

Municipal Court of Willow Park, Texas Confidentiality Policy and Agreement

Employees of this Court occupy positions of public trust. In the course of your duties, you will encounter confidential information about the prospective disposition of cases and the inner workings of the Court.

Preserving the confidentiality of the Court's documents and private deliberations is **crucial to the Court's work**. More specifically, confidentiality furthers the ability of judges and judicial staff to communicate openly and honestly and to reach the most legally correct outcomes for litigants. Confidentiality also builds public respect for the judiciary and impresses on others the gravity of the judicial process. Any breach of confidentiality would betray not only the Court and the individuals who work here, but also the public's interest in thorough, considered justice.

Confidentiality has long been an expectation within Texas courts. Canon 3B(10) of the Texas Code of Judicial Conduct demands that judges and court staff refrain from "public comment about a pending or impending proceeding which may come before the judge's court." Canon 3B(11) of the Texas Code of Judicial Conduct provides that "[t]he discussions, votes, positions taken, and writings of appellate judges and court personnel about causes are confidences of the court and shall be revealed only through a court's judgment, a written opinion or in accordance with Supreme Court guidelines for a court approved history project."

Texas Government Code Section 21.013 creates a Class A misdemeanor criminal offense for the unauthorized disclosure of non-public judicial work product, stating "[a] person . . . with access to non-public judicial work product commits an offense if the person knowingly discloses, wholly or partly, the contents of any non-public judicial work product" Additionally, Texas Penal Code Section 39.06 criminalizes the misuse of official information by a public servant who "discloses or uses information for a nongovernmental purpose that: (1) he has access to by means of his office or employment; and (2) has not been made public", with penalties ranging from a Class C misdemeanor to a felony of the third degree.

This confidentiality policy incorporates the Canons as well as the statutory penalties of both Texas Government Code Section 21.013 and Texas Penal Code Section 39.06. This policy also incorporates Articles 45.0217, 45.0218 (recodified as 45A.462 and 45A.055, respectively, effective January 1, 2025) and Article 45.313,

regarding confidentiality in municipal courts. This policy applies to all Court staff, including interns.

1. Protection of information. Confidential information must not be shared with persons not employed within the Court, except as provided in Section 3 below. Employees must refrain from commenting about cases that are or may come before the Court to family, friends, or acquaintances.

2. Confidential information defined. Confidential information includes:

- a) drafts of opinions not yet released, internal memoranda, emails between judges or staff, and any other document not intended for public use;
- b) conversations between judges or court staff about litigants or cases before, previously before, or expected to come before the Court;
- c) the private views of judges or court staff concerning the disposition of cases, litigants, anticipated cases, or each other;
- d) the authorship of per curiam opinions or orders, the timing of opinion or order release, and any other procedural mechanism not ordinarily public;
- e) documents-properly filed under seal by litigants or counsel; and
- f) other information, however communicated, that is not authorized to be made public;
- g) As provided by Article 45.0217/45A.462 of the Code of Criminal Procedure, and except as otherwise provided by Article 15.27 and Article 45.0217/45A.462, all records and files, including those held by law enforcement, and information stored by electronic means or otherwise, from which a record or file could be generated, relating to a child who is charged with, is convicted of, is found not guilty of, had a charge dismissed for, or is granted deferred disposition for a fine-only misdemeanor offense other than a traffic offense are confidential and may not be disclosed to the public, including all records generated under Subchapter E, Chapter 45, Article 45.313 of the Code of Criminal Procedure, other than statistical records;
- h) As provided by Article 45.0218/45A.055 of the Code of Criminal Procedure, except as otherwise provided elsewhere in law, following the fifth anniversary

of the date of a final conviction of, or of a dismissal after deferral of disposition for, a misdemeanor offense punishable by fine only in this municipal court, all records and files and information stored by electronic means or otherwise, from which a record or file could be generated, that are held or stored by or for a municipal or justice court and relate to the person who was convicted of, or who received a dismissal after deferral of disposition for, the offense are confidential and may not be disclosed to the public. This does not apply to records, files, and information described herein that relate to an offense that is sexual in nature, as determined by the holder of the records, files, or information.

3. Disclosures of confidential information.

- a) **Intentional disclosure** of confidential information outside of the boundaries of (1) above may be met with maximum disciplinary action. See (5) below.
- b) **Negligent or accidental disclosure** is an extremely serious matter that may, but will not necessarily, be met with penalties as described in (5) below. Employees who accidentally disclose confidential information have a duty to promptly report the disclosure to their supervisor, appointing authority, or human resources department so that mitigation can be attempted.

Employees are expected to exercise their discretion and judgment to minimize the risk of inadvertent disclosure. For example, employees should refrain from communicating about sensitive matters in crowded or public spaces where others may overhear, even within the public areas of the Court. Employees should use court-issued, password-protected equipment to transmit confidential documents. Employees should be mindful of who can see their screen when working at home, on aircraft, public transit, or in public spaces. Employees should carefully keep track of and password protect electronic devices containing confidential information and immediately report any loss or theft of those devices.

- c) **Authorized disclosure** occurs when the Judge who supervises the employee authorizes the employee to share work product with a specific person or organization. For example, employees may be authorized to share draft rules or administrative orders with other judicial branch entities for review and comment before they are released to the public, and the Clerk of Court may be authorized to disclose information relating to case status as part of their job

duties, provided the Court's internal, confidential deliberations are not disclosed.

- d) **Disclosure as necessary to report misconduct or illegal acts** is permitted. Employees may disclose confidential information when such disclosure is necessary to adequately report to an appropriate authority the misconduct or illegal acts of any person, including sexual or other forms of harassment.
- e) **Inspection of Confidential Information** defined by Section 2.g herein may only be by: judges or court staff; a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082, Government Code; the Department of Public Safety; an attorney for a party to the proceeding; the child defendant; or the defendant's parent, guardian, or managing conservator; or as otherwise expressly provided by Article 45.0217/45A.462 of the Code of Criminal Procedure.
- f) **Inspection of Confidential Information** defined by Section 2.h. herein may only be by: judges or court staff; a criminal justice agency for a criminal justice purpose, as those terms are defined by Section 411.082 of the Government Code; the Department of Public Safety; the attorney representing the state; the defendant or the defendant's counsel; if the offense is a traffic offense, an insurance company or surety company authorized to write motor vehicle liability insurance in this state; or for the purpose of complying with a requirement under federal law or if federal law requires the disclosure as a condition of receiving federal highway funds. However, this provision does not apply to records, files, and information described that relate to an offense that is sexual in nature, as determined by the holder of the records, files, or information; or as otherwise expressly provided by Article 45.0218/45A.055 of the Code of Criminal Procedure

4. Continuing confidentiality obligation. An employee's duty to preserve confidentiality survives the employee's departure from the Court. An employee who leaves the Court has the same ongoing duty to protect confidential information that they had during their employment.

Further, the duty to protect information related to the disposition of cases, such as the substance of the Court's deliberations, persists even after an opinion or order is publicly released. Employees asked about a decision of the Court should offer no comment beyond a referral to the released opinion or order.

Finally, employees who depart from Court employment may not retain confidential materials. Employees should return or securely dispose of materials, such as in designated Court shredding bins, prior to an anticipated departure, or as soon as possible after an unanticipated departure.

5. Penalties for unauthorized disclosure: In the event of an unauthorized disclosure of confidential information, the Court will investigate the circumstances and take appropriate disciplinary action, as necessary. Potential disciplinary actions may include but are not limited to:

- a) referral of the matter to the relevant law enforcement agency for investigation and prosecution. *See* Texas Government Code Section 21.013 and Texas Penal Code Section 39.06;
- b) termination of employment;
- c) for attorneys, referral to the State Bar of Texas or of other states for discipline and possible loss of the privilege to practice before Texas or other courts; and
- d) for law students, referral to the Texas Board of Law Examiners for consideration in determining eligibility to practice law.

6. Acknowledgement. Please acknowledge your understanding and agreement to this policy by signing below.

Employee's or Intern's Signature

Date