

Court Records

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INTRODUCTION

Managing court records is one of the most important aspects of the court clerk's role. How is every step in the court process documented? Does the integrity of the case file stand up to public scrutiny to prove that the court is following the law? Anything that happens in a municipal court with a case file must be properly documented, filed, and efficiently moved through the court. In addition, upon request, courts should be prepared to follow the law regarding the release of records while also respecting legal protections built into the law to protect defendants' information. This chapter will discuss the important role that court clerks play in establishing a successful records management system, managing the caseload of municipal court cases, and processing cases within the laws and rules that govern court records.

PART 1 RECORDS MANAGEMENT

A record is any type of recorded information, regardless of format. Records may include paper documents, sticky notes attached to files, microfilm, photographs, audio or video recordings, or electronic storage such as computer files, disks, CDs, or USB drives.

Records management is the organized process of controlling records from creation through final disposition. It includes efficient creation, organization, use, maintenance, storage, and disposal of records. Each stage of a record's life cycle has specific requirements to ensure records remain accurate, accessible, secure, and properly maintained.

A key part of records management is developing a records control schedule. While the Texas State Library and Archives Commission establishes minimum retention requirements, each city must create its own retention schedule to manage records within all departments, including municipal courts. These schedules identify how long records must be kept, how they are maintained, when they should be moved to storage, and how they should be properly disposed of.

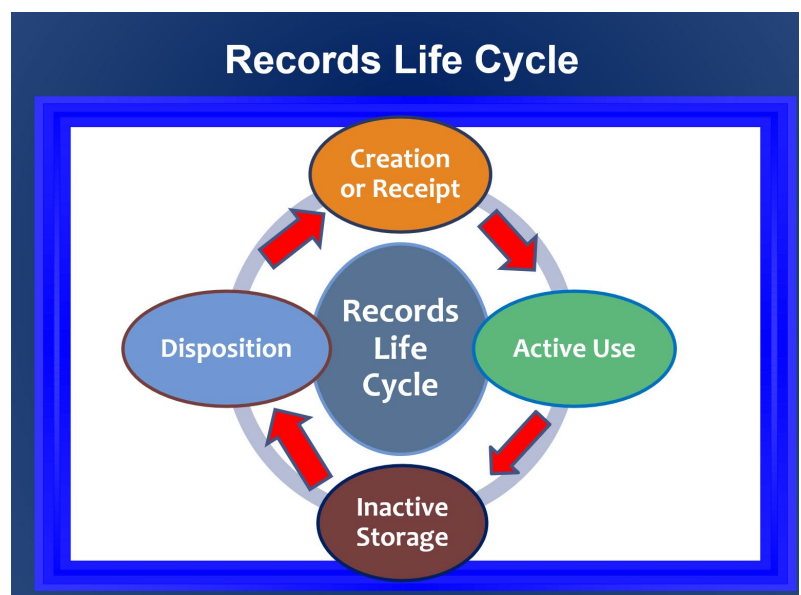
An effective records management program helps courts quickly locate information, reduces lost or misplaced records, saves storage space, lowers costs for filing supplies and equipment, and protects important court records.

The records life cycle describes the process a record follows from the moment it is created or received by the court until it is either destroyed or preserved permanently. Effective records management ensures that court records remain accurate, accessible, secure, and maintained in compliance with legal requirements.

Court records serve as important resources because they document court actions, protect individual rights, promote transparency, and provide an official history of court proceedings. Proper management of these records allows courts to efficiently perform their duties while ensuring that information is available when needed.

The records life cycle consists of four major stages: (1) creation or receipt, (2) active use, (3) inactive storage, and (4) disposition.

Creation or Receipt: A record begins when it is created by the court or received from another source, such as attorneys, defendants, law enforcement, citizens, or other courts. Examples include citations, complaints, motions, court



orders, warrants, payment records, electronic filings, and recordings. Once received, the court is responsible for ensuring records are accurate, organized, secure, and easily retrievable.

Active Use: During active use, records are frequently accessed to support daily court operations. Examples include pending cases, docket files, payment plans, warrants, deferred disposition cases, and driver safety course cases. Courts must keep these records accessible while protecting confidential information and maintaining security.

Inactive Storage: Records move to inactive storage when they are no longer regularly used but must still be retained. These records may be needed for legal requirements, audits, appeals, public information requests, or future reference. Examples include closed cases and older docket records. Inactive records must continue to be protected and maintained according to retention schedules.

Disposition: The final stage of the records life cycle is disposition. When a record reaches the end of its required retention period, the court determines whether it should be destroyed, preserved permanently, or transferred. Records may be securely destroyed, preserved for historical or legal value, or transferred to an authorized location for continued access.

Each stage requires proper management to ensure court records remain accurate, secure, accessible, and compliant with legal requirements.

Practice Note

In 1989, the Legislature adopted Subtitle C of the Local Government Code, known as the Local Government Records Act, recognizing the importance of local government records in the lives of all citizens. The Legislature found that, among other things, the efficient preservation of records could document the rights of citizenship and provide efficient management of local government. A part of this act established requirements for local governments, record management officers, and custodians of records. The act also removed restrictions buried in historic practices, such as requiring records to specifically be kept in a “well-bound book.” This allowed local governments, and more importantly courts, to begin to use modern recordkeeping methods, laying the foundation for today’s court.

1. What does the Local Government Records Act establish? _____

2. What is a record? _____

3. What is records management? _____

4. What are records control schedules? _____

5. List the benefits of having a records management program. _____

6. List the stages of a records life cycle. _____

7. What happens during the active and inactive stages of a record? _____

A. Staffing a Records Management Program

The Texas State Library and Archives Commission 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 operators, data entry individuals, and records center staff. Most municipal court personnel juggle these duties with other court duties.

B. Developing a Records Management Program

A records management program helps the court organize, store, maintain, and dispose of records efficiently. To create a successful program, the court should identify its goals, set timelines, determine how records are created and stored, choose filing systems, establish retention periods required by law, and develop procedures for retrieving, archiving, and destroying records.

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. Fortunately, a variety of project management tools and software applications can help courts organize tasks, track progress, assign responsibilities, and meet project deadlines. Popular options include Microsoft Planner (Microsoft 365), Monday.com, Smartsheet, Microsoft Excel, and Gantt charts, each offering different features to support project planning and timeline management. The right project management tool depends on the size of the court, the complexity of the project, and the level of collaboration needed among staff. Regardless of the tool selected, maintaining a detailed project timeline and regularly monitoring progress are essential to the successful implementation of a records management program. Once the program is developed, the court should inventory its records, verify the required retention periods, prepare and obtain approval of a records retention schedule, and put the schedule into practice. The program should be reviewed regularly through monitoring and periodic performance audits to ensure it remains effective and compliant.

8. What might staffing a records management program include? _____

9. List the steps to develop a records management program. _____

C. Organizing an Efficient Case Filing System

Case filing is the process of creating, organizing, maintaining, using, and disposing of court case files throughout their lifecycle. An effective case filing system is essential for managing the large volume of records maintained by the court. It ensures records are organized, easily accessible, secure, and retained in compliance with applicable records retention requirements.

After developing a records management plan, the court should establish a case filing system that is organized, consistent, and easy to maintain. Developing an effective filing system requires careful planning, testing procedures, selecting a standardized method of organizing files, establishing clear maintenance and disposition procedures, and choosing cost-effective equipment and supplies. Written procedures and regular reviews help ensure the system remains efficient, accurate, and compliant over time. If certain records, such as juvenile or confidential case files, require special handling, separate procedures should be developed to ensure they are properly managed and protected throughout their retention period.

There is no one-size-fits-all approach to case filing systems. What works well for one court may not work well for another. As you will discover in this chapter, many factors play an important role in developing an efficient case filing system, including the amount of space available for file cabinets or shelving and whether the court maintains physical case files or jackets, operates as a paper-lite court, or is completely paperless.

An efficient case filing system should be as simple as possible while still meeting the court's needs. Overcomplicating the system can waste valuable staff time when personnel have to search in multiple locations to find a case file. It can also increase the likelihood of filing errors, misplaced records, and difficulty locating information when it is needed.

The goal is to develop a filing system that is organized, consistent, easy to maintain, and tailored to the court's specific needs.

1. Improving Existing Case Files

Improving an existing case filing system is usually easier and faster than creating a new one. The process begins by reviewing current filing systems, identifying areas that need improvement, and exploring possible changes to make the system more efficient.

2. Determining the Volume

For annual budgeting purposes, the court should estimate the number of cases it expects to receive so it can budget for the supplies needed to maintain its filing system. Accurate projections help ensure the court has enough resources to manage its records efficiently.

When forecasting case volume, the court should review filing trends from the past five years, consider recent and future police staffing levels, analyze local traffic and crime statistics, and consult the police department for estimates of future case filings.

3. Case Files

Case files contain all documents related to a specific case, person, or event. Depending on the court's filing system, a physical file may include multiple citations/violations for one defendant or a separate file for each citation's violation.

a. Digital Files

However, courts are increasingly 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

Before deciding how case files will be organized, the court should identify how staff will most frequently retrieve records. Understanding these reference needs will help the court design a filing system that allows records to be located quickly and efficiently.

Things to consider include whether files are commonly retrieved based on the case's current status, such as an initial appearance, docket setting, or warrant, or based on a compliance or due date. The court should also consider other information staff regularly use to locate files, such as appearance dates, payment due dates, scheduled hearings, or other case events.

The filing system should be designed around the court's most common retrieval needs. A system that reflects how staff search for and use case files will improve efficiency, reduce misplaced files, and make daily case management easier.

c. Case File Folder Organization

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?

After determining how records will be retrieved, the court must decide how case files will be organized. Several filing methods are available, each with advantages and disadvantages.

(1) One Case File Folder for Each Defendant

In this system, one file folder or case jacket is created for each defendant for a single arrest. If multiple citations or charges arise from the same incident, all related documents are kept together in one file.

Advantages

- Keeps all documents from one incident together.
- Reduces the number of file folders.

Disadvantages

- Different cases within the same folder may have different dispositions, payment plans, or deadlines, making the file more difficult to manage.

(2) One Case File Folder for Each Case Filed

In this system, a separate case folder is created for every case filed, regardless of the defendant.

For example, if a defendant has three citations, three separate folders are created. If a Failure to Appear charge is filed later, it receives its own folder.

Advantages

- Easier to track each case individually.
- Reduces confusion when cases have different outcomes.

Disadvantages

- Requires a cross-reference system to connect related cases involving the same defendant.

(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. This method reduces the number of folders needed while keeping active cases easily accessible.

(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) Decide What Information Should Appear on the File Folder

The outside of a case file folder is prime real estate for recording important information that can serve as a quick reference tool. A well-designed folder can allow court personnel to retrieve basic case information and monitor case activity without having to open the file.

The information recorded on the folder can be as simple or detailed as the court's needs require. At a minimum, the folder might include the defendant's name, date the case was filed, citation or violation number, docket number, offense, and costs and fine amounts. A more detailed system might also include the case status, compliance or due dates, docket notes, and defense attorney information.

When deciding what information should be recorded on the outside of the folder, the court should consider how often that information will change and the amount of staff time required to keep it current. While including additional information may make the file easier to reference, a system that requires clerks to continually update numerous details throughout the life of a case may create unnecessary work.

The goal should be to strike a balance between providing enough information to make the folder useful as a quick reference tool and keeping the system simple enough to maintain accurately and efficiently.

(6) Determining the Physical Type of Case File Folder

Many factors should be considered when determining the physical type of case file folder or jacket a court will use. These factors may include identifying which documents will be filed in the jacket, determining how documents will be arranged, selecting the appropriate file cabinet size and orientation, and evaluating the cost of the folders or jackets.

The type and size of the file cabinet should also be considered when selecting a case file folder or jacket. The dimensions of the folder will affect how files fit within the available storage space, so the court should select the folder and storage equipment together rather than making these decisions separately.

(8) Determining Arrangement

It is important to determine a standard arrangement of case files in filing cabinets. Due to 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.

Practice Note

The file arrangement could directly affect the efficiency with which the clerk or judge can access the files. When tasked with evaluating a file arrangement system, consider whether the system is logical. An arrangement that makes sense to users is often the best approach. Other considerations may include functionality, flexibility, and whether the system is standardized.

(9) Selecting an Access System

There are two basic types of file access: direct and indirect.

Direct access allows staff to locate a file by going directly to the filing system, such as looking up a defendant's name in an alphabetical file. This system is simple but can become difficult to manage when there are large numbers of files or similar names.

Indirect access requires an index to locate the file. For example, a defendant's name may be used to find the case's docket number in an index, which is then used to locate the file. This system works well for large volumes of records but requires an additional step and careful maintenance of the index.

(10) Common File Arrangements

Alphabetical Filing

Files are arranged by the defendant's last name. This is a direct-access system and is easy to use because a separate index is generally not required. Courts using an alphabetical system should establish consistent rules for filing names, including hyphenated names, prefixes, numbers, and business or organization names.

Color-coding may also be used to make files easier to identify and to quickly spot misfiled records.

Numerical Filing

Files are arranged by an assigned number, usually the docket number. Because staff generally need an index to connect the defendant's name to the file number, this is an indirect-access system.

Numerical filing provides several advantages, including easier expansion as the number of cases increases, faster refiling, and reduced problems with similar names. Its primary disadvantage is that staff must use an index or computer system to determine the file number before retrieving the file.

Courts using a numerical system should ensure that the file number appears on documents placed in the case file and that the index is maintained accurately.

Alphanumeric Filing

An alphanumeric system combines letters and numbers, such as a name or subject heading with a case number. This type of system can help organize files while allowing staff to quickly identify the general contents or category of a file.

(11) Selecting a Filing Arrangement

The best filing arrangement depends on the court's needs. When selecting a system, consider:

- How staff most frequently retrieve files;
- The volume of records;
- Available storage space;
- Who will access the records; and
- Whether the court uses paper, paper-lite, or electronic records.

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 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?

Below are options for filing equipment:

- Vertical File Cabinets
- Open or Closed Shelf Files
- Lateral Cabinets
- Mobile Shelf Cabinets
- Motorized Files
- Lateral Traversing Suspension File Unit
- Rotary File Units

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

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

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

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

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

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

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

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

- _____
- _____
18. What are the advantages and disadvantages of filing papers loose in a case file? _____
- _____
19. When are fastened files usually preferred? _____
- _____
20. What questions should a clerk ask when evaluating file arrangement systems? _____
- _____
21. What is the first determining factor in the selection of file arrangement? _____
- _____
22. What is a direct access filing system? _____
- _____
23. What is an indirect access filing system? _____
- _____
24. What is an alphabetical file arrangement? _____
- _____
25. What are the advantages and disadvantages of an alphabetical filing system? _____
- _____
- _____
26. What is a numerical file arrangement? _____
- _____
27. What is straight- or consecutive-numeric filing? _____
- _____
28. What is a terminal-digit numeric system? _____
- _____
29. What is a middle-digit system? _____
- _____
30. What is a duplex-numeric system? _____
- _____
31. What is a decimal-numeric system? _____
- _____
32. What are the advantages and disadvantages of a numerical filing system? _____

33. What is an alphanumeric system? _____

True or False

34. It is better to have multiple filing places than to centralize control of the files. _____

35. To help maintain records properly, every clerk should be a file clerk. _____

36. How records are retrieved can affect file arrangement. _____

37. Having a manual on filing procedures ensures that filing decisions are not erratic. _____

38. 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. _____

39. The court should have a check-out and check-in system to keep track of case files. _____

Short Answer

40. What basic questions 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 depend 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 considered, 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.

41. What does the intensity and severity of a fire depend on? _____

42. What factors should be considered 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.

The inventory should identify the type of records, their location, how frequently they are accessed, how they are disposed of, and the costs associated with maintaining them.

1. Records Terminology

Staff should understand the basic terminology used in records management:

- Page or document: The smallest unit of a record.
- File: A collection of documents relating to a case or matter.
- Records series: A group of related records that are normally used or filed together.

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. In some instances, however, the appellate court may determine that it does not have jurisdiction and send the case back to the municipal court. The municipal court’s judgment is then due. Remember that an appealed case is still active until the appeal has been completed, and the copy of the case should be handled the same as the original.

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 oversees 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 medium. 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.

43. What is the purpose of a records inventory? _____

44. What is the goal of a records inventory? _____

45. What are the benefits of a records inventory? _____

46. What steps will help make a records inventory successful? _____

47. What information will a successful records inventory provide? _____

48. What is the official copy of a record? _____

49. What are non-records? _____

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

51. What are administrative files? _____

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

53. List the types of information that an inventory should collect. _____

54. 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 also 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 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 Texas State Library and Archives Commission. Sec. 203.042, L.G.C.

The Texas State Library and Archives Commission 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 Commission under authority of Chapter 441 of the Government Code, which establishes mandatory retention periods for local government records.

Practice Note



Section 441.158 of the Government Code requires the Texas State Library and Archives Commission to prepare and distribute 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.texas.gov/slr/localretention/schedule_lc. 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.

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 Texas State Library and Archives Commission 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, case file records are listed in one section, while 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.¹ Clerks should check with their records management officer for the records retention schedule of court records filed with the Texas State Library and Archives Commission.

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 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 Commission, it is a better management practice to assign fixed retention periods for each record series because "AV" records have a fairly subjective retention period and 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 45A.053 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.

¹ *Texas Municipal Records Manual*, published by the Texas State Library and Archives Commission.
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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. Section 205.008, L.G.C. See Chapter 204 of the Local Government Code for rules related to microfilming local government records.

G. Electronic Mail

Section 201.003 of the Local Government Code defines “local government record” to include any 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.

Email is commonplace to conduct government business, and 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.

An email 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 engage in offensive 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. 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. When such records cannot be recovered, document the types of records affected, the volume of records lost, and the date the records were due for destruction. For non-permanent records, internal documentation is sufficient. However, for permanent records, notify the Texas State Library and Archives Commission by submitting the appropriate form (Request for Authority to Destroy Unscheduled Records). It is helpful to include photos, a letter describing the circumstances that led to the damage, and/or any other evidence that supports the request. Note that this process does not absolve local governments of the legal responsibility to follow retention schedules. It provides evidence about the nature of the destruction and shows that information was not intentionally withheld or destroyed.

Practice Note

REQUEST FOR AUTHORITY TO DESTROY UNSCHEDULED RECORDS

Texas State Library – State and Local Records Management

SLR 501 (1/08) LOCAL GOVERNMENTS ONLY

Refer to instructions on reverse before completing.

Use typewriter or computer to complete form.

SLR Control Number (SLRM Use Only)

SUBMIT REQUEST TO:

Texas State Library
State and Local Records
Management Division
Box 12927
Austin, Texas 78711-2927
(512) 463-7610

SUBMITTING OFFICE:

Government

Office

Address

City

Zip

Phone

CERTIFICATIONS: Check Appropriate Block)

☐ I hereby certify that the records to be disposed of are correctly listed below, that the destruction of the records is not prohibited by Local Government Code §202.002, and that their disposal will be carried out in accordance with Local Government Code §202.003.

☐ I hereby certify that the records listed below have been microfilmed in strict accordance with Local Government Code, Chapter 204, and the rules adopted under it. The destruction of the original records will be carried out in accordance with Local Government Code §202.003 and the microfilm copy will be maintained as the original records.

Name and Title

Signature

Date

RECORD NUMBER	RECORDS SERIES TITLE	INCLUSIVE DATES	QUANTITY (in cubic feet)

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 TSLAC. 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. These records should appear on the records control schedule submitted by the city. Records management forms can be found at <https://www.tsl.texas.gov/slrms/forms>.

55. When was every city required to establish a records management program by ordinance? _____
 56. What are the general duties of a records management officer? _____
 57. What commission establishes mandatory retention schedules for local governments? _____
 58. Define records retention period. _____
 59. What is the court clerk's responsibility in the citywide records management program required by Texas State Library and Archives Commission? _____
 60. What is a local government record? _____
 61. List documents that are not considered to be local government records. _____
 62. Unless stated otherwise, how are retention periods figured? _____
- True or False
63. Retention periods apply to all local government records. _____

64. If records are stored in bound volumes, the retention period dates from the date of the last entry. ____
65. When records are maintained together, the combined record must be retained for the length of time of the component with the longest retention period. ____
66. For administratively valuable records, the retention period is at the discretion of the city. ____
67. Municipal court dockets may be stored electronically. ____
68. Documents that are stored electronically have a different retention period from paper documents. ____
69. The hardware to access electronically stored data must always be maintained by the city for documents that are stored. ____

Short Answer

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

71. When may a damaged record be destroyed? _____

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

I. Managing a Records Management Program

1. Implementing Records Schedules

After records schedules are approved by the Texas State Library and Archives Commission, 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 Commission. 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 Commission 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 Commission has granted permission. Sec. 204.008, L.G.C.

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, human-made 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, 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. 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 records management officer does not have a copy of the rules, the court should contact the Commission because the rules contain necessary, specific handling provisions.

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.

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, whether file folders or fasteners are boxed, and how the records are bundled together. After the boxes are filled, a transfer form should 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.²

² *Evaluating Files Maintenance and Records Disposition Programs*, National Archives and Records Administration.

- 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 access 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?

True and False

73. The court does not need to keep a record of records that are destroyed. ____
74. The court should periodically perform a records audit to determine if record schedules have been properly maintained. ____

Short Answer

75. What should an auditor conducting a records audit look for?

76. How often should records schedules be reviewed? _____
77. Who must approve new records schedules? _____
78. When can non-record copies be destroyed? _____

79. List records that are copies of records that should be maintained as original copies. _____

80. Define essential records. _____

81. List some ways that municipal court records can be secured from disasters such as fire. ____

- _____
- _____
82. What is the most efficient method of indexing court records? _____
83. What is a decentralized filing system? _____
- _____
84. What is a centralized filing system? _____
- _____
85. What is a bar coding system? _____
- _____
86. What is a floating file? _____
- _____
87. What does an electronic document imaging system do? _____
- _____
88. How can digitized images be stored? _____
- _____
89. How can records be organized for storage? _____
- _____
90. List questions that should be considered when determining how to index stored records. ____
- _____
- _____
- _____
- _____
91. What should a plan for transferring records to storage include? _____
- _____
- _____
- _____
92. List the type of documentation that a records management manual should include. _____
- _____
- _____
- _____
93. What questions help evaluate a court's maintenance program? _____
- _____

J. 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 Commission and its retention period has expired on the schedule;
- it appears on a list of obsolete records approved by the Commission;
- a request for authorization to dispose of unscheduled records is submitted to the Commission 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 Commission;
- the retention period on a records retention schedule issued by the Commission has not yet expired, but the record is non-permanent, and it has been microfilmed according to Commission 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 Commission 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 Commission has not yet expired and the record has a retention period of 10 years or more, and the local government has submitted to the Commission 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 Commission. 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 Commission, 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 Commission 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 Commission. 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 a city record out of the custody of the city. 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 Commission.

94.	When may a record not be destroyed? _____ _____
95.	List the criteria for when a local government record may be destroyed. _____ _____ _____
96.	Who in the city maintains a list of original records that have been microfilmed and destroyed? _____
97.	When can a permanent record that has been microfilmed be destroyed? _____ _____ _____
98.	What is a Notice of Intent to Dispose of Records? _____ _____
99.	List the methods that a city may use to destroy records. _____ _____ _____ _____
100.	What records may a city not sell or donate for recycling purposes? _____ _____
101.	Where may the city sell, donate, loan, or transfer records? _____ _____ _____
102.	When may the court clerk temporarily transfer the custody of court records? _____ _____ _____
103.	What type of offense does a court clerk commit if he or she violates any requirements of the Local Government Records Act? _____

PART 2 RECORDS REQUESTS

As discussed above, municipal courts and local governments maintain a significant number of records. Many of these records, particularly in municipal court, contain both sensitive information and also information that is relevant to the public. Municipal courts routinely receive requests for some combination of this information. Court

clerks should be familiar with the laws and rules governing these requests to assist the judge in formulating a response, direct the request to the appropriate authority, and ensure that records are disclosed in accordance with the law. There are three broad bodies of law that govern records requests: The Public Information Act (PIA), Common Law Right of Inspection, and Rule 12. Each is discussed below.

A. Public Information Act

The law that most city officials are familiar with regarding records is the Public Information Act. The Act, usually referred to as the PIA for short, is found in Chapter 552 of the Government Code. This Chapter, along with Chapter 551 governing open meetings, makes up almost the entirety of Title 5 of the Government Code, which is titled with the descriptive, “Open Government.”

The PIA defines “public information” broadly, to include information that is written, produced, collected, assembled, or maintained under a law or ordinance in connection with official business by a government body, for a government body, or by an individual officer or employee of the government body in that person’s official capacity. Sec. 552.002, G.C. The definition also includes any electronic transmission or communication if it is in connection with official business. Sec. 552.002(a-1), G.C. With certain specific exceptions that are listed in the PIA, any of this information is available for public inspection upon written request. This means that records held by the city, if they do not fall within an exception, must be provided to the requester within a reasonable time. The city must, however, produce information or inform the requester about the request within 10 business days. Sec. 552.221(d), G.C. Records requested under the PIA typically include documents pertaining to city business, such as developments, zoning, or communications between city officials.

Practice Note

The Public Information Act is an important tool for open government, but it *does not* apply to the courts. Considering the breadth of the PIA, it may be understandable that many individuals and organizations assume that it also applies to municipal court records. The court is operated through the city and even appears as a branch on most organization charts. Indeed, almost every other request for information made to a city operates under the PIA. The municipal court, however, is excluded from the PIA. Access to records of the judiciary is specifically excluded by Section 552.0035 of the Government Code; and the judiciary is listed as an exception from the definition of “governmental body.” Sec. 552.003, G.C.

B. Common Law Right of Inspection

Even though courts are not subject to the Public Information Act, it has long been recognized that the public has a right to inspect court records. Courts are open to the public and, under common law, records maintained by the courts have generally been available for public inspection. This is known as the Common Law Right of Inspection. As the Supreme Court stated in a landmark case on the issue of court records, “It is clear that the courts recognize a general right to inspect and copy public records and documents, including judicial records and documents.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978).

The Texas Attorney General has opined, however, in open records decisions that while the public has a common law right of inspection, 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. Tex. Atty. Gen. Op. No. H-826 (1976). This means that although the first consideration should be that court records are open under common law, the second consideration is that the judge has final discretion to decide what to release. For this reason, it is important for court clerks to timely forward any such requests to the judge for review.

Additionally, as the Common Law Right to Inspection is something that has evolved through case law over hundreds of years, there is little guidance as to specific processes and procedures. Unlike the PIA, there are no clear guidelines on timelines or costs for copies. It is important that courts have a policy on how to handle requests

for court records. The policy may include a request form, an information sheet about potential 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, who will decide 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.

1. Confidentiality

In certain areas, the Code of Criminal Procedure does provide guidance regarding public access to cases depending on case disposition and the age of the defendant. In two areas, roughly defined as adult court records and juvenile court records, the law provides for confidentiality. Confidentiality is defined in *Black's Law Dictionary* as “the state of having certain information restricted.” This means that the records are generally unavailable to the public but that they may be accessed by certain individuals or entities. Confidentiality deals with restricting existing records, rather than destruction of the records, and should not be confused with expunction. Under expunction, the records are actually erased.

a. Adult Cases

Following the fifth anniversary of final conviction or dismissal following completion of deferred disposition, municipal court records are generally confidential and may not be disclosed to the public. Art. 45A.055, C.C.P. This not only includes the case file itself, but also any information stored by electronic means from which information on the case could be generated. This means that if any case in municipal court meets these requirements, information on the case cannot be provided to a requestor by the court. There are, however, exceptions outlined in the statute. If the requestor is from a list including the judge, court staff, criminal justice agency, Department of Public Safety, a prosecutor, defendant or defendant’s attorney, an insurance company seeking a traffic offense, or pursuant to federal law, then the record is open to inspection. Art. 45A.055(b), C.C.P. These are important exceptions, as anyone not included on the list would otherwise be prohibited from receiving any information about the case.

b. Juvenile Cases

Juvenile confidentiality works similarly to adult confidentiality above but with a number of important exceptions. The records of a case involving a juvenile, other than for a traffic offense, are confidential and may not be disclosed to the public if the records relate to a charge, conviction, acquittal, dismissal, or deferred disposition for a fine-only misdemeanor. Art. 45A.462, C.C.P. Like the confidentiality under Article 45A.055, this includes information stored by electronic means from which information on the case could be generated. There are also similar, albeit fewer, exceptions, including judges, court staff, criminal justice agency, Department of Public Safety, child defendant, defendant’s attorney, and the parent, guardian, or managing conservator. Art. 45A.462(c), C.C.P. Also noteworthy is that juvenile cases do not have any prescribed time limit as to when they become confidential. The case would become confidential simply upon one of the requirements listed in the statute.

c. Truant Conduct Cases

There are also special provisions for juvenile records relating specifically to truant conduct proceedings. Remember that all municipal courts are also truancy courts, but these courts operate under Title 3A of the Family Code and handle only truant conduct cases. Records created during these proceedings may only be disclosed to certain parties, including the judge of the truancy court, court staff, prosecutor, the child or attorney for the child, certain state agencies, or another party with leave of the truancy court. 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.

2. Expunctions

Expunction means to wipe out or completely erase a municipal court record. As discussed in Chapter 7 of the *Level I Guide*, there are four types of expunctions in municipal court. The expunction type depends on the

defendant's age, offense alleged, and case disposition. Some cases are available for expunction only following dismissal or completion of deferred disposition, while others allow for expunction even after conviction. The four expunction statutes are found in Chapter 55 for municipal courts of record, justice courts, and district courts; Section 106.12 of the Alcoholic Beverage Code for minors with only one arrest or one conviction while a minor; Section 161.255 of the Health and Safety Code for tobacco, cigarette, and e-cigarette convictions; and Article 45A.463 of the Code of Criminal Procedure for certain Penal Code offenses committed under the age of 17. Regardless of the manner in which the expunction is ordered, the municipal court should be prepared to process the order properly. This means that the record is physically removed and erased from any electronic storage or case management software.

3. Certain Personal Information

Although court records are generally open to public inspection, there are some other exceptions provided by the law. 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.

Additionally, some social security numbers are confidential. 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 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 after 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 then 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.

104. Why does the Public Information Act not apply to judiciary? _____

105. Why does the public have a right to inspect municipal court records? _____

106. When and to whom may the court disclose personal information about jurors? _____

107. When the public requests a record that contains a social security number, what should a clerk do? _____

C. Rule 12

Rule 12 of the Texas Rules of Judicial Administration provides for public access to judicial records. Rule 12 defines judicial record 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, for example, budgets, audits, court policies and procedures, etc.

There are specific rules governing a request made under Rule 12. Among them, the requestor must be notified within 14 days of denial of a request, and the requestor may appeal a denial to the Administrative Director of the Office of Court Administration. To assist the judge with records requests under Rule 12, court clerks should be familiar with the rule. The full text of the rule is available on the TMCEC website at www.tmcec.com/programs/judges/rule_12/. Additionally, 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.txcourts.gov/open-records-policy/.

108. What is Rule 12? _____

True or False

109. Under Rule 12, a record relating to a case filed in the court is a judicial record. ____
110. 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. ____
111. Under Rule 12, if a judge refuses to release the requested information, the requestor can appeal to the Attorney General. ____

Practice Note

Courts throughout Texas often receive “records requests” from individuals and various organizations. Individuals, and even a surprising number of attorneys and organizations, do not readily know the difference between a request to a city under the Public Information Act and a request to a municipal court. The nature of the request will dictate the appropriate timelines, requirements, and information that may be released. The most important point to take away for court clerks is that cities are subject to the Public Information Act, but municipal courts and the judiciary are specifically excluded. The courts are generally subject instead to the Common Law Right of Inspection for court records, and Rule 12, for judicial records. Finally, all these methods are separate and distinct from the right to discovery afforded the prosecution and defense in an active criminal case.

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. This 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 municipal courts. 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.

112. What is caseflow management? _____

113. In order for the court to effectively oversee the movement of a case, what must the court determine? _____

114. Why should courts create multiple tracks for case processing? _____

A. Goals of Caseflow Management

The goals of caseflow 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 Caseflow Management

The essential elements of caseflow 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 and overwhelming. 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 and evaluate 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; OCA; training sessions provided by TMCEC; etc.);
- outside consultants (consider cost, benefits, 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 specified parameters of costs, schedules, and resources. Project management is the combination of people, systems, and techniques required to coordinate the resources essential 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 is already working or what could go wrong, 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 act. 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.

115.	What are the goals of caseload management? _____

116.	What resources should be considered when developing a caseload management system? _____

117.	What is project management? _____

118.	What is a project's life cycle? _____

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

D. Caseload Management System

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

1. Writing Documentation

The main documentation of a caseload 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 caseload 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 caseload 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 these types 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 caseflow 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 is 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 caseflow 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.
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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.
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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

Courts should be willing to incorporate a restrictive continuance policy into the caseload 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.

120. What information should be included in the documentation of a caseload management system? _____

121. What do time standards define? _____

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

123. List the three general types of overall time standards. _____

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

125. What are event standards? _____

126. Why should a caseflow management system be monitored? _____

ANSWERS TO QUESTIONS

PART 1

1. It establishes requirements for local governments, record management officers, and custodians of records.
2. 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.
3. 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.
4. 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.
5. 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.
6. The stages of a record's life cycle are:
 - Creation;
 - Distribution;
 - Use;
 - Maintenance;
 - Storage; and
 - Disposition.
7. 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.
8. Staffing a records management program generally includes filing personnel, document imaging operators, data entry individuals, and records center staff.
9. 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.
10. 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.
11. 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.
12. 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.
13. 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.
14. 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.
15. 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.
16. 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 the State; and
 - Date warrant, capias, or capias pro fine issued and served.
17. 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.
18. 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.
19. 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.
20. 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?
21. The nature of the records and how they will be retrieved should be the first determining factor in the selection of file arrangement.
22. 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.
23. An indirect access filing system is a system that requires an index that must be consulted before a file can be retrieved.
24. Alphabetic files are arranged according to the last name of the defendant.
25. 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.

26. A numerical file arrangement may have numbers (usually a docket number) assigned to the case files arbitrarily or under a standard plan.
27. This is where files are arranged consecutively in ascending numerical order according to docket number.
28. It is a system where the last digit or group of digits is the primary unit used for filing.
29. 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.
30. 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.
31. 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.
32. 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.
33. 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.
34. False.
35. False.
36. True.
37. True.
38. False.
39. True.
40. 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?
41. The intensity and severity of a fire depend 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.
42. Space utilization and fire protection factors, such as automatic sprinkler systems, smoke detection systems, and the quantity of other combustible materials.
43. The purpose of a records inventory is to determine what records a court has, where they are located, and how many records there are.
44. The goal of a records inventory is not to inventory every piece of paper, but to determine and identify records categories.

45. 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.
46. 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.
47. 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.
48. An official record is one that supplies information on organization, function, policy, procedure, operation, or it is the original case file of a defendant.
49. Non-records are generally copies or duplicates of official records.
50. 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.
51. Administrative files often times contain duplicate information or miscellaneous information that nobody knows where to file but does not want to destroy.
52. 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.
53. 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.
54. 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.
 55. On or before January 1, 1991.
 56. Generally, the records management officer is responsible for coordinating the city's records management program and making certain that it complies with state regulations.
 57. The Texas State Library and Archives Commission.
 58. 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.
 59. 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.
 60. 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.
 61. 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.
 62. Retention periods are figured in calendar years from the date of the records' creation.
 63. False (they apply only to official records unless otherwise noted).

64. True.
65. True.
66. True.
67. True.
68. False.
69. False (it must be retained for the retention period assigned to the record).
70. 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 records include 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.
71. 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.
72. 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.
73. False.
74. True.
75. 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.
76. They should be reviewed once a year.
77. The Texas State Library and Archives Commission.
78. Copies of records generally are non-records and are maintained only as long as they are useful. Then they are destroyed.
79. 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.
80. 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.
81. 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.

82. By computer.

83. A decentralized filing system is one where the files are maintained in separate locations.

84. 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.

85. 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.

86. 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.

87. Documents are scanned and digitized.

88. The digitized images can be stored on a hard drive, optical disk, or other computer-readable media.

89. 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.

90. 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?

91. 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.

92. 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.

93. 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.

94. A record that is currently in litigation or pending an open records request may not be destroyed.

95. 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.
96. The records management officer.
97. It may be destroyed after a Destruction Authorization Request has been submitted to and approved by the Texas State Library and Archives Commission.
98. It is a notice to the Texas State Library and Archives Commission to destroy certain records.
99. The methods that a city may use to destroy records are:
- Burning;
 - Shredding;
 - Pulping;
 - Burying in landfill; and
 - Selling or donating for recycling.
100. Records that are confidential under the Texas Public Information Act or other state laws.
101. 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.
102. 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.
103. A Class A misdemeanor.

PART 2

104. The PIA specifically excludes the judiciary to maintain the independence of the judicial branch. The PIA applies to governmental bodies and the law specifically states that a governmental body does not include the judiciary.
105. Courts have long recognized that the public has a common law right to inspect and copy court records under the Common Law Right of Inspection.
106. 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.
107. The clerk should always pass requests for records to the judge to determine whether it should or can be released.
108. 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.
109. False.
110. True (it must be as soon as practicable but not to exceed 14 days).
111. False (the appeal goes to the Administrative Director of the Office of Court Administration).

PART 3

112. Caseflow management is the process of managing time and events involved in the movement of a case through the court system.
113. The court must determine its phases, how it is maintained, and the disposition.
114. 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.
115. 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.
116. 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.
117. 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.
118. The conceptual phase, the planning phase, and the implementation phase.
119. 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.
120. Documentation should include case processing procedures that include how files are created, used, and maintained; judicial activity; disposition; and archival and destruction procedures.
121. Time standards define the direction of the system. The time standards provide a basis for measuring the effectiveness of the court's caseload management system and a basis for case progress decisions in the management of individual cases.
122. 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).
123. 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.
124. 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.
125. Event standards are standards that measure cases in the various stages in the system and not just the disposition.
126. It should be monitored because information derived from monitoring supports the caseload management system.