartial justice to the citizens of Texas.

This deskbook is intended to offer a practical and readily accessible source of information relating to issues you are likely to encounter regarding recordkeeping and reporting in justice court. It is not intended to replace original sources of authority, such as the Government Code, Local Government Code, Transportation Code, Code of Criminal Procedure, the Texas Rules of Judicial Administration, or the Texas Rules of Civil Procedure. We strongly recommend that you refer to the applicable statutory provisions and rules when reviewing issues discussed in this book.

Please note that all references to "Rule ___" are to the Texas Rules of Civil Procedure, and all references to "TSLAC" are to the Texas State Library and Archives Commission.

Rather than including the citations to cases in the text of the deskbook, we have listed only the case name in the text but have included the entire citation in the appendix of cases.

Please do not hesitate to contact us should you have any questions or comments concerning any of the matters discussed in *Recordkeeping and Reporting*.

Texas Justice Court Training Center
November 2021

Chapter 1: Record Retention

A. Records That Must Be Kept by a Justice of the Peace

1. General Requirement

Each justice shall arrange and safely keep all dockets, books, and papers transmitted to the justice by the justice's predecessors, and all papers filed in a proceeding in justice court. *Government Code § 27.004(a)*. Any other records that document the transaction of public business or are otherwise required by law or statute must also be kept.

These records are required to be kept whether they are created or received by the court, and they could exist in any form, including paper, e-mail, electronic file, video, etc. For more information on maintaining records electronically, see [page 6](#) of this volume.

Who Keeps Magistration Paperwork?

A justice of the peace must keep all papers related to magistration until the case gets filed in a higher court.

Once filed, the justice must send all original documents to the court that now has jurisdiction.

Important Tip!

Keep your personal and business e-mails in separate accounts. Any e-mails related to court business are records and must be kept.

Examples of categories of records that must be kept can be found in the local retention schedule for justice and municipal court records that was created by the Texas State Library and Archives Commission (TSLAC). The length of time that a particular record must be kept depends on its category. This will all be discussed further in the "Destruction of Records" section, starting on [page 8](#) of this volume.

All records must be kept whether they are open or closed and whether they are public information or not. Public access to records is discussed in [Chapter 2](#) of this volume.

Tips for making sure records are kept safely:

- Decide who, within the court, is responsible for keeping which records;
 - This could be a clerk, different clerks for different record types, or the judge;
- Decide whether the record copy will be a hard copy or maintained electronically;
- Additional copies should be disposed of as soon as they're no longer needed (for reference, disaster preparedness, historical preservation, etc.), but not until after it is confirmed that the "record copy" has been kept.

2. Specific Requirements

a. Civil Docket

A justice of the peace is required to keep a civil docket, which must contain the following information:

- the title of all suits filed with the court,
- the date when the first process was issued against the defendant, when the process was returnable, and the nature of the process,
- the date the parties appeared before the court,
- a description of the petition and any documents filed with the petition,
- every adjournment, stating at whose request it was made and at what time,
- the date of the trial, stating whether it was before a jury or a judge,
- the verdict of the jury, if any,
- the judgment signed by the judge and the date it was signed,
- all applications for setting aside judgments or granting new trials,
- orders on applications for setting aside judgments or granting new trials,
- the date of issuing execution, to whom directed and delivered, and the amount of debt, damages and costs, and when any execution is returned, the date of the return, and the manner in which it was executed, **and**
- all stays and appeals that may be taken, the date when taken, and the amount of the bond and the name of the sureties.

Rule 507.3(a).

b. Civil Case Fee Book

A justice of the peace must keep a fee book in which all costs accruing in every civil suit commenced before the court are taxed. *Rule 507.3(b)*.

c. Criminal Docket

A justice of the peace is required to keep a criminal docket, which must contain the following information:

- the style and file number of each criminal action,
- the nature of the offense charged,
- the plea offered by the defendant and the date the plea was entered,
- the date the warrant, if any, was issued and the return made,
- the date the examination or trial was held, and if a trial was held, whether it was by a jury or by the justice,
- the verdict of the jury, if any, and the date of the verdict,
- the judgment and sentence of the court, and the date each was given,
- the motion for new trial, if any, and the decisions, **and**
- whether an appeal was taken and the date of that action.

Code of Criminal Procedure Art. 45.017.

d. Witness Fees

The justice of the peace shall maintain a record, separate from the docket, of:

- the number and style of each criminal action before the court;
- the name of each witness subpoenaed, attached, or recognized to testify in the action; **and**
- whether the witness was a witness for the state or for the defendant.

Code of Criminal Procedure Art. 102.002.

The purpose for keeping a separate record is because the county may ultimately be responsible for costs accumulated in a case. A defendant is liable on conviction for the fees for witnesses in the defendant's case. If a defendant convicted of a misdemeanor does not pay the defendant's fines and costs, the county or municipality, as appropriate, is

liable for the fees for witnesses in the defendant's case. *Code of Criminal Procedure Art. 102.002.*

If a person is subpoenaed as a witness in a criminal case and fails to appear, the person subpoenaed is liable for the costs of an attachment, unless he shows good cause to the court why he did not appear. *Government Code § 573.081(a).*

e. Collection of Money

Recordkeeping requirements related to collecting money can be found in the *Fines, Fees, and Costs Deskbook.*

3. Records that Do Not Have to Be Kept

The following are examples of records that specifically do **not** have to be kept by a justice court:

- records ordered expunged by a court order (*Local Government Code § 202.001*),
- convenience copies: “Extra identical copies of documents created only for convenience of reference or research” (*Local Government Code § 201.003(8)(A)*),
- extra copies of documents furnished to the public as part of a records request,
- blank forms/stocks of publications,
- library or museum materials,
- alternative Dispute Resolution working files.

4. When a Justice Vacates Office

When a person vacates the office of justice of the peace, that person shall transfer all court records, documents, property, and unfinished business to their successor on the date the successor takes office. If there is no successor, the governing body shall determine which officer of the local government shall have custody. *Government Code § 27.004(a-1); Local Government Code § 201.006(a).*

5. Delivery of Documents Upon Demand

A person who has possession of dockets, books, or papers belonging to the office of any justice of the peace shall deliver those dockets to the new justice on demand. *Government Code § 27.004(b)*.

If the person refuses to deliver them, the person may be attached and jailed by the order of a county judge until the person makes delivery, if a motion supported by an affidavit is filed and the person to be attached is given three days' notice of the motion. *Government Code § 27.004(b)*.

B. Maintaining Records Electronically

All records may be created and/or stored electronically, at the discretion of the judge. *Government Code § 27.058; Code of Criminal Procedure Art. 45.017(b); Local Government Code Chapter 205; Texas Administrative Code Title 13, Chapter 7.*

Note that even if a state law relating to the keeping of records by a local government officer or employee requires the records to be kept in a "book," "record book," or "well-bound book," or contains any similar requirement that a record be maintained in bound paper form, the record may be maintained on microfilm or stored electronically unless the law specifically prohibits those methods. *Local Government Code § 201.004.*

1. Standards and Procedures

If a court decides to keep records electronically, they must ensure that the court will be able to access all electronic records for their full retention periods.

For information on standards and procedures for maintaining electronic records, see TSLAC's "[Local Government Bulletin B: Electronic Records Standards and Procedures](#)".



Retention Period

A "retention period" is the length of time that a record must be kept depending on what type of record it is. This will be discussed further on [page 8](#) of this volume.

2. Destruction of Source Document

If there is an original hard copy version of a record, it can be destroyed once the electronic version is created. However, before destroying the original, the court must test:

- that the electronic version is complete and of good quality; **and**
- that the court is able to locate and retrieve the electronic version when needed.

If a court is using a new software system, it should keep the source documents for at least six months until the court is sure that the system is working properly.

For more information regarding requirements for the destruction of source documents, see TSLAC's "[Local Government Bulletin B, Section 205.008: Destruction of Source Documents](#)".



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C. Records Management Program

1. Records Management Officer

Each elected justice of the peace is the records management officer (RMO) for the records of his or her office. *Local Government Code § 203.001*. However, a justice of the peace can designate the current county-wide RMO (if there is one) to be the RMO for the justice's records. *Local Government Code § 203.005(g)*. Note, however, that if the justice of the peace does this, the justice is still the custodian of their court's records and still has all of the duties discussed above.

If the justice of the peace is the RMO, they shall:

- develop policies and procedures for the administration of an active and continuing records management program;
- administer the records management program so as to reduce the costs and improve the efficiency of recordkeeping;
- identify and take adequate steps to preserve records that are of permanent value;
- identify and take adequate steps to protect the essential records of the office;
- ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the policies and procedures

of the records management program and the requirements of this subtitle and rules adopted under it, **and**

- cooperate with the commission in its conduct of statewide records management surveys.

Local Government Code § 203.002.

TSLAC shall provide advice and assistance to records management officers in establishing records management programs and in carrying out other requirements. *Local Government Code § 203.004.*

If the justice of the peace **is not** the RMO, then they should consult with their county-wide RMO to find out what retention schedules the county is using (how long each type of record must be kept) and any other procedures and policies that must be followed.

More information on retention schedules can be found on [page 9](#) of this volume.

2. Required Form

There is a required form that all justices of the peace must file with TSLAC, whether they are the RMO or not: “Form SLR 512 – Records Management Policy and Declaration of Compliance by an Elected County Official.”



The form and instructions for filling it out and filing it can be found here:

<https://www.tsl.texas.gov/slr/forms>.

D. Destruction of Records

1. When a Record May Be Destroyed

A record may be destroyed if:

- it is the source document of an electronic record and no longer needs to be kept (see [page 7](#) of this volume for more information);

Definitions

Retention Schedule: A document that lists categories of records, with mandatory minimum retention periods for each category.

Retention Period: The minimum amount of time you are legally required to keep a record.

- it is part of a record category listed on an approved retention schedule and the retention period has expired;
- it appears on a list of obsolete records approved by the director and librarian;
- a destruction request is filed with and approved by the director and librarian for a record not listed on an approved control schedule;
- it was ordered to be destroyed by an expunction order, **or**
- it is an exempt record as defined by rules adopted by the commission or listed as exempt in a records retention schedule issued by the commission.

Local Government Code § 202.001(a),(b).

a. Retention Schedules

A retention schedule is a document that lists different categories of records and the minimum amount of time (the “retention period”) that you are legally required to keep records for each category. Some categories must be kept permanently. The categories are based on the nature of the content and not the form of the record. For example, a paper document and an electronic file that are both part of a civil case would be in the same category as each other.

TSLAC has created the following retention schedules that are relevant to justice court:

- Local Schedule GR: for records common to all local governments; **and**
- Local Schedule LC: for records specific to justice and municipal courts.

Retention Schedule vs. Statute

If there is a requirement in a statute that a record must be kept for a certain amount of time, and it is different from what the retention schedule says:

- The court should keep the record for whichever period is longer (this way the requirements of both are met). **Example:** Code of Criminal Procedure Art. 15.17 requires a judge to keep magistration records for a timeframe that is shorter than the retention period listed for this type of record in the LC retention schedule (see Chapter 2 of the *Magistration Deskbook*). So, the court would follow the retention schedule.

If a statute requires a particular record to be destroyed:

- the court must follow the statute.



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Retention Schedules and Additional Information

A county **can** impose **stricter** requirements than what is in these schedules, but **not less strict** requirements. Most counties just adopt TSLAC's retention schedules, but the records management officer will have information on if a county has adopted retention schedules that are different from the two above.

b. Why Destroy Records?

You might wonder why bother destroying records at all? Wouldn't it be easier to not mess with all of the requirements and just keep all records permanently? However, destroying eligible records:

- creates room for newer records and speeds up retrieval;
- reduces operating, equipment, storage, supply, and personnel costs; **and**
- shows that the court's record management system is an active and continuing program as required by law.

2. Restrictions on the Destruction of Records

A record may not be destroyed until the matter is resolved if it is involved in any ongoing:

- litigation,
- claim,
- audit, **or**
- open records request.

Local Government Code § 202.002.



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Destroying a record that falls into one of these categories could result in liability issues or a criminal offense.

3. Method and Procedure for Destruction

Generally, you do not need permission to destroy records once the retention period is over.

A local government record may be destroyed by burning, shredding, pulping, burial in a landfill, or by sale or donation for recycling purposes, except that records to which public access is restricted may be destroyed only by burning, pulping, or shredding. *Local Government Code § 202.003(a)&(b)*. For more information on when public access is restricted, see [Chapter 2](#) of this volume.

A local government that sells or donates records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler. *Local Government Code § 202.003(c)*.

The director and librarian of TSLAC may approve other methods of destruction that render the records unrecognizable as local government records. *Local Government Code § 202.003(d)*.

a. Records Disposition Log

It is not required that a court keep a records disposition log of all records destroyed, but it is strongly recommended.



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A blank disposition log form can be found here:

<https://www.tsl.texas.gov/slrms/forms>



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4. Liability

A custodian of local government records, records management officer, or other officer or employee of a local government may not be held personally liable for the destruction of a record if the destruction is in compliance with the rules discussed above. *Local Government Code § 202.007*.

E. Training and Resources

TSLAC has a variety of training resources, which can be found here:

<https://www.tsl.texas.gov/slrms/training>.



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TSLAC has a blog, called *The Texas Record*, that has useful information and updates regularly posted on it. You can subscribe to the blog to receive notifications of new posts. The blog can be found here: <https://www.tsl.texas.gov/slr/blog/>.

If you have a question or need assistance regarding record retention and management:

- The general contact information for TSLAC's state and local records management staff can be found here: <https://www.tsl.texas.gov/slr/contact>.
- You can also contact the analyst assigned to your county for more one-on-one assistance. You can search for your analyst here: <https://www.tsl.texas.gov/slr/local/countylist>.



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Chapter 2: Public Access to Records

Justice court records are public property and any person is entitled access to those records except where expressly limited by law. *Local Government Code § 201.005(a)*; *Government Code § 552.001(a)*.

As discussed in Chapter 1 of this volume, the justice of the peace is the custodian of the justice court records and is responsible for properly responding to requests for those records. This chapter will cover when access to justice court records is limited and the procedures for the request and release of justice court records.

A. Judicial Records vs. Court Case Records

The rules and procedures for access to a justice court's records depend on the type of record it is. There are two types of records:

- Judicial records, and
- Court case records.

See the chart below for the definitions, examples, and where you find the procedures for release for the two types of records.

No Personal Property Rights to Records

A local government officer or employee does not have, by virtue of the officer's or employee's position, any personal or property right to a local government record even though the officer or employee developed or compiled it. *Local Government Code § 201.005(b)*.



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Note that the Public Information Act (PIA) is **not** mentioned in the chart. This is because the PIA covers record requests for government documents kept by certain governmental entities, but it **does not apply** to the judiciary. *Government Code § 552.003, 552.0035*.

	Definitions	Examples	Procedures for Release
Judicial Records	Made or maintained by or for a court or judicial agency in its regular course of business; and not a “court case record.”	Disaster preparedness plan, personnel records, payments to court appointed attorneys and ad litem.	Follow Rule 12 of the Texas Rules of Judicial Administration. <u>See pages 14-25 of this volume for more information.</u>
Court Case Records	Created or filed in connection with any matter that is or has been before a court.	Pleadings, motions, judgments.	Follow the relevant common law (based on decisions from court cases).
	Pertaining to a court’s “adjudicative function” (the court’s role in hearing and deciding cases), even if not related to a specific case.	Blank forms, information packets.	Except where a specific statute or rule applies to a certain type of record – then follow that. <u>See pages 25-32 of this volume for more information.</u>

Rules of Judicial Administration Rule 12.2(d).

B. Release of Judicial Records (Rule 12)

1. Governed by Rule 12 of the Texas Rules Judicial Administration



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As discussed above, Rule 12 of the Texas Rules of Judicial Administration governs public access to judicial records. A complete set of the rules can be found here:

<https://www.txcourts.gov/rules-forms/rules-standards/>.

The purpose of Rule 12 is to provide public access to information in the judiciary that is consistent with the mandates of the Texas Constitution that the public interests are best served by open courts and by an independent judiciary. The rule should be liberally construed to achieve its purpose. *Rules of Judicial Administration Rule 12.1.*

a. Definitions

Record

A record is a document, paper, letter, map, book, tape, photograph, film, recording, or other material, regardless of electronic or physical form, characteristics, or means of transmission. *Rules of Judicial Administration Rule 12.2(d).*

Records Custodian

Records custodian means the person with custody of a judicial record as determined as follows:

- The judicial records of a court with only one judge, such as any trial court, are in the custody of that judge.
- Judicial records pertaining to the joint administration of a number of those courts, such as the district courts in a particular county or region, are in the custody of the judge who presides over the joint administration, such as the local or regional administrative judge.

Rules of Judicial Administration Rule 12.2(e).

b. Applicability

This rule does not apply to:

- records or information to which access is controlled by:
 - a state or federal court rule, including:
 - a rule of civil or criminal procedure, including Rule 76a, Texas Rules of Civil Procedure,
 - a rule of appellate procedure,
 - a rule of evidence, **or**
 - a rule of administration,
 - a state or federal court order not issued merely to thwart the purpose of this rule,
 - the Code of Judicial Conduct, **or**
 - Chapter 552 Government Code or another statute or provision of law,
- records or information to which Chapter 552 Government Code is made inapplicable by statute, rule, or other provision of law, other than Section 552.003(1)(B),

- records or information relating to an arrest or search warrant or a supporting affidavit, access to which is controlled by:
 - a state or federal court rule, including a rule of civil or criminal procedure, appellate procedure, or evidence, **or**
 - common law, court order, judicial decision, or another provision of law, **or**
- elected officials other than judges.

Rules of Judicial Administration Rule 12.3.

2. General Rules

a. *Judicial Records Open to the Public*



Judicial records other than those covered by Rules 12.3 and 12.5 are open to the general public for inspection and copying during regular business hours. *Rules of Judicial Administration Rule 12.4(a).*

b. *What Courts Do Not Have to Do*

This rule **does not** require a court, judicial agency, or records custodian to:

- Create a record other than to print information stored in a computer;
- Retain a judicial record for a specific period of time (courts should follow whatever their retention schedule requires—see [page 9](#) of this volume for more information);
- Allow the inspection of or provide a copy of information in a book or publication commercially available to the public; **or**
- Respond to or comply with a request for a judicial record from or on behalf of an individual who is imprisoned or confined in a correctional facility or in any other such facility in any state, federal, or foreign jurisdiction.

What if the Court Receives an Overly Burdensome Request?

Under Rule 12.8(a)(2) of the Rules of Judicial Administration, the court may deny a records request that would substantially and unreasonably impede the routine operation of the court.

[See page 22 of this volume for more information.](#)

c. Records Can Be Made Public Voluntarily

A records custodian may voluntarily make part or all of the information in a judicial record available to the public (even if not required as described above), unless the disclosure is expressly prohibited by law, the records are exempt from disclosure, or the information is confidential. Information voluntarily disclosed must be made available to any person who requests it. *Rules of Judicial Administration Rule 12.4(b)*.

3. Exemptions from Disclosure

The following records are exempt from disclosure and should **not** be disclosed:

- **Judicial work product and drafts** – any record that relates to a judicial officer’s adjudicative decision-making process prepared by that judicial officer, by another judicial officer, or by court staff, an intern, or any other person acting on behalf of or at the direction of the judicial officer (example: notes that a judge takes at a judicial education seminar).
- **Security plans** – any record, including a security plan or code, the release of which would jeopardize the security of an individual against physical injury or jeopardize information or property against theft, tampering, improper use illegal disclosure, trespass, unauthorized access, or physical injury.
- **Personnel information** – any personnel record that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy.
- **Home address and family information** – any record reflecting any person’s home address, home or personal telephone number, social security number, or family members.
- **Applicants for employment or volunteer service** – any records relating to an applicant for employment or volunteer services.
- **Internal deliberations on court or judicial administration matters** – any record relating to internal deliberations of a court or judicial agency, or among judicial

officers or members of a judicial agency, on matters of court or judicial administration.

- **Court law library information** – any record in a law library that links a patron’s name with the materials requested or borrowed by that patron.
- **Judicial calendar information** – any record that reflects a judicial officer’s appointments or engagements that are in the future or that constitute an invasion of personal privacy.
- **Information confidential under other law** – any record that is confidential or exempt from disclosure under a state or federal constitutional provision, statute, or common law, including information that relates to:
 - a complaint alleging misconduct against a judicial officer if the complaint is exempt from disclosure under Chapter 33 Government Code or other law;
 - a complaint alleging misconduct against a person who is licensed or regulated by the courts, if the information is confidential under applicable law; **or**
 - a trade secret or commercial or financial information made privileged or confidential by statute or judicial decision.
- **Litigation or settlement negotiations** – any judicial record relating to civil or criminal litigation or settlement negotiations:
 - in which a court or judicial agency is or may be a party; **or**
 - in which a judicial officer or member of a judicial agency is or may be a party as a consequence of the person’s office or employment.
- **Investigations of character or conduct** – any record relating to an investigation of any person’s character or conduct unless:
 - the record is requested by the person being investigated; **and**
 - release of the record, in the judgment of the records custodian, would not impair the investigations.
- **Examinations** – any record relating to an examination administered to any person, unless requested by the person after the examination is concluded.

Rules of Judicial Administration Rule 12.5(a)-(l).

4. Procedures for Request and Response

a. Requirements for Request

A request to inspect or copy a judicial record must be in writing and must include sufficient information to reasonably identify the record requested. The request must be sent to the records custodian and not to a court clerk or other agent for the records custodian. A requestor need not have detailed knowledge of the records custodian's filing system or procedures in order to obtain the information.

Rules of Judicial Administration Rule 12.6(a).

Procedures Only Apply to Judicial Records

Remember, these procedures only apply to judicial records. The procedures for the release of court case records can be found on [page 25](#) of this volume.

b. Time and Place for Inspection and Delivery

Time for inspection and delivery of copies is as soon as practicable, but not more than 14 days after receipt of a request to inspect or copy a judicial record. If the record is available, the records custodian must either:

- Allow the requestor to inspect the record and provide a copy if one is requested; **or**
- Send written notice to the requestor stating that the record cannot be produced or a copy provided within the 14 days, and setting a reasonable date and time when the document will be produced or a copy provided.

Rules of Judicial Administration Rule 12.6(b).

A records custodian must produce a requested judicial record at a convenient, public area.

Rules of Judicial Administration Rule 12.6(c).

The records custodian may deliver the record to a court clerk for copying. The records custodian may also mail the copy to a requestor who has prepaid the postage. *Rules of Judicial Administration Rule 12.6(e).*



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c. Portions of a Record Not Subject to Disclosure Must Be Redacted



COMMON
PITFALL

If part of a requested record is subject to disclosure under this rule and part is not, the records custodian must redact the portion of the record that is not subject to disclosure, permit the remainder of the record to be inspected, and provide a copy if requested. *Rules of Judicial Administration Rule 12.6(d).*

d. If a Recipient of a Request is not the Custodian of the Requested Record



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A judicial officer or a presiding officer of a judicial agency who receives a request for a judicial record not in his or her custody as defined by this rule must promptly attempt to figure out who the custodian of the record is. If the recipient of the request can figure out who the custodian of the requested record is, the recipient must promptly refer the request to that person and notify the requestor in writing of the referral. The time for response does not begin to run until the referral is actually received by the records custodian.

If the recipient cannot figure out who the custodian of the requested record is, the recipient must promptly notify the requestor in writing that the recipient is not the custodian of the record and they cannot figure out who the custodian of the record is. *Rules of Judicial Administration Rule 12.6(f).*

e. Cannot Ask the Purpose of the Request



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A person requesting a judicial record may not be asked to disclose the purpose of the request as a condition of obtaining the judicial record. A records custodian may ask questions only as necessary to establish the proper identification of the requestor or to clarify the nature or scope of a request. *Rules of Judicial Administration Rule 12.6(g).*

f. Uniform Treatment of Requests

A records custodian must treat all requests for information the same, without regard to the position or occupation of the requestor or the person on whose behalf a request is made, including whether they are a member of the media. *Rules of Judicial Administration Rule 12.6(h).*

5. Costs for Copies

a. Costs

A records custodian must follow the Texas Office of Attorney General (OAG) schedule for costs unless there is a specific statute that says something different. *Rules of Judicial Administration Rule 12.7(a)*.

Paper copies:

This cost is set by Section 118.121 of the Local Government Code:

- Certified - \$2 for first page and \$0.25 for each additional page
- Non-certified - \$1 for first page and \$0.25 for each additional page



CLICK
HERE

Non-paper copies (electronic, DVD, etc.):

There are no costs set by statute, so the OAG schedule must be followed. The schedule can be found in the Texas Administrative Code (1 Tex. Admin. Code § 70.10). [View the schedule of costs](#).

b. Waiver or Reduction of Costs

A records custodian may reduce or waive the charge for a copy of a judicial record if:

- doing so is in the public interest because providing the copy of the record primarily benefits the general public; **or**
- the cost of processing collection of a charge will exceed the amount of the charge.

Rules of Judicial Administration Rule 12.7(b).

c. Appeal of Cost Assessment

A person who believes that a charge for a copy of a judicial record is excessive may appeal the overcharge in the manner prescribed by Rule 12.9 for the appeal of the denial of access to a judicial record ([see page 23](#)). *Rules of Judicial Administration Rule 12.7(c)*.

d. Records Custodian Not Personally Responsible for Cost

A records custodian is not required to incur personal expense in furnishing a copy of a judicial record. *Rules of Judicial Administration Rule 12.7(d)*.

6. Denial of Access

a. When a Request May Be Denied

A records custodian may deny a request for a judicial record only if the records custodian:

- reasonably determines that the requested judicial record is exempt from required disclosure under this rule; **or**
- makes specific, non-conclusory findings that compliance with the request would substantially and unreasonably impede the routine operation of the court or judicial agency.

Rules of Judicial Administration Rule 12.8(a).

A records custodian who denies access to a judicial record must notify the person requesting the record of the denial within a reasonable time, not to exceed 14 days, after receipt of the request, or before the deadline for responding to the request. *Rules of Judicial Administration Rule 12.8(b)*.

b. Contents of a Denial Notice

A notice of denial must be in writing and must:

- state the reason for the denial;
- inform the person of the right of appeal; **and**

“Substantially and Unreasonably Impedes the Routine Operation of the Court”

A court will rarely be able to lawfully deny a request for this reason.

Example of a **proper** denial:

Denying a request asking for all records ever created by the court, after the judge makes specific findings that complying with the request would require the court staff to spend weeks working on it and would keep them from their necessary duties.

Example of an **improper** denial:

Denying a request asking for copies of records of all payments to appointed attorneys in the past two years, after the judge makes a non-specific, conclusory finding that it “will substantially and unreasonably impede the routine operation of the court.”

- include the name and address of the Administrative Director of the Office of Court Administration.

Rules of Judicial Administration Rule 12.8(c).

7. Appeal

A person who is denied access to a judicial record may appeal the denial by filing a petition for review with the Administrative Director of the Office of Court Administration. *Rules of Judicial Administration Rule 12.9(a).*

a. Requirements of Petition for Review

The petition for review:

- must include a copy of the request to the records custodian and the records custodian's notice of denial;
- may include any supporting facts, arguments, and authorities that the petitioner believes to be relevant; **and**
- may contain a request for expedited review, the grounds for which must be stated.

Rules of Judicial Administration Rule 12.9(b).

The petition must be filed not later than 30 days after the date that the petitioner receives notice of a denial of access to the judicial record. *Rules of Judicial Administration Rule 12.9(c).*

b. Notifications and Formation of Special Committee

Upon receipt of the petition for review, the Administrative Director must promptly notify the records custodian who denied access to the judicial record and the presiding judge of each administrative judicial region of the filing of the petition. *Rules of Judicial Administration Rule 12.9(d).*

Upon receiving notice of the petition for review, the presiding judges must refer the petition to a special committee. *Rules of Judicial Administration Rule 12.9(f).*

c. Response to the Petition for Review

A records custodian who denies access to a judicial record and against whom relief is sought may, within 14 days of receipt of notice from the Administrative Director, submit a written response to the petition for review and include supporting facts and authorities in the response. The records custodian must mail a copy of the response to the petitioner.

The records custodian may also submit to the committee for “in camera inspection” any record, or a sample of records, to which access has been denied. *Rules of Judicial Administration Rule 12.9(e)*.

d. Decision

The special committee's determination must be supported by a written decision that must:

- issue within 60 days of the date that the Administrative Director received the petition for review;
- either grant the petition in whole or in part or sustain the denial of access to the requested judicial record;
- state the reasons for the decision, including appropriate citations to Rule 12; **and**
- identify the record or portions of the record to which access is ordered or denied, but only if the description does not disclose confidential information.

Rules of Judicial Administration Rule 12.9(j).

A decision of a special committee is not appealable but is subject to review by a mandamus action. *Rules of Judicial Administration Rule 12.9(m),(n)*.

***Records Submitted for
“In Camera Inspection”***

This means that only the special committee that is considering the petition for review (and not the petitioner) will be able to see the records that are submitted. This might help the committee decide whether or not the records should be released before they make a decision.

Mandamus Action

A mandamus action basically asks a higher court to determine if the judge has not followed the law, and if they haven't, to order them to do so.

e. Notice and Publication of Decision

The special committee must send the decision to the Administrative Director. On receipt of the decision from the special committee, the Administrative Director must:

- immediately notify the petitioner and the records custodian of the decision and include a copy of the decision with the notice; **and**
- maintain a copy of the special committee's decision in the Administrative Director's office for public inspection.

Rules of Judicial Administration Rule 12.9(k).

The Administrative Director must publish periodically to the judiciary and the general public the special committee's decisions. *Rules of Judicial Administration Rule 12.9(l).*

8. Sanctions

A records custodian who fails to comply with Rule 12, knowing that the failure to comply is in violation of the rule, is subject to sanctions under the Code of Judicial Conduct. *Rules of Judicial Administration Rule 12.10.*

C. Release of Court Case Records

1. Governed by Common Law and Statutes

As discussed at the beginning of the chapter, access to court case records is governed by common law except where a statute or rule says otherwise. Rule 12 of the Rules of Judicial Administration **does not** apply to court case records; it **only** applies to judicial records.

Common Law

Accepted law based on judicial precedent (previous court case decisions).

2. General Rule

Generally, case records are assumed to be open to the public unless they are sealed, or access is limited by common law or a specific statute or rule. [*Nixon v. Warner Communications, Inc.*](#); [*Ashpole v. Millard.*](#)

3. When Access to Records Are Limited

a. Sealed or Subject to Non-Disclosure Order

If a record is sealed or subject to a non-disclosure order, the appropriate order should be in the case file.

If a record has been sealed by a court order, it **must not** be released except as allowed under that order or a subsequent order permitting inspection.

If a record is subject to a non-disclosure order under Chapter 411, Subchapter E-1 of the Government Code, the record may only be released to the following:

- A criminal justice agency seeking information for criminal justice or regulatory licensing purposes,
- An agency or entity listed in Section 411.0765 of the Government Code, **or**
- The person who is the subject of the order.

b. Subject to Expunction Order

If a record has been expunged, but has not yet been destroyed, it must not be released and should be destroyed as soon as possible.

c. Arrest Warrants, Search Warrants, and Supporting Affidavits

If a warrant has not been executed yet, that arrest warrant, search warrant, and/or supporting affidavit record (as applicable) must **not** be released. *Code of Criminal Procedure Arts. 15.26, 18.01(b).*

What About Ongoing Requests for Records that Don't Exist Yet?

Sometimes, a person might request a court to provide certain types of records on an ongoing basis as those records are created. A court may, but is not required, to comply with this kind of request. Whichever way a court chooses to go on this, it should treat all requests consistently.

If the court chooses not to comply with ongoing requests or requests for future records, anyone who makes such a request should be notified that records requests may only be made for records currently in existence.

Redaction of Identifying Information of Child Sex Abuse Victim

Warrants of arrest and all supporting affidavits are generally open to inspection by the public. *Code of Criminal Procedure Art. 15.26*. However, disclosure of identifying information of victims of sexual offenses who are under 17 years of age is prohibited by Art. 57.02(h), unless it is required or permitted by law. The Attorney General issued an opinion that Art. 15.26 does not specifically require or permit such disclosure. Therefore, courts should redact any identifying information of child sex abuse victims before releasing such documents to the public. *Attorney General Opinion KP-0275*.

d. Protected Person's Address when Emergency Protective Order is Issued

When issuing an Emergency Protective Order, if the protected person requests it, the court may issue an order to protect the person's address. The order must:

- require the protected person to give their address to the court and designate another person/address to receive any notices or documents related to the order;
- require the court clerk to strike the address from any public court records and maintain a confidential record of the protected person's address for use only by the court or a law enforcement agency entering info required by Section 411.042(b)(6) of the Government Code into the statewide law enforcement information system; **and**
- prohibit release of the protected person's address to the defendant.

Code of Criminal Procedure Art. 17.294.

e. Vacated Emergency Protective Orders

A vacated emergency protective order **may not** be accessed by the public. *Government Code § 72.157(b)*.

This does not affect a court's duty to report vacated orders to the Protective Order Registry maintained by OCA. See [page 49](#) of this volume for more information.

f. Fine-only Misdemeanors More than Five Years Old

If the record involves a non-traffic offense where the defendant was a child (under 17), it may only be released as discussed in subsection f below.

Otherwise, if the record for a fine-only misdemeanor is requested on or after the 5th anniversary of the date of final conviction or dismissal after deferral, it may only be released to the following:

- judges or court staff,
- a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code,
- the Department of Public Safety,
- the attorney representing the state,
- the defendant or the defendant's counsel,
- if the offense is a traffic offense, an insurance company or surety company authorized to write motor vehicle liability insurance in this state, **or**
- necessary parties for the purpose of complying with a requirement under federal law or if federal law requires the disclosure as a condition of receiving federal highway funds.

If the case is sexual in nature, it must be released, but the identity of the victim must be redacted due to the common law privacy exception (see [page 31](#) of this volume for more information). The main example of a case that is sexual in nature that could be filed in a justice court would be a sexting offense committed by a 17-year-old. *Code of Criminal Procedure Art. 45.0218.*

g. Juvenile Fine-only Misdemeanors Other than a Traffic Offense

All records and files relating to a fine-only misdemeanor case against a child (under 17) other than a traffic offense are confidential and may not be disclosed to the public. *Code of Criminal Procedure Art. 45.0217(a)*. The outcome of the proceeding does not affect the confidentiality of the records. They must be maintained as confidential and may not be disclosed to the public if the child was charged with, convicted of, found not guilty of, had

Enforcement of Judgments When Records Are Confidential

Even when case records are confidential and may only be released as described by Art. 45.0217 or 45.0218 of the Code of Criminal Procedure, those cases can still be turned over to collections (for enforcement under Art. 103.0031 of the Code of Criminal Procedure) or otherwise enforced.

a charge dismissed for, or is granted a deferred disposition for a non-traffic fine-only misdemeanor. *Code of Criminal Procedure Art. 45.0217(a)*.

The records may only be disclosed to:

- judges or court staff,
- a criminal justice agency, as defined by Section 411.082(3), Government Code,
- DPS,
- an attorney for a party to the proceeding,
- the child defendant, **or**
- the defendant’s parent, guardian or managing conservator.

Code of Criminal Procedure Art. 45.0217.

For more information, see Chapters 4 and 8 of the *Juvenile Deskbook*.

h. Mental Health Case Records

When magistrates a defendant with potential mental health issues or an intellectual or developmental disability, an assessment must be ordered (for more information, see Chapter 2 of the *Magistration Deskbook*). The written report that is created as part of this assessment is confidential and should not be disclosed except as allowed by Article 16.22 of the Code of Criminal Procedure or as otherwise allowed by law for mental health case records. *Code of Criminal Procedure Art. 16.22(f)*.

The other main type of mental health case that a justice of the peace is likely to see is an emergency apprehension and detention proceeding (see Chapter 3 of the *Magistration Deskbook* for more information). The general statute that requires mental health records to be kept confidential is Section 571.015 of the Texas Health and Safety Code. The language of this statute refers only to papers held by a county clerk. So, an argument could be made that the confidentiality provision does not apply to justices of the peace. However, the best course of action would seem to be for justice courts to still treat all mental health records as confidential.

Military Recruiters

These records may not be released to military recruiters (or anyone else not on the list), even if they have a release signed by the child and/or the child’s parent or attorney.

The child or their parent or attorney will have to request the record and provide it themselves.

Under Section 571.015 of the Texas Health and Safety Code, mental health records are confidential unless:

- the county or district judge makes a written order granting access;
- the requestor is the patient or the patient’s attorney; **or**
- law enforcement needs information in the record in execution of a writ or warrant.

i. Truancy Cases

Truancy court records and files **must** be maintained as confidential and **may not** be disclosed to the public. The records may be disclosed only to:

- the judge of the truancy court, the truant conduct prosecutor, and the staff of the judge and prosecutor;
- the child or an attorney for the child;
- a governmental agency if the disclosure is required or authorized by law;
- a person or entity to whom the child is referred for treatment or services if the agency or institution disclosing the information has entered into a written confidentiality agreement with the person or entity regarding the protection of the disclosed information;
- the Texas Department of Criminal Justice and the Texas Juvenile Justice Department for the purpose of maintaining statistical records of recidivism and for diagnosis and classification;
- the agency (note: there is no definition of “agency,” but we assume the legislature meant to refer to TEA); **or**
- with permission of the truancy court, any other person, agency, or institution having a legitimate interest in the proceeding or in the work of the court.

Family Code § 65.202.



Note that the last exception allows the court to disclose the records to **any** person having a legitimate interest. This could include people such as military recruiters. This exception **does not** exist for juvenile criminal court records!

If a truancy record is sealed, the information in subsection a above applies ([see page 26](#)). For more information about the sealing of truancy records, see Chapter 1 of the *Juvenile Deskbook*.

j. Juror Information Sheets

Juror information sheets are confidential, except they may be released to the:

- parties,
- attorneys for the parties,
- judge and court personnel, **and**
- in criminal cases, the media if the court has found good cause to permit disclosure.

Code of Criminal Procedure Art. 35.29.

k. Common Law Privacy Exception

This exception protects information that:

- contains “highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person”; **and**
- that is “not of legitimate concern to the public.”

Industrial Foundation of the South v. Industrial Accident Board.



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If a record that should otherwise be released contains information subject to this common law privacy exception, then the private information should be redacted, and the rest of the record should be released.

Certain information clearly falls under this exception and should be redacted. This includes social security numbers, driver’s license numbers, and financial information. For some information, such as addresses, phone numbers, and dates of birth, it may be less clear whether the exception applies.

With dates of birth, for example, there is a case that held that public citizens have a privacy interest in their birth dates and that the publication of birth dates would be highly objectionable to a reasonable person. *Paxton v. City of Dallas.* On the other hand, an abstract of judgment is a public document and must include the defendant’s date of birth. *Property Code § 52.003.*

Helpful Tip

The court should make sure that no extra copies of juror information sheets have been accidentally left out in the courtroom. Any extra copies may be shredded.

It is also uncertain whether e-mail addresses may be disclosed. One argument for redacting them is that under the Public Information Act, an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure unless that person affirmatively consents to its release. *Government Code § 552.137*. While the Public Information Act does not apply to the judiciary, it does show that a law has already determined e-mail addresses to be private information in a similar context.

Ultimately, it will be up to the judge to decide if the information being requested meets the two requirements described above. If it does, then the common law privacy exception applies, and the information will need to be redacted.

I. Vehicle for Improper Purposes

If the judge determines that release of the record would be a vehicle for improper purposes, then access can be denied. [*Nixon v. Warner Communications, Inc.*](#)

This is very rare and is up to the discretion of the judge, but one example could be if the judge believed the person requesting the record was planning to use the information to stalk someone.

4. Procedures

Unlike with judicial records, there are no specific procedures for access to court case records.

TJCTC recommends the following rules of thumb:

- Reply as soon as practicable – either with the records requested, notification that the request has been forwarded elsewhere, or a denial of the request and the reason for the denial (as applicable).
- Keep the requestor informed throughout the process.
- If part of a record should be withheld and part should be released, redact the part that should be withheld and release the rest.



5. Costs for Copies

Paper copies

The appropriate charge for paper copies is set by Section 118.121 of the Local Government Code:

- Certified – \$2 for first page and \$0.25 for each additional page
- Non-certified – \$1 for first page and \$0.25 for each additional page



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Non-paper copies (electronic, DVD, etc.)

There is no set guidance for these costs, other than the amount must be “reasonable.” TJCTC recommends following the Texas Office of Attorney General (OAG) schedule for costs. This is what is required for judicial records, so it will definitely be considered reasonable. The schedule can be found in the Texas Administrative Code (1 Tex. Admin. Code § 70.10). [View the schedule of costs.](#)

6. Appeal

Since Rule 12 of the Rules of Judicial Administration **does not** apply to court case records, the Rule 12 appeal process **does not** apply to a denial of court case records.

Instead, if a judge denies access to a record, the requestor could choose to challenge that decision by filing a mandamus action against the judge.

Mandamus Action

A mandamus action basically asks a higher court to determine if the judge has not followed the law, and if they haven't, to order them to do so.

D. Liability



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A clerk, the county, and/or the commissioners court are not responsible or liable for the release of a confidential document from a state court document database if the clerk in good faith performs duties as provided by law and the Texas Rules of Civil Procedure.

A court clerk is not liable for the release of a sealed or confidential document in the clerk's custody unless the clerk acted intentionally, or with malice, reckless disregard, or gross negligence in the release of the document. *Government Code § 51.609.*

E. Record Request Flowcharts

The Office of Court Administration has created two flowcharts related to record requests:

- Records Request Flowchart for Justice and Municipal Courts – Judicial Records (Rule 12)
- Records Request Flowchart for Justice and Municipal Courts – Court Case Records

[Click Here to Open These Record Request Flowcharts](#)

Chapter 3: Reporting Requirements

A. DPS Reporting Requirements

1. Failure to Appear in a Criminal Case

The first type of event that may occur in a criminal case that may trigger a reporting requirement is a defendant's failure to appear to enter a plea. However, whether a justice court is obligated to report a failure to appear depends on a number of factors, including the offense with which the defendant is charged. Below, we discuss the scenarios your court may face when a defendant fails to appear in a pending criminal case.

Reporting Logistics

See [page 52](#) of this volume for information on the logistics of DPS reporting.

a. "Omni" Reporting

When a defendant has been charged with any criminal offense in your court but fails to appear in accordance with a citation or summons, the most common form of reporting is through the automated Omnibase system (commonly referred to as "Omni") associated with the Department of Public Safety's Failure to Appear Program. DPS may deny driver's license renewal for any defendant who fails to appear and is properly reported to the Omni system. *Transportation Code § 706.004(a)*. For more information about reporting to Omni for failure to appear, see Chapter 3 of the *Criminal Deskbook*.

Note that a defendant may also be reported to Omni for failure to satisfy the terms of a judgment. This type of reporting is discussed on [page 45](#) of this volume and in Chapter 8 of the *Criminal Deskbook*.

b. Failure to Appear for a Transportation Code Ch. 521 Offense

If the defendant is charged with a traffic offense listed in Chapter 521 and fails to appear, the court is **required** to report the failure to DPS. The court is also required

to report to DPS again on final disposition of the case. *Transportation Code § 521.3452*.

The offenses listed in Chapter 521 include:

- No driver's license
- Expired driver's license
- Violation of license restriction
- Violation of occupational driver's license requirements
- Fictitious driver's license
- DWLI

The language of the statute indicates that this report may be submitted via Omni or by submitting the information directly to DPS using an appropriate administrative form. For more information on reporting logistics, see [page 52](#) of this volume.

Upon receiving a report pursuant to Section 521.3452, DPS **may deny renewal** of the defendant's driver's license under Section 521.317 or Chapter 706 of the Transportation Code. DPS **shall not issue** any license to a person who has been reported by a court under Section 521.3452 for failure to appear unless the court has filed an additional report on final disposition of the case.

c. Failure to Appear by a Juvenile

If a defendant fails to appear (or defaults in payment of a fine after conviction) for a fine-only misdemeanor charge and they were under 17 at the time of the alleged offense, your court may choose, but is not required, to report them to DPS. *Transportation Code § 521.201(8)*. But note that if the defendant failed to appear on a Chapter 521 offense as describe above, reporting is not optional, and the defendant must be reported. If the court reports the defendant, the court must also report to DPS again on final disposition of the case.

This report is a separate procedure from Omni and should be made directly to DPS. You might choose this option instead of reporting through Omni if the juvenile does not have a driver's license (a defendant must have a driver's license to be reported through Omni). Upon receiving this report, DPS may not issue any license to the

defendant unless the court has filed an additional report on final disposition of the case.

d. Failure to Appear by a Defendant with an Out-of-State License

The Non-Resident Violators Compact (NRVC), found in Chapter 703 of the Transportation Code, is an agreement among 44 states to suspend the driver's license of individuals who receive citations while out-of-state and then fail to appear to resolve the case. This was an attempt to resolve the issue of defendants assuming there would be no consequences for failing to respond to citations received while traveling out of state.

The states which do not participate in the NRVC are Alaska, California, Michigan, Montana, Oregon, and Wisconsin.



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The NRVC only applies to traffic violations, which are not defined under the compact. Some offenses are explicitly excluded, such as equipment violations, inspection violations, parking or standing violations, size and weight limit violations, violations of law governing the transportation of hazardous materials, motor carrier violations, lease law violations, and registration law violations. *Transportation Code § 703.002, Art. VIII.*



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TJCTC otherwise recommends treating “traffic violations” as equivalent to “Rules of the Road” violations. For a definition of Rules of the Road violations, see Chapter 3 of the *Criminal Deskbook*.

If a defendant with an out-of-state license fails to appear by their appearance date on a traffic violation in justice court, the court must report that failure to DPS within six months of the date of the citation. DPS then reports the failure to the defendant's home jurisdiction. That jurisdiction then suspends the defendant's license until they receive a report that the defendant has complied with the terms of the citation. Additionally, the defendant will have to pay a reinstatement fee, which in Texas is \$100.

2. Disposition of a Criminal Offense

The court's disposition of a case may also trigger reporting requirements. The court's obligation to report varies depending on the type of case, the procedure used to dispose of the case, and specific reporting requirements for certain offenses. Below, we discuss the scenarios a justice court may face when reporting the disposition of a case.

a. General Reporting Requirements

Justice courts are **not** required to report the disposition of every criminal case pursuant to Article 60.08(c) of the Code of Criminal Procedure. So, justice courts **do not** have a general reporting obligation for all dispositions (dismissal, conviction, or acquittal) of all criminal cases.

There are, however, several specific reporting requirements which may be triggered when the court disposes of a case. The various triggers and the corresponding requirements are discussed below.

b. Traffic Cases

General Requirement

Section 543.203 of the Transportation Code requires a justice court to report a conviction (or forfeiture of bail) for "a law regulating the operation of a vehicle on a highway" to the Department of Public Safety.

The report to DPS must be made not later than seven days after the conviction and shall include the following information:

- the name, address, physical description, including race or ethnicity, date of birth,

Highway or Street Definition

Many people think of a "highway" as a specific type of road, but the Transportation Code defines "highway or street" as anything between the boundaries of a publicly maintained right of way if any part of the right of way is used for public vehicular travel. *Transportation Code § 541.302(5).*

So, reporting is required for any conviction (or forfeiture of bail) for a violation of a law regulating the operation of a motor vehicle on a public roadway.

- and driver's license number of the person charged;
- the registration number of the vehicle involved;
- whether the vehicle was a commercial motor vehicle as defined by Chapter 522 of the Transportation Code or was involved in transporting hazardous materials;
- the person's social security number, if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or commercial driver learner's permit;
- the date and nature of the offense, including whether the offense was a serious traffic violation as defined by Chapter 522 of the Transportation Code;
- whether a search of the vehicle was conducted and whether consent for the search was obtained;
- the plea, the judgment, whether the individual was adjudicated under Article 45.0511 of the Code of Criminal Procedure, and whether bail was forfeited;
- the date of conviction; **and**
- the amount of the fine or forfeiture.

When reporting a conviction, the court may also recommend suspension of the person's driver's license in accordance with Chapter 521, Subchapter N of the Transportation Code. *Transportation Code § 521.347(b)*.

Specific Requirements

In addition to the general reporting requirements for traffic cases as discussed above, several statutes have specific reporting requirements for convictions of certain individual offenses. These offenses include:

- No Driver's License. *Transportation Code § 521.025*.
- Operating or Loading Overweight Vehicle. *Transportation Code § 621.506*.
- Any offense relating to the misuse of a permit authorizing a commercial motor vehicle to operate under excess weight. *Transportation Code § 623.019*.
- Any offense under Chapter 623, Subchapter D of the Transportation Code relating to the use of heavy equipment. *Transportation Code § 623.082*.
- Engaging in or soliciting the transportation of household goods for compensation while not being registered as required by Chapter 643, Subchapter B of the Transportation Code. *Transportation Code § 643.253*.
 - This reporting requirement was added in the 2019 Regular Legislative

Session and only applies to offenses committed on or after September 1, 2019.

Because reporting methods are set by DPS and are subject to change, we recommend checking with DPS periodically to determine if a particular form needs to be used for reporting any offense which lists a specific reporting requirement (this could be in addition to or instead of the general form). For more information on reporting logistics, see [page 52](#) of this volume.

c. Alcohol Cases Involving Minors

Disposition

Chapter 106 of the Alcoholic Beverage Code addresses reporting requirements when a minor is charged with an age-related alcohol offense. The following dispositions shall be reported to the Department of Public Safety:

- a conviction of any Chapter 106 offense,
- an order of deferred disposition for an offense alleged under Chapter 106, **and**
- acquittal of an offense under Section 106.041 (Driving Under the Influence by a Minor).

Alcoholic Beverage Code § 106.117.

Driver's License Suspension Upon Conviction

Additionally, if a defendant is convicted of any offense punishable by Section 106.071 of the Alcoholic Beverage Code, the justice court shall order DPS to suspend the defendant's license. The length of suspension is 30 days if the offense is the defendant's first. The length of suspension increases to 60 days if the defendant has been previously convicted of an offense. *Alcoholic Beverage Code § 106.071.* This order must be properly reported to DPS so that it may be enforced.

Failure to Complete Alcohol Awareness Class

If a minor is convicted or placed on deferred disposition for a first-time, alcohol-related offense, the court must also order the defendant to take an alcohol awareness course or complete additional community service. The court also has the option to order a minor to take an alcohol awareness class or complete additional

community service if convicted or placed on deferred disposition for a subsequent alcohol-related offense. *Alcoholic Beverage Code § 106.115.*

If the defendant fails to complete the alcohol awareness course or fails to complete the community service as ordered, the court shall order DPS to suspend (or deny issuance of) the defendant's license. The length of the suspension shall be up to six months for a first-time offense, and up to one year for a subsequent offense. *Alcoholic Beverage Code § 106.115.* This order must be reported to DPS so that it may be enforced.

d. Tobacco Cases Involving Minors

For offenses committed **before September 1, 2019**, when a defendant is convicted of a tobacco offense under Section 161.252 of the Health & Safety Code, the court must:

- Determine a fine amount not to exceed \$250;
- Suspend execution of the sentence; **and**
- Require the defendant to attend an approved e-cigarette and tobacco awareness program; or, if access to a program is not readily available, require the defendant to perform 8-12 hours of e-cigarette and tobacco awareness related community service.

Health & Safety Code § 161.253.

If the defendant does not present evidence of satisfactory completion of the awareness program or community service substitute by the 90th day after the date of conviction, the court must execute the sentence and must order DPS to suspend or deny issuance of the defendant's driver's license or permit for a specified period of time, not to exceed 180 days from the date of the order. *Health & Safety Code § 161.254.*

If the court is required to order DPS to suspend or deny issuance of the defendant's driver's license/permit, the court must also report that order to DPS so that it may be enforced.



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This law was changed, however, in the 2019 Regular Legislative Session.

Now, for offenses committed **on or after September 1, 2019**, the fine is only \$100 and the court may **not** order DPS to suspend or deny issuance of the defendant's driver's license if they do not complete the awareness program/community service substitute. **So, there is no need to report anything to DPS at any point in a tobacco case if the offense was committed on or after September 1, 2019.**

e. Graffiti Cases

The court may choose, but is not required, to order DPS to suspend or deny issuance/reinstatement of a defendant's driver's license upon conviction of a graffiti offense under Section 28.08, Penal Code. The length of suspension is one year after the date of a final conviction. The length that a license is to be denied issuance is one year after the date the person applies for reinstatement or issuance of a driver's license. *Transportation Code § 521.320.*

A graffiti offense is a Class C misdemeanor (and so may be heard in a justice court) if the amount of monetary loss resulting from the graffiti is less than \$100. *Penal Code § 28.08*

f. Family Violence Cases

Any fine-only offense involving family violence as defined by Section 71.004 of the Family Code that was committed **on or after September 1, 2019** must now be reported to DPS upon disposition of the case (whether acquittal, conviction, deferral, or dismissal).

The court clerk must report the applicable information regarding the defendant's citation/arrest and what the disposition of the case was within 30 days of disposition. The report must be made using a uniform incident fingerprint card or through another method approved by DPS. At any time before final disposition of the case, the judge in a family violence case may order a law enforcement officer to use the uniform incident fingerprint card to take the fingerprints of a defendant who is charged with the misdemeanor, but was not placed under custodial arrest at the time of the offense. *Code of Criminal Procedure Arts. 66.251, 66.252.*

Note that the method for reporting these cases is different from other DPS reporting. The court can either send in the appropriate DPS form or can sign up to report these cases on the Criminal Justice Information System (CJIS) website.

For more information on how to report these cases and contact information for your CJIS Field Auditor in case you need assistance, please see:

- TJCTC’s Family Violence and Other Criminal History Reporting for Justice Courts self-paced module which is at the [TJCTC Online Learning page](#).
- [DPS’s webpage for CJIS reporting](#)

g. Diversion Programs

A handful of statutes make it possible for a justice court to accept a defendant’s plea of guilty but defer final disposition of the case for a specified period of time. During the deferral period, the defendant must comply with conditions set by the court. If the defendant successfully complies with all conditions and requirements within the specified deferral period, the defendant’s reward is a dismissal of the charged offense. Such dismissals may also trigger reporting requirements for the justice court. For more information on these programs in general, see Chapter 5 of the *Criminal Deskbook*.

Deferred Disposition – Article 45.051, Code of Criminal Procedure

This statute allows a justice court to defer final disposition of a case and require the defendant to comply with certain requirements specified by the court. If a justice court determines “that the defendant has complied with the requirements imposed by the judge,” then “the judge shall dismiss the complaint, and it shall be clearly noted in the docket that the complaint is dismissed and that there is not a final conviction.”

Fingerprinting Best Practices

It is a best practice to have a plan with your bailiff and other local law enforcement agencies on how you want to handle this process. Many counties have agreements where defendants can report to a particular law enforcement office or the jail where this process is routinely done, so the fingerprinting can be done properly and efficiently. Alternatively, the bailiff will need to have the proper equipment for the fingerprinting, so they can complete the fingerprint cards at a defendant’s regular court appearance.



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If the complaint is dismissed in this manner, the final disposition **may not be reported** to DPS unless it is required for a particular offense by another statute. *Transportation Code § 543.204*. For example, if a court defers disposition for an offense listed in Chapter 106 of the Alcoholic Beverage Code or for a Class C Family Violence offense, the order deferring disposition must be reported (see [page 40](#) and [page 42](#) of this volume for additional information).

If the defendant fails to comply with the requirements imposed by the court, the defendant may be convicted following a show-cause hearing, and the conviction must be reported within seven days if it is a type of conviction that requires reporting. *Transportation Code § 543.203, 543.204*.

Driving Safety Course – Article 45.0511, Code of Criminal Procedure

This statute allows a qualifying defendant to have a charged offense dismissed upon successful completion of a driving safety course. It contains language similar to that found in Article 45.051, but also includes a specific reporting requirement:

“When a defendant [completes the driving safety course and submits all required information to the court], the court shall:

- remove the judgment and dismiss the charge;
- report the fact that the defendant successfully completed a driving safety course or a motorcycle operator training course and the date of completion to the Texas Department of Public Safety for inclusion in the person's driving record; **and**
- state in that report whether the course was taken under this article to provide information necessary to determine eligibility to take a subsequent course under Subsection (b).”

Therefore, it is important to include accurate information when reporting to DPS so that the next time the defendant commits a traffic offense, the next trial court will have complete and accurate information regarding the defendant’s eligibility to have that citation dismissed by completing a driving safety course.

Teen Court Program – Article 45.052, Code of Criminal Procedure:

This statute creates a similar “deferral and dismissal” procedure for defendants who elect to participate in (and successfully complete) a teen court program. Like Article 45.0511, this statute creates a specific reporting requirement. It states: “A charge dismissed under this article may not be part of the defendant's criminal record or driving record or used for any purpose. However, if the charge was for a traffic offense, the court shall report to the Department of Public Safety that the defendant successfully completed the teen court program and the date of completion for inclusion in the defendant's driving record.” *Code of Criminal Procedure Art. 45.052(d)*.

h. When a Conviction Has Been Appealed

What does the court do if a conviction that requires reporting has been appealed? If the court has not yet sent the report, then it should not be sent. When a conviction is appealed in justice court, it ceases to exist. Therefore, once an appeal is perfected, there is no conviction to report anymore.

If an appeal is perfected after a report was already sent, then the court should submit a correction form or ask the division it submitted the report to for directions on how to correct the report. In the correction, the court should state that the case has been appealed.



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For family violence cases, since the deadline to report is within 30 days of disposition, the best practice would be to wait to report the final disposition of the case until after the appeal window has closed. For information on what and how to report if the defendant appeals, see TJCTC’s *Family Violence and Other Criminal History Reporting for Justice Courts* self-paced module which is at the [TJCTC Online Learning page](#). For more information about reporting family violence cases generally, see [page 42](#) of this volume.

3. If the Defendant Fails to Satisfy a Judgment

Even though a case has been disposed of and reported to the appropriate state agency, the justice court’s reporting obligations have not necessarily ended.

Additional reporting requirements may arise if a defendant fails to satisfy the terms of the court's judgment.

If a defendant fails to pay a fine and costs as ordered by the justice court's written judgment, the court may act to compel the defendant to discharge the fine and costs.

The court has many options, including:

- reporting the defendant to Omni; **or**
- if the offense was committed while the defendant was a juvenile, proceeding under Article 45.050 of the Code of Criminal Procedure or Section 521.201(8) of the Transportation Code.

If the court does any of these things, reporting requirements exist.

Reporting the Defendant to Omni

For more information about reporting to Omni for failing to satisfy a judgment, see Chapter 8 of the *Criminal Deskbook*.

If Proceeding Under Code of Criminal Procedure 45.050 or Transportation Code 521.201(8)

If the defendant who fails to discharge the fine and costs contained in the court's written judgment committed the offense while a child, the court could choose to proceed under Article 45.050. This statute allows the justice court to either refer the defendant to juvenile court for delinquent conduct (if the defendant is still a child) or retain the case and hold the defendant in contempt for failure to satisfy the judgment.

If the court chooses the latter option, the court may take one or both of the following actions upon finding the defendant is in contempt of court:

- order that they pay a fine not to exceed \$500; **and/or**
- order that the Department of Public Safety suspend or deny issuance of the defendant's driver's license or permit until the defendant fully complies with the orders of the court.

Code of Criminal Procedure Art. 45.050(c).

If the justice court chooses to order the Department of Public Safety to suspend the defendant's license, the court must use the appropriate form to convey its order to DPS. The court must also notify DPS when the child has complied with the order so the suspension can be lifted.

The court also has an additional option when the defendant is a child and has defaulted in payment of a fine. The court may choose, but is not required, to report the defendant to DPS under Section 521.201(8) of the Transportation Code. If DPS receives this report, it may not issue any license to the defendant until the court has filed an additional report on final disposition of the case (which the court is required to do).

What if There Is an Outstanding Judgment in a Civil Case Involving a Car Accident?

If a person does not satisfy a judgment before the 61st day after the date of the judgment, the clerk of the court, on the written request of a judgment creditor or a judgment creditor's attorney, immediately shall send a certified copy of the judgment to DPS. DPS must then suspend the person's license or operating permit.

4. Magistration

A justice of the peace may also be subject to reporting requirements when executing duties as a criminal magistrate. Keep in mind that a justice of the peace's duty as a magistrate is to "preserve the peace within their jurisdiction by the use of all lawful means." Compliance with the following reporting requirements will help to keep the court's community safe and ensure a defendant is able to exercise his or her constitutional rights.

a. Magistrate's Order for Emergency Protection

When executing his or her duties as a criminal magistrate, a justice of the peace may issue orders for emergency protection in order to protect victims of family violence. Issuance of these orders triggers several reporting requirements. The issuing magistrate is required to: "send a copy of the order to the chief of police in the municipality where the member of the family or household or individual protected by the order resides, if the person resides in a municipality, or to the sheriff of the

county where the person resides, if the person does not reside in a municipality.” The magistrate must send the copy of the order as soon as possible, but not later than the next business day. *Code of Criminal Procedure Art. 17.292(h)*.

Once notified, it is the sheriff’s or police department’s duty to report the existence of the order for emergency protection to the Department of Public Safety within three business days.

Additionally, if the victim is not present when the order is issued, the justice of the peace shall order a peace officer to make a good faith effort to notify the victim of the Emergency Protective Order (EPO) within 24 hours, and the clerk of the court must send a copy of the EPO to the victim not later than the next business day after the date the order is issued. *Code of Criminal Procedure Art. 17.292(h)*.

The deadlines described above may be extended only if the magistrate or the clerk lacks information to ensure service and enforcement. *Code of Criminal Procedure Art. 17.292(h-1)*.



In an EPO, the magistrate is required to specifically describe the prohibited locations and the minimum distances, if any, that the party must maintain, unless the magistrate determines for the safety of the person or persons protected by the order that specific descriptions of the locations should be omitted. As of the 2019 Regular Legislative Session, even if this information is omitted from an EPO, it still must be collected in the statewide law enforcement information system. *Government Code § 411.042(b)(6)*.

If the defendant who is the subject of the EPO has been licensed to carry a handgun, the magistrate’s order shall order the defendant’s license to be immediately suspended. The magistrate shall immediately send a copy of the suspension order to DPS. Once DPS receives the order, it will immediately:

- record the suspension of the license in the records of the department;
- report the suspension to local law enforcement agencies, as appropriate; **and**
- demand surrender of the suspended license from the license holder.

Code of Criminal Procedure Arts. 17.292, 17.293.

Protective Order Registry

OCA is required to maintain a protective order registry and a training program for magistrates, court personnel, and peace officers on how to use the registry.

Magistrate’s emergency protective orders issued by a justice of the peace are among the orders that would need to be entered into this registry.

Procedures include:

- Applications and orders (original or modified) must be entered as soon as possible, but not more than 24 hours after filing/issuance;
- A clerk can delay only to the extent that they lack the specific info required to be entered; **and**
- If an EPO is vacated or expired, the clerk shall update the status of the order in the registry. A vacated order **may not** be accessed by the public.

Government Code § 72.151–72.158.

The protective order registry may be accessed at <https://www.txcourts.gov/judicial-data/protective-order-registry/>.

b. Bond Conditions in Violent Offense Cases

Effective January 1, 2022, magistrates have a duty to notify the sheriff of any bond condition imposed on a defendant for a violent offense. Additionally, a magistrate must notify the sheriff in any case involving a violent offense of any revocation of bond that contains a condition of release, any modification of a condition of bond in any case, or any disposition of a case involving conditions of release involving a violent offense. The notification should occur as soon as practical, but no later than the day after the issuance of an order releasing the defendant on bond. *Code of Criminal Procedure Art. 17.50 (b), (c).*

Violent Offense

For purposes of this statute, “violent offense” includes murder, capital murder, kidnapping, aggravated kidnapping, indecency with a child, sexual assault, aggravated assault, aggravated sexual assault, injury to a child or elderly or disabled person, aggravated robbery, continuous sexual abuse of young child or children, continuous trafficking of persons, or any offense involving family violence as defined by Family Code Sec. 71.004. Code of Criminal Procedure *Art.17.50(3).*



The report notifying the sheriff of new bond conditions must contain:

- The identifying information listed in Government Code Section 411.042(b)(6);
- The name and address of any person the condition of bond is intended to protect as well as the name and address of any victim of the alleged offense if different;
- The date the order releasing the defendant on bond was issued; **and**
- The court that issued the order releasing the defendant on bond.

DPS is required to develop a form by December 31, 2021, to facilitate this report.

The sheriff is then required to either add or remove, as applicable, the condition of bond from the statewide law enforcement information system maintained by DPS, also known as the Texas Crime Information Center (TCIC). This addition or removal should be done as soon as practical but **must** be done by the next business day after receiving the information from the magistrate. *Code of Criminal Procedure Art. 17.50(d)*.

Additionally, any order imposing a bond condition in a violent offense must be sent to any named person that the condition is intended to protect, as well as any victim of the alleged offense, if different. The order must be sent no later than the next business day after the court issued the order. *Code of Criminal Procedure Art. 17.50(e)*.

c. Ignition Interlock Device Bond Condition

When magistrating a defendant, one thing the judge must do is decide what, if any, bond conditions to impose on the defendant. Restricting a defendant to the use of a motor vehicle equipped with an Ignition Interlock Device is a mandatory bond condition in some situations and an optional bond condition in other situations. See Chapter 2 of the *Magistration Deskbook* for more information.

When a magistrate restricts a defendant to the use of a motor vehicle equipped with an Ignition Interlock Device, the magistrate should notify DPS of the order. When DPS receives a notice, it notifies the defendant that their driver's license expires on the 30th day after the date of the notice. If the defendant's license is not suspended, DPS will issue a special restricted license authorizing the person to operate only a motor vehicle equipped with an ignition interlock device when the person applies for one and pays a \$10 fee. *Transportation Code § 521.2465*.

5. Truancy

a. Remedial Orders

If a truancy court finds that a child engaged in truant conduct, the court may enter a remedial order requiring the child to attend school and comply with other conditions set by the court.

As part of the truancy court's order under Section 65.103 of the Family Code, the court may order DPS to suspend the driver's license or permit of the individual who engaged in truant conduct or, if the individual does not have a license or permit, to deny the issuance of a license or permit to the individual for a period specified by the court not to exceed the maximum time period that a remedial order may be effective (180 days or until the end of the school year, whichever period is longer).

If a court chooses to order DPS to suspend or deny the driver's license or permit, the court must report that order to DPS.

b. Failure to Obey a Remedial Order

If a child fails to obey a remedial order or is in direct contempt of court, the court may, after notice and hearing, hold the child in contempt under Section 65.251 of the Family Code. As part of this order, the court may order that the child's driver's license or permit be suspended or denied issuance until they comply fully with the court's orders.

If a court chooses to order DPS to suspend or deny the driver's license or permit, the court must report that order to DPS. The court must also notify DPS once the child has complied with the court's orders so the suspension can be lifted.

6. License Suspension Hearings

If a justice of the peace serves as a presiding officer at a driver's license suspension hearing under Chapter 521 of the Transportation Code, the justice of the peace may order the Department of Public Safety to probate a license suspension. If the justice

of the peace does so, they must set the terms of the probation and report those terms to DPS. *Transportation Code § 521.309.*

Additionally, if a subsequent hearing is held to determine whether the licensee has violated the terms of his or her probation, the justice of the peace's determination shall be reported to DPS. *Transportation Code § 521.310.*

For more information about driver's license suspension/revocation proceedings, see Chapter 6 of the *Administrative Proceedings Deskbook*.

7. Occupational Driver's Licenses

If a justice of the peace grants an occupational license petition, a certified copy of the petition and a certified copy of the court's order must be sent to the Department of Public Safety. *Transportation Code § 521.249.*

If the justice court revokes an order granting an occupational license for any reason, a certified copy of the order revoking the license must be sent to DPS. *Transportation Code § 521.245, 521.251(d-1), 521.253(c).*

Although the Transportation Code does not explicitly authorize justice courts to modify an order granting an occupational license, it is our opinion that courts have the inherent authority to do so. If a court modifies an order, a certified copy of that order must be sent to DPS as well.

For more information about occupational driver's license proceedings, see Chapter 9 of the *Administrative Proceedings Deskbook*.

8. Reporting Logistics

a. Method for Reporting, Forms, and DPS Contact Information

Omni reporting will be automated and the court should follow the procedures in their Omni contract and Chapter 706 of the Transportation Code.

For information on the method for reporting the disposition of family violence cases, see [page 42](#) of this volume.



All traffic convictions reported to DPS are required to be submitted via DPS's SFTP website (a site controlled by DPS where secure files can be uploaded).

All other reports must be made as directed by DPS. In some cases, the court is only required to send a certified copy of an order. In other cases a particular form may be required. Most reporting can be done electronically and automatically from a court's computer system.

For any questions about accessing the SFTP website, how to actually submit any reports or if you have any other issues or questions, contact the appropriate division at DPS and/or your software provider.

TJCTC has a document that lists the DPS divisions you should contact for each type of report and provides their contact information. The document also contains several other organizations' contact information that may be useful for courts. This information is often for court use only and should not be shared with the public. If you would like a copy of this document, please contact April Williams at TJCTC and ask for the "Helpful Contact Information" document. April's email address is adw167@txstate.edu. If April is unavailable, call TJCTC and press 1 for a legal question, and the Legal Department will assist you.

b. Correcting Errors

If the report needing to be corrected was sent to the Conviction Reporting Division, the court should submit a department approved correction form, which can be obtained from Conviction Reporting. This can be submitted by fax, e-mail, or mail, and should only be sent once. Allow three to five business days for processing. If there are 10 or more corrections at a time or as a result of the same error, contact a Conviction Reporting representative.



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If the report needing to be corrected was for a family violence case reported to CJIS, see TJCTC's *Family Violence and Other Criminal History Reporting for Justice Courts* self-paced module which is at the [TJCTC Online Learning page](#).

If the report needing to be corrected was sent to any other division, contact that division for directions on how to make the correction.

c. Rejected Reports

If a report is rejected, the court will be notified electronically or by mail. Some reasons a report may be rejected are if it is:

- over the length requirement,
- missing a required field, **or**
- a duplicate file.

Sometimes there may just be an issue with the court's software. In this case, it may be necessary to contact the software provider for assistance.

If the report was submitted through DPS's SFTP site, the court can make any corrections to the rejected report and resubmit it there.

B. OCA Reporting Requirements

1. Required Reports

Reports that a justice court must submit to the Office of Court Administration include the following:

- Monthly Judicial Council Trial Court Activity Reports
- Monthly Appointments and Fees Reports
- Court Security Incident Reports
- Court Closures and Re-openings Reports



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Information about these reports (including the laws that require them and instructions, forms, and resources for completing them) may be found here:

<http://www.txcourts.gov/reporting-to-oca.aspx>.

2. Protective Order Registry

For information on the Protective Order Registry (as well as the DPS reporting requirements related to a magistrate's emergency protective order), see [pages 47-49](#) of this volume.

C. Inquest Reporting Requirements

Reporting Requirements related to inquests can be found in Chapter 7 and 8 of the *Inquests Deskbook*.

D. Reporting Requirements Related to Collecting Money

Reporting requirements related to collecting money can be found in Chapter 2 and 3 of the *Fines, Fees, and Costs Deskbook*.

E. Other Reporting Requirements

1. Alcoholic Beverage Commission

Upon request by the Texas Alcoholic Beverage Commission, a court must furnish a notice of conviction of an offense under Chapter 106 of the Alcoholic Beverage Code. The report must be in the form prescribed by the commission. *Alcoholic Beverage Code § 106.116*.

2. Federal Immigration and Customs Enforcement Division

It is a common misconception that convictions for fine-only offenses need to be reported to the federal Immigration and Customs Enforcement division of the Department of Homeland Security. Such reporting is only required when a known undocumented immigrant is convicted of a felony offense. *Code of Criminal Procedure Art. 2.25*.

While reporting convictions in justice court to Immigration and Customs Enforcement (ICE) is not required or encouraged by TJCTC, reporting is certainly not prohibited.

However, inquiring into a particular defendant's immigration status may raise ethical issues for a justice court. We recommend contacting the Commission on Judicial Conduct to discuss some of these ethical issues if you wish to report suspected undocumented immigrants who are convicted in your court to Immigration and Customs Enforcement.

For information on ICE detainer requests that may be received when a person is arrested, see Chapter 2 of the *Magistration Deskbook*.

3. Justice of the Peace's Financial Activity

Each year, a justice of the peace of a county with a population of 125,000 or more shall file a financial statement. A candidate for the office of justice of the peace must also file a financial statement. *Local Government Code § 159.001(2); Local Government Code § 159.003(a)*. Filing dates are discussed below.

The financial statement must include an account of the financial activity of the individual, and an account of the financial activity of the individual's spouse and dependent children, if the individual had actual control over that activity for the preceding calendar year. *Government Code § 572.023(a)*. More information on what the account of financial activity consists of can be found in Section 572.023(b)(1)–(14) of the Government Code.

a. Requirements of the Statement

The statement must:

- be filed with the county clerk in the county in which the justice or candidate resides;
- comply with Sections 572.022 and 572.023 of the Government Code; **and**
- comply with any order of the commissioners court of the county requiring additional disclosures.

Local Government Code § 159.003(b).

The statement may be filed by electronic mail. *Local Government Code § 159.003(c)*.

If Reporting by Category is Required

If an amount in a financial statement is required to be reported by category rather than by exact dollar amount, the individual filing the statement shall report whether the amount is:

- Less than \$5,000,
- At least \$5,000 but less than \$10,000,
- At least \$10,000 but less than \$25,000, **or**
- \$25,000 or more.

Government Code § 572.022(a).

Reporting of Stocks by Category

The individual filing the statement shall report an amount of stock by category of number of shares instead by category of dollar value and shall report whether the amount is:

- Less than 100 shares,
- At least 100 but less than 500 shares,
- At least 500 but less than 1,000 shares,
- At least 1,000 but less than 5,000 shares,
- At least 5,000 but less than 10,000 shares, **or**
- 10,000 shares or more.

Government Code § 572.022(b).

Description of Real Property Required

The individual filing the statement shall report a description of real property by reporting:

- the street address, if available, or the number of lots of acres, as applicable, in each county, and the name of the county if the street address is not available; **and**
- the names of all persons retaining an interest in the property, excluding an interest that is a severed mineral interest.

Government Code § 572.022(c).

Statement of Value of a Gift Required

For a gift of cash or a cash equivalent such as a negotiable instrument or gift certificate, the individual shall include in the description of the gift a statement of the value.

Government Code § 572.022(d).

b. Filing Dates

Current Justices of the Peace

A justice of the peace shall file the financial statement not later than April 30th of each year. *Local Government Code § 159.004(a); Government Code § 572.026.*

Appointed Justices of the Peace

An individual appointed to fill a vacancy in an elective office shall file a financial statement not later than the 30th day after the date of appointment or date of qualification for the office. *Local Government Code § 159.004(a); Government Code § 572.026.*

Candidates for Justice of the Peace

A candidate for office of justice of the peace shall file the financial statement on whichever date is later:

- The 60th day after the date of the regular filing deadline for an application for a place on the ballot in the general primary election, **or**
- February 12th.

Local Government Code § 159.004; Government Code § 572.027(a).

c. Timeliness of Filing

Deadline for Filing

The deadline for filing a financial statement is 5:00 p.m. of the last day designated above for filing the statement. *Government Code § 572.029(a).* If the last day for filing the financial statement is a Saturday, Sunday, or holiday, the statement is timely if filed on the next day that is not a Saturday, Sunday, or holiday. *Government Code § 572.029(b).* A financial statement is timely filed if it is properly addressed and placed in the US Post Office or in the hands of a common or contract carrier not later than the last day for filing. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. *Government Code § 572.029(c).*

A person is also considered to have timely filed a financial statement if:

- the statement is personally delivered not later than 5:00 p.m. of the last day for filing the statement; **or**

- The county clerk has adopted rules and procedures to provide for electronic filing, and the statement is electronically filed not later than midnight of the last day for filing.

Local Government Code § 159.004(e).

Extensions

A justice of the peace may request the county clerk to grant an extension of up to 60 days for filing the statement. The county clerk **shall** grant the request if it is received before the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity. The county clerk may not grant more than one extension to an individual in one year except for good cause shown. *Local Government Code § 159.004(c).*

A county clerk may not grant an extension to a *candidate* for office as a justice of the peace. *Local Government Code § 159.004(d).*

d. Public Access to Financial Statements

Financial statements are public records. *Local Government Code § 159.007(a).* However, upon receiving notice from OCA of the person's qualification as a judge, or upon request of the judge, or spouse, minor children, or adult children living at home, the residence address may be removed or redacted from the statement. *Local Government Code § 159.071(b).*

The county clerk may, and on notification from a former justice of the peace or candidate shall, destroy any financial statements filed by the justice or candidate two years after the date the person ceases to be a justice or candidate. *Local Government Code § 159.007(c).*

e. Notification to Prosecuting Attorney for Failure to File a Financial Statement

The county clerk of each county in which a person is required to file a financial statement shall maintain a list of the justices of the peace and candidates for justices of the peace. Not later than the 10th day after each applicable filing deadline, the county clerk shall provide to the county attorney or criminal district attorney a copy of the list showing:

- whether the persons filed a financial statement as required;

- whether the persons timely requested and were granted an extension and the new due date; **or**
- whether the persons did not timely file a financial statement or receive an extension.

Local Government Code § 159.0071.

Chapter 4: Recordkeeping and Reporting for Ex Officio Notary Public and Local Registrar Roles

A justice of the peace is automatically an ex officio notary public. They are also the default local registrar of births and deaths in their precinct (though this duty is often transferred to the county clerk).

For general information on these two roles, as well as the recordkeeping and reporting requirements associated with them, see Chapter 3 of the *Officeholding Deskbook*.

Appendix of Cases

Ashpole v. Millard, 778 S.W.2d 169, 170 (Tex. App.—Houston [1st Dist.] 1989, no writ).

Industrial Foundation of the South v. Industrial Accident Board, 540 S.W.2d 668, 685 (Tex. 1976).

Nixon v. Warner Communications, Inc., 435 U.S. 589, 597 (1978).

Paxton v. City of Dallas, 509 S.W.3d 247 (Tex. 2017).