Hunt County Justice Court, Precinct 4
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. Confidentiality has long been an expectation within Texas courts. Code of Judicial Conduct Canon 3B(10) demands that judges and court staff refrain from "public comment about a pending or impending proceeding which may come before the judge's court."

Preserving the confidentiality of the Court's documents and private deliberations is **crucial to the Court's work**. 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, deliberate justice.

This confidentiality policy incorporates the Canons as well as the statutory penalties of both Government Code Section 21.013 and Penal Code Section 39.06. This policy applies to all Court staff, including interns, who must be held to the same rigorous standard as judges regarding the release of confidential information.

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) "non-public judicial work product" as defined in Government Code Sec. 21.013;
   b) drafts of opinions not yet released, internal memoranda, emails between judges or staff, and any other document not intended for public use;
   c) conversations between judges or court staff about litigants or cases before, previously before, or expected to come before the Court;
   d) the private views of judges or court staff concerning the disposition of cases, litigants,

anticipated cases, or each other;

e) the authorship of per curiam opinions or orders, the timing of opinion or order release, and any other procedural mechanism not ordinarily public;

f) documents properly filed under seal by litigants or counsel;

g) other information, however communicated, that is not authorized by the court to be made public; and

h) other information expressly made confidential by court order, statute, or common law; see Chapter 2, part C of the TJCTC Recordkeeping & Reporting Deskbook for examples.

3. Disclosure 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 report case information to OCA; may discuss case specifics with TJCTC in order to receive legal guidance; and may discuss previous actions taken in a case with a judge who is taking over the case after a bench exchange or as a visiting judge.

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.

4. **Continuing confidentiality obligation.** 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. Government Code Section 21.013 creates a Class A misdemeanor criminal offense for the unauthorized disclosure of non-public judicial work product, stating in part "[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, Penal Code Section 39.06 makes it a third-degree felony for a public servant to misuse official information with intent to obtain a benefit or with intent to harm or defraud another by "disclos[ing] or us[ing] information for a nongovernmental purpose that: (1) they have access to by means of their office or employment; and (2) has not been made public.";

   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.

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Employee's or Intern's Signature Date