

## **Question**

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## **Answer (Texas)**

### **Short response**

Restricting access to court records in a Texas civil case—especially after a recusal motion, without a sealing order, and where no statutory confidentiality applies—violates the strong presumption of public access, undermines procedural transparency, and likely contravenes both Texas law and constitutional principles. Such ad hoc restrictions erode public trust, impede oversight of judicial conduct, and are inconsistent with the

mandatory procedures and safeguards established by Texas statutes, rules, and case law.

## Summary

Texas law and precedent establish a robust presumption that court records are open to the public, with only narrow, well-defined exceptions—such as juvenile or adoption matters, or where a court has entered a sealing order after following strict procedural requirements. When access to court records is suddenly restricted without a sealing motion, public notice, hearing, or a written order with findings, and where no statutory confidentiality applies, this not only violates the letter of Texas law but also undermines the public's ability to monitor the judiciary, especially in contexts where judicial impartiality is being challenged.

The timing of the restriction—immediately following the filing of a recusal motion—raises additional transparency concerns, as it may suggest an attempt to shield judicial actions from public scrutiny at a critical juncture. Texas courts, statutes, and rules uniformly require that any limitation on public access be justified, narrowly tailored, and subject to procedural safeguards; bypassing these requirements is both legally improper and corrosive to the legitimacy of the judicial process.

## Background and Relevant Law

### Legislative and Regulatory Framework

Texas law, through both statute and court rules, enshrines a presumption of public access to court records. The Texas Government Code, specifically section 552.022, provides that information contained in public court records is public and not excepted from disclosure unless made confidential by statute or other law. Courts are prohibited from ordering the withholding of such information unless a specific law makes it confidential, reinforcing the default of openness for court records, subject only to narrow exceptions ([Tex. Gov't. Code § 552.022](#)).

However, section 552.0035 clarifies that access to information held by the judiciary is governed not by the Public Information Act, but by rules adopted by the Texas Supreme Court or other applicable laws and rules. This means that, for court records, the Texas Rules of Civil Procedure—most notably Rule 76a—are the primary authority governing sealing and access ([Tex. Gov't. Code § 552.0035](#)).

Rule 76a of the Texas Rules of Civil Procedure establishes that court records are presumed open to the public and may only be sealed upon a showing of a specific, serious, and substantial interest that clearly outweighs the presumption of openness and any probable adverse effect on public health or safety. The rule requires a written motion to seal, public notice, a public hearing, and a written order stating specific reasons for sealing, all of which must be open to public inspection. Importantly, no court order or opinion issued in the adjudication of a case may be sealed ([Tex. R. Civ. P. 76a](#)).

The Texas Rules of Judicial Administration, particularly Rule 12, further reinforce the principle of public access, specifying that its provisions do not apply where access is controlled by other rules (such as Rule 76a), court orders, or statutes (Tex. R. Jud. Admin. 12.3).

## **Case Law**

Texas appellate courts and the Texas Supreme Court have repeatedly affirmed the constitutional, common-law, and procedural presumption of public access to court records and proceedings. The Texas Supreme Court has described this right as a fundamental element of the rule of law, recognized under the common law, constitutionally guaranteed, and incorporated into procedural rules requiring openness ([Baker v. Bizzle, 687 S.W.3d 285 \(Tex. 2024\)](#); [In re Dolcefino Commc'ns, 14-25-00555-CV \(Tex. App. Aug 28, 2025\)](#)).

Rule 76a's procedural requirements are strictly enforced: sealing may only occur after a public motion, notice, hearing, and a written order with specific findings. Courts have condemned situations where records are sealed or access is restricted without compliance with these procedures, emphasizing that such actions should not occur and that it is the duty of attorneys and judges to prevent them ([In re Cook, 629 S.W.3d 591 \(Tex. App. 2021\)](#); [Rice v. Lewis Energy Grp., No. 04-19-00234-CV \(Tex. App. Oct 28, 2020\)](#); [Clear Channel v. United Services Auto., 195 S.W.3d 129 \(Tex. App. 2006\)](#)).

Exceptions to this presumption are narrow and must be grounded in statute or rule. For example, juvenile and adoption records are confidential by statute, and the expunction statute provides a narrow exception for certain criminal records. Courts lack equitable power to expand confidentiality beyond these statutory bounds ([Ex parte Border, NUMBER 13-17-00113-CV \(Tex. App. May 31, 2018\)](#); [Ex parte F.T.K., NUMBER 13-16-00535-CV \(Tex. App. May 31, 2018\)](#)).

Appellate courts have also made clear that the presumption of openness applies at both trial and appellate levels, and that any restriction on access must be justified and procedurally proper ([In re Meta Platforms, Inc., 06-23-00045-CV \(Tex. App. May 05, 2023\)](#)).

## **Administrative Decisions and Secondary Materials**

Federal and administrative authorities, while not binding, reinforce the strong presumption of public access to judicial records, especially those tied to dispositive motions or orders. Courts must undertake a transparent, case-by-case balancing of public access against any asserted interest in confidentiality, and must articulate reasons for any restriction sufficient for appellate review ([In re Hill, 042215 SEC, 3-16383; Signed, Sealed, Delivered? Fifth Circuit Finds Sealing Of Sensitive Information Requires Far More Than A Protective Order](#)).

Secondary materials highlight that, despite the legal presumption of openness, practical barriers—such as local court discretion, opaque

procedures, or ad hoc restrictions—can undermine actual access, especially when such barriers are imposed without the procedural safeguards required by law ([PUBLIC RECORDS AREN'T PUBLIC: SYSTEMIC BARRIERS TO MEASURING COURT FUNCTIONING & EQUITY](#)).

## Analysis

### Presumption of Openness and Procedural Safeguards

The Texas legal framework is unequivocal: court records are presumed open to the public, and any restriction on access must be justified by a specific, serious, and substantial interest that outweighs this presumption. The process for sealing records is not discretionary or informal; it is governed by strict procedural requirements, including a written motion, public notice, a public hearing, and a written order with specific findings ([Tex. R. Civ. P. 76a](#); [Baker v. Bizzle](#), 687 S.W.3d 285 (Tex. 2024); [Clear Channel v. United Services Auto.](#), 195 S.W.3d 129 (Tex. App. 2006)).

The rationale for these safeguards is to ensure transparency, accountability, and public oversight of the judiciary. The public's ability to monitor judicial proceedings is especially critical in contexts where judicial impartiality is at issue, such as after the filing of a recusal motion. Restricting access at such a juncture, without following the required procedures, not only violates the legal presumption of openness but also undermines public confidence in the fairness and integrity of the judicial process ([In re Meta Platforms, Inc.](#), 06-23-00045-CV (Tex. App. May 05, 2023); [In re Cook](#), 629 S.W.3d 591 (Tex. App. 2021)).

### Statutory and Rule-Based Exceptions

The only recognized exceptions to this presumption are those grounded in statute or rule. Juvenile and adoption records, for example, are confidential by statute, and the expunction statute provides a narrow exception for certain criminal records. In the absence of such statutory confidentiality, or a sealing order entered after compliance with Rule 76a, court records must remain open ([Ex parte Border](#), NUMBER 13-17-00113-CV (Tex. App. May 31, 2018); [Ex parte F.T.K.](#), NUMBER 13-16-00535-CV (Tex. App. May 31, 2018)).

In the scenario described, there are no juvenile or adoption records, and no motion to seal has been filed. Therefore, there is no statutory or procedural basis for restricting access to the court records. The sudden imposition of access restrictions, particularly after the filing of a recusal motion, is not only unsupported by law but also raises the specter of improper motive—namely, shielding judicial actions from public scrutiny at a moment when transparency is most needed.

### Prohibition on Ad Hoc or Unexplained Restrictions

Texas courts have repeatedly condemned the practice of restricting access to court records without compliance with Rule 76a. Sealing or restricting access without a motion, notice, hearing, and a written order with findings is

improper and undermines the public's right of access. Courts and attorneys have an affirmative duty to ensure that such improper restrictions do not occur ([In re Cook](#), 629 S.W.3d 591 (Tex. App. 2021); [Rice v. Lewis Energy Grp.](#), No. 04-19-00234-CV (Tex. App. Oct 28, 2020)).

Even temporary or protective orders limiting access must be grounded in a specific legal basis and must not be used as a substitute for the formal sealing process required by Rule 76a ([Clear Channel v. United Services Auto.](#), 195 S.W.3d 129 (Tex. App. 2006); [Navasota Resources v. First Source Texas](#), 206 S.W.3d 791 (Tex. App. 2006)).

## **Transparency and Public Oversight**

The public's right to access court records is not merely a procedural nicety; it is a fundamental safeguard of the rule of law. Transparency enables the public to monitor the exercise of judicial authority, ensures accountability, and maintains the legitimacy of the judiciary. This is particularly important in cases involving allegations of judicial bias or impropriety, such as those involving recusal motions ([Baker v. Bizzle](#), 687 S.W.3d 285 (Tex. 2024); [In re Dolcefino Commc'ns](#), 14-25-00555-CV (Tex. App. Aug 28, 2025)).

Sudden, unexplained restrictions on access—especially when coinciding with contentious filings—undermine these values and create the appearance, if not the reality, of impropriety. As secondary materials note, even when records are de jure public, de facto barriers imposed by local court discretion or opaque procedures can thwart actual access and accountability ([PUBLIC RECORDS AREN'T PUBLIC: SYSTEMIC BARRIERS TO MEASURING COURT FUNCTIONING & EQUITY](#)).

## **Appellate and Federal Perspectives**

Appellate courts have emphasized that the presumption of openness applies at all levels of the judiciary, and that any restriction on access must be justified, narrowly tailored, and subject to procedural safeguards. Federal authorities, while not binding, reinforce the requirement that courts—not parties—must undertake a transparent, record-specific balancing of interests before restricting access, and must articulate reasons sufficient for appellate review ([In re Hill](#), 042215 SEC, 3-16383; [Signed, Sealed, Delivered? Fifth Circuit Finds Sealing Of Sensitive Information Requires Far More Than A Protective Order](#)).

## **Exceptions and Caveats**

There are limited circumstances in which access to court records may be lawfully restricted without a Rule 76a sealing order. These include records that are confidential by statute (such as juvenile or adoption records), or where another rule or court order—entered for a valid, articulated reason—controls access. However, in the absence of such a basis, and where no sealing motion or order has been entered, restrictions on access are improper.

It is also important to note that not all documents filed with a court are necessarily “court records” within the meaning of Rule 76a. However, orders and opinions issued in the adjudication of a case may never be sealed, and the presumption of openness applies broadly to most filings in civil cases ([Baker v. Bizzle, 687 S.W.3d 285 \(Tex. 2024\)](#); [In re Dolcefino Commc'ns, 14-25-00555-CV](#) (Tex. App. Aug 28, 2025)).

## Conclusion

In sum, the sudden restriction of access to court records in a Texas civil case—especially after the filing of a recusal motion, without a sealing order, and where no statutory confidentiality applies—is deeply problematic for transparency. It contravenes the strong presumption of public access enshrined in Texas law, violates mandatory procedural safeguards, and undermines public confidence in the judiciary. The law requires that any limitation on access be justified, narrowly tailored, and subject to public notice, hearing, and a written order with findings. Bypassing these requirements, particularly in the context of judicial recusal, erodes the legitimacy of the judicial process and impedes the public’s ability to hold the judiciary accountable.

## Legal Authorities

[Dallas Morning News v. Fifth Court of Appeals, 842 S.W.2d 655 \(Tex. 1992\)](#)

### Texas Supreme Court

#### Extract

Under Rule 76a(1), court records 'are presumed to be open to the general public.' Trial exhibits are unquestionably subject to this presumption. In Texas, court records belong to the people, and the people may be denied access to them only when a movant proves: (a) a specific, serious and substantial interest which clearly outweighs: (1) this presumption of openness; (2) any probable adverse effect that the sealing will have upon the general public health or safety; (b) no less restrictive means than sealing records will adequately and effectively protect the specific interest asserted. Tex.R.Civ.P. 76a(1). ... [A]ccess to records in juvenile proceedings are limited by statute. See TEXAS FAMILY CODE § 51.14. In sum, there is nothing in our Constitution, laws, or procedure that gives the press and public unlimited access to trial exhibits." ... "The specific explanation offered by the majority for limiting freedom of information is, however, unpersuasive. ... 'documents filed in an action originally arising under the Family Code' are excluded in Rule 76a(2)(a)(3) from the definition of 'court records' ... but neither are they absolutely 'exempt' from disclosure. Rather, Rule 76a(9) clearly provides that '[a]ccess to documents in court files not defined as court records by this rule remains governed by existing law.' A court may well benefit from looking to Rule 76a procedures and principles in considering even those documents formally excluded from the Rule's definition.

## **Summary**

The case establishes that Texas court records, including trial exhibits, are presumed open. To restrict access, a movant must satisfy Rule 76a's stringent standards and procedures (notice, hearing, findings). Juvenile/adoption records are limited by statute, but otherwise, ad hoc restrictions without a sealing motion contravene the presumption and process. Even Family Code matters are not categorically exempt from disclosure; existing law governs, and courts may still look to 76a principles. Thus, restricting access after a recusal motion, absent a sealing motion or statutory basis, undermines transparency and violates the procedural safeguards intended to protect public access.

[In re The City of Georgetown, 53 S.W.3d 328 \(Tex. 2001\)](#)

### **Texas Supreme Court**

#### **Extract**

Section 552.022 provides that a governmental body must disclose completed reports or evaluations 'unless the category of information is expressly made confidential under other law.' Tex. Gov't Code § 552.022(b). ... (a) ... the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law: (1) a completed report, audit, evaluation, or investigation ... (b) A court in this state may not order a governmental body ... to withhold ... unless the category of information is expressly made confidential under other law. ... We hold that if documents are privileged or confidential under the Texas Rules of Civil Procedure or Texas Rules of Evidence, they are within a 'category of information [that] is expressly made confidential under other law' within the meaning of section 552.022 of the Public Information Act.

## **Summary**

The case establishes that public records must be disclosed unless a specific statute, rule, or evidentiary/procedural privilege expressly makes them confidential. Courts cannot order withholding absent such "other law." By analogy, restricting access to court records without a sealing order or statutory confidentiality conflicts with Texas's transparency framework, which requires a legal basis to withhold.

[In re Meta Platforms, Inc., 06-23-00045-CV \(Tex. App. May 05, 2023\)](#)

### **Texas Court of Appeals**

## **Extract**

we see no reason why the overarching principle of presumed openness should apply at the trial court, but then vanish before an appellate court. To the contrary, these are core constitutional principles... 'these procedures serve our fundamental commitment to open courts, which is rooted in the common law and the First Amendment. The public's right of access to judicial proceedings 'is a fundamental element of the rule of law' because 'monitor[ing] the exercise of judicial authority' helps maintain[] the integrity and legitimacy of an independent Judicial Branch.'

## **Summary**

The passage affirms a presumptive right of public access to court records and proceedings at both trial and appellate levels as a constitutional principle. It indicates that procedures (like Rule 76a sealing mechanisms) implement, rather than override, this presumption. Restricting access without a proper sealing motion, findings, and compliance with procedural safeguards conflicts with these principles, especially where no statutory basis for confidentiality (e.g., juvenile/adoption) exists. Sudden restriction coinciding with recusal motions undermines the public's ability to monitor judicial authority, raising transparency concerns.

[Roane v. Dean, NO. 03-19-00308-CV \(Tex. App. Apr 30, 2020\)](#)

## **Texas Court of Appeals**

### **Extract**

Rule 76a provides the standard for sealing court records and provides that court records 'are presumed to be open to the general public.' Tex. R. Civ. P. 76a(1). 'The party moving for the sealing order then has the burden to rebut the presumption in order to seal the records.' ... Rule 76a also requires that a motion to seal court records 'shall be decided by written order,' and the sealing order shall state 'the specific reasons for finding and concluding whether the showing required by paragraph 1, has been made.' Id. R. 76a(6)." ... "[S]ection 552.3221 ... does not apply to the Complaint in this case that was not filed under the PIA. ... 'Information filed with the court under this section does not constitute "court records" within the meaning of Rule 76a[.]'

## **Summary**

The case reaffirms that Texas court records are presumptively open; sealing requires a motion, notice, hearing, and a written order with specific Rule 76a findings. It also clarifies that the PIA in-camera exception to Rule 76a is narrow and inapplicable outside PIA suits. Thus, restricting access without a Rule 76a-compliant process undermines the presumption of openness and transparency.

[Lindberg v. Callahan, NO. 01-19-00559-CV \(Tex. App. Aug 13, 2020\)](#)

## **Texas Court of Appeals**

### **Extract**

Rule 76a provides additional, stricter procedures for sealing documents that qualify as 'court records.'... The procedures of rule 76a apply only to court records as defined in the rule... Rule 76a states that certain 'court records, as defined in this rule, are presumed to be open to the general public and may be sealed only upon a showing of... a specific, serious and substantial interest...' TEX. R. CIV. P. 76a(1). Relevant here, Rule 76a(2) defines 'court records' as including 'all documents of any nature filed in connection with any matter before any civil court, except'... 'Court records' also include discovery, not filed of record, concerning matters that have a probable adverse effect upon the general public health or safety... Thus, the presumption of openness and the special procedures outlined in Rule 76a apply only to 'court records' as defined in that rule.... Rule 76a(3) sets out notice requirements... the movant 'shall post a public notice'... that 'a hearing will be held in open court on a motion to seal court records'... 'any person may intervene'... Rule 76a(4) provides the requirements for the hearing, including that it be 'open to the public'... Rule 76a(6) provides requirements for an order on a motion to seal court records." "Rule 76a is not the only source of a trial court's authority to seal documents or provide protection to parties during discovery." "We review both protective orders and Rule 76a decisions under an abuse of discretion standard.

### **Summary**

The passage confirms that Texas presumes court records are open and requires strict, public procedures (motion, public notice, open hearing, findings) to seal them under Rule 76a. It also clarifies that not all restricted materials are "court records," and courts may limit access via protective orders without using Rule 76a when the materials aren't "court records." Thus, if filed documents are being hidden without a Rule 76a process, that raises transparency concerns unless the materials fall outside Rule 76a's definition and are properly covered by other authority.

[Saucedo ex rel. I.S. v. El Paso Children's Hosp. Corp., 677 S.W.3d 62 \(Tex. App. 2023\)](#)

## **Texas Court of Appeals**

### **Extract**

First, any ruling removing court files from the public record is appealable under Rule 76a of the Texas Rules of Civil Procedure. See TEX. R. CIV. P. 76a(8) ('Any order (or portion of an order or judgment) relating to sealing or

unsealing court records shall be deemed to be severed from the case and a final judgment which may be appealed by any party or intervenor who participated in the hearing preceding issuance of such order.'). ... The trial court noted in the order that 'it has inherent power to limit the right of public access to the Court's judicial records that contain information the Court has declared to be confidential and privileged.' Moreover, it found that Rule 76a sealing procedures did not apply because the challenged documents were not 'court records' as that term is defined in Rule 76a(2)(a) (2). ... Appellees assert the Exhibits are not court records because they fall under the exception provided by Rule 76a(2)(a)(2), applicable to 'documents in court files to which access is otherwise restricted by law.' ... We conclude the information in the challenged exhibits is restricted by law and, pursuant to the plain language of Rule 76a, they are not court records and not subject to these requirements. ... Accordingly, we conclude the trial court did not abuse its discretion in ordering the record redacted and sealed.

## **Summary**

The case affirms that: (1) sealing orders are appealable under Rule 76a(8); (2) Rule 76a procedures are required for "court records," but not for materials "to which access is otherwise restricted by law" under Rule 76a(2) (a)(2); and (3) courts may rely on inherent authority plus statutory confidentiality to remove/redact items not deemed "court records." Thus, if a Texas court restricts access without a Rule 76a motion/hearing, it is only proper if the items fall within a statutory restriction; otherwise, bypassing 76a undermines transparency, notice, and the public's right of access, and is reversible.

[Navasota Resources v. First Source Texas, 206 S.W.3d 791 \(Tex. App. 2006\)](#)

## **Texas Court of Appeals**

### **Extract**

Such agreements under Texas Rule of Civil Procedure 11 were very common prior to the adoption of Rule of Civil Procedure 76a, which now governs the sealing of trial court records... The rule prohibits private agreements which prevent the disclosure of information and documents absent strict compliance with the rule... '[C]ourt records,' as defined by Rule 76a, 'are presumed to be open to the general public.' ... [and] may be sealed only upon a showing of all of the following: (a) a specific, serious and substantial interest which clearly outweighs: (1) th[e] presumption of openness; (2) any probable adverse effect that sealing will have upon the general public health or safety; (b) no less restrictive means than sealing records will adequately and effectively protect the public interest asserted... Before restricting public access to filed court records, the court must comply with the procedural requirements of the rule, including motion, posted notice, public hearing, and public order... I do not find any indication in the record before us that the trial court employed the special procedures of Rule 76a for sealing court records. The trial court signed an unopposed protective order

limiting disclosure of documents, and made no express findings on whether those documents constituted court records. Therefore, I cannot rely upon compliance with Rule 76a in the trial court to seal the brief or the information that it contains on appeal as well.

## **Summary**

The opinion explains that Texas Rule of Civil Procedure 76a governs sealing court records, imposes a strong presumption of openness, and requires motion, notice, public hearing, and findings. Private agreements or protective orders are not substitutes. Restricting access without a Rule 76a process undermines transparency and is improper. The appellate court will not honor sealing absent proper 76a compliance below.

[In re Dolcefino Commc&#39;ns, 14-25-00555-CV \(Tex. App. Aug 28, 2025\)](#)

## **Texas Court of Appeals**

### **Extract**

Most recently, our state supreme court stated that the public's general right of access to judicial proceedings is a "fundamental element of the rule of law,' is recognized under the common law, constitutionally guaranteed, and incorporated into our procedural rules requiring court proceedings and court records to be open to the public." ... "Any limitations on media access to court records in this divorce proceeding are not governed by rule 76a sealing procedures,[] except that court orders can never be sealed.

Tex.R.Civ.P. 76a(1)." ... "Rule 76a ... allows non-parties to intervene as a matter of right ... to challenge the sealing of 'court records.' ... the special procedures of rule 76a apply only to the sealing of 'court records,' ... and 'documents filed in an action originally arising under the Family Code' are excluded from the definition of 'court records.' ... Access to documents in court files not defined as court records by rule 76a remain 'governed by existing law.'" ... "Court orders and opinions are not included within rule 76a's definition of 'court records' ... and provides 'no court order or opinion issued in the adjudication of a case may be sealed.'

## **Summary**

The passages establish (1) a constitutionally and common-law grounded presumption of public access to judicial proceedings and records; (2) Rule 76a's sealing procedures generally, but their inapplicability to most Family Code filings; (3) even in family matters, court orders and opinions cannot be sealed; and (4) access restrictions without a proper sealing mechanism contradict that presumption. If access began being restricted after a recusal motion without a sealing order, that undermines transparency and likely violates the open-courts principles and the explicit prohibition on sealing orders/opinions.

[Clear Channel v. United Services Auto., 195 S.W.3d 129 \(Tex. App. 2006\)](#)

**Texas Court of Appeals**

**Extract**

Pursuant to Rule 76a, 'court records,' as that term is defined by the rule, 'are presumed to be open to the general public and may be sealed only upon a showing of all of the following'... Before a court record may be sealed, the movant must file a 'written motion, which shall be open to public inspection' and 'post a public notice... stating: that a hearing will be held in open court on a motion to seal court records in the specific case; that any person may intervene and be heard...' ... 'A hearing, open to the public ... shall be held in open court....' ... An order to seal must be 'written,' 'open to the public,' and include 'the specific reasons for finding and concluding whether the showing required by paragraph 1, has been made; the specific portions of court records which are to be sealed; and the time period for which the sealed portions of the court records are to be sealed.' ... 'Any order (or portion of an order or judgment) relating to sealing or unsealing court records shall be deemed to be severed from the case and a final judgment which may be appealed...' Also: "this is precisely the function of Rule 76a's provision for a temporary sealing order—to protect the confidentiality of information until the trial court rules on a pending motion to seal." And: "Any party filing any motion or pleading... designated as Confidential shall file such pleading or motion in a sealed envelope marked 'Temporary Seal.' ... any party wishing to have such motion or pleading sealed must file a motion to seal in accordance with T.R.C.P. 76a... In the event that no such motion to seal is filed... any motion or pleading filed under Temporary Seal... shall be unsealed by the Court as of the date of the hearing of such motion or pleading.

**Summary**

The case explains Texas's strong presumption of openness for court records and the mandatory procedural safeguards: public motion, public notice, public hearing, findings, and a publicly available sealing order. It also explains the limited, affidavit-supported temporary sealing tool pending a 76a hearing, and that absent a timely 76a motion, materials filed under a temporary seal must be unsealed. Thus, restricting access without a 76a motion, notice, hearing, and order contravenes Rule 76a and undermines transparency. If access became restricted after a recusal motion without any 76a process or a lawful basis "otherwise restricted by law," that is problematic and potentially improper.

[In re Srivastava, No. 05-17-00998-CV \(Tex. App. Feb 12, 2018\)](#)

**Texas Court of Appeals**

## **Extract**

Rule 76a was not followed with respect to sealing the court records... In deciding whether or not to seal court records, the trial court must 'balance the public's interest in open court proceedings against an individual litigant's personal or proprietary interest in privacy.'... A trial court abuses its discretion by sealing court records if the record does not show 'a specific, serious and substantial interest which clearly outweighs this presumption of openness...'." "And the child's name and date of birth are considered sensitive data under Rule 21c... The trial court was, therefore, required to redact the child's name and date of birth from documents 'filed with a court' unless the information is required to be included by a statute..."

## **Summary**

The opinion underscores (1) the presumption of open courts; (2) sealing requires Rule 76a procedures and findings, and abuse of discretion occurs without a specific, serious, substantial interest outweighing openness; (3) redaction of sensitive data under Rule 21c is distinct from sealing and limited to filed documents unless a statute requires inclusion. If records are being restricted without a Rule 76a motion, notice, and findings—and absent juvenile/adoption confidentiality—this undermines transparency and likely contravenes Texas rules.

[Houston Chronicle Pub. Co. v. Woods, 949 S.W.2d 492 \(Tex. App. 1997\)](#)

## **Texas Court of Appeals**

### **Extract**

The State argues '[a]lthough not expressly referenced in the State's motion to seal the affidavits, its motion was presumptively governed by Rule 76a[] for the reason that there is no other statute or rule in Texas (either civil or criminal) which governs the sealing of court records.' ... Rule 76a... Other court records, as defined in this rule, are presumed to be open to the general public and may be sealed only upon a showing of all of the following: (a) a specific, serious and substantial interest which clearly outweighs: (1) this presumption of openness; ... (b) no less restrictive means than sealing records will adequately and effectively protect the specific interest asserted. ... 'For purposes of this rule, court records means: (a) all documents of any nature filed in connection with any matter before any civil court...' ... 'Access to documents in court files not defined as court records by this rule remains governed by existing law.' ... 'The legislature directed the supreme court to adopt rules regarding the sealing of "records in a civil case.'"'

## **Summary**

The passage underscores Texas's strong presumption of open court records and that sealing requires: a motion, notice, hearing, specific findings, and proof that no less restrictive alternative will suffice. It also clarifies Rule 76a is for civil records, implying that ad hoc sealing in other contexts must rest on specific statutory authority. Where no juvenile/adoption confidentiality applies and no sealing motion or order with findings exists, restricting access diverges from the presumption of openness and required process, raising transparency concerns—especially if the restriction coincides with recusal litigation, suggesting potential misuse to shield proceedings without meeting Rule 76a-like standards or any criminal-law analogue.

[Baker v. Bizzle, 687 S.W.3d 285 \(Tex. 2024\)](#)

### **Texas Supreme Court**

#### **Extract**

The public generally has a right to access judicial proceedings except for those rare cases in which competing rights or interests outweigh the public's interest. This right, which 'is a fundamental element of the rule of law,' is recognized under the common law, constitutionally guaranteed, and incorporated into our procedural rules requiring court proceedings and court records to be open to the public. In that vein, and particularly germane here, Rule 76a(1) of the Texas Rules of Civil Procedure provides that '[n]o court order or opinion issued in the adjudication of a [civil] case may be sealed.' If the court need not make a writing announcing its adjudication available to the general public, that adjudication would effectively be sealed contrary to the rule. ... Although 'documents filed in an action originally arising under the Family Code' are excluded from the definition of 'court records' for purposes of Rule 76a(1)'s standard for sealing court records, Rule 76a(1) is categorical in prohibiting the sealing of any 'order or opinion issued in the adjudication of a [civil] case.' Discrete exceptions may exist under other law, but no one has argued that the trial court's decision in this case may or must be made privately." "HouseCanary, 622 S.W.3d at 263-64; see Tex. Const. art. I, § 13 ('All courts shall be open[.]')." "see also Tex. R. Jud. Admin. 12 ... (public access to judicial records).

## **Summary**

The Court reaffirms a broad, constitutional and common-law presumption of openness, codified in procedural rules. Rule 76a(1) categorically forbids sealing orders/opinions in civil adjudications, with only discrete exceptions. Hiding orders, opinions, or effectively preventing public access to the adjudication without a proper sealing basis or order contradicts these principles. Texas Rules of Judicial Administration 12 further underscore public access to judicial records. Family Code carve-outs do not apply to sealing orders/opinions, and no juvenile/adoption context exists here.

## [Mascilli v. State](#)

### **Texas Court of Appeals**

#### **Extract**

The State's motion to seal the March 28, 2024 supplemental clerk's record is GRANTED. See Dall. Morning News v. Fifth Court of Appeals, 842 S.W.2d 655, 659 (Tex. 1992) ('Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes.' (quoting Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 598 (1978))). We ORDER the clerk of this court to seal the March 28, 2024 supplemental clerk's record and ensure that it 'shall not be available either on the internet or in other form without court order' from this or a superior court. See Tex. R. App. P. 9.10(g).

#### **Summary**

Texas courts have authority to seal records, but the cited order shows it is exercised via a formal motion, legal basis, and a court order, consistent with Tex. R. App. P. 9.10(g). Dallas Morning News and Nixon recognize supervisory power to restrict access to prevent improper uses, but do not suggest blanket or informal restrictions without motion, findings, or an order. Thus, sealing or restricting access absent a motion, findings, and an order is inconsistent with the procedural framework highlighted by Mascilli and Rule 9.10, raising transparency concerns.

## [Ex parte Border, NUMBER 13-17-00113-CV \(Tex. App. May 31, 2018\)](#)

### **Texas Court of Appeals**

#### **Extract**

It is constitutionally presumed that judicial records are open to the public. See Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597 (1978); Dallas Morning News v. Fifth Court of Appeals, 842 S.W.2d 655, 663 (Tex. 1992). The expunction statute provides a narrow exception to this principle and is intended to eradicate records of wrongful arrests. In re State Bar of Tex., 440 S.W.3d 621, 624 (Tex. 2014) (orig. proceeding). The trial court must strictly comply with the statutory requirements, and neither an appellate court nor the trial court has any equitable power to extend the protections of the expunction statute beyond its stated provisions.

#### **Summary**

The passage establishes a constitutional/common-law presumption that judicial records are open, recognizes only narrow, statutorily defined exceptions (e.g., expunction), and requires strict compliance with statute to

restrict access. It also clarifies courts lack equitable power to expand secrecy beyond statutory bounds. Thus, restricting access absent a juvenile/adoption context or a proper sealing/expunction order contravenes the presumption of openness and exceeds judicial authority.

[In re Cook, 629 S.W.3d 591 \(Tex. App. 2021\)](#)

**Texas Court of Appeals**

**Extract**

The trial court has not issued a rule 76a sealing order in this case. See TEX. R. CIV. P. 76a. Yet these court records remain sealed in the trial court, the court of appeals, and the supreme court. This should not happen, and it is the duty of all attorneys and judges to make sure that it does not happen... In particular, rule 76a provides that 'court records,' as defined by the rule, are 'presumed to be open to the general public' and may only be sealed by showing: (a) a specific, serious and substantial interest which clearly outweighs: this presumption of openness... (b) no less restrictive means than sealing records will adequately and effectively protect the specific interest asserted... Additionally, leaving records unsealed in the trial court for several months may result in waiver of the right to have the appellate record sealed.

**Summary**

Texas Rule of Civil Procedure 76a establishes a strong presumption of public access to court records and requires a formal sealing order with specific findings and the least-restrictive means before records can be sealed. *In re Cook* condemns situations where records are sealed across court levels without a Rule 76a order, stating "this should not happen" and imposing a duty on judges and attorneys to prevent it. Appellate courts may seal to protect jurisdiction in narrow circumstances, but absent a proper Rule 76a order, sealing is improper, and delay or prior unsealed availability can waive sealing. Thus, restricting access without a 76a order—especially triggered after a recusal motion—undercuts transparency, violates the presumption of openness, lacks required findings and process (notice, hearing), and risks improper or retaliatory opacity.

[Ex parte E.T.K., NUMBER 13-16-00535-CV \(Tex. App. May 31, 2018\)](#)

**Texas Court of Appeals**

**Extract**

It is constitutionally presumed that judicial records are open to the public. See *Nixon v. Warner Commc'ns, Inc.*, 435 U.S. 589, 597 (1978); *Dallas Morning News v. Fifth Court of Appeals*, 842 S.W.2d 655, 663 (Tex. 1992).

The expunction statute provides a narrow exception to this principle and is intended to eradicate records of wrongful arrests. *In re State Bar of Tex.*, 440 S.W.3d 621, 624 (Tex. 2014) (orig. proceeding). The trial court must strictly comply with the statutory requirements, and neither an appellate court nor the trial court has any equitable power to extend the protections of the expunction statute beyond its stated provisions.

## **Summary**

The passage affirms a constitutional presumption of openness for judicial records and limits exceptions to those narrowly authorized by statute (e.g., expunction) with strict compliance. It also denies courts equitable authority to expand secrecy beyond statutory bounds. Therefore, restricting access to ordinary case records without a seal order or applicable statute contravenes these principles and undermines transparency.

### [Oryon Techs., Inc. v. Marcus, 429 S.W.3d 762 \(Tex. App. 2014\)](#)

#### **Texas Court of Appeals**

#### **Extract**

There is no paramount right to immediate access to court records. *Dallas Morning News*, 842 S.W.2d 655, 659 (Tex. 1992) ('The dissent is apparently of the view that the press and the public have an absolute right to immediate physical access to all exhibits introduced into evidence and that this right is paramount over all other rights. This is simply not true.'). Indeed, courts must tread cautiously in ordering disclosure of potentially protected documents... 'A properly proven trade secret interest may constitute a specific, serious, and substantial interest, which would justify restricting access to the documents in question.' ... Courts of appeals are authorized to issue orders to protect their jurisdiction over an appeal pursuant to rule 76a of the Texas Rules of Civil Procedure... the Texas Supreme Court has recognized that in cases where access to potentially confidential documents is in question, 'preliminary disclosure would compromise the effectiveness of any later sealing order, possibly even mooted the controversy.' ... Appellants perfected a direct appeal of the Unsealing Order pursuant to rule 76a(8) which provides that final orders sealing or unsealing court records are to be treated as severed and final for appellate purposes... Rule 24.4(c) ... authorizes this court to 'issue any temporary orders necessary to preserve the parties' rights.' ... Although not subject to the expedited time frames governing interlocutory appeals, in most respects an appeal under rule 76a is more directly akin to an interlocutory appeal than an appeal after final judgment.

## **Summary**

The passage clarifies there is not an absolute, paramount right to immediate access to court records, and courts may restrict access when specific, serious interests (e.g., trade secrets) are properly shown. It also explains

procedural mechanisms: sealing/unsealing is governed by Rule 76a, which contemplates final, appealable orders and allows appellate courts to issue temporary protective orders to preserve rights. It emphasizes that premature disclosure can moot a sealing dispute, justifying temporary restrictions. However, the passage does not authorize ad hoc or unexplained restrictions without a Rule 76a process, notice, findings, and an order. Therefore, while access can be limited lawfully, Texas law normally requires compliance with Rule 76a procedures and articulated interests; sudden access restrictions with no sealing motion, no juvenile/adoption basis, and no order are problematic for transparency because they bypass the rule's notice, hearing, findings, and appellate safeguards.

### [Title Source, Inc. v. HouseCanary, Inc.](#)

#### **Texas Court of Appeals**

#### **Extract**

Texas Rule of Civil Procedure 76a provides that court records 'are presumed to be open to the general public' and may be sealed only upon a showing of, *inter alia*, 'a specific, serious and substantial interest which clearly outweighs... this presumption of openness[.]' ... TUTSA, however, requires a trial court to 'preserve the secrecy of an alleged trade secret by reasonable means.' 'There is a presumption in favor of granting protective orders to preserve the secrecy of trade secrets.' ... TUTSA 'does not provide an independent, self-contained pathway for sealing court records' and 'prescribes no procedures for parties or courts to follow in using these means.' As a result, the Texas Supreme Court concluded that TUTSA 'leaves much of Rule 76a in place' and does not displace Rule 76a's procedural requirements. ... Those procedural requirements include, *inter alia*, a showing that 'no less restrictive means than sealing records will adequately and effectively protect the specific interest asserted.' ... [A] motion seeking to seal court records 'shall be decided by written order, open to the public, which shall state... the specific reasons for finding and concluding whether the showing required by [Texas Rule of Civil Procedure 76a(1)] has been made'.

#### **Summary**

The passages establish that (1) court records are presumptively open, (2) sealing requires compliance with Rule 76a's procedural safeguards, including notice, an evidentiary showing, consideration of less restrictive means, and a public written order stating specific reasons, and (3) even when confidentiality interests exist (e.g., trade secrets under TUTSA), Rule 76a's procedural transparency requirements are not displaced. Therefore, restricting access to records without a proper Rule 76a motion, notice, hearing, and a public order with specific reasons is contrary to Texas law and undermines transparency.

[Rice v. Lewis Energy Grp., No. 04-19-00234-CV \(Tex. App. Oct 28, 2020\)](#)

**Texas Court of Appeals**

**Extract**

Rule 76a.1 provides that 'court records, as defined in this rule, are presumed to be open to the general public and may be sealed only upon a showing of 'a specific, serious and substantial interest which clearly outweighs: (1) this presumption of openness; (2) any probable adverse effect that sealing will have upon the general public health or safety;' and 'no less restrictive means than sealing records will adequately and effectively protect the specific interest asserted.' ... 'Court records may be sealed only upon a party's written motion, which shall be open to public inspection.' ... 'A hearing, open to the public, on a motion to seal court records shall be held in open court as soon as practicable, but not less than fourteen days after the motion is filed and notice is posted.' ... Because these requirements of Rules 76a.3 and 76a.4 were not satisfied, the trial court failed to apply the law correctly and it abused its discretion by ordering the permanent sealing of the court records in this case.

**Summary**

Texas Rule 76a presumes openness of court records and permits sealing only via a publicly filed written motion, posted public notice, and a public hearing, with specific findings that no less-restrictive means suffice. Rice holds that failure to follow Rule 76a.3 and 76a.4 (public motion, posted notice, verified filing of notice, and public hearing) is an abuse of discretion and requires reversal of an order sealing records. This is directly applicable where records are being restricted without a sealing motion, notice, or hearing, and where no statutory confidentiality (e.g., juvenile/adoption) applies.

[Tex. Gov't. Code § 552.0035 Tex. Gov't. Code § 552.0035 Access to Information of Judiciary](#)

**Extract**

Access to information collected, assembled, or maintained by or for the judiciary is governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules. This section does not address whether information is considered to be information collected, assembled, or maintained by or for the judiciary.

**Summary**

Section 552.0035 clarifies that access to judiciary records is not governed by Texas's Public Information Act but instead by the Texas Supreme Court's rules or other applicable laws. Therefore, transparency disputes about court

records (e.g., sudden restrictions without a sealing order) must be evaluated against judiciary-specific rules (like the Texas Rules of Civil Procedure, Texas Rules of Appellate Procedure, and the Texas Supreme Court's Rules for Judicial Administration, including Rule 12 on Public Access to Judicial Records), rather than general PIA provisions. The passage does not itself set standards for sealing or access; it points to the governing framework that would control whether restricting access without a seal order is permissible.

[Tex. Gov't. Code § 552.022 Tex. Gov't. Code § 552.022 Categories of Public Information; Examples](#)

## **Extract**

the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law: ... information that is also contained in a public court record; ... (b) A court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) or to not produce the category of public information for inspection or duplication, unless the category of information is confidential under this chapter or other law.

## **Summary**

- § 552.022(a) declares categories of information—including “information that is also contained in a public court record”—as public and not excepted from disclosure unless another law makes them confidential. - § 552.022(b) restricts courts from ordering withholding of those categories absent specific confidentiality under Chapter 552 or other law. - If the case has no juvenile/adoption records and no seal order or confidentiality statute applies, restricting access to filings/docket materials undermines Texas’s Public Information Act presumption of openness and the statute’s specific protection for court-record information. - This supports the argument that sudden access restrictions after a recusal motion, without a sealing order or applicable confidentiality law, are problematic for transparency and may be legally improper.

[PUBLIC RECORDS AREN'T PUBLIC: SYSTEMIC BARRIERS TO MEASURING COURT FUNCTIONING & EQUITY.](#)

**Journal of Criminal Law and Criminology - Northwestern University, School of Law - Albrecht, Kat - 2023-01-01**

## **Extract**

These legal protections for public access to criminal court data are staunchly juxtaposed with the realities of public data access... we define de jure public data as data that is legally public... Despite court records being

de jure public, the current structure places the onus almost entirely on the requestor... individuals who seek court records [must] have specialized knowledge... sufficient financial resources... and follow whatever local procedure the court deems necessary... Individuals have theoretical legal access to these records, but substantial practical barriers prevent actual access." ... "We found this variation significant... what we identified are procedural variations in what should be a legally identical process across jurisdictions... Having such widely varying processes makes accessing records in certain jurisdictions virtually impossible, while the same record can be much more easily obtained in [others].

## **Summary**

The article explains that, although court records are legally public (de jure), local court discretion and procedures can impose de facto barriers—costs, specialized knowledge, and opaque or varying processes—that thwart practical access. Sudden restriction of access without a sealing order exemplifies a de facto barrier and undermines the public right of access and accountability, particularly when driven by local court discretion after contentious filings (e.g., recusal motions).

### THE LOGIC OF EXPERIENCE: THE ROLE OF HISTORY IN RECOGNIZING PUBLIC RIGHTS OF ACCESS UNDER THE FIRST AMENDMENT.

**University of Pennsylvania Law Review - University of Pennsylvania, Law School - Poliak, Shira - 2019-05-01**

## **Extract**

In various cases, journalists have sought access to records from grand jury proceedings and search warrants; circuit courts have repeatedly held that there is no First Amendment right of access to these records because the proceedings are historically and presumptively secret. (82) ... In some situations, courts have found that there is no longstanding tradition of access, and accordingly denied a right of access, because the proceedings, documents, or laws at issue were of recent creation. ... The court found that there was no long tradition of access to orders required by the law because the law was only enacted in 1986. ... In addition to a First Amendment right of access, the Supreme Court has also recognized a common law public right of access to inspect and copy judicial records and documents. See Nixon v. Warner Comm'ns, Inc., 435 U.S. 589, 597 (1978) ('It is clear that the courts ... recognize a general right to inspect and copy public records...'). ... (recognizing a First Amendment right of access to search warrant applications and receipts because they are routinely filed with the clerk of the court without seal, and because judicial records and documents have historically been open to public inspection).

## **Summary**

The passages outline: (1) the First Amendment “experience and logic” test—access attaches where there is a historical tradition of openness and where openness enhances process; (2) categories historically presumptively sealed (e.g., grand jury) lack a First Amendment access right; (3) the Supreme Court recognizes an independent common-law right to access judicial records (Nixon); and (4) courts look to routine filing without seal as evidence of historical openness. Applied here, if your case records were historically open, are not within a traditionally secret category (juvenile/adoption/grand jury), and no sealing order with findings issued, sudden post-recusal restrictions undermine both the First Amendment logic prong (openness promotes fairness, especially where judicial impartiality is challenged) and the common-law presumption of access absent on-the-record findings.

### Protecting Confidential Information

#### **Litigation - American Bar Association - Mark Klapow, Raija Horstman, Laura Schwartz, and Josh Rychlinski - 2022-04-01**

### **Extract**

Information transmitted to the court of appeals is presumptively public. . . . Even nonparties, including the media, may intervene on behalf of the public to oppose motions to seal. . . . The working presumption is that judicial records should not be sealed. . . . [T]he principle behind open access to court records is so the public can understand the basis for judicial decisions, not so the public or specific competitors can root around in a party’s files.

## **Summary**

The cited article quotes the Fifth Circuit’s broad presumption against sealing judicial records and underscores that appellate court filings are presumptively public and that nonparties can challenge sealing. This supports the argument that hiding entries/records without a seal order contradicts the presumption of openness because the public must be able to understand the basis for judicial decisions. While not Texas-specific, the Fifth Circuit’s pronouncement is binding precedent in federal courts within Texas and persuasive authority on transparency principles mirrored in Texas law.

### In re Hill, 042215 SEC, 3-16383

### **Securities and Exchange Commission Decisions**

## **Extract**

The basic principles are not contested. '[T]he courts of this country recognize a general right to inspect and copy public records and documents, including judicial records and documents.' Nixon v. Warner Commc'ns, Inc., 435 U.S. 589, 597. Judicial records are thus 'strong[ly]' presumed to be accessible by the general public. EEOC v. Nat'l Children's Ctr., Inc., 98 F.3d 1406, 1409 (D.C. Cir. 1996); Anderson v. Cryovac, Inc., 805 F.2d 1, 13 (1st Cir. 1986). This presumption of access applies to matters raised in a dispositive motion. Chi. Tribune Co. v. Bridgestone/Firestone, Inc., 263 F.3d 1304, 1312-13 (11th Cir. 2001).

## **Summary**

The passage affirms a strong common-law presumption of public access to judicial records, including materials tied to dispositive motions. Even though it is from an SEC administrative decision, it relies on U.S. Supreme Court and federal appellate authority articulating generally applicable transparency principles. In Texas, these principles align with Texas Rules of Civil Procedure and Texas Rules of Judicial Administration that require a sealing motion, findings, and an order to restrict access. Thus, restricting access without a seal order, especially after recusal motions and concerning orders, runs counter to the presumption and undermines transparency.

## [Signed, Sealed, Delivered? Fifth Circuit Finds Sealing Of Sensitive Information Requires Far More Than A Protective Order](#)

## **Extract**

[L]itigants sometimes have good reasons to file documents (or portions of them) under seal, such as protecting trade secrets or the identities of confidential informants. But most litigants have no incentive to protect the public's right of access. That's why judges, not litigants must undertake a case-by-case, document-by-document, line-by-line balancing of the public's common law right of access against the interests favoring nondisclosure. Sealings must be explained at a level of detail that will allow for this Court's review. And a court abuses its discretion if it makes no mention of the presumption in favor of the public's access to judicial records and fails to articulate any reasons that would support sealing. Le, 990 F.3d at 419 (citations and quotations omitted) (emphasis added).

## **Summary**

The passage states courts—not parties—must do a transparent, record-specific balancing before restricting access; they must acknowledge the presumption of public access and articulate reasons sufficient for review. Unexplained or party-driven sealing (or equivalent access restrictions) risks abuse of discretion. If access was unrestricted until a recusal motion and

then restricted without a seal motion or reasoned order, that contravenes the required presumption and explanation, undermining transparency.

### [Rule 76a. Sealing Court Records](#)

#### **Extract**

Court records may not be removed from court files except as permitted by statute or rule. No court order or opinion issued in the adjudication of a case may be sealed. Other court records, as defined in this rule, are presumed to be open to the general public and may be sealed only upon a showing of all of the following: (a) a specific, serious and substantial interest which clearly outweighs: this presumption of openness; any probable adverse effect that sealing will have upon the general public health or safety; (b) no less restrictive means than sealing records will adequately and effectively protect the specific interest asserted." "Court records may be sealed only upon a party's written motion, which shall be open to public inspection. The movant shall post a public notice... stating: that a hearing will be held in open court on a motion to seal court records in the specific case; that any person may intervene and be heard concerning the sealing of court records; the specific time and place of the hearing; the style and number of the case; a brief but specific description of both the nature of the case and the records which are sought to be sealed; and the identity of the movant. Immediately after posting such notice, the movant shall file a verified copy of the posted notice with the clerk of the court in which the case is pending and with the Clerk of the Supreme Court of Texas." "A hearing, open to the public, on a motion to seal court records shall be held in open court..." "A motion relating to sealing or unsealing court records shall be decided by written order, open to the public, which shall state... the specific reasons... the specific portions... and the time period..." "Any order (or portion of an order or judgment) relating to sealing or unsealing court records shall be deemed to be severed from the case and a final judgment which may be appealed by any party or intervenor who participated in the hearing preceding issuance of such order.

#### **Summary**

Rule 76a creates a strong presumption of openness for court records and requires transparent process: a written, publicly accessible motion to seal; public posting of notice; a public hearing; and a public written order with specific findings and scope. It also forbids sealing orders or opinions themselves. If access is being restricted without a motion, notice, hearing, and findings, or if orders are hidden, that contravenes Rule 76a's transparency framework. The timing—restriction beginning after a recusal motion—heightens concern because Rule 76a prohibits ad hoc or silent sealing and requires less-restrictive alternatives and appealability.

### [Rule 12.3. Applicability](#)

## **Extract**

This rule does not apply to: (a) records or information to which access is controlled by: a state or federal court rule, including: (A) a rule of civil or criminal procedure, including Rule 76a, Texas Rules of Civil Procedure; (B) a rule of appellate procedure; (C) a rule of evidence; (D) a rule of administration; a state or federal court order not issued merely to thwart the purpose of this rule; the Code of Judicial Conduct; Chapter 552, Government Code, or another statute or provision of law; (b) records or information to which Chapter 552, Government Code, is made inapplicable by statute, rule, or other provision of law, other than Section 552.003(B); (c) records or information relating to an arrest or search warrant or a supporting affidavit, access to which is controlled by: a state or federal court rule, including a rule of civil or criminal procedure, appellate procedure, or evidence; or

## **Summary**

Rule 12's public-access provisions do not apply if access to the records is controlled by other governing authorities (procedural rules such as TRCP 76a for sealing, appellate rules, evidence rules, administrative rules), a valid court order, the Code of Judicial Conduct, or statutes (including the Public Information Act and any statute making it inapplicable). Thus, if access is being restricted, transparency requires that the restriction be grounded in one of these authorities (e.g., a Rule 76a sealing order or a specific statute). Absent a juvenile/adoption basis or a sealing order, restricting access after a recusal motion raises a transparency concern because it suggests access is being limited outside the recognized mechanisms identified in Rule 12.3.

This memo was compiled by Vincent AI based on vLex materials available as of December 13, 2025. [View full answer on vLex](#)