

Records and Caseflow Management

Table of Contents

INTRODUCTION	4
PART 1 RECORDS MANAGEMENT.....	5
A. Staffing a Records Management Program.....	6
B. Developing a Records Management Program	7
C. Organizing an Efficient Case Filing System	8
1. Improving Existing Case Files.....	8
2. Determining the Volume	9
3. Case Files.....	9
a. Digital Files	9
b. Court's Reference Needs for Retrieving Files	10
c. Case File Folders	10
(1) One Case File Folder for Each Defendant.....	10
(2) One Case File Folder for Each Case Filed	10
(3) Temporary Active Case Files	10
(4) No Case File Folder	11
(5) Information Posted to Case Files.....	11
(6) Determining Necessary Information on Case File Folders	11
(7) Determining the Physical Type of Case File Folder	12
(8) Designing Case File Folders	12
(9) Determining Arrangement.....	13
(10) Selecting an Access System	14
(11) Common Filing Problems and Solutions	17
4. Case Filing Equipment.....	18
a. Vertical File Cabinets.....	18
b. Shelf Files.....	18
(1) Open Shelf Files	19
(2) Closed Shelf Files.....	19
c. Lateral Cabinets	19
d. Mobile Shelf Cabinets.....	19
e. Motorized Files	19
f. Lateral Traversing Suspension File Unit.....	19
g. Rotary File Units	19
D. Considering Fire Safety	22
E. Conducting a Records Inventory.....	22
1. Records Terminology.....	23
2. Administrative Files.....	24

3.	Computer Records.....	24
4.	Types of Information Included in Inventory	24
5.	Worksheet	25
F.	Records Retention	26
1.	Records Retention Program	26
2.	Local Government Records	27
3.	Retention Periods	27
a.	Official Records	27
b.	Bound Volumes	28
c.	Records Maintained Together	28
d.	Administratively Valuable (AV) Records	28
e.	Electronically Stored Data	28
G.	Electronic Mail	28
H.	Microfilming Local Government Records	29
I.	Damaged Records.....	30
J.	Managing a Records Management Program	32
1.	Implementing Records Schedules	32
2.	Updating Records Schedules.....	32
3.	Storing Active Records	33
4.	Maintaining Records	34
a.	Identifying and Protecting Essential Records	34
b.	Indexing Active Files.....	34
c.	Managing the Files	34
5.	Archiving Records.....	35
a.	Storage Media	35
(1)	Micrographics.....	35
(2)	Electronic Document Imaging	36
(3)	CD-ROM/DVD	36
b.	Permanent Records	36
c.	Cartons and Shelving	37
d.	Records Organization.....	37
e.	Storage Index	37
f.	Transfer of Records to Storage Area	38
6.	Documenting the Records Management Program	38
7.	Checklist to Help Evaluate Maintenance Program	38
K.	Destroying Records	41
1.	Notice of Destruction	42
2.	Methods of Destruction	42
3.	Alienation of Records.....	42
4.	Unlawful Destruction of Records.....	43
PART 2 PUBLIC INFORMATION ACT.....		44
A.	Common Law Right of Inspection	45
1.	Juvenile Records in Municipal Court	45
a.	The Rise and Fall of Non-Disclosure	45
b.	Confidentiality and Conflicting Bills	46
c.	Texas Attorney General Opinion No. GA-1035	46
d.	Truancy Court and Juvenile Records	47
2.	Personal Information on Jurors.....	47
3.	Social Security Numbers.....	47
4.	Affidavits for Arrest and Search Warrants.....	47
B.	Rule 12	48

PART 3 CASEFLOW MANAGEMENT	57
A. Goals of Caseflow Management	58
B. Elements of Caseflow Management	58
C. Steps to Achieve Caseflow Management.....	59
1. Resources for a Caseflow Management System	59
2. Project Management.....	59
a. Project Life Cycle.....	60
b. Project Management Activities	60
c. Project Manager	61
d. Project Plan	61
e. Control Point Identification Charts	61
f. Development of an Action Plan	61
D. Caseflow Management System	62
1. Writing Documentation	62
2. Creating Standards.....	62
3. Monitoring	63
a. Significant Events	64
b. Overall Status	64
c. Monitoring Activities.....	64
4. Scheduling for Trial Date Credibility and Continuances	65
ANSWERS TO QUESTIONS.....	67

INTRODUCTION

Municipal court clerks, as custodians of the records, are responsible for the care, control, maintenance, and archival of municipal court records, referred to as records management. Clerks also manage the time and events involved in the movement of cases through the court system from the point of initiation to disposition. To do this, clerks need a system that is effective and efficient and enables active supervision of cases as they progress through the court. This concept is referred to as caseflow management.

In 1989, the Legislature adopted the Local Government Records Act, recognizing that the citizens of the State of Texas expect the government to operate efficiently and cost-effectively and to preserve its records. A part of this act established requirements for local governments, record management officers, and custodians of the records. The act also removed restrictions, such as requiring records to be kept in well-bound books, thus allowing officials to use modern recordkeeping methods and systems. Sec. 201.004, L.G.C.

Section 201.009 of the Local Government Code provides that local government records are subject to the Public Information Act, codified in Chapter 552 of the Government Code. In Section 552.001, the Legislature expresses the philosophy of having open governmental records. It states:

Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created... .

The purpose of Chapter 552 is to implement the open records policy, and the chapter applies to governmental bodies. The Public Information Act, nevertheless, expressly excludes the judiciary from the definition of a governmental body, meaning that the *provisions* in Chapter 552 do not apply to municipal courts. Sec. 552.003(1)(B), G.C. However, the *philosophy* behind having open records does apply to municipal court records, and case law has long-recognized the general right of the public to inspect and copy court records and documents. *Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978).

Clerks must be able to establish a successful records management system, manage the caseflow of municipal court cases, and understand the laws and rules that govern the maintenance of court records. The overall purpose of this guide is to suggest procedures for the effective and economical establishment, maintenance, and disposition of court records.

- | | |
|-------|--|
| Q. 1. | What does the Local Government Records Act establish? _____
_____ |
| Q. 2. | Where is the Public Information Act found? _____
_____ |

- Q. 3. What is the philosophy of the government regarding governmental records? _____

- Q. 4. To what branch of government does the Public Information Act make an exception?

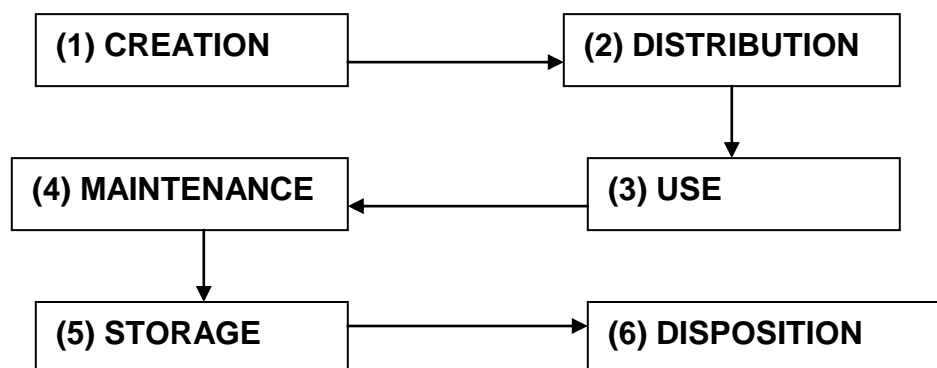
- Q. 5. What does case law tell the courts about judicial records? _____

PART 1 RECORDS MANAGEMENT

A record is any form of recorded information. It can be paper (including sticky notes on the file), microfilm, audiotapes, videotapes, photographs, slides, or any computer-readable medium such as computer tapes, disks, compact disks, optical disks, or USB drives. Records management is the active supervision and control of records, which includes the economical and efficient creation, organization, use, maintenance, and disposition of records. In other words, records management is the systematic control of recorded information from creation to final disposition. Each stage of the record's life cycle has different needs and requirements.

A considerable part of records management is the development of a records control schedule. Although the Texas State Library and Archives Commission (TSL) has established required minimum retention periods, cities must prepare records retention schedules that control records management decisions in each city. These control schedules provide retention periods for records created and maintained in all city departments, including municipal court, and schedules should contain information about how the records are maintained, when they are sent to storage, and how they are destroyed.

A records management program helps retrieve information faster, reduces lost or misplaced records, saves space, minimizes expenditures for filing equipment and supplies, and protects records. Generally, records have a six-stage cycle: (1) creation; (2) distribution; (3) active use; (4) maintenance; (5) inactive in storage; and (6) disposition, which includes destruction.



During the active stage of records, the record is distributed, efficiently stored for fast retrieval and use, and then maintained during its use. During the inactive stage, the record must still be

properly maintained for retrieval, if needed, and kept in a manner that will not harm or destroy the record until such time as the record may be disposed of by legal destruction. During both the active and inactive stages, protection of records is essential.

Q. 6.	What is a record? _____ _____
Q. 7.	What is records management? _____ _____
Q. 8.	What are records control schedules? _____ _____
Q. 9.	List the benefits of having a records management program. _____ _____ _____ _____
Q. 10.	List the six stages of a records life cycle. _____ _____ _____ _____ _____
Q. 11.	What happens during the active and inactive stages of a record? _____ _____ _____ _____

A. Staffing a Records Management Program

The TSL requires each city to designate a records manager who is usually someone at a managerial level. Since many cities are unable to hire a person specifically for that position, the city secretary is most often designated as the records manager.

Staffing a records management program might include filing clerks, document imaging equipment operators, data entry individuals, and records center staff. Most municipal court personnel juggle these duties with other court duties.

Q. 12.	What might staffing a records management program include? _____ _____
--------	--

B. Developing a Records Management Program

Developing a records management program is a project that must be carefully planned and monitored. It usually takes months to plan, develop, test, monitor, train personnel, and develop a records manual. The court should establish a committee to begin development of a program. After a committee determines the activities of the project, the activities should be sequenced with time frames established for each activity. An excellent tool for this is a *Gantt chart* (shown below), which shows planned times for tasks and actual dates of completion. The chart can also show who is responsible for each activity. After the project is underway, the Gantt chart can be used to monitor performance.

		Months									
Activity		1	2	3	4	5	6	7	8	9	10
1	P	→									
	A		→								
2	P		→								
	A		→								
3	P			→							
	A			→							
4	P			→							
	A				→						
5	P					→					
	A						→				

P = planned date
A = actual date

This Gantt chart is a graphic representation of project progress in terms of planned start and completion dates for each activity. You can see that the actual start date (Activity 1) is a month late. Activity 2, however, catches up and is on time. Activity 4, nevertheless, is late and eventually throws the project off by one month. The Gantt chart should help project managers make up for lost time or review the time schedule and adjust the plans; whatever is necessary to help the project come to completion as timely as possible.

The steps to develop a records management program include:

- determining what the court wants to accomplish;
- setting goals and objectives;
- developing time frames with deadlines;
- determining how records are created (manual and/or computer);
- determining where records will be stored;
- determining what filing equipment and systems will be used;
- establishing records retention periods (governed by statute);

- establishing a system for the maintenance and retrieval of records;
- establishing a system for archiving records; and
- establishing a system for the destruction of records.

To make sure that implementation of a records management program is successful, the court should inventory the records, determine the mandatory retention periods in accordance with state regulations, prepare and obtain approval of a records schedule, and implement the schedule.

After a records management program is established, it should be continually monitored. This oversight helps the program to be effective. As part of the monitoring, the court should schedule periodic performance audits.

Q. 13.	List the steps to develop a records management program. _____ _____ _____
Q. 14.	What is a Gantt chart? _____ _____

C. Organizing an Efficient Case Filing System

Case filing encompasses the creation, maintenance, use, and disposition of case files. A case file is a folder or other file unit containing material relating to a specific transaction, event, person, place, project, or other subject. A case file may contain several citations on a defendant or just one citation with separate files made for each citation.

Because of the large volume of paperwork in municipal courts, it is essential to develop and organize an efficient case filing system. Successful case filing depends on competent records management and careful planning and appropriate action by records managers. The following items will contribute to a successful program:

- studies on the creation or improvement of case filing systems (including preparing for a digital filing system);
- pilot installations to test all aspects of a case file plan prior to final adoption;
- standardized and centralized case files;
- protocol for maintaining, using, and disposing of case files;
- a cost/benefit analysis of file equipment and supplies;
- written instructions or manuals for the establishment and operation of case files; and
- periodic reviews to ensure compliance with overall objectives of the case filing program.

1. Improving Existing Case Files

Establishing steps to improve existing case files is less time-consuming than recreating new case files, but approaches for both are similar.

To improve existing case files, the court should:

- select and examine a cross section of existing filing systems in different city departments;
- identify areas that need improvement in the court files;
- explore potential modifications;
- study the present system and its needs;
- develop a revised system, including new forms and records;
- implement the revised system for a trial operation and modify it as needed; and
- prepare the final system for adoption, and prepare written instructions for implementation and maintenance.

2. Determining the Volume

Each year, the court must project the volume of cases that will be filed in the court in order to prepare the budget for supplies necessary to maintain the filing system. The court might consider the following when determining the future volume of cases:

- the last five years of cases filed in court to determine a trend in the number and type of cases filed;
- the previous two to three years funding for police officers and future projections for more officers;
- traffic and crime statistics for the city to determine the number and types of crimes occurring in the city; and
- future projections from the police department for number of cases that might be filed.

3. Case Files

After a plan is established to create new case files, the court may develop, test, and make necessary revisions in the system. If a court determines that some files need special handling, such as juvenile files, the court may want to establish and develop handling procedures for those files. Note requirements for accessibility of the records in the future.

a. Digital Files

In this age of technology, courts are turning to document imaging and digital files instead of maintaining cases in physical files. When a document is imaged, it is scanned and converted into a digitized format that can be read by computers and electronically stored and retrieved. Data attached to each image enables the computer to link it to a specific case, individual, or other documents. The stored image is a duplication of the original. The image can be written into the storage device only once, but it can be read many times without making any alterations.

Imaging systems allow the court to copy files into an electronic medium for storage, freeing up office space occupied by paper files.

b. Court's Reference Needs for Retrieving Files

Courts should assess reference needs of case files before making changes to filing systems. To determine the court's reference needs, the court might consider some of the following issues:

- appearance date;
- bond filed;
- plea;
- pre-trial date;
- trial date;
- payment schedule;
- driving safety course:
 - appearance date;
 - due date of DSC certificate;
 - show cause hearing date;
- deferred disposition:
 - appearance date;
 - due date of evidence;
 - show cause hearing date;
- warrants, capiases, capias pro fines;
- appeals;
- notice of final convictions;
- court costs quarterly reports; and
- monthly reports to OCA.

c. Case File Folders

The following questions should be considered when establishing a case folder:

- One file folder per defendant or one file folder per citation or case filed?
- Temporary file folders for active files or the same file folder as archived files?
- File folders, stapled documents, or case jackets?

(1) One Case File Folder for Each Defendant

In this filing system, one case jacket or file folder is created for each defendant per arrest. For example, a defendant may have several charges written on one citation or several citations may have been written at one time. All documents concerning the arrest, including a failure to appear case filed later, are contained in that one file jacket.

If this method is used, it is necessary to post the actions occurring with each case contained within that case jacket. One problem with this method is that each case in the jacket may have different dispositions (e.g., driving safety course, payment schedule, etc.), creating confusion when filing.

(2) One Case File Folder for Each Case Filed

In this filing system, one case jacket is created for each case filed. If a defendant has more than one complaint filed, the court prepares separate case jackets for the documents pertaining to each case. If a failure to appear complaint is filed, the court creates a separate case jacket for that charge. If this method is used, a cross reference is necessary to link the cases together.

(3) Temporary Active Case Files

Another approach is to establish a temporary folder while the case is active and then remove the contents when the case is closed. The closed files are then maintained in filing sequence without folders or in groups within large-capacity folders.

(4) No Case File Folder

In this type of system, papers in each case are stapled or paper clipped together. This type of case filing is not recommended because documents may be lost.

(5) Information Posted to Case Files

Generally, courts post actions occurring in a case on the exterior of the case jacket. Posting information to case files helps courts manage the files. Therefore, it is important to decide which information is useful and necessary for managing the files.

Commercial case jackets are printed with spaces for a docket number and the defendant's name. Usually, there is a space for notes.

If the court uses file folders, they can be customized with specific information, or, if that is too expensive, a stamp can be designed with the required information. If a stamp is used, the clerk may stamp a number of file folders each morning to prepare them for the filing of the day's cases.

(6) Determining Necessary Information on Case File Folders

Because of the court's many reference needs, it is necessary to determine the information to be posted on the outside of the case file. Posting information on the case file folder helps courts to keep track of the actions occurring in the case and when and how the file should be referenced.

Information that is useful for reference and that should be posted on a case file folder includes:

- Docket number;
- Defendant's name;
- Date case was filed;
- Prosecuting attorney;
- Defense attorney, if any;
- Complainant's name;
- Bond (if any) and whether personal, cash, surety, amount of bond, and date of judgment nisi if one is entered;
- Plea entered, method of plea, and date of plea (in open court, in clerk's office, by mail, in person, through attorney);
- Type of trial requested (jury or bench) and date(s) of trial setting;
- Continuances if any;
- Deferred disposition if granted, and due date of evidence of completion;
- Driving safety course if requested and granted, and due date of evidence of completion;
- Witnesses and dates subpoenas issued, if any;

- Motions filed if any, dated filed, and judge's ruling;
- Judgment;
- Fines or fees assessed;
- Court costs assessed;
- Jail time credit;
- Extensions for payment or payment plan due dates;
- Receipt numbers and dates written;
- Appeal, if one (date notice given, date bond approved or not approved, date transcribed, type of bond, date sent to county);
- Date notice of final conviction sent to State; and
- Date warrant, capias, or capias pro fine issued and served.

(7) Determining the Physical Type of Case File Folder

Many factors need to be considered when determining the physical type of case folder. They include:

- identifying the documents that will be filed in jacket;
- determining the arrangement of documents in jacket;
- deciding on the file cabinet size and orientation; and
- evaluating the cost of file folder or jacket.

Some cities that are automated use continuous feed file folders that are separated after a defendant's information is printed on the outside of the file folder. Automated courts that do not use continuous feed file folders and non-automated courts may want to consider using one of the following types of folders:

- file folders;
- lateral file folders;
- envelopes; or
- commercial case jackets.

Because file cabinet size and type will be determined by the dimensions of the case file folder, it should also be a factor considered when planning the type of case file folder or file jacket to be used.

(8) Designing Case File Folders

• Non-Automated System

In courts that are not automated, the planning and design of file folders or case jackets depend upon the information the court decides is necessary for reference and use. Cost is an important factor, particularly for small cities. Commercial case jackets or

ones that are specially printed for a court are more expensive than ones that have no printing. In order to keep printing costs to a minimum, the court might consider using a rubber stamp containing the information the court deems necessary for reference purposes and stamp each file folder or case jacket.

- **Automated System**

Some courts with automated recordkeeping systems have designed case file folders or jackets to include the complaint and docket. In this instance, one side of the file folder or jacket is printed with the complaint; the other side is the docket, which includes the judgment and minutes. All loose documents pertaining to a particular case are filed inside the file folder or jacket. Some courts with automated system file folders or jackets use a rubber stamp noting certain information designed with fill-in blanks to facilitate completion of information required for managing the case.

- **Loose Files**

The advantages of filing papers loosely in a case folder may be:

- time savings when filing papers;
- cost savings initially; and
- easy removal of documents for reference.

Filing papers loosely is generally appropriate for case files that are small, have a low reference rate, are scheduled for short-term retention, or rarely leave the office or file room.

The loose file system also has disadvantages, such as:

- papers may be lost or misplaced easily; and
- the lack of uniform arrangement of the folder contents makes it more difficult to find a particular document.

- **Fastened Files**

Fastened files are usually preferred for large case files that receive extensive use, have long retention periods, and are likely to be taken out in their entirety for extended periods of time. The usual practice is to fasten papers inside the folder with prong fasteners but without compressors. If a fastener is used on only one side of the folder, simply arrange and secure the papers in reverse chronological order. If fasteners are used on both the left and right side of the folder, specify in advance, which papers are to be placed on each side.

- **Commercial Jackets**

Common commercial jackets are rectangular in shape, narrow in width, and usually red in color. The papers have to be folded in order for them to be placed in this type of jacket. Also, this type of jacket requires a certain type of file cabinet or a certain type of insert in the file drawers to accommodate the jacket.

(9) Determining Arrangement

It is important to determine a standard arrangement of case files in filing cabinets. Because of the different reference needs of the court, an efficient method of identifying and retrieving files should be taken into account when deciding file arrangement.

The nature of the records and how they will be retrieved should be the first determining factor in the selection of file arrangement. Other issues to consider are the volume of records to be maintained, the size of the office, who will be using the records, and the type of access that is appropriate.

The following are some questions to ask when evaluating file arrangement systems.

- Is the system logical?
- Is the system practical?
- Is the system simple?
- Is the system functional?
- Is the system retention-conscious?
- Is the system flexible?
- Is the system standardized?

(10) Selecting an Access System

There are two main types of access systems: direct access and indirect access.¹

Direct access allows a person to locate a particular record by going directly to the files and looking under the name of the record. This system is cumbersome to use when storing a large volume of records. Confusion can occur when dealing with files with common, similar, or identical names. Alphabetic systems are generally designed to be direct access.

An indirect access system requires an index that must be consulted before a file can be retrieved. This type of system provides some security because persons unfamiliar with the coding system cannot gain access to specific records. This is the most efficient system when a court needs to store a large volume of records. Duplication of records can be avoided because each code is used only once. Generally, there is greater accuracy in filing and retrieving records. Several different sets of files and indexes, however, are necessary to maintain control, and misfiled records can be difficult to locate.

The following three arrangements are examples of direct and indirect access systems.

- **Alphabetic File Arrangement**

Alphabetic files are arranged according to the last name of the defendant. The alphabetic arrangement is usually referred to as a direct system because it is self-indexing so a cross-index is not necessary.

It is essential in alphabetical filing to adopt a set of rules in a consistent manner to ensure not only the alphabetic sequence, but rules for filing cases with foreign names, hyphenated last names, numerals in names, names of organizations and institutions, and prefixes.

¹ *The Local Record*, a newsletter of the Local Records Division of the Texas State Library and Archives Commission (Summer 1990).

Some courts may want to use color-coding to help with filing and retrieving files. A color code for the letters of the alphabet can be placed on a projecting tab. Color-coded edges aid in fast scanning. The blocks of color created by the color-coded edges instantly reveal misfiles within a group. Folders are available with top tabs for vertical filing and with side tabs for lateral filing.

The principal advantage of the alphabetical system is that it is not necessary to look up a docket number when a file must be retrieved.

The primary disadvantage of this system is that it does not lend itself to expansion as readily as does the numerical system, and will require more shifting of folders.

When alphabetical files are closed or transferred to storage, make cross-indexed cards. To avoid shifting archived files, store them by newly created transfer numbers or by the docket number. This works well if each case has a separate file. If several cases are filed in one case jacket, a transfer number is assigned either to the file that would pertain to all the cases, or to the documents removed from the case jacket, and stapled and stored according to the docket number. The files are then placed in the storage files in numerical order. If storing files alphabetically, the file drawers are numbered and the drawer number in which the file is placed is indicated on the cross-indexed cards.

- **Numerical File Arrangement**

A numerical file arrangement can have numbers assigned to the case files arbitrarily or under a standard plan. In municipal court, the numbers assigned to case files are usually docket numbers. Numeric filing systems can include straight-numeric, middle-digit, terminal-digit, duplex-numeric, and decimal-numeric filing systems explained below.

Under the straight- or consecutive-numeric filing systems, case files are arranged consecutively in ascending numerical order according to docket number. This is an indirect filing system since it must be used in connection with a cross-index. The defendant's name is put on an index card and the cards are arranged alphabetically. If the court uses this type of system, all documents including letters must have the identifying docket number. Color-coding numbers can facilitate the filing and retrieving of files and will minimize errors.

A terminal-digit numeric system is considered by many to be the most efficient of the numeric filing systems. In this system, the last digit or group of digits is the primary unit used for filing. For example, the number 7123490 could be broken down as follows: 71-234-90, with 90 as the primary unit (first group) for filing, 234 as the secondary unit, and 71 as the tertiary (third) unit. The terminal digit system can accommodate large volumes of records, because long numbers can be divided into groups of several digits and still be easily managed. How numbers are broken down depends on the current and projected capacity of the filing system.

The middle-digit system is similar to terminal-digit, but is often more limited. Although the file numbers in the index are still listed in consecutive numeric

sequence, the middle group of digits becomes the primary indexing unit, the first group is the secondary indexing unit, and the terminal group is the tertiary unit.

Terminal- and middle-digit systems allow equal distribution of records throughout the records storage area, permit assignment of different file clerks to different sections of the files, and provide a measure of security over records from those persons who do not have access to the index or who are unfamiliar with the system.

A duplex-numeric system uses two or more sets of code numbers for records, with the sets separated by dashes, commas, periods, or spaces. Records are filed consecutively by the first number, then sequentially by the second number, and so on. The duplex-numeric system lends itself to the subject system that uses the encyclopedia arrangement, with subdivisions for each major category. For example:

- Traffic offenses 12
 - Adult defendants 12-10-1
 - Juvenile defendants 12-10-2
- Penal Code offenses 13
 - Adult defendants 13-10-1
 - Juvenile defendants 13-10-2
- Citizen complaints 14
 - Adult defendants 14-10-1
 - Juvenile defendants 14-10-2

A relative index must be developed if the system is to be used effectively. List the primary numbers assigned to the major categories of information with appropriate listings of the various subdivisions within the major headings.

The decimal-numeric system is perhaps the most commonly used and widely known numeric filing system. Developed initially for library use, the decimal system is based on 10 general categories. The major numeric groupings are each further divided into 10 parts, which are then subdivided into 10 subunits. The basic procedures of this system can be expanded and adapted to most records.

When transferring numerical files, withdraw from the active index all cards relating to the closed case, stamp the cards “closed,” and note the date closed and where the files are stored. Then withdraw from the active files all jackets or folders holding the completed case and file numerically. Keep the index of closed cases available to locate completed cases.²

The advantages of the numeric system are speed and accuracy of refilling and the opportunity for unlimited expansion. The disadvantages are the need for maintenance of the auxiliary card index and the necessity of making two searches when files must be retrieved—one of the index and one of the files. Courts that are automated can

² *The Local Record*, a newsletter of the Local Records Division of the Texas State Library and Archives Commission (Spring 1991).

locate the file number by entering the defendant's name using a name-search on the computer. Also, if the system is used over a long period of time, eventually the numbers may become long.

- **Alphanumeric File Arrangement**

In an alphanumeric system, files use a combination of personal or business names and numbers or, more commonly, subject headings and numbers. The use of numbers, sequentially filed, reduces the number of misfiles dramatically; captions (subject headings) help a user to quickly determine the contents of the file.³

(11) Common Filing Problems and Solutions

When developing a case filing system, it helps to consider filing problems and solutions. Many of the problems listed below can be avoided during the developmental phase of the records management program by considering how records are maintained and used.⁴

Problem	Solution
Too many filing places.	Centralize filing of records of common interest in one location. File specialized records in the department where used, but follow established handling rules.
Everybody is a file clerk.	Centralize authority with responsibility. Allow only designated persons to use files.
Files are disordered and show no particular plan.	Pick a system that best fits your needs. Adjust it, if necessary, as time goes on.
Retrieval of files is difficult because there is no planned system as to reference needs.	Study the possibilities of using subject, geographic, numeric, alphabetic, or alphanumeric filing for certain specialized materials.
Filing decisions are erratic.	Start a filing procedure manual and use it. Do not depend on snap judgment. When a problem or new situation arises, make a ruling and include it in the procedure manual.
Drawers are jammed too tight.	Allow three to four inches of working space in letter files; one to two inches in card files.
Folders are overflowing.	Determine the maximum number of sheets of paper that can efficiently be stored per folder.
Folders for individuals are too full.	Make a special name guide for the individual; then put a set of chronological folders in back of that guide.
Papers pile up in the	Create a file for an organization or an individual after so many pieces of paper or correspondences to

³ *Id.*

⁴ National Office Products Association.

“miscellaneous” folder.	the court.
Guides are in poor condition.	Replace broken guides. Use reinforced tabs in active files.
Folder tabs are difficult to read.	Use gummed labels; they strengthen the tab and add legibility. Use reinforced tabs if reference is frequent. Use a good grade of material; use stiffer folders.
Folders wear out too soon.	Use a reinforced or heavier grade of folder.
Missing files are hard to find.	Keep track of removed files. Develop a check-out and check-in system.
Files are hard to locate.	Develop a system of filing and maintaining a filing system. Use color-coded files.
Lack of space.	Move some records to alternative storage. Consider converting records to digital files stored on the court’s computer.

4. Case Filing Equipment

Before choosing equipment to house case files, it is necessary to consider a number of basic questions, such as:

- What are the physical characteristics of the case records? What are their volume, physical form, and size?
- What is the cost of purchasing, installing, maintaining, and operating the available types of equipment?
- How much office space is available, and how is it laid out?
- Who needs to refer to the records, and how frequent and urgent is the need to do so?
- What safeguards are needed to protect the files from unauthorized use, theft, fire, insects, dust, and other potential hazards?

a. Vertical File Cabinets

The standard steel vertical file cabinet with two to five drawers is the type of housing most frequently used for case files. These cabinets offer low operating costs per filing inch. They provide easy access for filing and reference and protect the records. These cabinets are available in both letter and legal sizes to accommodate different size case folders. Selection of file cabinets by the number of drawers is based primarily on capacity requirements, office layout, space availability, and function.

b. Shelf Files

Shelf files are available in various heights and are adaptable to office areas. Those with doors have a maximum of six shelves. Those without doors have seven to 10 shelves. Shelf files with fixed dividers help keep case folders in a vertical or upright position and, when combined with file guides, contribute to filing efficiency.

(1) Open Shelf Files

Open shelf files are convenient for filing and retrieval, but they are not recommended because of the exposure hazards that might damage the records. Also, there is no way to secure the records from persons who should not have access to the files.

(2) Closed Shelf Files

Closed shelf files are recommended for case filing. Although more expensive than open shelf files, the doors reduce fire hazards and protect records from dust and other elements that can damage or destroy records.

c. Lateral Cabinets

Lateral cabinets serving as drawer or shelf files have rollout shelves that make them more versatile than vertical file drawers and shelf file equipment. Compressors and suspension file bars permit adjustment of lateral equipment to legal and letter size. The folders may be arranged laterally, side-to-side as on shelves, or front-to-back as in a vertical file drawer. The cost, however, limits their usefulness to offices that have a comparatively small volume of records.

d. Mobile Shelf Cabinets

Mobile shelf file cabinets are installed on tracks or suspended from the ceiling, to provide more usable floor space by eliminating some individual aisles. The disadvantages to this type of equipment is the higher cost.

e. Motorized Files

Motorized files bring the record to the user instead of the other way around. The files are stored on shelves in a large, enclosed metal unit that looks like a huge box. The operator stands or sits before the unit and presses a button to indicate the appropriate shelf. The shelf automatically moves into position in front of the operator for retrieval. This type of file provides fast access to a large volume of records that need to be stored in a small space. The negatives to using these files are: the equipment is very heavy; if the files are only partially filled, the unit must be loaded in such a manner as to evenly distribute the weight; only one person at a time can operate the unit; and the files are costly.

f. Lateral Traversing Suspension File Unit

The lateral traversing suspension file unit is based on the open-shelf concept. The equipment is designed as a double row of shelf-style units with the front shelves blocking the rear shelves. One unit in the front set is omitted to permit access to the rear. With this type of equipment, the whole shelf unit moves. Electric motors are used with this type of housing to reduce manual effort.

g. Rotary File Units

Rotary file units are also available for housing case files. The units are circular in design and maintain the case folders vertically. Sizes and capacities vary. One of the problems associated with this type of file system is that only one person can use the file unit at a time. Before

selecting this or other specialized equipment, it is necessary to conduct feasibility studies to determine which best suits your needs.

Q. 15. List the steps that will contribute to a successful case filing program. _____

Q. 16. What steps should be taken to improve existing case files? _____

Q. 17. List what the court would consider when determining the future volume of cases. _____

Q. 18. What are the issues that a court will want to consider when determining the court's reference needs regarding case files? _____

Q. 19. What should a court consider when establishing case folders? _____

Q. 20. Why is it necessary to determine what information should be posted on the outside of case file? _____

Q. 21. What information on the outside of a case file might be useful as a reference tool? _____

Q. 22. What are the factors that should be considered when determining the physical type of a case file folder? _____

Q. 23. What are the advantages and disadvantages of filing papers loose in a case file? _____

Q. 24. When are fastened files usually preferred? _____

Q. 25. What questions should a clerk ask when evaluating file arrangement systems? _____

Q. 26. What is the first determining factor in the selection of file arrangement? _____

Q. 27. What is a direct access filing system? _____

- Q. 28. What is an indirect access filing system? _____

- Q. 29. What is an alphabetical file arrangement? _____

- Q. 30. What are the advantages and disadvantages of an alphabetical filing system? _____

- Q. 31. What is a numerical file arrangement? _____

- Q. 32. What is straight- or consecutive-numeric filing? _____

- Q. 33. What is a terminal-digit numeric system? _____

- Q. 34. What is a middle-digit system? _____

- Q. 35. What is a duplex-numeric system? _____

- Q. 36. What is a decimal-numeric system? _____

- Q. 37. What are the advantages and disadvantages of a numerical filing system? _____

- Q. 38. What is an alphanumeric system? _____

True or False

- Q. 39. It is better to have multiple filing places than to centralize control of the files. ____
- Q. 40. To help maintain records properly, every clerk should be a file clerk. ____
- Q. 41. How records are retrieved can affect file arrangement. ____
- Q. 42. Having a manual on filing procedures ensures that filing decisions are not erratic. ____
- Q. 43. When setting up files in filing cabinets, clerks should pack the files as tightly as possible to save on the number of filing cabinets the court must have. ____
- Q. 44. The court should have a check-out and check-in system to keep track of case files. ____
- Q. 45. What basic needs should a clerk consider when selecting filing cabinets?

D. Considering Fire Safety

Many factors affect the fire safety of case files. The intensity and severity of a fire depends on the type of building construction and height, the fuel load that comprises the building's combustible contents, including the kinds of furnishings, and the quantity of files and type of equipment used for them. If files are housed in metal files, cabinets, or other closed metal containers, the ability of the fire to spread from combustible materials in one location to materials in nearby locations is relatively low. If open shelving is used, the ability of the fire to spread is much higher.

Space utilization and minimum cost factors favor open shelf filing for case files. However, the fire protection factor makes shelf files with doors a wiser choice, as long as other factors are taken into account, such as automatic sprinkler systems, smoke detection systems, and the quantity of other combustible materials. Courts should assess fire hazards when purchasing and placing files in the office space.

- | | |
|--------|--|
| Q. 46. | What does the intensity and severity of a fire depend on? _____

_____ |
| Q. 47. | What factors should be taken into account to assess fire safety when purchasing filing equipment? _____
_____ |

E. Conducting a Records Inventory

The purpose of a records inventory is to determine what records a court has, where they are located, and how many records there are. It provides a picture of the records that need to be managed and analyzed. An effective records management program cannot be established without a complete records inventory. When conducting an inventory, the goal is not to inventory every piece of paper, but to determine and identify records categories. For example:

- cases waiting for defendants to appear;
- cases set for trial;
- cases being held for completion of driving safety course or deferred disposition;
- cases on payment plans;
- cases with warrants issued;
- cases in bond forfeiture; and
- inventory computer printouts, microfilm, magnetic media, photographs, and any record or information on computer files.

The benefits of a records inventory are to:

- help save space;
- release equipment for more productive use;

- provide a proper evaluation of file functions and activities;
- assist in the detection of unnecessary copies of records;
- provide a way of assessing the length of usefulness of records; and
- help in the appraisal of legal implications of records.

When preparing for an inventory, the following steps will help make the process successful:

- define objectives;
- communicate plans to management and staff;
- specify data to be collected;
- determine file locations;
- prepare an inventory form (a separate inventory worksheet should be used for each records series);
- establish work schedules and completion dates; and
- select personnel for the inventory process.

A successful inventory should provide the following information:

- identity of records by category or record series;
- physical location of all records;
- categorization of equipment and supplies;
- reference activity;
- methods used for disposing of obsolete records; and
- analysis of the cost of recordkeeping.

1. Records Terminology

Make sure that staff understands the concepts involved in records terminology. The smallest unit is the “page” or “document.” The next smallest unit is the “file.” The largest unit of information is the “records series.” A records series is a group of identical or related records that are normally used or filed as a unit.

Next, the court should differentiate between “records” and “non-records.” Generally, records are the “official copy” when they supply information on organization, function, policy, procedure, and operation; or it is the original case file. Usually copies or duplicates of records are “non-records” and are only kept in the office for as long as they are needed and then destroyed when the retention period has ended.

An example of what might be considered an “official copy” and needs to be kept until the retention period has ended, is an appeal from a non-record municipal court. When a case is appealed from a non-record municipal court, the original records are sent to the appellate court and the municipal court keeps a copy. When a case is appealed, the municipal court judgment is nullified, meaning that the defendant is not required to pay the judgment. However, in some instances, the appellate court may determine that it does not have jurisdiction and sends the case back to the municipal court. Now, the municipal court’s judgment is due and payable. Because an

appealed case is still active until the appeal has been completed, the copy of the case should be handled the same as the original. Because of the high volume of cases handled by municipal courts, the court might want to convert an appealed case to another type of medium, such as microfilm or optical imaging.

2. Administrative Files

Administrative files often contain duplicate information or miscellaneous information that no one knew where to file but did not want to destroy. It is almost impossible to assign a separate retention schedule for these files because they change daily. The person who is in charge of the inventory might have to decide which of these records are essential and establish records retention schedules for them. It might be that some of these records need to be stored separately or combined with other department records. Generally, miscellaneous files that need to be kept should be listed as departmental administration files.

3. Computer Records

When inventorying computer records, a court not only needs to consider the records on the computer, but also the backup tapes or other types of backup medium, such as CD-ROM or optical disks. The person preparing the inventory needs to know what the current policy is on information backed up and the policy on writing over the data stored on the media.

When a court changes hardware and software, the older records may be in a computer medium no longer used by the court. The State requires courts to keep and maintain hardware and software so that all computer records are accessible, including both active and inactive records.

Also, an inventory should include files that are on all personal computers. While it may not be possible to inventory all files users create, the court should identify files or records that are of long-term importance to the court. This is important because the court should know the information it has and be able to set retention periods for these records so that they are monitored. The information developed from the inventory can help a court to decide how best to maintain this information.

4. Types of Information Included in Inventory

The types of information that a court should collect when conducting an inventory includes:

- title of records series;
- purpose or description of the records series;
- time span covered by the series (inclusive dates);
- linear measurement of the series;
- physical description (media, size, and color);
- description of storage equipment;
- frequency of use;
- rate of accumulation;

- date of inventory;
- source of the information used to create the records series;
- what records are created from the information in the series;
- original and secondary purposes of the records series; and
- where duplicate sources are located.

5. Worksheet

The most important information on an inventory worksheet, after the records series title, relates to the record's function, which is the basis for the record's retention period.

The inventory worksheet should also include a floor plan showing the physical location and the organizational location of records for office space and storage locations. Be sure to include records in all the formats in which they are maintained.

- Q. 48. What is the purpose of a records inventory? _____

- Q. 49. What is the goal of a records inventory? _____

- Q. 50. What are the benefits of a records inventory? _____

- Q. 51. What steps will help make a records inventory successful? _____

- Q. 52. What information will a successful records inventory provide? _____

- Q. 53. What is the official copy of a record? _____

- Q. 54. What are non-records? _____

- Q. 55. What is an example of a non-record that is also an official copy? _____

- Q. 56. What are administrative files? _____

- Q. 57. A person performing an inventory would need to know what information when inventorying computer records? _____

- Q. 58. List the types of information that an inventory should collect. _____

Q. 59. List the information that should be included on an inventory worksheet. _____

F. Records Retention

1. Records Retention Program

Every city was required to establish a records management program by ordinance on or before January 1, 1991. Sec. 203.026, L.G.C. The ordinance must provide methods and procedures to enable the governing body, custodians, and the records management officers to fulfill the duties and responsibilities of a records management program under Sections 203.021, 203.022, and 203.023 of the Local Government Code. These sections provide for the duties and responsibilities of the governing body, custodians, and records management officers.

Each city is required to establish the office of records manager. Sec. 203.025, L.G.C. The duties of a records management officer are found in Section 203.023 and include coordinating the city's records management program and making certain that it complies with state regulations. On or before January 4, 1999, the records management officer had to prepare and file with the Texas State Library and Archives Commission (TSL) a records control schedule listing city records and retention periods. The retention periods could not be less than those prescribed by state or federal law or an established records retention schedule issued by the TSL. Sec. 203.042, L.G.C.

The TSL has established mandatory retention schedules for local governments. Sec. 441.158, G.C. "Retention period," as defined by Section 441.151(13) of the Government Code and Section 201.003 of the Local Government Code, means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction. Section 201.003 defines "records retention schedule" to mean a document issued by the TSL under authority of Chapter 441 of the Government Code, which establishes mandatory retention periods for local government records. Section 441.158 requires the TSL to prepare and distribute free of charge records retention schedules for each type of local government record to records management officers of local governments. The retention schedule for the records of justice and municipal courts, *Local Schedule LC*, can be found at www.tsl.state.tx.us/slr/recordspubs/lc.html. No local government can dispose of a record listed in the TSL mandatory retention *Local Schedule LC* prior to the expiration of its retention period.

Court clerks, as custodians of the court records, are required to cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records, and in carrying out the requirements of state statutes regarding public records. Sec. 203.022, L.G.C.

For more information on records retention periods, electronic records, microfilming records, and classes on records management, contact the TSL (telephone: 512.463.5455; website: www.tsl.state.tx.us).

2. Local Government Records

“Local government record” is defined in Section 441.151(8) of the Government Code and Section 201.003 of the Local Government Code to mean “any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of the physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

- extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
- notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer’s or employee’s personal convenience;
- blank forms;
- stock of publications;
- library and museum materials acquired solely for the purposes of reference or display;
or
- copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552 of the Government Code or other state law.

3. Retention Periods

Although it is impossible to list every record in each city, the TSL has compiled a manual that provides a list of groups of types of records and the required retention periods for each of the groups. For retention periods for municipal court records, while case file records are listed in one section, the financial, administrative, and personnel records are listed in other sections. The retention period for a record applies regardless of the medium in which it is maintained. Unless otherwise stated, the retention period for a record is in calendar years from the date of its creation.⁵ Clerks should check with their records management officer for the records retention schedule of court records filed with the TSL.

a. Official Records

The retention periods, unless otherwise noted, apply only to official records. Working copies created for informational purposes do not have to be retained according to the mandatory

⁵ *Texas Municipal Records Manual*, published by the Texas State Library and Archives Commission.

retention schedule. When several copies are maintained, each local government decides which shall be the official records and in which divisions or departments those records will be maintained.

b. Bound Volumes

If records are maintained in bound volumes in which the pages cannot be removed, the retention period, unless otherwise stated, dates from the date of last entry.

c. Records Maintained Together

When two or more records listed on the retention schedules are maintained together and are not severable, the combined record must be retained for the length of time of the component with the longest retention period.

d. Administratively Valuable (AV) Records

The retention period of a record that is assigned the retention period of “AV” means the record is kept as long as administratively valuable at the discretion of the city. Although “AV” may be used as a retention period on records control schedules submitted to TSL, it is a better management practice to assign fixed retention periods for each record series because “AV” records tend to accumulate and go unmanaged.

e. Electronically Stored Data

Section 205.002 of the Local Government Code authorizes local governments to store records electronically in addition to or instead of in paper or other media. Article 45.017 of the Code of Criminal Procedure authorizes judges to process and store dockets by the use of electronic data processing equipment. These records are subject to the same requirements as the source documents.

Before electronically storing any local government record data of permanent value or any with a retention period of at least 10 years, an electronic storage authorization request must be submitted to the TSL. Sec. 205.007, L.G.C.

Electronically stored data used to create a record or the functional equivalent of a record described in the *Local Schedule LC* must be retained, along with the hardware and software necessary to access the data, for the retention period assigned to the record, unless backup copies of the data generated from electronic storage are retained on paper or microfilm for the retention period.

G. Electronic Mail

Section 201.003 of the Local Government Code defines “local government record” to include electronic medium created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. If email that is created or received meets the definition of a local government record, it is subject to the same rules that govern other local government records.

Because email is often used to conduct local government business, government officials should take steps to develop policies and procedures to ensure records created or received on email

systems are managed according to the requirements of local government records. All electronic mail systems, including messages, calendars, directories, distribution lists, attachments (such as word processing documents), and messages sent or received, should be evaluated to identify documentary materials that satisfy the definition of a local government record. The Office of Court Administration has a sample of an email policy on their website at www.oca@courts.state.tx.us.

An electronic mail policy should include the following:

- purpose of email;
- use of business language in email;
- use of humor in email;
- how received email is acknowledged; and
- how and when email is edited or deleted.

Guidelines for the use of electronic mail should include:

- do not use offensive language or topics;
- do not use sarcasm or language with potential for misunderstanding;
- do not forward email without permission;
- do not use email for sensitive or confidential information; and
- do not use office email for informal, personal communication.

H. Microfilming Local Government Records

The TSL has adopted rules establishing standards and procedures for microfilming local government records. Sec. 204.004, L.G.C. If the city's records management officer does not have a copy of these rules, a copy can be requested from the TSL.

Section 204.001 of the Local Government Code defines "microfilm" to mean roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film. That section also defines "microfilming" to mean the methods, procedures, and processes used to produce roll microfilm, microfiche, or other microphotographic formats. Local governments are authorized to maintain on microfilm local government records in addition to or instead of paper or other media. All microfilm produced before June 1, 1990, under prior law is validated to the extent the microfilm was produced in the manner and according to the standards prescribed by prior law. Sec. 204.003, L.G.C. Regardless of the medium used to maintain the record, the records are still subject to the same requirements. Sec. 204.002, L.G.C.

Section 441.168 of the Government Code provides that on request of a local government, the TSL may provide for the microfilming of a local government's records. The city must pay a fee for this service to cover the costs of administering and expanding the microfilming services of the records management division of the TSL.

A microfilmed record created in compliance with Chapter 204 of the Local Government Code and rules adopted under it is an original record and must be accepted by any court or administrative agency of this State. Sec. 204.011, L.G.C.

The city is required at the request of the TSL to supply to them a copy of the microfilm of any permanent record to which access is not restricted by law. The TSL shall reimburse the city for the cost of the copy. Sec. 204.009, L.G.C.

An index to a microfilmed record must show the same information that may be required by state law for an index to the same record if it is not microfilmed. Sec. 204.006, L.G.C. This index can be maintained digitally.

Microfilming is generally considered to be one of the safest methods of protection, but the film does require a special storage environment. Since moisture affects microfilm, the court should select storage cabinets and vaults that are designed specifically to protect film products. The main disadvantages of placing case files on microfilm include the expense involved in producing high quality, readable film; the requirement for viewing equipment; the visual discomfort and fatigue resulting from prolonged viewing; and the constant need to update open case files already on microfilm.

Organized case files are ideal candidates for miniaturization, particularly if the microfilm process constitutes part of an information system at the time the case files are created. Normally, microfilming is used to maintain and store closed files.

For information on destroying the paper copy of records that have been microfilmed, see the section on destruction of records in this guide.

I. Damaged Records

Records whose minimum retention periods have not expired and are less than permanent may be disposed of when they have been badly damaged by fire, water, insect or rodent infestation, or are unreadable or unintelligible.

Damaged records that are required to be kept permanently may not be destroyed unless authorization to do so is obtained from the director and librarian of the TSL. The *Request for Authorization to Destroy Unscheduled Records* form is used to make the request. This form need not be filed for records shown as exempt from the requirement in the authority/comments column of the *Local Schedule LC*. However, these records should appear on the records control schedule submitted by the city. Records management forms can be found at www.tsl.state.tx.us/slr/recordspubs/forms/local.html.

Q. 60. When was every city required to establish a records management program by ordinance?

Q. 61. What are the general duties of a records management officer? _____

Q. 62. What commission establishes mandatory retention schedules for local governments?

Q. 63. Define records retention period. _____

Q. 64. What is the court clerk's responsibility in the citywide records management program required by TSL? _____

Q. 65. What is a local government record? _____

Q. 66. List documents that are not considered to be local government records. _____

Q. 67. Unless stated otherwise, how are retention periods figured? _____

True or False

Q. 68. Retention periods apply to all local government records. _____

Q. 69. If records are stored in bound volumes, the retention period dates from the date of the last entry. _____

Q. 70. When records are maintained together, the combined record must be retained for the length of time of the component with the longest retention period. _____

Q. 71. For administratively valuable records, the retention period is at the discretion of the city. _____

Q. 72. Municipal court dockets may be stored electronically. _____

Q. 73. Documents that are stored electronically have a different retention period from paper documents. _____

Q. 74. The hardware to access electronically stored data must always be maintained by the city for documents that are stored. _____

Q. 75. When is electronic mail considered to be a government document? _____

Q. 76. Who is responsible for adopting rules establishing standards and procedures for microfilming local government records? _____

Q. 77. Define microfilm. _____

Q. 78. What state agency for a fee may provide microfilming of local government records? _____

Q. 79. When may a damaged record be destroyed? _____

Q. 80. _____
When may a damaged record that has a permanent retention period be destroyed? _____

J. Managing a Records Management Program

1. Implementing Records Schedules

After records schedules are approved by the TSL, they may be implemented. The person responsible for the control, maintenance, and archival of records should set up a display schedule of events, such as:

- a method of reviewing files to determine when the retention periods are expired;
- which records are to be disposed of; and
- which records go to storage.

A record should be kept of all records stored and/or destroyed.

After schedules are implemented, the court should conduct a records audit to determine that the implementation was proper. This helps to ensure that the standards are being met. To check compliance, the person conducting the audit should do the following:

- verify that an up-to-date records manual is available;
- check all the major records categories to ensure compliance with records schedules;
- spot check individual offices, computer terminals, and files for compliance; and
- verify compliance with records management criteria.

The audit report should detail all findings and indicate whether follow-up action is required.

2. Updating Records Schedules

Records retention programs are ongoing. When developed, the retention plan should include provisions for annually reviewing the schedules and updating them when necessary, including checking categories to determine if any should no longer be maintained, if others should be added, or if the current schedules are adequate. The destruction of records should be reviewed to determine if personnel are properly complying. An audit of the records should also be conducted in the same manner as the audit that was conducted when the schedules were implemented.

If records schedules need to be updated, that process should be coordinated with the records management officer, and a schedule should be developed to complete the project. Section 441.160 of the Government Code provides for revisions to records retention schedules. The statute states that the TSL must approve new schedules. However, editorial changes that do not substantively change the description of the record or its retention period do not require approval. If any changes to the retention period are the result of changes in a federal or state law, rule of court, or regulation, those new schedules do not require approval by the TSL. The records management officer is required to review records schedules and prepare amendments to the

schedules as needed. The amended schedules are filed in the same manner as the original schedules. Sec. 203.041, L.G.C.

3. Storing Active Records

For most records created within city government, the record copy is filed and maintained by the department that created it. This means that municipal court records are kept in the municipal court. Although other city departments may maintain the personnel records, attendance records, or financial records, copies may be also kept in the municipal court. The original copy is generally the record that is maintained according to the records retention schedule. Copies of records generally are non-records and are maintained only as long as they are useful, and then they are destroyed. An exception to this rule is an appealed case from a non-record municipal court. The copy of the appealed case papers maintained by the municipal courts become the official copy and is maintained according to the record retention schedule. Other examples of copies of records in municipal court that are subject to record retention include:

- notice of final conviction reports submitted to the Department of Public Safety;
- quarterly reports of court costs submitted to the State Comptroller's Office; and
- monthly reports submitted to the Office of Court Administration.

Some of these records might be maintained in the municipal court and the finance department. If there is more than one copy retained by the city, the city must determine which of these records are to be maintained according to the records retention schedule and which are reference copies for convenience. The reference copies should only be retained as long as they are administratively useful.

For records that originate outside of city government, generally, the department or office that receives the record maintains it. For example, in the instance of correspondence, certificates, or other evidence received by a court from defendants, if copies are made for the prosecutor, the original copy received by the court would be subject to retention periods for case files.

The TSL does not require that cities file notice of intent to destroy records for non-record copies (administratively useful copies of records). Similarly, if a record copy is replaced by another copy, such as microfilm, the original of a record may be destroyed. Sec. 204.007, L.G.C.

However, if the original record is a permanent record, the record may not be destroyed until the TSL has granted permission. Sec. 204.008, L.G.C. Hence, a request for destruction would have to be submitted.

The location of archived records is a decision that is usually made by the city—not the court clerk. The clerk should work with the records management officer to ensure that the court records are properly stored and labeled so that they can be retrieved if necessary. Another question involving storage is the medium in which the record is to be maintained in storage. Some cities, in order to reduce the costs of storage, microfilm records and only store the microfilm and destroy the paper copy of the record. Thus, the location of stored records may be dependent upon the medium of the stored records.

4. Maintaining Records

a. Identifying and Protecting Essential Records

An “essential record” is any record necessary to the resumption or continuation of government operations in an emergency or disaster, to the recreation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the State. Sec. 201.003, L.G.C., and Sec. 441.151, G.C. Each court must decide which records fall into this category.

The court should also develop ways in which paper records can be protected from unsupervised public access, natural disasters, manmade disasters, disgruntled employees, or employee carelessness. The court might want to consider:

- secure, fire-resistant filing cabinets;
- specially designed vaults;
- computer passwords;
- duplicate copies;
- back-ups maintained at different locations; and
- off-site storage.

Every plan that is formulated to protect essential records should also include recovery steps to take if a disaster occurs.

b. Indexing Active Files

If a file needs to be retrieved by more than one identifier, then computer indexing is the most efficient method of indexing the records. A case file is an example of records that might need to be retrieved using different information. Most defendants do not know the docket number of their case; if they have lost their ticket, they do not know their ticket number. So, there needs to be more than one method of accessing those records, particularly if the court is using a numeric system of filing. Courts that do not have computers should keep a card index system for case files and other records used by the court. Both types of indices need to be closely monitored and checked for accuracy.

c. Managing the Files

Courts must decide how to best manage case files regardless of whether the filing is alphabetical or numerical. The main issue is whether to centralize or to have a decentralized system for the active files. Decentralization allows files to be maintained in separate locations, which may allow for easier use. The negative side of this type of system is that files are more easily lost and harder to retrieve. With a central file system, all active files—except those that are being created or used at that time—are maintained in a central file room. The files must be checked out, and if the files are not returned, follow-ups must be conducted.

For easier retrieval of records and reduction of misfiles, files can be color-coded. If the court is using a numeric filing system, a different color can be used for each digit. With an alphabetical system, a different color may be assigned to each letter.

If bar coding is used, a system of checking files in and out should be established. For example, the bar code would be scanned into the system when it is checked out and rescanned when it is brought back. This works well with a centralized filing system. When files are being used, it may make refiling easier if an out-card is inserted where the file was removed.

A “floating file” may cause a problem regardless of the type of filing system. For example, a clerk checks out a file and then passes it on to the prosecutor instead of taking the file back to the central file, checking it back in and then letting the prosecutor check it out. If the clerk forgets that he or she gave it to the prosecutor, the court might have to spend time looking for the file. The only way to avoid this problem is to establish a policy of requiring the person who checked out the file to return it to the file system and not allow the file to be given to another person without it going through the check-out/check-in system. Another way to manage this problem is to use routing forms. When the person who has checked out a file transfers it to another person, a routing form is sent to the central files.

5. Archiving Records

a. Storage Media

(1) Micrographics

Micrographics is the art of producing or reproducing information in miniature form. It is also termed microprinting or microphotography and encompasses the creation, use, and storage of microforms, which is another name for various film formats. Microphotography is the filming of records. Microfilm is a fine-grain, high-resolution film that can record images greatly reduced in size. Microfiche is sheets of film containing a number of images in a grid format. Micrographics refers to the technology of recording images on microfilm. The decision of whether or not to film records is a matter left to each city to consider. However, if a city decides to film records, the filming must be done in accordance with state statutes and rules adopted under those statutes, and micrographics clauses should be added to the ordinance establishing a records management program. Sec. 204.002, L.G.C. Section 7.26 of the Texas Administrative Code requires original microfilm to be stored in a separate building from that in which duplicate copies, if any, or the original records are housed. The storage must meet the conditions provided for in the Texas Administrative Code. Courts can contact the TSL for information on storage requirements of microfilmed records.

For a micrographics program to be successful, a determination must be made on which records to film. Any records that are marginal or of short-term value most likely should not be filmed. The program should be centrally located and under control of the records management officer. When records retention schedules are developed, establish the purpose of filming. It may be that the purpose is to ensure permanent preservation, security for vital records, or convenience. The TSL can advise cities on micrographic standards and procedures. Cities considering such a program should contact the Local Records Division before establishing a program.⁶

⁶ *Texas Municipal Records Manual*, published by the Texas State Library.

(2) Electronic Document Imaging

Courts may store records electronically in addition to or instead of the source documents in paper or other media. However, electronic storage is subject to the requirements of Chapter 205 of the Local Government Code and the rules adopted under it. Sec. 205.002, L.G.C. If the city's record management officer does not have a copy of the rules, the court should contact the TSL because the rules contain specific handling provisions that the court should be aware of.

In imaging systems, a document is "scanned" and converted into a digitized format that can be read by computers and electronically stored and retrieved. Data attached to each image enables the computer to link it to a specific case, individual, or other documents. The image can be written into the storage device only once, but can be read many times without making any alterations. The stored image is a duplication of the original. The digitized images can be stored on a hard drive, optical disk, or other computer-readable media.

(3) CD-ROM/DVD

With optical disks, documents can be added to the disk over an extended period of time until the disk is filled.

- **CD-R**

A CD-R is recordable CD-ROM technology using a disk that can be written only once. A CD-Reader/Writer can be used as a regular CD-ROM reader once burned or written. These images cannot be removed or altered. All documents are written to the disk at once. After a file has been closed, information cannot be added to the file. The life span of a CD-R varies, depending on the quality of the disk. Information should be transferred periodically to save the data.

- **CD-RW**

A CD-RW is rewritable CD-ROM technology. CD-RW drives can also be used to write/read CD-R discs and read CD-ROM technology. CD-RW is different from CD-R because, if left open, data on a CD-RW can be deleted or data can be added. A CD-RW can also be used over and over again. Even after the CD-RW is closed, the disk can be reformatted and be re-used. If the disk is reformatted and re-used the original data is no longer accessible. Because CD-RWs last about four years, any information stored on a CD-RW should be transferred to another CD-RW every four years.

- **DVD**

A DVD is an optical disc storage media format. DVD originally stood for Digital Versatile Disk or Digital Video Disk. DVDs offer higher storage capacity than compact disks, but have the same dimensions. DVDs are not readable as long as other mediums. Depending on the manufacturing quality and storage practice, it is estimated that the DVD will remain readable for 2 to 15 years.

b. Permanent Records

Any records that are required to be kept permanently must be properly stored so that they are not damaged or destroyed. Contact the TSL for information on rules adopted under Section 203.048

of the Local Government Code, regarding standards for the proper care and storage of records of permanent value.

c. Cartons and Shelving

If the court is storing the actual paper records, the type and size of the cartons need to be coordinated with the type and placement of shelving. The size of the storage area is also important when considering shelving. The type of records to be stored might also dictate the type of cartons. For example, computer printouts might have to be stored flat while file folders could be stored upright in a carton.

d. Records Organization

A method to organize records is to assign box numbers that would also indicate where in the storage area the box is to be stored. This will assist in the retrieval process. The person in charge of archiving records should maintain an index of boxes and their contents. To assist in locating stored records, two numbers should be used—one number for the location in the storage area and the other number for identifying the contents of the box.

For easy retrieval, the court might consider bar coding cartons and shelves instead of using numbers. When a box is shelved, both the box bar code, shelf bar code, and content bar code can be scanned.

e. Storage Index

All records that are stored should be indexed. The index should be cross-referenced with a box number. This enables anyone needing to retrieve a record to provide just the index number of the record to the custodian of the stored records. Records that are microfilmed must have an index that shows the same information required by state law for an index to the same record if it is not microfilmed. Sec. 204.006, L.G.C.

A computer index is the easiest to update and maintain. If a manual system is used to index stored records, a card index must be maintained. A separate card should be maintained on each carton stored. A destruction log should also be maintained. When determining how to index records, the following questions should be asked.

- Do you want to index every file or document in the box?
- How do you want to index the records? For example, do you want to index case files according to their docket numbers, by defendants' names, or by some other method? Do you want to index by record title or category?
- Depending on how you index, how do you sequence the index and summarize the contents?
- How do you link the storage of the records to the retention schedules so that the destruction date of the records is easily tracked?
- How are control box numbers and location numbers assigned to the indexed records?
- How is the listing of the index records to be maintained?
- What type of system will be used to retrieve the records?

f. Transfer of Records to Storage Area

A plan to transfer records should include who is responsible for verifying that the records belong in storage, boxing up the records, labeling the records, and transporting the records. Boxing of records would include how the records are placed in the box, and whether file folders or fasteners are boxed and how the records are bundled together. After the boxes are filled, a transfer form would be completed. One copy of the transfer form would accompany the box to the storage area and another copy would stay with the court.

6. Documenting the Records Management Program

A records management manual should include:

- a records management policy;
- instructions on the use of records retention schedules;
- procedures for updating records retention schedules;
- forms used to manage records;
- procedures on implementing the program on an ongoing basis;
- procedures on internal operation;
- staff procedures;
- disaster recovery procedures;
- filing procedures;
- procedures on transferring and storing records; and
- procedures for updating the manual.

7. Checklist to Help Evaluate Maintenance Program

The following is a list of questions that will help evaluate the court's maintenance program.⁷

- Does your court have a files handbook, manual, or other directive to provide uniform file maintenance procedures?
- Are file maintenance procedures correlated with approved records control schedules for the prompt removal of inactive records from office space?
- Is physical access to records controlled to prevent unauthorized disclosure or access?
- Is each records series arranged in its own internally consistent pattern, such as, alphabetical, chronological, numerical, or subject order?
- Is each records series arranged based on the way people in the office usually ask for the records?
- Are cross references prepared when needed?
- Are periodic checks made for misfiles?
- Are records filed on a daily basis?

⁷ *Evaluating Files Maintenance and Records Disposition Programs*, National Archives and Records Administration.

- Are out-cards or other charge-out controls used whenever documents or files are removed from the official file stations?
- Before filing, are documents examined to ensure that they are complete and that the following materials have been removed: envelopes, paper clips, routing slips, cover sheets, superseded drafts showing no substantive changes, and duplicate copies, other than those needed as cross reference?

True and False

- Q. 81. The court does not need to keep a record of records that are destroyed. ____
- Q. 82. The court should periodically perform a records audit to determine if record schedules have been properly maintained. ____
- Q. 83. List the information that a records audit should include. _____

- Q. 84. How often should records schedules be reviewed? _____
- Q. 85. Who must approve new records schedules? _____
- Q. 86. When can non-record copies be destroyed? _____

- Q. 87. List records that are copies of records that should be maintained as original copies. ____

- Q. 88. Define essential records. _____

- Q. 89. List some ways that municipal court records can be secured from disasters such as fire.

- Q. 90. What is the most efficient method of indexing court records? _____
- Q. 91. What is a decentralized filing system? _____

- Q. 92. What is a centralized filing system? _____

- Q. 93. What is a bar coding system? _____

- Q. 94. What is a floating file? _____

Q. 95. What is microphotography? _____

Q. 96. What is microfilm? _____

Q. 97. What is microfiche? _____

Q. 98. What is micrographics? _____

Q. 99. When should the purpose of microfilming be established? _____

Q. 100. What does an electronic document imaging system do? _____

Q. 101. How can digitized images be stored? _____

Q. 102. How can records be organized for storage? _____

Q. 103. List questions that should be considered when determining how to index stored records.

Q. 104. What should a plan for transferring records to storage include? _____

Q. 105. List the type of documentation that a records management manual should include.

Q. 106. What questions help evaluate a court's maintenance program? _____

K. Destroying Records

Section 202.001 of the Local Government Code establishes criteria governing the destruction of local government records. Records do not have to be microphotographed before destruction. A record may not be destroyed if it is currently in litigation or if there is an open records request. A local government record may be destroyed if:

- it appears on the local government's records control schedule that has been accepted for filing by the TSL and its retention period has expired on the schedule;
- it appears on a list of obsolete records approved by the TSL;
- a request for authorization to dispose of unscheduled records is submitted to the TSL and approved;
- its destruction or obliteration is ordered by a court expunction order issued by a district court pursuant to state law;
- the record is listed as exempt from the destruction request requirement on a records retention schedule issued by the TSL;
- the retention period on a records retention schedule issued by the TSL has not yet expired, but the record is non-permanent and it has been microfilmed according to TSL standards (if the record is a permanent record on the state-issued schedule, a destruction notice must be submitted and approved);
- the retention period on a records retention schedule issued by the TSL has not yet expired, but the record has a retention period of less than 10 years and it has been converted to an electronic medium in accordance with Chapter 205 of the Local Government Code; or
- the retention period on a records retention schedule issued by the TSL has not yet expired and the record has a retention period of 10 years or more, and the local government has submitted to the TSL and has approved an electronic storage authorization request.

An original record that has been microfilmed pursuant to state rules can be destroyed before the expiration of its retention period on a records retention schedule issued by the TSL. A list of the originals of microfilmed records destroyed shall be filed with the records management officer. The microfilm record must be retained until the expiration of the retention period for the original record. Sec. 204.007, L.G.C. A permanent record may not be destroyed even though it is microfilmed until a *Destruction Authorization Request* is submitted to and approved by the Texas State Library and Archives Commission. Sec. 204.008, L.G.C. This request shall be submitted by the records management officer or under the officer's direction. Sec. 204.008, L.G.C.

After media conversion, the microfilm of records and electronically stored data are subject to the conditions listed above.

Electronic records may be destroyed only in accordance with Section 202.001. See rules noted above. Magnetic storage media previously used for electronic records containing confidential

information cannot be reused if the previously recorded information can be compromised by reuse in any way. Sec. 7.78, T.A.C.

1. Notice of Destruction

If cities have not developed and published records retention and disposition schedules approved by the TSL, a notice of proposed destruction or other disposition of records (such as transfer to a county historical commission) shall first be given to the Texas State Librarian who decides if the records should be preserved. If they are, the records are transferred to the TSL and placed in one of its regional historical resource depositories. The notice to dispose of records is called *Notice of Intent to Dispose of Public Records*. Copies of the form may be obtained by contacting the Local Records Division of the TSL. A city that has records retention and disposition schedules developed may, in lieu of filing intent to dispose notices, submit a copy of the schedules to the State Librarian. The schedules must be approved in writing by the city attorney and be accompanied by a copy of the ordinance that established the records management program from which the schedules are derived. Any amendments or additions to the schedules approved by the city attorney must be filed with the State Librarian. Cities must submit a *Notice of Intent to Dispose of Public Records* for records that are not yet scheduled or records not on the schedules in order to destroy the records.

2. Methods of Destruction

Section 202.003 of the Local Government Code provides for methods of destruction of records. The methods include:

- burning;
- shredding;
- pulping;
- burying in landfill; and
- selling or donating for recycling.

Records that are confidential under the Public Information Act or other state laws cannot be destroyed by burial in a landfill or by sale or donation for recycling. They must be burned, pulped, or shredded.

Cities that sell or donate records for recycling purposes shall establish procedures for ensuring that the records are rendered unrecognizable as local government records by the recycler. Sec. 202.003(c), L.G.C.

3. Alienation of Records

Alienation of a city record is the act of selling, donating, loaning, transferring, or otherwise passing out of the custody of the city the city record. The only places where these records may be passed to are a public institution of higher education, a public museum, a public library, or other public entity with the approval of the city's records management officer and after the expiration of the record's retention period under the city's records control schedule. Sec. 202.004(a), L.G.C.

A city record may not be sold or donated except for the purpose of being recycled, loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the TSL director and librarian and after the expiration of its retention period under the city's records control schedule. Sec. 202.004(b), L.G.C.

A records management officer or custodian (the court clerk is the custodian of municipal court records) may temporarily transfer a city's record to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures. Sec. 202.004(c), L.G.C.

4. Unlawful Destruction of Records

An officer or employee of a city commits a Class A misdemeanor offense if he or she knowingly or intentionally violates any of the requirements of the Local Government Records Act or rules adopted under it by destroying or alienating a local government record or by intentionally failing to deliver records to a successor in office. Sec. 202.008, L.G.C.

Section 37.10(3) of the Penal Code makes it an offense to intentionally destroy a governmental record. It is an exception if the governmental record is destroyed pursuant to legal authorization, which includes the destruction of a local governmental record in compliance with the provision of Subtitle C of Title 6 of the Local Government Code. An offense under this section is a Class A misdemeanor unless the actor's intent is to defraud or harm another, in which event, the offense is a state jail felony. An offense under this section is a felony of the third degree if it is shown at the trial of the offense that the governmental record was a license, certificate, permit, seal, title, or similar document issued by a government, unless the person's intent is to defraud or harm another, in which event the offense is a felony of the second degree.

To avoid criminal penalties for unlawfully destroying records, city employees need to adhere strictly to records retention and disposition schedules developed by the city and approved by the TSL.

Q. 107. When may a record not be destroyed? _____

Q. 108. List the criteria for when a local government record may be destroyed. _____

Q. 109. Who in the city maintains a list of original records that have been microfilmed and destroyed? _____

Q. 110. When can a permanent record that has been microfilmed be destroyed? _____

Q. 111. What is a *Notice of Intent to Dispose of Records*? _____

- Q. 112. List the methods that a city may use to destroy records. _____

- Q. 113. What records may a city not sell or donate for recycling purposes? _____

- Q. 114. Where may the city sell, donate, loan, or transfer records? _____

- Q. 115. When may the court clerk temporarily transfer the custody of court records? _____

- Q. 116. What type of offense does a court clerk commit if he or she violates any requirements of the Local Government Records Act? _____

**PART 2
 PUBLIC INFORMATION ACT**

Chapter 552 of the Government Code is titled the Public Information Act. Section 552.002 defines public information as “information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body and the governmental body owns the information or has a right of access to it.” Public information may exist in the form of a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, drawing, and a voice, data, or video representation held in computer memory. A public record means the portion of a document, writing, letter, memorandum or other written, printed, typed, copied, or developed material that contains public information.

Section 552.006 provides that Chapter 552 “does not authorize the withholding of public information or limit the availability of public information to the public, except as expressly provided by this chapter.” Section 552.003 provides that the Act applies to governmental bodies, and defines “governmental body” stating that “governmental body” does not include the judiciary. Thus, the provisions of the Public Information Act do not apply to information held by the courts.

Prosecutors and employees of the city attorney’s office are governed by the Public Information Act. Additionally, Section 552.1175 provides that prosecutors and their employees are protected by the Act, in that their home addresses, telephone numbers, social security numbers, and information that reveals whether the individual has family members are confidential.

A. Common Law Right of Inspection

Even though courts are not subject to the Public Information Act, the courts have long recognized that the public has a common law right to inspect and copy court records. The criminal courts are public courts; therefore, the records are generally public. Courts have also recognized, however, a limited inherent right to control public access to official records if the files might be used for improper purposes. *Nixon v. Warner Communication, Inc.*, 435 U.S. 589 (1978); *Ashpole v. Millard*, 778 S.W.2d 169 (Tex. App.–Houston [1st Dist.] 1989, no writ). The Texas Attorney General has stated in open records decisions that the public has a common law right of inspection, but that the judge has discretion to control public access to its records when justice so requires or when it is shown that permitting inspection would result in harm to the public interest. Otherwise, courts should make their records available for inspection by the public at reasonable times. ORD No. 25 (1974) and Tex. Atty. Gen. Op. No. H-826 (1976). Furthermore, Section 7.79 of the Texas Administrative Code provides that an electronic record-keeping system must not provide an impediment to access to public records.

When copies of court records are requested by the public, the court may charge for the records under the city ordinance that has established the costs within the guidelines approved by the General Services Commission. Sec. 552.266, G.C.

Courts should have a policy on how to handle requests for court records. The policy should include a request form, an information sheet about costs, length of time it takes to provide the records, and in what format the records are available. Requests for municipal court records must always go to the judge for the judge to make a decision whether to release the records or not. Someone in the court should keep on file all requests and document when and how the information is provided.

For more information on the records request process, see the Records Request Flowchart and Commentary, located at http://www.tncec.com/files/1714/4060/4799/Reworked_Two_-_Records_Requests_in_Justice_and_Municipal_Courts.pdf.

1. Juvenile Records in Municipal Court

The confidentiality granted to juvenile records in juvenile court does not automatically apply to municipal court criminal case records of children. Section 58.007(a) of the Family Code states that records relating to a child maintained under the laws regulating the operation of motor vehicles or records or files relating to a child that are maintained by a municipal or justice court are not subject to confidentiality rules regarding records and files held by a juvenile court, a juvenile probation department, or prosecuting attorney in juvenile court. The Legislature has struggled to address the complexities inherent when dealing with juveniles in municipal court, however, as briefly outlined below. Juvenile records are discussed further in Chapter 5 of this guide.

a. The Rise and Fall of Non-Disclosure

In 2009, the Legislature added a provision to Section 411.081 of the Government Code, requiring that a court convicting a child for a fine-only misdemeanor immediately issue an order of non-disclosure prohibiting criminal justice agencies from disclosing any criminal history record information related to the offense, except to certain specified entities. There was much confusion

with the process, however, and by 2011 it was apparent that the system of non-disclosure was not working. The Legislature repealed the non-disclosure statutes that year and instead created conditional confidentiality. The records of a case, other than a traffic case, in which the child defendant was convicted and satisfied the judgment were confidential and could only be released to certain people or entities. These included a criminal justice agency for a criminal justice purpose; a judge or court staff; DPS; the prosecuting attorney or defense attorney to the case; the defendant; or the defendant's parents. Art. 45.0217, C.C.P. Under this model, only a defendant who was convicted and satisfied the judgment (i.e., paid the fine and costs and completed any other sanction required by law) was entitled to confidentiality.

b. Confidentiality and Conflicting Bills

In 2013, the Legislature revisited juvenile records and passed two bills dealing with the confidentiality of juvenile records in municipal and justice courts. S.B. 393, effective September 1, 2013, expanded the existing conditional confidentiality to also protect those records of children who were granted a deferred disposition or teen court and successfully completed the terms of the deferral, thereby having their case dismissed. Children who satisfied a judgment or had their cases dismissed after completing a deferral were entitled to confidentiality. This bill created a system of "expanded conditional confidentiality." The second bill, H.B. 528, amended Article 45.0217, however, and granted "total confidentiality" to all records relating to a child who is charged with, convicted of, acquitted of, has a charge dismissed for, or is granted deferred disposition for an offense other than a traffic offense. The records could still be released to the defendant, the defendant's parents, the attorneys to the case, a judge or court staff, DPS, or a criminal justice agency for a criminal justice purpose. H.B. 528 went into effect on January 1, 2014. Both bills provided for the confidentiality of records already existing. Again, there was much confusion among the courts on which bill applied and how to handle juvenile records.

c. Texas Attorney General Opinion No. GA-1035

On July 10, 2013, the Office of Court Administration requested an Attorney General Opinion clarifying the law. The Office of the Attorney General responded with much anticipated Opinion No. GA-1035 on January 2, 2014. The Attorney General opined that there was no conflict between the bills; rather, one bill (H.B. 528) enveloped the other (S.B. 393) when it came into effect on the later date (January 1, 2014). There was no reference or delineation made between the "expanded conditional confidentiality" of S.B. 393 and the "total confidentiality" of H.B. 528 in the opinion. Thus, barring any further legislative changes or cases addressing the issue, courts are left with two different sets of laws governing juvenile records to deal with. Notably, and perhaps as a result of this confusion, the 84th Legislature passed H.B. 431 in 2015. The bill directs the Texas Juvenile Justice Department to appoint an advisory body to advise the 85th Legislature on reforms needed to address juvenile record-keeping,

For a more detailed discussion of the issue, see Ryan Kellus Turner's article, "Making Sense of GA-1035," *The Recorder* (January 2014).

d. Truancy Court and Juvenile Records

There are also special provisions for juvenile records relating specifically to truancy court proceedings. These courts were created during the 84th Legislature following an overhaul of the state's juvenile justice system. Truancy courts have jurisdiction over truant conduct, formerly the

criminal offense of failure to attend school. Municipal, justice, and certain county courts are designated as truancy courts. Records created during these proceedings may only be disclosed to certain parties, including the judge of the truancy court, the child or attorney for the child, or another party with leave of the truancy court, among others. Sec. 65.202, F.C. In addition, the truancy court is required to order the destruction of any records relating to allegations of truant conduct held by the court or prosecutor if a petition to begin proceedings is not filed. Sec. 65.203, F.C.

Truancy court is further discussed in the Children and Minors chapter of the Level II Study Guide. For more information, see also the *Texas Truancy Court Resource Manual*, a new publication in 2015, and the Texas Truancy Transition website, located at www.tmcec.com/truancy.

2. Personal Information on Jurors

Although court records are open to public inspection, there are some other exceptions. Article 35.29 of the Code of Criminal Procedure states that information collected by the court or prosecutor about persons who serve as jurors, including a juror's home address, home telephone number, social security number, driver's license number, and other personal information is confidential. Only on a showing of good cause by a party to the case or a bona fide member of the media shall the court permit disclosure of the information. If someone wants access to this information, they must make a motion to the court. The court should then conduct a show cause hearing to determine if good cause exists for releasing the information.

3. Social Security Numbers

Some social security numbers are confidential; some are not. Municipal courts are required under Section 543.202 of the Transportation Code to report to DPS a person's social security number upon conviction of a traffic offense if the person was operating a commercial motor vehicle or was the holder of a commercial driver's license or a commercial driver learner's permit. Some cities collect social security numbers to aid in locating defendants who fail to come to court or fail to satisfy their judgments.

The Attorney General in Open Records Decision No. 622 (1994) stated that "a social security number is excepted from required public disclosure under Section 552.101 of the Open Records Act in conjunction with the 1990 amendments to the Social Security Act, 42 U.S.C. Section 405(c)(2)(C)(vii), only if it was obtained or is maintained by a governmental body pursuant to any provision of law, enacted on or after October 1, 1990." Requests for information that contain a social security number should be reviewed by the city attorney and judge to determine if it can be released, though most courts decline to release social security numbers under the premise that it would result in harm to the public interest.

4. Affidavits for Arrest and Search Warrants

An arrest warrant and affidavit presented in support of the issuance of the warrant are public information beginning when the warrant is executed. The clerk shall make a copy of the warrant and affidavit available for public inspection in the clerk's office during normal business hours. A person can request a copy of the warrant and affidavit, which the clerk must provide on payment of the cost for providing the copies. Art. 15.26, C.C.P.

Likewise, an affidavit for a search warrant is public information once the warrant is executed. Article 18.01(b) of the Code of Criminal Procedure provides that a sworn affidavit setting forth substantial facts establishing probable cause shall be filed in every instance in which a search warrant is requested. The affidavit is public information if executed, and the magistrate's clerk shall make a copy of the affidavit available for public inspection in the clerk's office during normal business hours.

Q. 117.	What is public information? _____ _____
Q. 118.	Why does the Public Information Act not apply to judiciary? _____ _____ _____
Q. 119.	Why does the public have a right to inspect municipal court records? _____ _____ _____
Q. 120.	What governs the cost of copies of municipal court records? _____ _____ _____
Q. 121.	Are juvenile records in municipal courts handled in the same manner as adult records? _____ _____
Q. 122.	When and to whom may the court disclose personal information about jurors? _____ _____ _____
Q. 123.	When the public requests a record that contains a social security number, what should a clerk do? _____ _____ _____

B. Rule 12

Rule 12 of the Texas Rules of Judicial Administration, effective April 1, 1999, provides for public access to judicial records. Rule 12 defines judicial record, however, to mean “a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function, regardless of whether that function relates to a specific case. A record of any nature created, produced or filed in connection with any matter that is or has been before a court is not a judicial 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.”

Thus, Rule 12 does not apply to records pertaining to the court's adjudicative function, which essentially are the cases filed in the court. The common law right of inspection would govern case files, while Rule 12 will govern other records held by the court.

A violation of Rule 12 is a violation of the *Code of Judicial Conduct*. The text of Rule 12 is laid out below. For more information on Rule 12, including decisions on whether requested information must be released under Rule 12, visit the Office of Court Administration's website at www.courts.state.tx.us/rules/openrecstate.asp.

Public Access to Judicial Records Effective April 1, 1999

12.1 Policy. The purpose of this rule is to provide public access to information in the judiciary 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.

12.2 Definitions. In this rule:

(a) *Judge* means a regularly appointed or elected judge or justice.

(b) *Judicial agency* means an office, board, commission, or other similar entity that is in the Judicial Department and that serves an administrative function for a court. A task force or committee created by a court or judge is a "judicial agency".

(c) *Judicial officer* means a judge, former or retired visiting judge, referee, commissioner, special master, court-appointed arbitrator, or other person exercising adjudicatory powers in the judiciary. A mediator or other provider of non-binding dispute resolution services is not a "judicial officer".

(d) *Judicial record* means a record made or maintained by or for a court or judicial agency in its regular course of business but not pertaining to its adjudicative function, regardless of whether that function relates to a specific case. A record of any nature created, produced, or filed in connection with any matter that is or has been before a court is not a judicial 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.

(e) *Records custodian* means the person with custody of a judicial record determined as follows:

(1) 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.

(2) The judicial records of a court with more than one judge, such as any appellate court, are in the custody of the chief justice or presiding judge, who must act under this rule in accordance with the vote of a majority of the judges of the court. But the judicial records

relating specifically to the service of one such judge or that judge's own staff are in the custody of that judge.

(3) The judicial records of a judicial officer not covered by subparagraphs (1) and (2) are in the custody of that officer.

(4) The judicial records of a judicial agency are in the custody of its presiding officer, who must act under this rule in accordance with agency policy or the vote of a majority of the members of the agency.

12.3 Applicability. This rule does not apply to:

(a) records or information to which access is controlled by:

(1) a state or federal court rule, including:

(A) a rule of civil or criminal procedure, including Rule 76a, Texas Rules of Civil Procedure;

(B) a rule of appellate procedure;

(C) a rule of evidence;

(D) a rule of administration;

(2) a state or federal court order not issued merely to thwart the purpose of this rule;

(3) the Code of Judicial Conduct;

(4) Chapter 552, Government Code, or another statute or provision of law;

(b) 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);

(c) records or information relating to an arrest or search warrant or a supporting affidavit, access to which is controlled by:

(1) a state or federal court rule, including a rule of civil or criminal procedure, appellate procedure, or evidence; or

(2) common law, court order, judicial decision, or another provision of law;

(d) elected officials other than judges.

12.4 Access to Judicial Records.

(a) **Generally.** 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. But this rule does not require a court, judicial agency, or records custodian to:

(1) create a record, other than to print information stored in a computer;

(2) retain a judicial record for a specific period of time;

(3) allow the inspection of or provide a copy of information in a book or publication commercially available to the public; or

(4) 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 as defined in Section 1.07(a), Penal Code, or in any other such facility in any state, federal, or foreign jurisdiction.

(b) ***Voluntary disclosure.*** A records custodian may voluntarily make part or all of the information in a judicial record available to the public, subject to Rules 12.2(e)(2) and 12.2(e)(4), unless the disclosure is expressly prohibited by law or exempt under this rule, or the information is confidential under law. Information voluntarily disclosed must be made available to any person who requests it.

12.5 Exemptions from Disclosure. The following records are exempt from disclosure under this rule:

(a) ***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.

(b) ***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.

(c) ***Personnel information.*** Any personnel record that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy.

(d) ***Home address and family information.*** Any record reflecting any person's home address, home or personal telephone number, social security number, or family members.

(e) ***Applicants for employment or volunteer services.*** Any records relating to an applicant for employment or volunteer services.

(f) ***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.

(g) ***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.

(h) ***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.

(i) ***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:

(1) a complaint alleging misconduct against a judicial officer, if the complaint is exempt from disclosure under Chapter 33, Government Code, or other law;

(2) a complaint alleging misconduct against a person who is licensed or regulated by the courts, if the information is confidential under applicable law; or

(3) a trade secret or commercial or financial information made privileged or confidential by statute or judicial decision.

(j) ***Litigation or settlement negotiations.*** Any judicial record relating to civil or criminal litigation or settlement negotiations:

(1) in which a court or judicial agency is or may be a party; or

(2) 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.

(k) ***Investigations of character or conduct.*** Any record relating to an investigation of any person's character or conduct, unless:

(1) the record is requested by the person being investigated; and

(2) release of the record, in the judgment of the records custodian, would not impair the investigation.

(l) ***Examinations.*** Any record relating to an examination administered to any person, unless requested by the person after the examination is concluded.

12.6 Procedures for Obtaining Access to Judicial Records.

(a) ***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.

(b) ***Time for inspection and delivery of copies.*** As soon as practicable -- and not more than 14 days -- after actual receipt of a request to inspect or copy a judicial record, if the record is available, the records custodian must either:

(1) allow the requestor to inspect the record and provide a copy if one is requested; or

(2) send written notice to the requestor stating that the record cannot within the prescribed period be produced or a copy provided, as applicable, and setting a reasonable date and time when the document will be produced or a copy provided, as applicable.

(c) ***Place for inspection.*** A records custodian must produce a requested judicial record at a convenient, public area.

(d) ***Part of record subject to disclosure.*** 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.

(e) **Copying; mailing.** The records custodian may deliver the record to a court clerk for copying. The records custodian may mail the copy to a requestor who has prepaid the postage.

(f) **Recipient of request not custodian of record.** 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 ascertain who the custodian of the record is. If the recipient of the request can ascertain 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 prescribed in Rule 12.6(b) does not begin to run until the referral is actually received by the records custodian. If the recipient cannot ascertain 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 cannot ascertain who the custodian of the record is.

(g) **Inquiry to requestor.** 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. But a records custodian may make inquiry to establish the proper identification of the requestor or to clarify the nature or scope of a request.

(h) **Uniform treatment of requests.** A records custodian must treat all requests for information uniformly without regard to the position or occupation of the requestor or the person on whose behalf a request is made, including whether the requestor or such person is a member of the media.

12.7 Costs for Copies of Judicial Records; Appeal of Assessment.

(a) **Cost.** The cost for a copy of a judicial record is either:

- (1) the cost prescribed by statute, or
- (2) if no statute prescribes the cost, the actual cost, as defined in Section 111.62, Title 1, Texas Administrative Code, not to exceed 125 percent of the amount prescribed by the General Services Commission for providing public information under Title 1, Texas Administrative Code, Sections 111.63, 111.69, and 111.70.

(b) **Waiver or reduction of cost assessment by records custodian.** A records custodian may reduce or waive the charge for a copy of a judicial record if:

- (1) doing so is in the public interest because providing the copy of the record primarily benefits the general public, or
- (2) the cost of processing collection of a charge will exceed the amount of the charge.

(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.

(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.

12.8 Denial of Access to a Judicial Record.

(a) ***When request may be denied.*** A records custodian may deny a request for a judicial record under this rule only if the records custodian:

(1) reasonably determines that the requested judicial record is exempt from required disclosure under this rule; or

(2) makes specific, non-conclusory findings that compliance with the request would substantially and unreasonably impede the routine operation of the court or judicial agency.

(b) ***Time to deny.*** 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 extended under Rule 12.6(b)(2).

(c) ***Contents of notice of denial.*** A notice of denial must be in writing and must:

(1) state the reason for the denial;

(2) inform the person of the right of appeal provided by Rule 12.9; and

(3) include the name and address of the Administrative Director of the Office of Court Administration.

12.9 Relief from Denial of Access to Judicial Records.

(a) ***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.

(b) ***Contents of petition for review.*** The petition for review:

(1) must include a copy of the request to the record custodian and the records custodian's notice of denial;

(2) may include any supporting facts, arguments, and authorities that the petitioner believes to be relevant; and

(3) may contain a request for expedited review, the grounds for which must be stated.

(c) ***Time for filing.*** 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.

(d) ***Notification of records custodian and presiding judges.*** 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.

(e) ***Response.*** A records custodian who denies access to a judicial record and against whom relief is sought under this section 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 for in camera inspection any record, or a sample of records, to which access has been denied.

(f) **Formation of special committee.** Upon receiving notice under Rule 12.9(a)(3), the presiding judges must refer the petition to a special committee of not less than five of the presiding judges for review. The presiding judges must notify the Administrative Director, the petitioner, and the records custodian of the names of the judges selected to serve on the committee.

(g) **Procedure for review.** The special committee must review the petition and the records custodian's response and determine whether the requested judicial record should be made available under this rule to the petitioner. The special committee may request the records custodian to submit for in camera inspection a record, or a sample of records, to which access has been denied. The records custodian may respond to the request in whole or in part but it not required to do so.

(h) **Considerations.** When determining whether the requested judicial record should be made available under this rule to petition, the special committee must consider:

- (1) the text and policy of this Rule;
- (2) any supporting and controverting facts, arguments, and authorities in the petition and the response; and
- (3) prior applications of this Rule by other special committees or by courts.

(i) **Expedited review.** On request of the petitioner, and for good cause shown, the special committee may schedule an expedited review of the petition.

(j) **Decision.** The special committee's determination must be supported by a written decision that must:

- (1) issue within 60 days of the date that the Administrative Director received the petition for review;
- (2) either grant the petition in whole or in part or sustain the denial of access to the requested judicial record;
- (3) state the reasons for the decision, including appropriate citations to this rule; and
- (4) 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.

(k) **Notice 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:

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

(l) **Publication of decisions.** The Administrative Director must publish periodically to the judiciary and the general public the special committees' decisions.

(m) **Final decision.** A decision of a special committee under this rule is not appealable but is subject to review by mandamus.

(n) **Appeal to special committee not exclusive remedy.** The right of review provided under this subdivision is not exclusive and does not preclude relief by mandamus.

12.10 Sanctions. A records custodian who fails to comply with this rule, knowing that the failure to comply is in violation of the rule, is subject to sanctions under the Code of Judicial Conduct.

Comments

1. Although the definition of "judicial agency" in Rule 12.2(b) is comprehensive, applicability of the rule is restricted by Rule 12.3. The rule does not apply to judicial agencies whose records are expressly made subject to disclosure by statute, rule, or law. An example is the State Bar ("an administrative agency of the judicial department", Tex. Gov't Code § 81.011(a)), which is subject to the Public Information Act. Tex. Gov't Code § 81.033. Thus, no judicial agency must comply with both the Act and this rule; at most one can apply. Nor does the rule apply to judicial agencies expressly excepted from the Act by statute (other than by the general judiciary exception in section 552.003(b) of the Act), rule, or law. Examples are the Board of Legal Specialization, Tex. Gov't Code § 81.033, and the Board of Disciplinary Appeals, Tex. R. Disciplinary App. 7.12. Because these boards are expressly excepted from the Act, their records are not subject to disclosure under this rule, even though no law affirmatively makes their records confidential. The Board of Law Examiners is partly subject to the Act and partly exempt, Tex. Gov't Code § 82.003, and therefore this rule is inapplicable to it. An example of a judicial agency subject to the rule is the Supreme Court Advisory Committee, which is neither subject to nor expressly excepted from the Act, and whose records are not made confidential by any law.

2. As stated in Rule 12.4, this rule does not require the creation or retention of records, but neither does it permit the destruction of records that are required to be maintained by statute or other law, such as Tex. Gov't Code §§ 441.158-.167, .180-.203; Tex. Local Gov't Code ch. 203; and 13 Tex. Admin. Code § 7.122.

3. Rule 12.8 allows a records custodian to deny a record request that would substantially and unreasonably impede the routine operation of the court or judicial agency. As an illustration, and not by way of limitation, a request for "all judicial records" that is submitted every day or even every few days by the same person or persons acting in concert could substantially and unreasonably impede the operations of a court or judicial agency that lacked the staff to respond to such repeated requests.

Q. 124. What is Rule 12? _____

True or False

Q. 125. Under Rule 12, a record relating to a case filed in the court is a judicial record. ____

Q. 126. Under Rule 12, the custodian of records in municipal court is the judge and not the clerk.

Q. 127. Under Rule 12, security plans of the court are required to be released to anyone requesting the information. ____

Q. 128. Under Rule 12, a person's home address is a protected record. ____

Q. 129. Under Rule 12, requests for judicial records may be made orally. ____

Q. 130. Under Rule 12, a court that receives a request for a judicial record has 14 days to allow the requestor to copy or inspect the record. ____

Q. 131. Under Rule 12, if a judge refuses to release the requested information, the requestor can appeal to the Attorney General. ____

PART 3 CASEFLOW MANAGEMENT

Caseflow management is the continuous supervision of cases. In other words, caseflow management is the process of managing time and events involved in the movement of a case through the court system. Generally, this movement is not steady, but is characterized by a series of events separated by times during which there is no court activity. In order for the court to effectively oversee the movement of a case, the court must determine its phases, how it is maintained, and its disposition.

Caseflow management includes the adoption of goals, standards, and timelines; the monitoring of the cases; and the proper response to the failure to comply with the deadlines. If courts want to be efficient and effective in administering justice, clerks need to understand how to manage the progress of cases. Caseflow management assumes that the court is going to actively manage each case filed.

A caseflow management system should be designed to accommodate varying degrees of management for the variety of cases that are filed in the court. Because of the difference in complexity of the cases, they should not be subject to the same processing procedures and time frames. The court should create multiple tracks for case processing, each with different procedures and time frames designed to reflect the range of management and preparation requirements of the cases filed.

Caseflow management and records management should be coordinated in order to provide effective and efficient overseeing and control of the records. When developing a records management plan for the court, the court must consider all the different procedures and time frames that may occur during the active stage of the case. For example, the court should consider how to file cases in warrant status, cases where defendants are taking a driving safety course or have been granted deferred disposition, or cases where defendants request a trial. In these

instances, the court needs to decide whether to maintain the files in a central filing system or to maintain the files in separate rooms or filing cabinets, depending on the action occurring at the time. In other words, does the court create a suspension file for different actions occurring in a case? Hence, records management and caseload management must be coordinated in order to efficiently oversee each case.

Q. 132.	What is caseload management? _____ _____ _____
Q. 133.	In order for the court to effectively oversee the movement of a case, what must the court determine? _____ _____
Q. 134.	Why should courts create multiple tracks for case processing? _____ _____ _____
Q. 135.	Why must caseload management and records management be coordinated? _____ _____ _____

A. Goals of Caseload Management

The goals of caseload management are to:

- make the sequence and time of events more predictable and timely;
- provide equal treatment of all defendants;
- have timely disposition consistent with the circumstances of the individual case;
- enhance the quality of the court process; and
- enhance public confidence in the court.

B. Elements of Caseload Management

The essential elements of caseload management are:

- supervision and control of the movement of cases from the time of filing through final disposition (includes establishing policies and procedures for tracking and monitoring the movement of cases through all the different possible phases of a case);
- time standards;
- a system of monitoring time standards;
- identification procedures for cases that require special handling procedures;
- procedures for handling cases outside the timeline standards;
- procedures for setting trials; and

- a policy for minimizing continuances.

C. Steps to Achieve Caseflow Management

Because municipal courts see more people than all the other courts combined, the volume of cases handled by municipal courts can be intimidating. In order to provide fair and effective justice, courts must learn how to manage and control the movement of cases through the court. A well-designed caseflow management system will help to ensure that each case will receive the type and amount of court attention required by its nature and complexity. The following steps will help the court to develop a caseflow management program:

- Define a mission statement (identifies desired results of caseflow management).
- Define a purpose of caseflow management.
- Define goals, objectives, and standards.
- Identify resources.
- Develop a plan to analyze current caseflow process.
- Develop an action plan for developing a caseflow management system.
- Develop a new caseflow management system.
- Develop documentation.
- Install the new system.
- Train users.

1. Resources for a Caseflow Management System

After defining the mission, purpose, and goals of caseflow management, the next step is to identify the resources available to develop a caseflow management system. The following resources should be considered:

- people (court employees and other city employees);
- equipment (computers, software, printers, etc.);
- forms (forms for assessing current system and forms used by current system);
- state and local agencies (e.g., TSL; training sessions provided by TMCEC; etc.);
- outside consultants (consider cost and expertise); and
- any other resources that the city can provide.

2. Project Management

Development of a caseflow management system is a project that requires management of the project itself. Project management is a dedicated effort with a distinct beginning and end, conducted by people to develop or produce a new project or service that meets defined specifications and quality standards within specific parameters of costs, schedules, and resources. Project management is the combination of people, systems, and techniques required to coordinate the resources needed to complete a project according to established goals, standards, and deadlines.

a. Project Life Cycle

During the conceptual phase:

- purpose of the project is identified;
- resources are assessed;
- most time and cost effective ways of developing the project are identified;
- budget is developed;
- schedule, with a general plan of action, is proposed; and
- start-up project team is chosen.

During the planning phase:

- start-up team clarifies project objectives;
- start-up team decides how to organize the planning process; and
- groundwork for project structure, schedule, and staffing is laid.

During the implementation phase:

- people are recruited from appropriate technical and functional areas to develop the caseflow management system according to specified standards and schedules;
- caseflow management system is tested;
- user manual is prepared; and
- users are trained.

b. Project Management Activities

Project management activities include managing the:

- scope of the project, which includes coordinating activities through meetings and using controls, such as formal procedures, forms, and monitoring of the project;
- time by establishing schedules for various phases of the project and monitoring the schedules;
- money by controlling costs to keep the project within budgetary constraints and monitoring employees' schedules and other costs;
- quality by establishing standards for monitoring the team's performance and then following those standards;
- communications by establishing formal communications channels, establishing how information is disseminated, and establishing authority to make decisions; and
- human resources for the project by determining how many people possessing which qualifications are going to be needed during what period of time by managing and coordinating employees' time between regular duties and project duties; and by motivating people, managing conflict, monitoring performance, and training personnel.

c. Project Manager

A project manager should be appointed to plan, organize, coordinate, control, and manage the project.

d. Project Plan

The project plan outlines the framework for organizing project activities:

- sequence project activities;
- identify who will carry out each task;
- establish milestones for the completion of each task; and
- set benchmarks against which to measure performance/quality.

e. Control Point Identification Charts

A control point identification chart helps to manage the project by determining problems that might occur and the action needed to solve the problem. This type of chart identifies each task and then asks what could go wrong or what is right, how and when the project manager would know of the problem, what could be done to resolve the problem, and when is the last possible time to take action. This type of management will help to keep a project on schedule.

f. Development of an Action Plan

An action plan is part of the project management. It is developed by the project team and includes the following issues:

- developing goals and objectives;
- developing significant events for the project;
- determining information to be monitored;
- determining what constitutes successful monitoring;
- determining accountability procedures;
- developing task list;
- developing checkpoint events for the project;
- determining time estimates;
- developing a new system;
- developing test pilot policy
- installing and testing new system;
- determining implementation policy;
- developing documentation; and
- training users.

Q. 136. What are the goals of caseflow management? _____

Q. 137. What resources should be considered when developing a caseflow management system?

Q. 138. What is project management? _____

Q. 139. What is a project's life cycle? _____

Q. 140. What issues should be considered as part of an action plan for project management? _____

D. Caseflow Management System

The active supervision of a caseflow management system provides a means of evaluating, monitoring, and accounting for cases in municipal court. A caseflow management system should provide information that focuses on the goal of caseflow management.

1. Writing Documentation

The main documentation of a caseflow management system is a procedures manual. At a minimum, the manual should include documentation of case processing procedures that include creation, use, and maintenance of files; judicial activity; and disposition, archival, and destruction procedures.

2. Creating Standards

Standards, along with goals, define the direction of the caseflow management system. The court should have time standards for the overall disposition of cases and timelines for events that may occur. Time standards define the outer limits of delay. They provide a basis for measuring the effectiveness of the court's caseflow management system and a basis for case progress decisions in the management of individual cases.

The choice of time standards depends on the way they will be used. Generally, time standards fall into two categories: management (as in comparing each case against the time limit for completion for intermediate events and overall disposition) and statistics (for example, summary reports concerning the age of cases at disposition or the age of the pending case load).

Generally, there are three types of overall time standards used:

- a specified acceptable median age of cases at disposition (measured from filing);

- a maximum time interval between filing and disposition; and
- a specified percentage of cases concluded within a stated interval after filing.

Although a median age standard is easy to compute, it cannot easily be applied in the management of individual cases or to the pending case inventory. If a court uses this type of standard, the court will also have to develop time standards for management of individual case progress.

A court may want to specify a maximum time standard for each type of case in the court. Usually, there will be different timelines for the different types of cases. For example, municipal court cases might be divided into traffic (state law violations and city ordinance violations), non-traffic (state law violations and city ordinance violations), and citizen complaints. Courts might want to make a distinction between cases involving adults and cases involving juveniles. Bond forfeiture cases would have different timelines because the rules of civil procedure apply to those cases. Included in this type of time standards would be timelines for intermediate events, such as trials, driving safety courses, and deferred disposition.

A possible problem with any time standard is to measure compliance solely by computing the age of cases at disposition. This type of measurement fails to take into account cases that are still pending, some of which may be very old. To achieve a comprehensive caseload management system, courts should measure and monitor all cases in the various stages in the system and not just the disposition.

Event standards are standards that measure cases in the various stages in the system and not just the disposition. Event standards are a significant component of a dispositional time standard. It is through these types of standards that the court is able to control and monitor the progress of a case. Events that the court might want to establish and monitor time standards for are:

- length of time from filing to preparation of complaint and jacket;
- length of time from filing to docket entry;
- length of time from filing to plea;
- length of time processing mail-in and window payments;
- driving safety course times (90 days to present certificate, scheduling time of show cause hearing, time to final disposition of cases);
- deferred disposition times (standards for median time case in deferred status, time to final disposition of cases);
- length of time to filing failure to appear;
- length of time to issuance of warrants;
- length of time to trial (separate standards for pre-trial, bench, and jury trials); and
- length of time for issuance of *capias pro fine* after default in fine payment or community service.

3. Monitoring

A caseload management system should provide methods of monitoring significant events and the overall status of a case to ascertain if the case is falling within the time guidelines established by

the system or if special handling procedures are required. The information that is derived from a monitoring system supports the caseflow management system. Monitoring compliance with deadlines and timetables can trigger court action in cases that are in danger of exceeding disposition time standards. Monitoring helps reduce the delay of cases moving through the system.

a. Significant Events

Significant events in individual cases that should be monitored include:

- age of case;
- arrest date;
- plea date;
- trial dates;
- sentencing and judgment date;
- alternative sentence date and return time to court;
- payment date(s); and
- community service compliance.

b. Overall Status

The overall status of cases that should be monitored includes:

- number of cases currently pending;
- average age of pending cases;
- median time of case disposition;
- number of warrants;
- number of trials conducted within a certain time period;
- number of jury trials;
- number of bench trials;
- case dispositions by judge;
- number of cases pending trial;
- number of cases paying the fine by community service; and
- number of time payments and the amount in accounts receivable.

c. Monitoring Activities

A caseflow management system should provide at least the following monitoring activities:

- Measurement of activity - A measurement of activity includes aggregate figures for filings and dispositions, as well as other specific counts for specific purposes. Generally, the most useful activity measures are those that report *system rates*, such as the proportion of filed cases that go to trial, or changes in measures, such as filings and dispositions over time. Comparative information highlights trends that can be useful for planning. (Examples of activities to be monitored are: filing, dispositions, continuances, driving safety courses, pre-trials, trials, and cases falling outside of normal case process.)
- Measurement of inventory - This is the measure of the number of cases pending. To make this category more useful, the measures should be categorized into group measures, such as case types and number of cases pending at each stage in the system (juvenile cases, traffic cases, and city ordinance cases). It should also include changes in each category since the last reporting period and the number of cases of each type that exceed the court's time standard for disposition.

- Measurement of delay - This monitoring activity measures the age of pending case load, computed for each major case type.
- Evaluation measurement - This activity measures what a court wants to control based upon established goals and standards. This measurement should include not only the activity of a case, but also the procedures themselves.
- Individual case progress information - This type of monitoring is not statistical; rather, it is a measure of the activity in an individual case. It is case specific information that allows a court to actively manage the progress of the case. The information provided by this type of monitoring should allow courts to:
 - determine current status of each pending case;
 - compute and monitor compliance with procedural deadlines for case events;
 - identify cases that are not in compliance with time deadlines set by the court; and
 - audit the information system (e.g., identify cases that do not have all necessary information or do not have future action dates assigned).

4. Scheduling for Trial Date Credibility and Continuances

So that trials do not become backlogged, courts should be willing to incorporate a restrictive continuance policy into the caseflow management system and not over-schedule trials. To manage trials, courts should establish categories for different groups of trials. For example, the court may want to group trials in this manner:

- continued at request of counsel;
- reset or held over because no judge available;
- settled or dismissed without judicial intervention or before the trial days;
- settled by trial judge; and
- trial started.

If a court has more than one judge, the court might want to determine this information for each judge. Breaking the trial cases into different categories will help the court to determine the accuracy of the scheduling system.

Since the granting of continuances is a judicial duty that cannot be delegated, in order to manage continuances, clerks need to work with their judges to develop a policy for granting continuances. Some of the issues that might be considered when establishing a continuance policy are:

- continuances limited to verified good cause;
- number of continuances generally allowed; and
- how cases are reset after a continuance has been granted.

Clerks should keep track of the reasons and the number of continuances being granted so that the effectiveness of the policy can be measured.

Q. 141. What information should be included in the documentation of a caseflow management system? _____

Q. 142. What do time standards define? _____

Q. 143. What are the two general main categories of time standards? _____

Q. 144. List the three general types of overall time standards. _____

Q. 145. What is a possible problem with any time standard? _____

Q. 146. What are event standards? _____

Q. 147. Why should a caseflow management system be monitored? _____

ANSWERS TO QUESTIONS

INTRODUCTION

- Q. 1. It establishes requirements for local governments, record management officers, and custodians of records.
- Q. 2. The Public Information Act is found in Chapter 552 of the Government Code.
- Q. 3. The philosophy is that citizens are entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of the government and the official acts of public officials and employees.
- Q. 4. The judiciary.
- Q. 5. Case law indicates that courts have long recognized the general right to inspect and copy court records and documents.

PART 1

- Q. 6. A record is any form of recorded information. It may be paper, microfilm, audiotapes, video tapes, photographs, slides, or any computer-readable medium such as computer tapes, disks, compact disks, or USB drives.
- Q. 7. Records management is the active supervision and control of records. It is the economical and efficient creation, organization, use, maintenance, and disposition of records. In other words, it is the systematic control of recorded information from creation to final disposition. Records management also includes the development of records control schedules.
- Q. 8. Records control schedules provide retention periods for the records created and maintained in all city departments, including municipal court. The schedules can also contain information about how the records are maintained, whether they are sent to storage, and how they are destroyed.
- Q. 9. A records management program helps retrieve information faster, reduces lost or misplaced records, saves space, minimizes expenditures for filing equipment and supplies, protects records, and complies with state regulation for maintaining public records.
- Q. 10. The stages of a record's life cycle are:
- Creation;
 - Distribution;
 - Use;
 - Maintenance;
 - Storage; and
 - Disposition.
- Q. 11. During the active stage of records, the record is distributed, efficiently stored for fast retrieval for use, and then maintained during its use. During the inactive stage, the record must still be properly maintained for retrieval and kept in a manner that will

not harm or destroy the record until such time as the record may be legally disposed. During both the active and inactive stage, protection of the record is essential.

- Q. 12. Staffing a records management program generally includes filing personnel, micrographics/document imaging equipment operators, data entry individuals, and records center staff.
- Q. 13. The steps to develop a records management program are:
- Determining what the court wants to accomplish;
 - Setting goals and objectives;
 - Developing time frames with deadlines;
 - Determining how records are created (manual and computer);
 - Determining where records will be stored;
 - Determining what filing equipment and systems will be used;
 - Establishing records retention periods (governed by statute);
 - Establishing a system for the maintenance and retrieval of records;
 - Establishing a system for archiving records; and
 - Establishing a system for the destruction of records.
- Q. 14. It is a chart that shows the schedule of activities and time frames. It includes estimated times for each task, whether task is completed on schedule, and whether task was rescheduled and the new time frame. The chart also shows who is responsible for each activity. After the project is underway, the Gantt chart can be used to monitor performance.
- Q. 15. The steps that contribute to a successful case filing program are:
- Conduct studies on the creation or improvement of case filing systems;
 - Establish pilot installations to test all aspects of a case file plan prior to final adoption;
 - Require the standardization and centralization of each case file;
 - Develop techniques for maintaining, using, and disposing of case files;
 - Do a cost/benefit analysis of file equipment and supplies;
 - Issue written instructions or manuals for the establishment and operation of case files; and
 - Conduct periodic reviews to ensure compliance with overall objectives of the case filing program.
- Q. 16. Steps that should be taken to improve existing case files are:
- Select and examine a cross section of filing systems in different city departments;
 - Identify areas that need improvement in the court files;
 - Explore potential modifications;
 - Study the present system and its needs;

- Develop a revised system, including new forms and records;
 - Implement the revised system for trial operation and modify it as needed; and
 - Prepare the final system for adoption, and prepare written instruction for implementation and maintenance.
- Q. 17. The court would consider when determining the future volume of cases:
- The last five years of cases filed in court to determine a trend in the number and type of cases filed;
 - The previous two to three years funding for police officers and future projections for more officers and thus, more cases filed;
 - Traffic and crime statistics for the city to determine the number and types of crimes occurring in the city; and
 - Future projections of the police department for number of cases that might be filed.
- Q. 18. Issues that a court will want to consider when determining the court's reference needs regarding case files are:
- Appearance date;
 - Bond filed;
 - Plea;
 - Pre-trial date;
 - Trial date;
 - Payment schedule;
 - Driving safety course—appearance date, due date of DSC certificate, show cause hearing date;
 - Deferred disposition—appearance date, due date of evidence, show cause hearing date;
 - Warrants, capiases, capiases pro fines;
 - Appeals;
 - Notice of final convictions;
 - Court costs quarterly reports; and
 - Monthly reports to OCA.
- Q. 19. Issues that should be considered when establishing case folders are:
- Whether to create one folder per defendant or create one folder per citation/case filed;
 - Whether to create temporary folders for active files or the same folder as archived files; or
 - Whether to have folders or staple the documents together, or use a case jacket.
- Q. 20. Because the court has many reference needs and posting information on the case file helps courts keep track of the actions occurring in the case and when and how it

should be referenced.

Q. 21. The following information on the outside of a case file would be useful as a reference tool:

- Docket number;
- Defendant's name;
- Date case was filed;
- Prosecuting attorney;
- Defense attorney, if any;
- Complainant's name;
- Bond (if any) and whether personal, cash, surety, amount of bond, and date of judgment nisi if one is entered;
- Plea entered, method of plea, and date of plea (in open court, in clerk's office, by mail, in person, through attorney);
- Type of trial requested (jury or bench) and date(s) of trial setting;
- Continuances if any;
- Deferred disposition if granted, and due date of evidence of completion;
- Driving safety course if requested and granted, and due date of evidence of completion;
- Witness and dates subpoenas issued, if any;
- Motions filed if any, date filed, and judge's ruling;
- Judgment;
- Fines or fees assessed;
- Jail time credit;
- Extensions for payment or payment plan due dates;
- Receipt numbers and dates written;
- Appeal, if any (date notice given, date bond approved or not approved, date transcribed, type of bond, date sent to county);
- Date notice of final conviction sent to State; and
- Date warrant, capias, or capias pro fine issued and served.

Q. 22. The factors that should be considered when determining the physical type of a file folder are:

- Identifying the documents that will be filed in jacket;
- Determining the arrangement of documents in jacket;
- Deciding on the file cabinet size and orientation; and
- Evaluating the cost of file folder or jacket.

Q. 23. The advantages are:

- requires less time to file papers;

- costs less money initially; and
- permits easy removal of documents for reference.

The disadvantages are:

- papers may be lost or misplaced easily; and
- the lack of uniform arrangement of the folder contents makes it more difficult to find a particular document.

- Q. 24. They are usually preferred for large case files that receive extensive use, have long retention periods, and are likely to be taken out in their entirety for extended periods of time.
- Q. 25. Questions that a clerk should ask when evaluating file arrangement systems are:
- Is the system logical?
 - Is the system practical?
 - Is the system simple?
 - Is the system functional?
 - Is the system retention-conscious?
 - Is the system flexible?
 - Is the system standardized?
- Q. 26. The nature of the records and how they will be retrieved should be the first determining factor in the selection of file arrangement.
- Q. 27. A direct access filing system is a system that allows a person to locate a particular record by going directly to the files and looking under the name of the record.
- Q. 28. An indirect access filing system is a system that requires an index that must be consulted before a file can be retrieved.
- Q. 29. Alphabetic files are arranged according to the last name of the defendant.
- Q. 30. The principal advantage of the alphabetical system is that it is not necessary to look up a docket number when files must be retrieved. The disadvantages are that the system does not lend itself to expansion as readily as does the numerical system and requires more shifting of folders.
- Q. 31. A numerical file arrangement may have numbers (usually a docket number) assigned to the case files arbitrarily or under a standard plan.
- Q. 32. This is where files are arranged consecutively in ascending numerical order according to docket number.
- Q. 33. It is a system where the last digit or group of digits is the primary unit used for filing.
- Q. 34. It is a system where the file numbers in the index are still listed in consecutive numeric sequence; however, the middle group of digits becomes the primary indexing unit, the first group is the secondary indexing unit, and the terminal group the tertiary unit.
- Q. 35. It is a system that uses two or more sets of code numbers for records, with the sets separated by dashes, commas, periods, or spaces. Records are filed consecutively by the first number, then sequentially by the second number, and so on.

- Q. 36. It is a system developed initially for library use and is based on 10 general categories. The major numeric groups are each further divided into 10 parts, which are then subdivided into 10 subunits.
- Q. 37. The advantages are: the rapidity and accuracy of refiling and the opportunity for unlimited expansion. The disadvantages are the need for maintenance of the auxiliary card index and the necessity of making two searches when files must be retrieved—one for the index and one of the files.
- Q. 38. It is a system where the files use a combination of personal or business names and numbers, or more commonly, subject headings and numbers. The numbers are sequentially filed.
- Q. 39. False.
- Q. 40. False.
- Q. 41. True.
- Q. 42. True.
- Q. 43. False.
- Q. 44. True.
- Q. 45. The basic questions are:
- What are the physical characteristics of the case records? What is their volume, physical form, and size?
 - What is the cost of purchasing, installing, maintaining, and operating the available types of equipment?
 - How much office space is available, and how is it laid out?
 - Who needs to refer to the records, and how frequent and urgent is the need to do so?
 - What safeguards are needed to protect the files from unauthorized use, theft, fire, insects, dust, and other potential hazards?
- Q. 46. The intensity and severity of a fire depends on the type of building construction and height, the fuel load that comprises the building's combustible contents, including the kinds of furnishings, and the quantity of files and the type of equipment used for them.
- Q. 47. Space utilization and fire protection factors, such as automatic sprinkler systems, smoke detection systems, and the quantity of other combustible materials.
- Q. 48. The purpose of a records inventory is to determine what records a court has, where they are located, and how many records there are.
- Q. 49. The goal of a records inventory is not to inventory every piece of paper, but to determine and identify records categories.
- Q. 50. The benefits of a records inventory are:
- Helps save space;
 - Releases equipment for more productive use;
 - Provides a proper evaluation of file functions and activities;
 - Assists in the detection of unnecessary copies of records;

- Provides a way of assessing the length of usefulness of records; and
 - Helps in the appraisal of legal implications of records.
- Q. 51. The steps that will help make a records inventory successful are:
- Define objectives;
 - Communicate plans to management and staff;
 - Specify data to be collected;
 - Determine file locations;
 - Prepare an inventory form (a separate inventory worksheet should be used for each records series);
 - Establish work schedules and completion dates; and
 - Select personnel for the inventory process.
- Q. 52. It will provide:
- Identity of records by category or record series;
 - Physical location of all records;
 - Categorization of equipment and supplies;
 - Reference activity;
 - Methods used for disposing of obsolete records; and
 - Analysis of the cost of recordkeeping.
- Q. 53. An official record is one that supplies information on organization, function, policy, procedure, operation, or it is the original case file of a defendant.
- Q. 54. Non-records are generally copies or duplicates of official records.
- Q. 55. An example of a non-record that is an official copy is the copy of a case that has been appealed from a non-record court to an appellate court. Because an appealed case is still active until the appeal has been completed, the copy of the case should be handled the same as the original official copy.
- Q. 56. Administrative files often times contain duplicate information or miscellaneous information that nobody knows where to file but does not want to destroy.
- Q. 57. He or she would need to know what the current policy is on information back-up and the policy on writing over the data stored on the media.
- Q. 58. Types of information that an inventory should collect are:
- Title of records series;
 - Purpose or description of the records series;
 - Time span covered by the series (inclusive dates);
 - Linear measurement of the series;
 - Physical description (media, size, and color);
 - Description of storage equipment;
 - Frequency of use;
 - Rate of accumulation;

- Date of inventory;
 - Source of the information used to create the records series;
 - What records are created from the information contained in the records series;
 - Original and secondary purposes of the records series; and
 - Where duplicate sources are located.
- Q. 59. The inventory worksheet should include a records series title, the record's function, a floor plan showing the physical location and the organization location of records for office space and storage locations.
- Q. 60. On or before January 1, 1991.
- Q. 61. Generally, the records management officer is responsible for coordinating the city's records management program and making certain that it complies with state regulations.
- Q. 62. The Texas State Library and Archives Commission.
- Q. 63. Retention period means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.
- Q. 64. Court clerks are required to cooperate with the records management officer in carrying out the policies and procedures established by the local government for the efficient and economical management of records, and in carrying out the requirements of state statutes regarding public records.
- Q. 65. A local government record is any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of the physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the State, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.
- Q. 66. Documents that are not considered to be local government records are:
- Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
 - Notes, journals, diaries, and similar documents created by an officer or employee of the local government for officer's or employee's personal convenience;
 - Blank forms;
 - Stock of publications;
 - Library and museum materials acquired solely for the purposes of reference or display; or
 - Copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552 of the Government Code or other state law.
- Q. 67. Retention periods are figured in calendar years from the date of the records' creation.
- Q. 68. False (they apply only to official records unless otherwise noted).

- Q. 69. True.
- Q. 70. True.
- Q. 71. True.
- Q. 72. True.
- Q. 73. False.
- Q. 74. False (it must be retained for the retention period assigned to the record).
- Q. 75. If email that is created or received meets the definition of a local government record, it is subject to the same rules that govern other local government records. Local government record includes email created or received by a local government or any of its officers or employees pursuant to law or in the transaction of public business.
- Q. 76. The Texas State Library and Archives Commission.
- Q. 77. Microfilm means roll microfilm, microfiche, and all other formats produced by any method of microphotography or other means of miniaturization on film.
- Q. 78. The Texas State Library and Archives Commission.
- Q. 79. They may be destroyed when they have been so badly damaged by fire, water, or insect or rodent infestation that they are unreadable, or if portions of the information have been so thoroughly destroyed that the remaining portions are unintelligible.
- Q. 80. These records may not be destroyed unless authorization to dispose of the records is obtained from the director and librarian of the Texas State Library and Archives Commission.
- Q. 81. False.
- Q. 82. True.
- Q. 83. The person conducting the audit should:
- Verify that an up-to-date records manual is available;
 - Check all the major records categories to ensure compliance with records schedules;
 - Spot check individual offices, computer terminals, and files for compliance; and
 - Verify compliance with records management criteria.
- Q. 84. They should be reviewed once a year.
- Q. 85. The Texas State Library and Archives Commission.
- Q. 86. Copies of records generally are non-records and are maintained only as long as they are useful. Then they are destroyed.
- Q. 87. The copy of the case papers of the appealed case maintained by the municipal court is now the official copy and maintained according to the records retention schedule. Other examples of copies of records in municipal court that are subject to records retention include the following state reports that are required to be submitted by municipal courts:
- Notice of final conviction reports submitted to the Department of Public Safety;
 - Quarterly reports of court costs submitted to the State Comptroller's Office; and
 - Monthly reports submitted to the Office of Court Administration.

- Q. 88. An essential record is any record necessary to the resumption or continuation of government operations in an emergency or disaster, to the recreation of the legal and financial status of the government, or to the protection and fulfillment of obligations to the people of the State.
- Q. 89. Some ways that municipal court records can be secured from disasters such as fire are:
- Secure, fire-resistant filing cabinets;
 - Specially designed vaults;
 - Computer passwords;
 - Duplicate copies;
 - Back-ups maintained at different locations; and
 - Off-site storage.
- Q. 90. By computer.
- Q. 91. A decentralized filing system is one where the files are maintained in separate locations.
- Q. 92. A centralized filing system is one where all active files—except those that are being created or used at that time—are maintained in a central file room.
- Q. 93. Bar coding is a system of checking in and out files. The bar code is scanned into the system when it is checked out and rescanned when it is brought back.
- Q. 94. A floating file, for example, occurs when a clerk checks out a file and then passes it on to the prosecutor without checking it back in and having the prosecutor check it out.
- Q. 95. It is the filming of records.
- Q. 96. Microfilm is a fine-grain, high-resolution film that can record images greatly reduced in size.
- Q. 97. It is sheets of film containing a number of images in a grid format.
- Q. 98. This refers to the technology of recording images on microfilm.
- Q. 99. If a city decides to film records, the filming must be done in accordance with state statutes and rules adopted under those statutes and micrographics clauses should be added to the ordinance establishing a records management program.
- Q. 100. Documents are scanned and digitized.
- Q. 101. The digitized images can be stored on a hard drive, optical disk, or other computer-readable media.
- Q. 102. A method to organize records is to assign box numbers that would also indicate where in the storage area the box is to be stored. This will assist in the retrieval process. The person in charge of archiving records should maintain an index of boxes and their contents. To assist in locating stored records, two numbers should be used. One number for the location in the storage area and the other number for identifying the contents of the box.
- For easy retrieval, the court might consider bar coding cartons and shelves instead of using numbers. When a box is shelved, both the box bar code, shelf bar code, and content bar code must be scanned.

- Q. 103. Questions that should be considered when determining how to index stored records are:
- Do you want to index every file or document in the box?
 - How do you want to index the records?
 - How do you want to sequence the index and summarize the contents?
 - How do you link the storage of the records to the retention schedules so that the destruction date of the records is easily tracked?
 - How are control box numbers and location numbers assigned to the indexed records?
 - How is the listing of the index records to be maintained?
 - What type of system will be used to retrieve the records?
- Q. 104. It should include who is responsible for verifying that the records belong in storage, boxing up the records, labeling the records, and transporting the records.
- Q. 105. The type of documentation that a records management manual should include are:
- A records management policy;
 - Instructions on the use of records retention schedules;
 - Procedures for updating records retention schedules;
 - Forms used to manage records;
 - Procedures on implementing the program on an ongoing basis;
 - Procedures on internal operation;
 - Staff procedures;
 - Disaster recovery procedures;
 - Filing procedures;
 - Procedures on transferring and storing records; and
 - Procedures for updating the manual.
- Q. 106. Questions that would help evaluate a court's maintenance program are:
- Does your court have a files handbook, manual, or other directive to provide uniform files maintenance procedures?
 - Are file maintenance procedures correlated with approved records control schedules for the prompt removal of inactive records from office space?
 - Is physical access to records controlled to prevent unauthorized disclosure or access?
 - Is each records series arranged in its own internally consistent pattern, such as alphabetical, chronological, numerical, or subject order?
 - Is each records series arranged based on the way people in the office usually ask for the records?
 - Are cross references prepared when needed?
 - Are periodic checks made for misfiles?

- Are records filed on a daily basis?
 - Are out-cards or other charge-out controls used whenever documents or files are removed from the official file stations?
 - Before filing, are documents examined to ensure that they are complete and that the following materials have been removed: envelopes, paper clips, routing slips, cover sheets, superseded drafts showing no substantive changes, and duplicate copies, other than those needed as cross reference.
- Q. 107. A record that is currently in litigation or pending an open records request may not be destroyed.
- Q. 108. A local government record may be destroyed if:
- it appears on the local government's records control schedule that has been accepted for filing by the TSL and its retention period has expired on the schedule;
 - it appears on a list of obsolete records approved by the TSL;
 - a request for authorization to dispose of unscheduled records is submitted to the TSL and approved;
 - its destruction or obliteration is ordered by a court expunction order issued by a district court pursuant to state law;
 - the record is listed as exempt from the destruction request requirement on a records retention schedule issued by the TSL;
 - the retention period on a records retention schedule issued by the TSL has not yet expired, but the record is non-permanent and it has been microfilmed according to TSL standards (if the record is a permanent record on the state-issued schedule, a destruction notice must be submitted and approved);
 - the retention period on a records retention schedule issued by the TSL has not yet expired, but the record has a retention period of less than 10 years and it has been converted to an electronic medium in accordance with Chapter 205 of the Local Government Code; or
 - the retention period on a records retention schedule issued by the TSL has not yet expired and the record has a retention period of 10 years or more, and the local government has submitted to the TSL and has approved an electronic storage authorization request.
- Q. 109. The records management officer.
- Q. 110. It may be destroyed after a Destruction Authorization Request has been submitted to and approved by the Texas State Library and Archives Commission.
- Q. 111. It is a notice to the Texas State Library and Archives Commission to destroy certain records.
- Q. 112. The methods that a city may use to destroy records are:
- Burning;
 - Shredding;
 - Pulping;

- Burying in landfill; and
 - Selling or donating for recycling.
- Q. 113. Records that are confidential under the Texas Public Information Act or other state laws.
- Q. 114. A city record may not be sold or donated except for the purpose of being recycled, loaned, transferred, or otherwise passed out of the custody of a local government to any private college or university, private museum or library, private organization of any type, or an individual, except with the consent of the Texas State Library director and librarian and after the expiration of its retention period under the city's records control schedule.
- Q. 115. A clerk may temporarily transfer custody of records to a person for the purposes of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.
- Q. 116. A Class A misdemeanor.

PART 2

- Q. 117. Public information is information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body or for a governmental body and the governmental body owns the information or has a right of access to it. Public information may exist in the form of a book, paper, letter, document, printout, photograph, film, tape, microfiche, micro film, photostat, sound recording, map, drawing, and a voice, data, or video representation held in computer memory.
- Q. 118. Because the Act applies to governmental bodies and specifically states that a governmental body does not include the judiciary.
- Q. 119. Courts have long recognized that the public has a common law right to inspect and copy court records. Criminal courts are public courts, so the information is generally public.
- Q. 120. A city ordinance that has established the costs within the guidelines established by the General Services Commission.
- Q. 121. Generally, but courts must look to Article 45.0217 for the laws on confidentiality. Effective September 1, 2013, all records related to non-traffic cases in which the child defendant is convicted and satisfies the judgment or has their case dismissed after successfully completing a deferred disposition or teen court are confidential (expanded conditional confidentiality). Effective January 1, 2014, H.B. 528 created "total confidentiality" on all records relating to cases against children other than traffic cases. The Texas Attorney General has opined that there is no conflict between the two laws, that the later in time law enveloped the earlier. Courts should remember, however, that although Attorney General Opinions are persuasive, they are not binding on the courts. Barring future legislative changes or caselaw, it will be up to each judge to decide whether they agree with the Attorney General.

- Q. 122. Only on a showing of good cause by a party to the case or a bona fide member of the media shall the court permit disclosure of the information.
- Q. 123. The clerk should always pass requests for records to the judge to determine whether it should or can be released.
- Q. 124. A Rule of Judicial Administration designed to define public access to judicial records. The definition of judicial records makes an exception to the adjudicative records filed in the courts.
- Q. 125. False.
- Q. 126. True.
- Q. 127. False.
- Q. 128. True.
- Q. 129. False (they must be in writing and sent to the judge—the custodian of records under Rule 12).
- Q. 130. True (it must be as soon as practicable but not to exceed 14 days).
- Q. 131. False (the requestor must be told of their right to appeal the decision and given the contact information for the Executive Director of the Office of Court Administration).

PART 3

- Q. 132. Caseflow management is the process of managing time and events involved in the movement of a case through the court system.
- Q. 133. The court must determine its phases, how it is maintained, and the disposition.
- Q. 134. Because of the complexity of cases, not all cases will be subject to the same processing procedures and time frames. The court should create multiple tracks for case processing each with different procedures and time frames designed to reflect the range of management and preparation requirements of the cases filed.
- Q. 135. Caseflow management and records management should be coordinated in order to provide effective and efficient supervision and control of the records.
- Q. 136. The goals of caseflow management are:
- Make the sequence and time of events more predictable and timely;
 - Provide equal treatment of all defendants;
 - Have timely disposition consistent with the circumstances of the individual case;
 - Enhance the quality of the court process; and
 - Enhance public confidence in the court.
- Q. 137. The resources that should be considered when developing a caseflow management system are:
- People (court employees and other city employees);
 - Equipment (computers, software, printers, etc.);
 - Forms (forms for assessing current system and forms used by current system);

- State agencies;
 - Outside consultants; and
 - Any other resources that the city can provide.
- Q. 138. Project management is a dedicated effort with a distinct beginning and end, conducted by people to develop or produce a new project or service that meets defined specifications and quality standards within specific parameters of costs, schedules, and resources.
- Q. 139. The conceptual phase, the planning phase, and the implementation phase.
- Q. 140. Issues that should be considered as part of an action plan for project management are:
- Developing goals and objectives;
 - Developing significant events for project;
 - Determining information to be monitored;
 - Determining what constitutes successful monitoring;
 - Determining accountability procedures;
 - Developing task list;
 - Developing checkpoint events for the project;
 - Determining time estimates;
 - Developing a new system;
 - Developing test pilot policy;
 - Installing and testing new system;
 - Determining implementation policy;
 - Developing documentation; and
 - Training users.
- Q. 141. Documentation should include case processing procedures that include how files are created, used, and maintained; judicial activity; disposition; and archival and destruction procedures.
- Q. 142. Time standards define the direction of the system. The time standards provide a basis for measuring the effectiveness of the court's caseflow management system and a basis for case progress decisions in the management of individual cases.
- Q. 143. Generally, time standards fall into two categories: management (as in comparing each case against the time limit for completion for intermediate events and overall disposition) and statistics (for example, summary reports concerning the age of cases at disposition or the age of the pending case load).
- Q. 144. The three general types of overall time standards are:
- A specified acceptable median age of cases at disposition;
 - A maximum time interval between filing and disposition; and
 - A specified percentage of cases concluded within a stated interval after filing.
- Q. 145. A possible problem with any time standard is to measure compliance solely by computing the age of cases at disposition. This type of measurement fails to take into

account cases that are still pending, some of which may be very old. To achieve a comprehensive caseflow management system, courts should measure and monitor all cases in the various stages in the system and not just the disposition.

- Q. 146. Event standards are standards that measure cases in the various stages in the system and not just the disposition.
- Q. 147. It should be monitored because information derived from monitoring supports the caseflow management system.