

IN THE COURT OF CRIMINAL APPEALS OF TEXAS

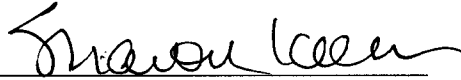
Misc. Docket No. 15-005

ORDER ADOPTING AMENDMENTS TO TEXAS RULE OF APPELLATE PROCEDURE 9.10


ORDERED that:

1. Pursuant to section 22.108 of the Texas Government Code, the Court of Criminal Appeals amends Rule of Appellate Procedure 9.10, effective November 1, 2015.
2. The Clerk is directed to:
 - a. file a copy of this order with the Secretary of State;
 - b. cause a copy of this order to be mailed to each registered member of the State Bar of Texas by publication in the *Texas Bar Journal*;
 - c. send a copy of this order to each elected member of the Legislature; and
 - d. submit a copy of the order for publication in the *Texas Register*.

Dated: October 5, 2015.



Sharon Keller, Presiding Judge



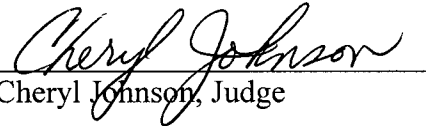
Elsa Alcala, Judge



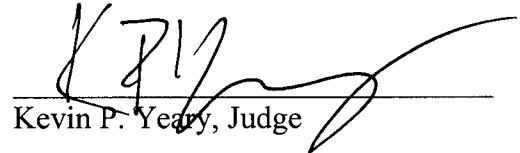
Lawrence E. Meyers, Judge



Bert Richardson, Judge



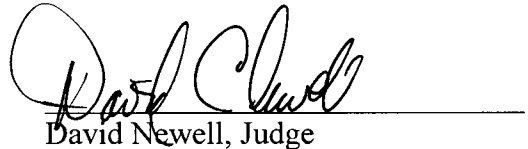
Cheryl Johnson, Judge



Kevin P. Yeary, Judge



Michael Keasler, Judge



David Newell, Judge



Barbara Hervey, Judge

TX Rules App. Proc., Rule 9.10

9.10. Privacy Protection for Documents Filed in Criminal Cases

(a) *Sensitive Data Defined.* Sensitive data consists of:

- (1) a driver's license number, passport number, social security number, tax identification number or similar government-issued personal identification number;
- (2) bank account number, credit card number, and other financial account number;
- (3) a birth date, a home address, and the name of any person who was a minor at the time the offense was committed.

(b) *Redacted Filings.* Unless a court orders otherwise, an electronic or paper filing with the court, including the contents of any appendices, must not contain sensitive data.

(c) *Exemptions from the Redaction Requirement.* The redaction requirement does not apply to the following:

- (1) A court filing that is related to a criminal matter or investigation and that is prepared before the filing of a criminal charge or is not filed as part of any docketed criminal case;
- (2) An arrest or search warrant;
- (3) A charging document and an affidavit filed in support of any charging document;
- (4) A defendant's date of birth;
- (5) A defendant's address; and
- (6) Any government issued number intended to identify the defendant associated with a criminal filing, except for the defendant's social security number or driver's license number.

(d) *Redaction procedures.* Sensitive data must be redacted by using the letter "X" in place of each omitted digit or character or by removing the sensitive data in a manner indicating that the data has been redacted. The filer must retain an unredacted version of the filed document during the pendency of the appeal and any related proceedings filed within three years of the date the judgment is signed. If a district court clerk or appellate court clerk discovers unredacted sensitive data in the record, the clerk shall notify the parties and seek a ruling from the court.

(e) *Certification.* The filing of a document constitutes a certification by the filer that the document complies with paragraphs (a) and (b) of this rule.

(f) *Reference List*. If a filer believes any information described in paragraph (a) of this rule is essential to a document or that the document would be confusing without the information, the filer may submit the information to the court in a reference list that is in paper form and under seal. The reference list must specify an appropriate identifier that corresponds uniquely to each item listed. Any reference in the document to a listed identifier will be construed to refer to the corresponding item of information. If the filer provides a reference list pursuant to this rule, the front page of the document containing the redacted information must indicate that the reference list has been, or will be, provided. On its own initiative, the court may order a sealed reference list in any case.

(g) *Sealed materials*. Materials that are required by statute to be sealed, redacted, or kept confidential, such as the items set out in Articles 35.29 (Personal Information About Jurors), 38.45 (Evidence Depicting or Describing Abuse of or Sexual Conduct by Child or Minor), and 42.12, § 9(j), must be treated in accordance with the pertinent statutes and shall not be publicly available on the internet. A court may also order that a document be filed under seal in paper form or electronic form, without redaction. The court may later unseal the document or order the filer to provide a redacted version of the document for the public record. If a court orders material sealed, whether it be sensitive data or other materials, the court's sealing order must be affixed to the outside of the sealed container if the sealed material is filed in paper form, or be the first document that appears if filed in electronic form. Sealed portions of the clerk's and reporter's records should be clearly marked and separated from unsealed portions and tendered as separate records, whether in paper form or electronic form. Sealed material shall not be available either on the internet or in other form without court order.

(h) *Waiver of Protection of Identifiers*. A person waives the protection of this rule as to a person's own information by filing it without redaction and not under seal.