



## Notice to the Profession and Public Policy for Public Access to the Court Record

April 25, 2022

The open court principle is a hallmark of any democratic society. Public access to court proceedings fosters many fundamental values including public confidence in the judicial system, understanding of the administration of justice and judicial accountability.

The open court principle is inextricably linked to the freedom of expression and freedom of the press as protected by s. 2(b) of the *Canadian Charter of Rights and Freedoms*. Included within the open court principle is the public's right to access court records.

The Court of Appeal of Alberta will adopt the attached [Policy for Public Access to the Court Record](#) on May 2, 2022. Highlights of the policy include the following:

1. Members of the public have a presumptive right to access the entire court record unless access to it is prohibited by a provincial or federal enactment or by court order.
2. Members of the public are entitled to know that a case file exists, but public access to the case file is restricted to the court record.
3. Members of the public are required to attend at a Registry counter in person to make a search request.
4. If access to a court record is not prohibited by an enactment or court order, members of the public may request access to it by completing the [Civil Search Request Form](#) or [Criminal Request Form](#) and submitting it in person to the applicable Registry.
5. If access to a court record is prohibited by an enactment or court order, members of the public may request access to it on application to a judge of the Court.
6. Members of the public may request access to Extracts of Key Evidence or a case file by completing the attached [Access Request Form: Extracts of Key Evidence or Case File](#) and submitting it in person to the applicable Registry.
7. All search requests must be accompanied by an executed [Terms and Conditions of Access to the Court Record or Case File](#) in the attached form.

8. Questions about the Policy for Public Access to the Court Record can be directed by email to the Court's Case Management Officer, Bobbi Jo McDevitt, at [bobbi.mcdevitt@albertacourts.ca](mailto:bobbi.mcdevitt@albertacourts.ca).

A handwritten signature in black ink, appearing to read "C.A. Fraser". The signature is written in a cursive style with a large initial "C".

Catherine A. Fraser  
Chief Justice of Alberta



## Policy for Public Access to the Court Record

### A. Guiding Principles

This Policy is guided by the following principles:

1. The open court principle is a hallmark of any democratic society. Public access to court proceedings fosters many fundamental values including public confidence in the judicial system, understanding of the administration of justice and judicial accountability.
2. The open court principle is inextricably linked to the freedom of expression and freedom of the press as protected by s. 2(b) of the *Canadian Charter of Rights and Freedoms*.
3. Included within the open court principle is the public's right to access court records.
4. Every court has a supervisory power over its own records. Thus, policies about access to court records are subject to judicial direction.
5. Individuals directly involved in judicial proceedings have important privacy interests. Third parties whose personal information is included in the court record may also have important privacy interests in certain circumstances. Court filings often include highly sensitive information including financial and medical records and other personal information about parties and non-parties.
6. The burden of displacing the general rule of court openness lies on the party seeking to restrict access.
7. Access to court records may be restricted when it is necessary to address serious risks to individual privacy and security rights or other important rights such as the proper administration of justice where reasonable alternative measures to prevent the risk do not exist and when the benefits of the restriction outweigh the negative effect on the open court principle.
8. Where restrictions on access are necessary, such restrictions should impair the presumptive right of access as minimally as possible.
9. Access to the court record shall be administered by the Court in a way that respects and balances both the public's right to an open court and an individual's privacy interests.

## B. Scope

This Policy is restricted to public access to the court record. It does not address publication bans or access to courtrooms. Those topics are addressed in the [Alberta Courts Public and Media Access Guide](#).

This Policy also does not address the use of cameras or electronic recording devices in courtrooms nor access to transcripts of proceedings before the Court of Appeal. Those topics are addressed in the following policies:

- [Policy on the Use of Electronic Devices in Courtrooms](#)
- [Policy on Access to Transcripts of Oral Proceedings](#)

To the extent that the provisions addressing access to the court record in the [Alberta Courts Public and Media Access Guide](#) differ from this Policy, the provisions in this Policy take precedence.

## C. Definitions

In this policy:

- (a) “**access**” means the ability to request, view or obtain a copy of a court record;
- (b) “**appeal summary**” includes information about an appeal including:
  - (i) any publication ban or access restriction applicable to the appeal;
  - (ii) the type of appeal;
  - (iii) the appeal number;
  - (iv) the names of each party and where a party has a lawyer, the name of that lawyer;
  - (v) where applicable, the trial court file number, the name of the judge whose decision is being appealed and the date of that decision;
  - (vi) the date, type and result of each hearing for the appeal and the names of the judges who are assigned to that hearing;
  - (vii) a list of each document in the case file, the date the document was filed or prepared and where a document was filed by a party, the name of the party who filed it; and
  - (viii) where available, any neutral citation to judgments or decisions.
- (c) “**case file**” means the court record and any document that is exchanged between the parties and the Registrar or Case Management Officer in connection with an appeal;
- (d) “**Court**” means the Court of Appeal of Alberta;

- (e) “court record” means
- (i) the appeal summary;
  - (ii) documents filed by a party for the purpose of obtaining a judicial decision;
  - (iii) documents created by the Registrar or Case Management Officer that communicate a judicial decision;
  - (iv) the clerk’s notes;
  - (v) the written orders and judgments of the Court; and
  - (vi) an administrative direction made by a Case Management Officer that is communicated to the parties; and
- (f) “**Extracts of Key Evidence**” means Extracts of Key Evidence that are filed in accordance with rule 14.27 and rule 16.19 of the [Alberta Rules of Court](#).

## **D. Presumptive Right of Access**

Members of the public have a presumptive right to access the entire court record unless access to it is prohibited by a provincial or federal enactment or by court order.

For specific examples of when access may be restricted because of an enactment or court order, see the [Alberta Courts Public and Media Access Guide](#).

Members of the public are entitled to know that a case file exists, but subject to Part E of this Policy, public access to the case file is restricted to the court record.

## **Extracts of Key Evidence**

Extracts of Key Evidence include exhibits that were entered in the court appealed from. Exhibits are documents or objects provided as evidence in court. Unlike records produced by the Court or pleadings and affidavits filed by parties, exhibits are the property of parties or non-parties, but the Court maintains supervision over them. When considering a request for access to an exhibit, the Court weighs factors including the effect that access would have on privacy or security interests.

## **E. Requesting Access**

Members of the public are required to attend at a Registry counter in person to make a search request.

## **To a court record where access is not prohibited by an enactment or court order**

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Where access to a court record is not prohibited by an enactment or court order, members of the public may request access to it by completing the [Civil Search Request Form](#) or [Criminal Search Request Form](#) and the [Terms and Conditions of Access to the Court Record or Case File](#) and submitting them to the applicable Registry:

Calgary Registry – [Calgary.Registry@albertacourts.ca](mailto:Calgary.Registry@albertacourts.ca) or fax to: 403-297-5294

Edmonton Registry – [Edmonton.Registry@albertacourts.ca](mailto:Edmonton.Registry@albertacourts.ca) or fax to: 780-422-4127

Searches may be requested by name or by appeal number. The prescribed [search fees](#) must be paid for each request. Searches must be made at a Registry counter in person.

Registry staff may refer a search request to the [Case Management Officer](#) for processing.

Access requests will be processed in a timely manner. Best efforts will be made to provide a response within five business days.

## **To a court record where access is prohibited by an enactment or court order**

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Where access to a court record is prohibited by an enactment or court order, members of the public may request access to it on application to a judge of the Court.

## **To Extracts of Key Evidence or a case file**

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Members of the public may request access to Extracts of Key Evidence or a case file by completing the [Access Request Form: Extracts of Key Evidence or Case File](#) and submitting it to the applicable Registry:

Calgary Registry – [Calgary.Registry@albertacourts.ca](mailto:Calgary.Registry@albertacourts.ca) or fax to: 403-297-5294

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The prescribed [search fees](#) must be paid. Searches must be made at a Registry counter in person.

Registry staff will refer the search request to the [Case Management Officer](#) for processing.

Access requests will be processed in a timely manner. Best efforts will be made to provide a response within five business days.

## **F. Conditions of Access**

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Members of the public are required to attend at a Registry counter in person to make a search request.

Any member of the public who requests access to a court record or case file under this Policy, whether by completing a Search Request Form or an [Access Request Form: Extracts of Key Evidence or Case File](#), must complete the [Terms and Conditions of Access to the Court Record or Case File](#).

## **G. Policy Review**

The Court shall regularly review this policy to ensure that it is maintained and further developed as required.



## Terms and Conditions of Access to the Court Record or Case File

Public access to the court record is governed by the [Policy for Public Access to the Court Record](#). Public access to the case file is restricted to the court record unless a Case Management Officer or judge of the Court grants access. Public access to the court record or case file will not be considered or granted unless these Terms and Conditions are acknowledged.

### Name of Requestor:

1. I am a:

- Member of the Law Society of Alberta       Member of the public
- Member of [Accredited Media](#)<sup>1</sup>       Member of media, non-accredited
- Other (*specify*):

2. **Anyone requesting access to a court record or case file on behalf of an organization must read and complete this section:**

I am a representative of \_\_\_\_\_ (*name of organization*)

and I acknowledge that:

- a) I am authorized to sign these terms and conditions on behalf of the organization listed above.
- b) I understand that these terms and conditions are binding upon me personally and upon that organization.

3. **All parts of this section must be read:**

- a) Any person who obtains access and uses the information obtained from a court record or case file must ensure he or she is aware of and complies with any order a court has

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<sup>1</sup> Accredited media are those individuals whose [Application and Undertaking](#) have been accepted by the Court and whose name appears on the [Media Undertakings List](#).

made that impacts the court record or case file or any other legal restrictions that limit publication of the court record, case file or proceedings in the appeal. For example, the person accessing a court record or case file is responsible for determining whether a publication ban exists.

- b) Inappropriate use of the court record or case file could constitute contempt of court or lead to a charge under the *Criminal Code*.
- c) Search results produced are not guaranteed to relate to the person named in the search. Connecting the identity of court proceedings to persons in the community is the legal responsibility of the person seeking and using the information.
- d) Appeal factums are prepared by or on behalf of the parties to proceedings. Those requesting factums filed in the Court of Appeal should contact the author directly to obtain information concerning potential copyright ownership and restrictions on reproduction. Contact information for the parties of record appears on the front cover of each factum.

**I confirm that I have read the terms and conditions set out above and that I assume full legal responsibility for any subsequent use of information that I receive from the court record or case file.**

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Signature

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Date



## COURT OF APPEAL OF ALBERTA

### Access Request Form: Extracts of Key Evidence or Case File

Name of Requestor:

Phone Number:

Email Address:

Complete the following section if you are requesting Extracts of Key Evidence:

#### Extracts Requested

- Appellant
- Respondent
- Intervenor
- Other (*specify*):

#### Portion Requested

- Whole
- Portion (*specify parts*):

Complete the following section if you are requesting a case file:

**Specific documents requested** (*Provide a list of the documents in the case file that you are requesting.*)

Complete the following sections for all requests (Extracts of Key Evidence or case file):

**Purpose** (*Provide a brief explanation of the purpose of your request.*)

**Privacy Concerns** (*State any concerns that you might have concerning the potential impact on the privacy of those whose information may be within the records you seek.*)

**Privacy Mitigation** (*If you have identified any concerns under #4, explain how you would mitigate the risk to any potential violation of privacy.*)