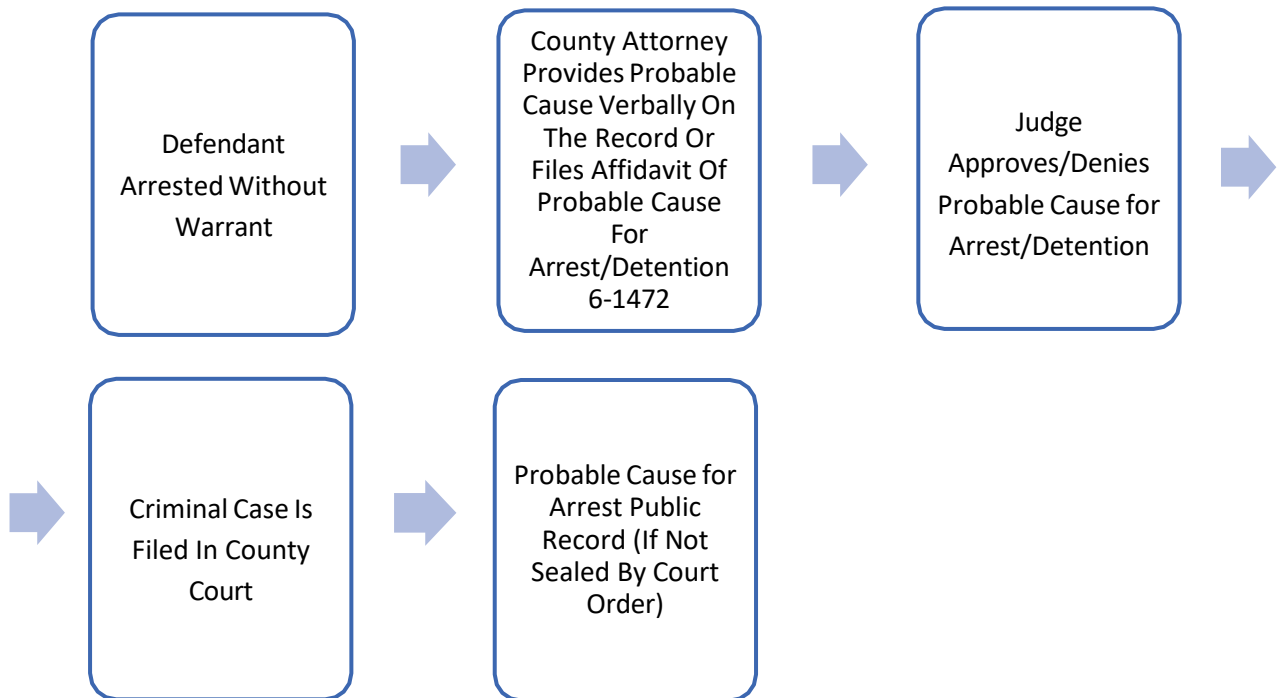


# Evidence Flowchart for News Reporters (Criminal Case Procedures)

Based upon:

- Court Process/Court Rules
- Public Records Act
- Common Law and First Amendment Right of Access

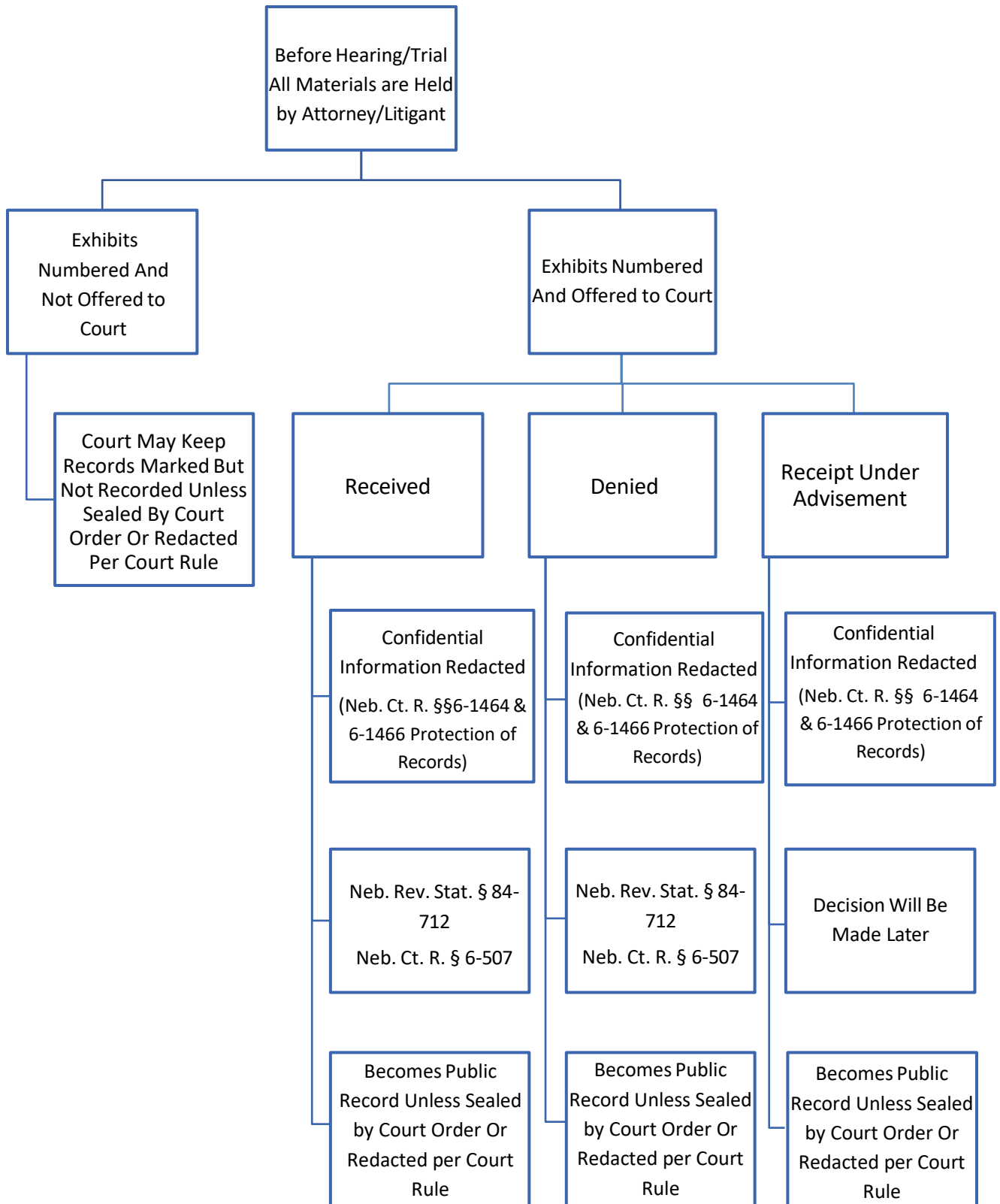
Probable Cause for Arrest:



Search Warrant:



Exhibits Process



## Custodian of the Record (including exhibits)

- Court reporting personnel are the custodians of the record. Neb. Ct. R. § 1-210(B).

## Pre-trial vs. trial exhibits

- Criminal cases: Pre-trial exhibits are only released with permission of the Judge. (Motions to suppress, etc.)

## Time and manner of access

- Courts can fix reasonable rules for the time, place, and manner of public access to judicial records, including reasonable rules about making copies.

## Viewing and Photographing of Exhibits

- Exhibits shown in open court may be photographed or recorded by credentialed media present in the courtroom. Evidence offered in open court is considered sufficient public access and no further access to exhibit may be offered.

## Nebraska Public Records Act

- The public records act applies to exhibits: Any records “of or belonging to” any branch of government.

## Additional Rules and Considerations

1. Court may seal all or part of an exhibit under Neb. Rev. Stat. 84-712.05. Court has inherent power to control records. Court may seal or limit access as a matter of discretion.
2. Video evidence shown in open court may not be on a type of media that allows the court to copy for the press or public. In this case Press may ask submitting party for a copy or view at a later time. (e.g., Police, County Attorney)
3. Nebraska Supreme Court recognized a “general right to inspect and copy public records and documents, including judicial records and documents.” (*Nixon v. Warner Communications, Inc.*, 435 U.S. 589 (1978)).
4. Release of records is entrusted to court’s discretion.

### Rules:

§ 1-801 to § 1-810. Neb. Ct. R. Public access to electronic court records and information

§ 1-804. Neb. Ct. R. Information in an “electronic court records” is generally accessible by the public.

§ 1-808. Neb. Ct. R. The following in a “court record” cannot be accessed by the public:

- Any records not accessible to the public under statute, court rule, or case law, including:
  - Information exempted by the public records act.
  - “Court records sealed pursuant to statute or by court order.”
- Recognizes the power of courts to prevent the public from accessing sealed records.

§ 2-210. Neb. Ct. R. Protected information; redacted documents; and documents filed under seal

§ 2-215. Neb. Ct. R. Records; public view

§ 6-506. Neb. Ct. R. Sealing of exhibits

§ 6-507. Neb. Ct. R. Public review of exhibits

§ 6-1801. Access to Neb. Rev. Stat. §27-1301 child pornography evidence

### Statutes:

§ 27-1301 Neb. Rev. Stat. Evidence of visual depiction of sexually explicit conduct; restrictions on care, custody, and control; Supreme Court; duties.

§ 84-712.05. Neb. Rev. Stat. Records which may be withheld from the public; enumerate