Everything You Ever Wanted to Know About Recordkeeping (But Were Afraid to Ask)

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TJCTC Programs are an educational endeavor of the Justices of the Peace and Constable's Association of Texas, Inc. and funded by the Texas Court of Criminal Appeals.

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Agenda

Record Retention

- Resources
- Rules for Maintaining Records
- Maintaining Electronic Records
- Destruction of Records
- Getting More Info/Training About Record Retention

Releasing Records

- Resources
- Descriptions of the Two Types of Records & the Laws You Must Follow for Each
- Procedures for Judicial Records
- Procedures for Case Records
- Rules that Apply to Both Judicial & Case Records
- Costs for Copies

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Record Retention

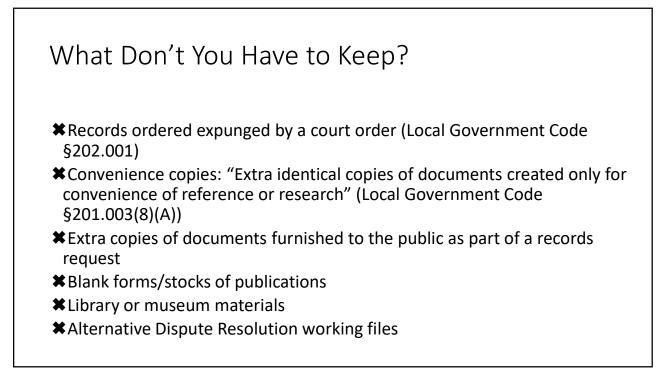
Resources

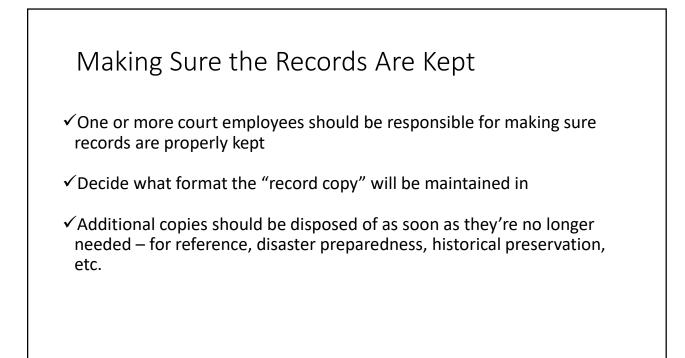
- Recordkeeping & Reporting Deskbook Chapter 1
- Texas State Library & Archives Commission
 - <u>https://www.tsl.state.tx.us/landing/records-mgt.html</u>
- Local Government Code Chapters 201 205
 - (Local Government Records Act)
- Bulletin D: Local Government Records Act
 - <u>https://www.tsl.texas.gov/slrm/pubs/bulletind</u>

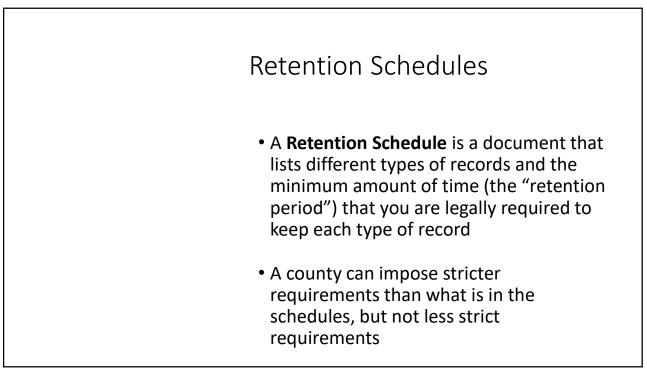


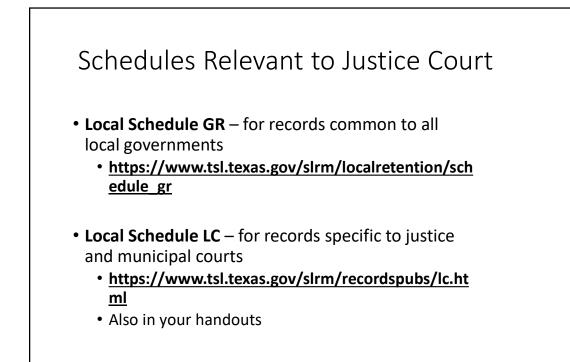
What Counts as a Record that Must be Kept?

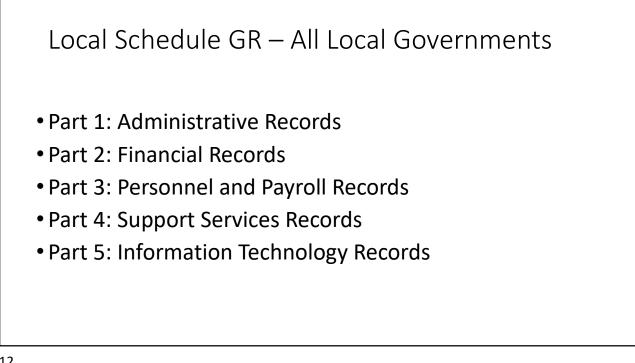
- Basically any records kept by your court (whether created or received by the court)
 - See "retention schedules" for specific categories more info on these coming up
- You may still have to keep a record even if it is not one you have to release in a records request
- May exist in any medium (paper, electronic, video, etc.)







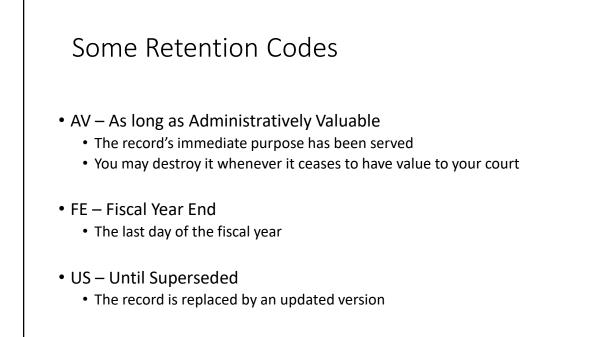




Local Schedule LC – JP & Municipal Courts

Let's take a look at this together!

- Part 1: Civil and Criminal Records
- Part 2: Inquest Records
- Part 3: Vital Statistics Records
- Part 4: Miscellaneous Records
- Part 5: Juvenile Records

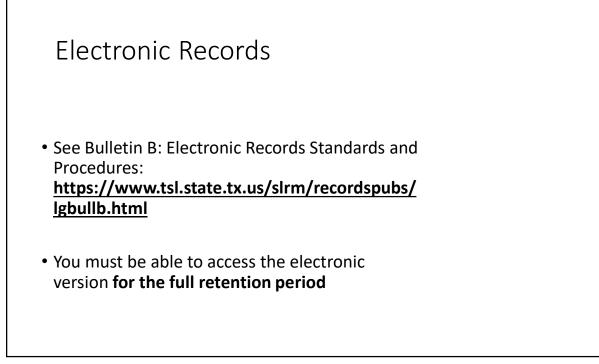


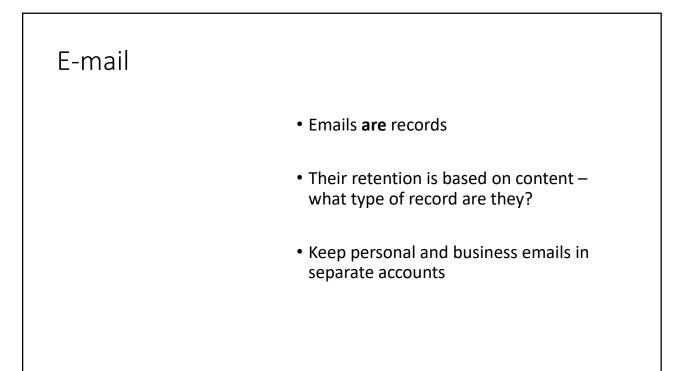
Look It Up in the Local Schedule LC!

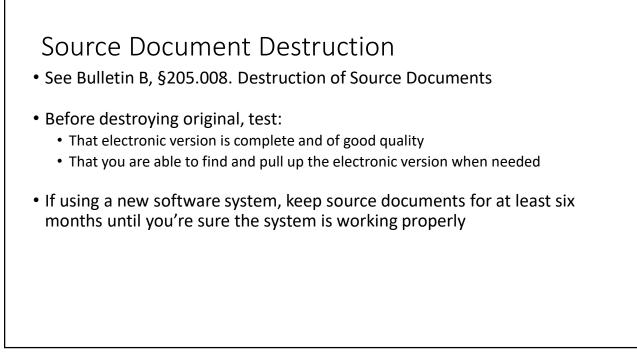
How long must your court keep each of the following records:

- 1. A civil case (small claims) with a judgment for \$2,000?
- 2. A criminal docket? A civil docket? What if they are combined?
- 3. A no insurance ticket that your court dismissed?









Destruction of Records

Why Dispose of Records?

- Creates room, speeds up retrieval
- Reduces operating, equipment, storage, supply, and personnel costs
- Shows that your record management system is an active and continuing program as required by law

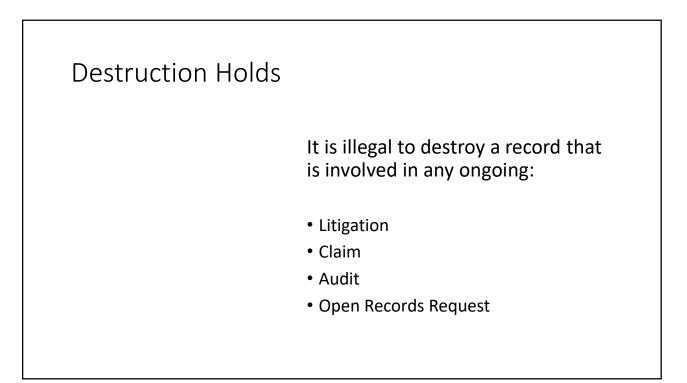
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Record Destruction Generally, you do NOT need permission to destroy records once retention period is over Regardless of retention periods, historic court records must be kept permanently: Dated before 1951; or Case papers in a case from any period that, because of its notoriety or significance, might possess enduring value Ex: Justice Scalia inquest

Records Disposition Log

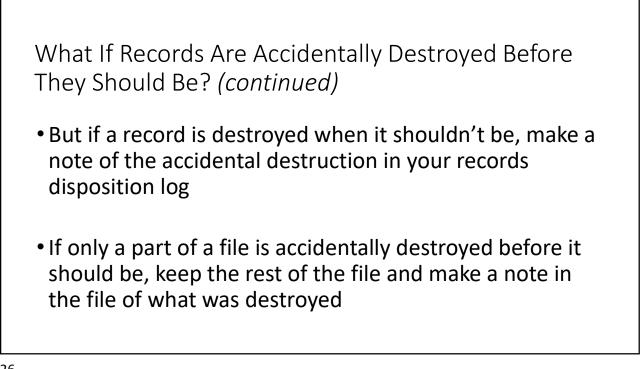
- A log of the records you have destroyed
- Not required but strongly recommended
- Download a blank form at: <u>https://www.tsl.t</u> <u>exas.gov/slrm/for</u> <u>ms</u>

	Prepared by:					Date:			
Unit Manager Signature:			Date:						
			Date:						
	RMO Signature:					Date:			
Aatches corre	rom the Records Retention Schedu esponding series on schedules adop r internal amendments, if applicab t convey the nature and purpose of	oted by the le. Add a description	Inclusive Dates Starting and end records to be de each records ser	stroyed under	Method and Qu R/Recycle (open S/Shred; D/Dele Appx. volume o in., # of boxes, 0	records only); ete; A/Archives f records: ft.,	Approval Date Initial The date of ac disposition and of each series.	tual d approval	See Att
Record Number	Record Series Title	Retention Period	Start	End	Action	Quantity	Date	Initial	x



What If Records Are Accidentally Destroyed Before They Should Be?

- This would not be good! Try to avoid this!
 - Consider electronic backups and emergency protocols in case of unavoidable issues (like flooding, fire, etc.)
 - Have a system for double checking before anything is intentionally destroyed



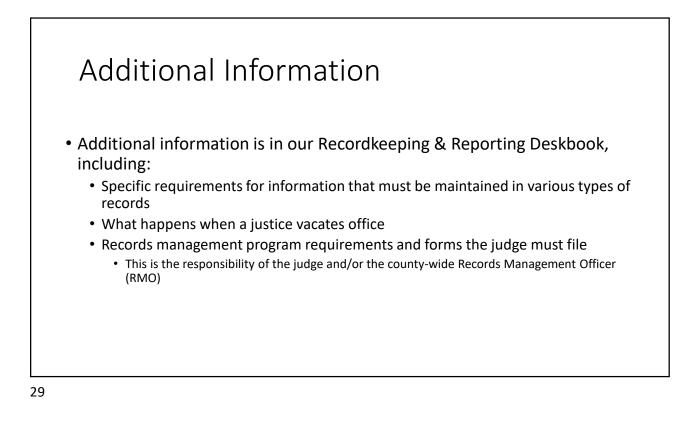
Liability – Destruction of Records

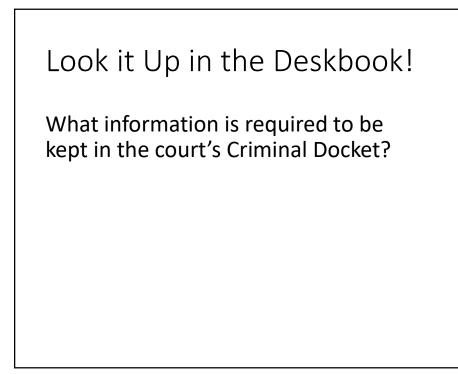
• A custodian of local government records, records management officer, or other officer or employee of a local government may not be held personally liable for the destruction of a record if the destruction is in compliance with the rules.

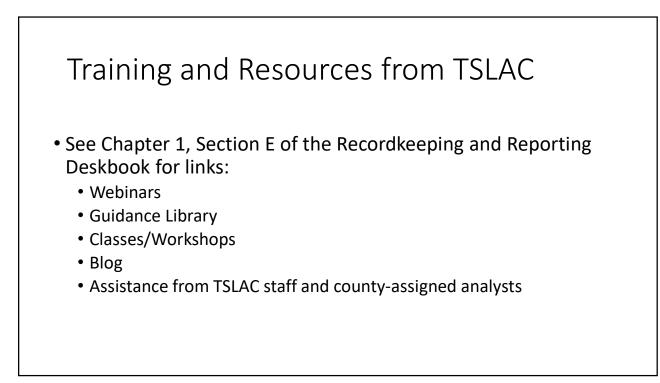
Local Government Code § 202.007.

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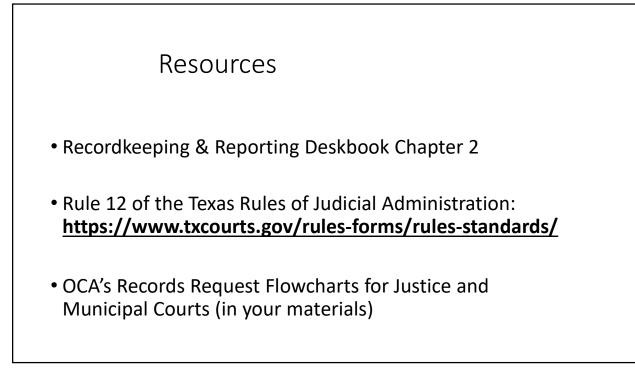
Getting More Info

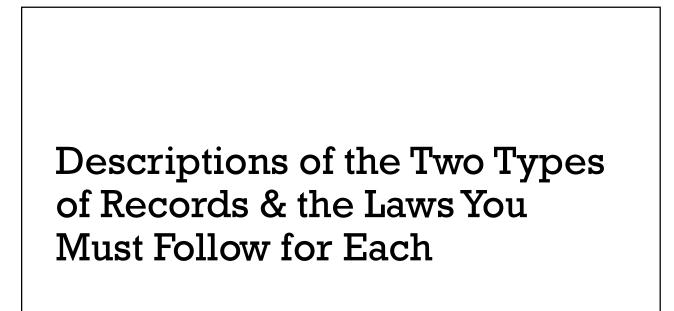






Releasing Records



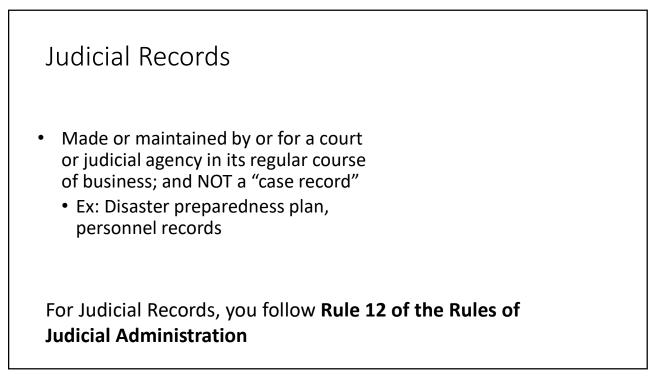


Case Records

- Created or filed in connection with any matter that is or has been before a court; OR
- Pertaining to a court's "adjudicative function" (means the court's role in hearing and deciding cases) even if not related to a specific case
 - Ex: Blank forms; info packets

For Case Records, you follow the relevant **Case Law** (*decisions from court cases*)

• unless a specific statute or rule applies to a certain type of record



PIA Doesn't Apply	
 Note that we did not mention The Public Information Act (PIA) as a law that you have to follow when requests are made for either Case Records or Judicial Records 	
 This is because the PIA covers record requests for government documents kept by certain governmental entities, but it does not apply to court records 	
GC 552.003, 552.0035	

Let's Practice – Judicial or Case Record? Traffic case records Courthouse renovation records Inquest records Information packet on how to file a small claims case

Procedures for Judicial Records

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Judicial Records Requests

- These requests will not be as common as case record requests.
- For detailed procedures that the court must follow when these do come up, see:
 - Chapter 2, Section B of the Recordkeeping & Reporting Deskbook
 - Rule 12 of the Texas Rules of Judicial Administration: https://www.txcourts.gov/rules-forms/rules-standards/
 - Records Request Flowchart for Justice and Municipal Courts Judicial Records (Rule 12) (in your handouts)

Rule 12 Deskbook Scenario #1

What is the deadline to respond to a request for judicial records?

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Rule 12 Deskbook Scenario #2

Can you ask a person who has requested a judicial record why they are making the request?

What questions can you ask?

Judicial Records (Rule 12) Flowchart

Let's look at this together!

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Rule 12 Flowchart Scenario #1

You receive a records request for personnel records.

What do you do?

What if the request was from an inmate?

Rule 12 Flowchart Scenario #2

You receive a records request for the judge's calendar for the next three months.

What do you do?

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Rule 12 Flowchart Scenario #3

You receive a request for copies of the entire Texas Property Code.

What do you do?

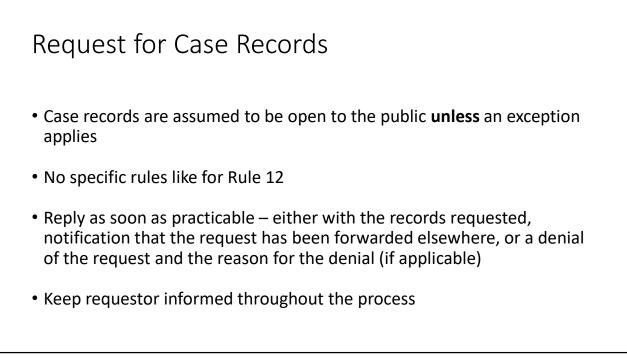
Procedures for Case Records

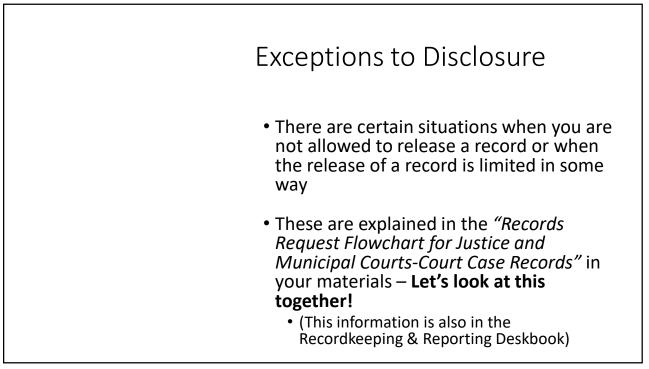
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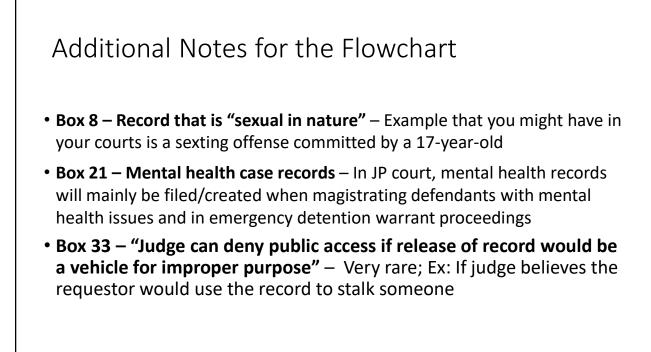
What is a Case Record Again?

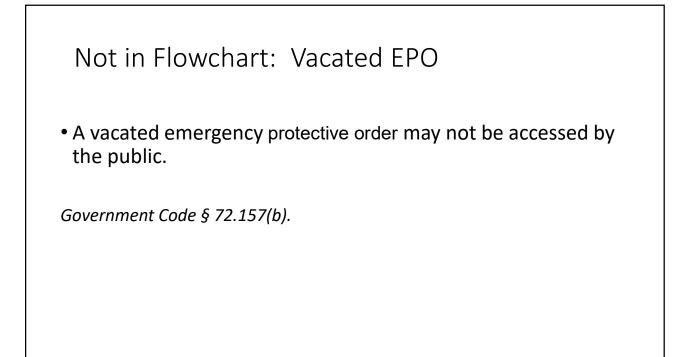
Remember – a case record is any record:

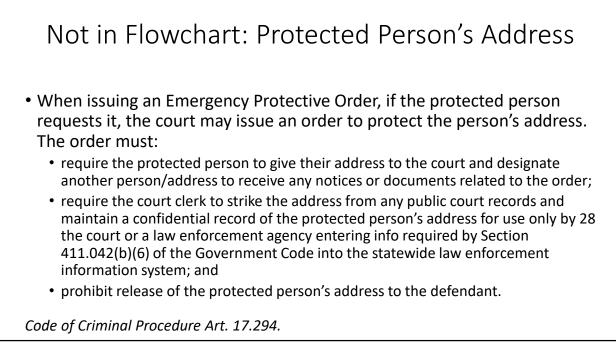
- Created or filed in connection with any matter that is/has been before a court; OR
- Pertaining to a court's "adjudicative function" even if not related to a specific case





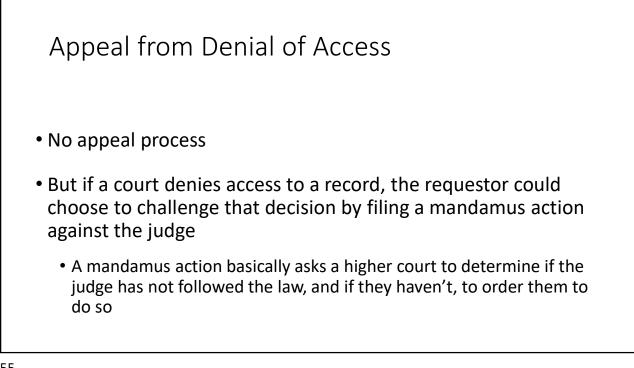






Not in Flowchart: Expunged Records

Why would this not be included in the flowchart?



Case Records Scenario

What is the procedure that you should follow if someone requests a record that is confidential?

What if the person has been rude or unreasonable? Does that change what you are required to do?

Case Records Flowchart Scenario #1

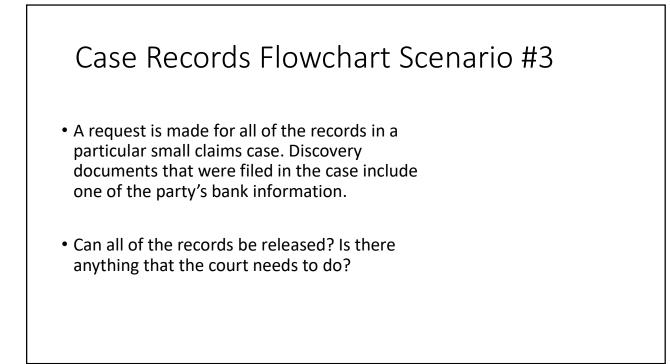
Your court processes a minor in possession of alcohol case.

Who can have access to the case records?

Case Records Flowchart Scenario #2

Your judge performs an inquest which involves an autopsy. There is an ongoing criminal investigation regarding the death.

Who can have access to the inquest records?





If Only Part of Record is Subject to Disclosure

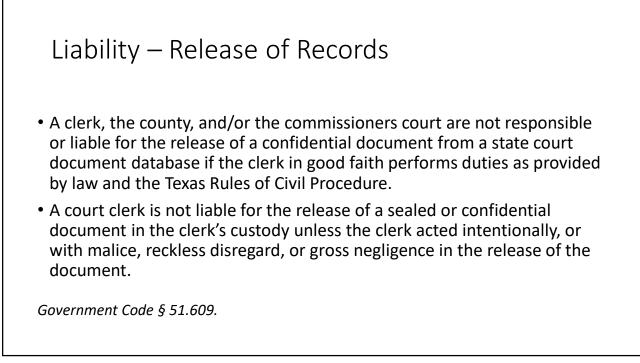
If part of a record should be disclosed but part should not, you **redact** (*black out so it can't be seen*) the part that should not be disclosed and release the rest of the record

There is software you can use to redact electronic versions of records.

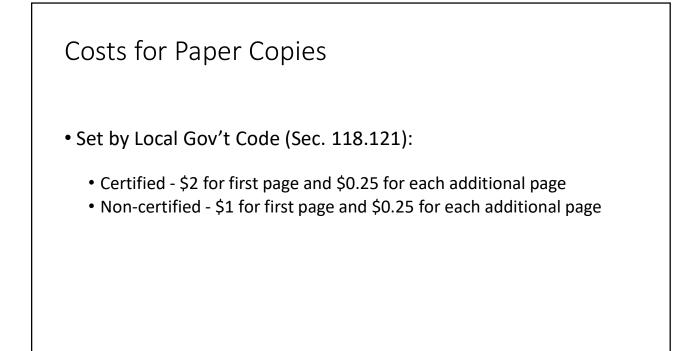
Confidentiality of Certain Information

In addition to the specific rules for each type of record, the following information is confidential and must be redacted anytime it is in a record:

- A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for the court. *Government Code §* 552.136(b)
- An e-mail address of a member of the public that is provided for the purpose of communicating electronically with the court (unless the person affirmatively consents to its release). *Government Code §552.137(a),(b)*



COSTS FOR COPIES



Costs for Non-Paper Copies					
(Electronic, dvd, etc.)					
 Judicial records Must follow TX Office of Attorney General (OAG) schedule unless there is a specific statute that says something different Rule 12. 7; Schedule can be found in the Texas Administrative Code (1 Tex. Admin. Code § 70.10) 					
 Case records Amount must be "reasonable" (just follow OAG schedule) 					

Waiver or Reduction of Costs for *Judicial Records Requests*

The court may reduce or waive the cost for a judicial record request if:

- In public interest because providing record primarily benefits general public; or
- Cost of processing collection of a charge will exceed the amount of the charge

Rule 12.7

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Questions/Comments?