



## Justice Court Clerks Do's & Don'ts

This list is not exhaustive – there may be other authorities/duties not included here.

### Do's

(Not all clerks will do all of these, but all are possible things that could be assigned.)

- 👍 Maintain the records of the court
  - ✓ Maintain filing and/or software system
  - ✓ Make sure all required records are kept accurately and completely & follow retention schedules
    - see Recordkeeping and Reporting Deskbook Ch. 1 & <https://www.tsl.texas.gov/slr/localretention>
  - ✓ Respond to records requests – see Recordkeeping and Reporting Deskbook Ch. 2
  - ✓ Maintain confidentiality of all records not subject to public disclosure
  - ✓ Make sure expunged records are destroyed and treat them as though they never existed
- 👍 Follow reporting requirements – See Recordkeeping and Reporting Deskbook Ch. 3
- 👍 Keep court calendar and handle scheduling (hearings, trials, weddings, etc.)
- 👍 Interact with the public
  - ✓ Provide information without giving legal advice
    - Certain resources/forms/info must be provided – see Officeholding Deskbook Ch. 2
    - Guidance on difference between legal information and legal advice: <https://www.txcourts.gov/media/1220087/legalinformationvslegaladviceguidelines.pdf>
  - ✓ Answer phones and take messages as needed
    - Write down complete message, be accurate with details (date, time, name spelling, phone number, etc.), note urgency or time sensitivity, verify information, make sure message gets to the person it is for
  - ✓ Process mail
  - ✓ Provide information about cases and any fees/fines that are due
  - ✓ Be the gatekeeper for the judge
  - ✓ Provide quality customer service
- 👍 Process case paperwork
  - ✓ Accept and file-stamp filings
  - ✓ Have complaints/affidavits/etc. sworn before you
  - ✓ Issue citation in civil cases
  - ✓ Send service by mail in civil cases if requested
  - ✓ Send out hearing notices and summons
  - ✓ Draft court orders/documents
  - ✓ Send out default judgment notices in civil cases
  - ✓ Process payments
- 👍 Assist with other paperwork as needed
- 👍 May use the judge's signature stamp, but only at the judge's specific direction
- 👍 Hold down the fort when the judge is away
  - ✓ Comply with standing orders (ex: order allowing payment plans to be approved at the window in certain situations)
  - ✓ Have plan in place beforehand for how things should be done in judge's absence and for notifying judge of urgent matters that clerk is not authorized to handle
  - ✓ Flag anything that needs to be presented to the judge when they return
  - ✓ Take any messages for the judge and make sure they get them when they return
- 👍 Be professional
- 👍 Follow ethical standards – you have to follow the same canons as the judge
  - ✓ Texas Code of Judicial Conduct (the canons): <https://www.txcourts.gov/rules-forms/rules-standards/>



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### Don'ts:

- 🗨️ Provide legal advice
- 🗨️ Engage in ex parte communication about the merits of a case except where expressly allowed by law (this does not prohibit certain communications as described in Canon 6C(2))
- 🗨️ Duties reserved for the judge
  - ✘ Hold hearings
  - ✘ Enter rulings
  - ✘ Conduct inquests
  - ✘ Conduct magistrations
  - ✘ Conduct weddings
- 🗨️ Use judge's signature stamp **other than** at the judge's specific direction
- 🗨️ Engage in unethical or improper behavior
  - ✘ Exhibit favoritism (allowing any relationship, partisan interest, etc. to influence conduct or behavior)
  - ✘ Allow conflicts of interest (using the prestige or authority of the court to advance the private interests of yourself or others)
  - ✘ Exhibit bias or prejudice
  - ✘ Allow the appearance that the court is not neutral and impartial in all cases
  - ✘ Accept "gifts" (something given to you in your role as a clerk that could appear improper or be intended to gain favor with the court; any gift that violates any canons or county rules)
  - ✘ Allow the appearance of impropriety (conveying the impression that you or any group you are affiliated with are in a special position to influence the judge)
  - ✘ Any violation of any canon, law, or rule
- 🗨️ Comment about cases which are in or may come before the court (careful of social media!!)
- 🗨️ Act as law enforcement
  - ✘ Any action that benefits the prosecution and is not independent and neutral.
    - Ex: issuing subpoenas for the state's witnesses without request and not doing the same for the defense

### Not Expressly Prohibited, But TJCTC Recommends That You Don't:

- 🗨️ Generate complaints for offenses, including FTAs and VPTAs (should be an officer or prosecutor)
- 🗨️ Serve as an interpreter for your court