

# Court Information Access Guide for Alberta

Court of Appeal • Court of King's Bench • Court of Justice

## About this Guide

This Guide applies to civil, family (including child protection), traffic and provincial offences, youth and adult criminal proceedings in the Alberta Court of Justice, the Court of King's Bench of Alberta, and the Court of Appeal of Alberta. In this Guide, "the Courts" or "the Court" refers to one or all of these Courts. The Court of King's Bench is also referred to in short form as the "King's Bench." The Alberta Court of Justice is also referred to in short form as the "Court of Justice."

The Guide covers access to court proceedings, information, documents and exhibits by members of the public, including the media. It also covers restrictions on access to or publication of court information. The Guide is intended to be a practical resource and is not intended to be a substitute for legal advice or a review of the relevant legal authorities.

The Guide has been approved by the Courts for public use, including by the media. The Guide also acts as an internal resource for court staff. All references to JOIN or CASES are intended for internal use only.

Access to the court record in the Court of Appeal is governed by the [Policy for Public Access to the Court Record](#). To the extent that the provisions and definitions in this Guide differ from the Policy, the provisions and definitions in the Policy take precedence.

Links in the Guide (in [blue text](#)) lead to glossary definitions, to other locations in the text or to online resources, including resources on the [albertacourts.ca](#) website and statutes as published on [CanLII.org](#).

**Chapter 1** describes basic principles and general access procedures.

**Chapter 2** "About Restrictions on Access or Publication," describes the basic types of restrictions on access or publication and the related procedures for court staff.

**Chapters 3 through 7** describe restrictions on access or publication that affect court records in the various types of cases: *civil, family, provincial offences, youth and criminal*.

**Chapter 8** addresses access to [exhibits](#) in each type of case.

**Chapter 9** addresses public fatality inquiries.

The [Glossary](#) provides the authoritative definition of terms used in the Guide.

## How to navigate in the Guide on-screen:

The Guide is most conveniently accessed online, rather than in print. There are several options for using the Guide, beyond reading the text consecutively:

1. **Ctrl-mouse click** to follow links.
2. **Find or Ctrl-F** to search for particular terms.

3. Click in the **bookmarks pane** on the left to navigate via the outline.
4. Use **Alt-Arrow key** to jump back to the previous view after following a hyperlink to another location in the document.

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## 1. General Principles and Procedures

Generally, [court information](#) and [court proceedings](#) are open to the [public](#) and the [media](#). This is a fundamental principle of our legal system. This Guide's purpose is to describe the *exceptions to this principle*: when restrictions on access or publication do affect the [public](#) and the [media](#). The authority for the restriction may come from the [law](#) or from a court [order](#).

### 1.1 Principles

Every court has a supervisory and protecting power over its own records: [AG \(Nova Scotia\) v MacIntyre, \[1982\] 1 SCR 175](#). Thus, policies about access to [court records](#) are subject to judicial [direction](#).

Most often, [court information](#) and [court proceedings](#) are open to [public](#) and [media](#) access. Under the [Canadian Charter of Rights and Freedoms](#), section 2(b), everyone has the fundamental freedom of “thought, belief, opinion and expression, including freedom of the press and other media of communication.” In [Vancouver Sun \(Re\), 2004 SCC 43](#), the Supreme Court of Canada wrote the “open court principle is inextricably linked to the freedom of expression protected by s. 2(b) of the Charter” and advances its core values.

However, full [access](#) to court information or court proceedings may be restricted when the restriction is necessary to protect other very important social values. *This Guide focusses on **exceptions** to open access.*

- ➡ Access may be limited by [law](#) (a statutory provision or a common law rule) or by a court order made by a [judge](#).

### 1.2 Scope of this Guide

This Guide covers [access](#) to [court information](#), [documents](#) and [exhibits](#) by members of the [public](#), including the [media](#). It also covers restrictions on access to or publication of [court proceedings](#) or court information. This Guide applies to court information in civil, family (including child protection), traffic and provincial offences, youth and adult criminal proceedings in the Alberta Court of Justice the Court of King's Bench of Alberta and the Court of Appeal of Alberta (Court of Appeal). In this Guide, “the Courts” or “the Court” refers to one or all of these Courts. The Court of King's Bench is also referred to in short form as the “King's Bench.” The Alberta Court of Justice is also referred to in short form as the “Court of Justice.”

- Generally, members of the [media](#) have the same level of access that members of the [public](#) have. This Guide identifies any specific access that is available to [accredited media](#) as distinct from the public.
- [Parties](#) to a [case](#) sometimes have access as of right to information in a case beyond what is available to the public and the media.
- This Guide specifies when there is public access to records from court [docket systems](#). By default, there is no public access to docket system records.

**This Guide does not deal with access to [court administration records](#). The [Freedom of Information and Protection of Privacy Act \(FOIP\)](#) governs access to those records.**

Access to the court record in the Court of Appeal is governed by the [Policy for Public Access to the Court Record](#). To the extent that the provisions and definitions in this Guide differ from the Policy, the provisions and definitions in the Policy take precedence.

**Note:** in this document,

- Hyperlinked [blue](#) text indicates a cross-reference to another part of the Guide, to a defined term in the [glossary](#) or to the text of a statute online.
- “[Court information](#)” may refer to [court records](#), files, documents, [transcripts](#) or [exhibits](#).
- The [court record](#) is the part of [court information](#) which contains the permanent record of a case and which, barring specific exclusions by statute or court order, is available to the public.
- “[Access](#)” may include searching for, viewing, or copying [court information](#). Not all types of access are always available.

The Guide also sets out procedures for court staff, to ensure that staff keep an accurate record of any restrictions on [access](#) or [publication](#) that apply to a particular [case](#). All references to [JOIN](#) or [CASES](#) are for internal use only. In addition, the Guide references court rules and statutes that apply to various proceedings. These details are set out in text with a yellow background, with a [green](#) caption above it, like this:

## Table 1: Reference table example

This is an example of a reference table that describes details of court staff procedures and provides hyperlinked references to applicable laws and rules of procedure.

### 1.3 General access procedures

#### Access to Courthouses and Courtrooms

Members of the [public](#) and the [media](#) can usually attend [court proceedings](#). Spectators in the courtroom must not disturb the court proceedings. If court is in session, spectators should enter quietly and close doors to the courtroom gently. Spectators should not talk in the courtroom.

The “bar” in a courtroom is a railing enclosing the part of the courtroom where judges, court staff, lawyers and accused persons sit and where witnesses are heard. Members of the [public](#) and the [media](#) must stay behind the bar unless invited by the judge or the [court clerk](#).

#### Cameras and Electronic Recording Devices in Court

Except as otherwise provided for in a court policy, the Court’s permission is required before anyone can use cameras or electronic recording devices of any kind, including cell phones, in courthouses or in-person courtrooms. The local court administrator can receive requests for permission and will contact the appropriate authority to obtain a decision. Alternatively, a request can be made directly to the Chief Justice of the particular Court.

Members of the [media](#) who wish to record audio in court must first receive approval from the relevant Court, as set out in the policies noted below.

For Court of Justice, see the [Media](#) web page for:

- ➔ [Use of Electronic Devices Policy](#)
- ➔ [Media Accreditation Policy](#)

For King’s Bench, see the [Public & Media Access](#) web page for:

- ➔ [Use of Electronic Devices Policy](#)
- ➔ [Media Accreditation Policy](#)

For Court of Appeal, see the [Photography and Recording](#) web page for:

## ➔ Policy on the Use of Electronic Devices in Courtrooms

Photographs or video recordings of judges of the Court of King’s Bench may be taken in the limited circumstances set out in the Court of King’s Bench’s Policy re: [Use of Photographs or Video Recordings of Judges](#).

Recording, live streaming or broadcasting the video or audio of any remote hearing and the use of screen capture technology is strictly prohibited.

## Table 2: Reference – Accredited media

For lists of [accredited media](#), see:

- **Court of Justice:** Media Undertaking List on the web page [Media](#).
- **King’s Bench:** Media Undertakings List on the web page [Public & Media Access](#).
- **Court of Appeal:** [Photography and Recording](#) web page uses the King’s Bench list.

## Information Requests

*For [access](#) to records in different types of [cases](#), see chapters 3 to 9 in this Guide.*

Court staff require specific information to conduct a search of [court files](#) and [docket systems](#).

- ➔ Court staff do not have access to searches by topic, or to statistics about court matters. For those inquiries, see [Requests for Comments](#).
- ➔ Closed case files may be stored off site, and this may make retrieval and access a slow process. However, basic information about the case may still be available in the relevant [docket system](#).

The Alberta Justice, Resolution and Court Administration Services (**RCAS**) **Contact Centre** provides information without cost but does not have access to the physical court file or to some categories of information. See [Information by Telephone and Email](#).

- ➔ At court locations, a [search fee](#) applies to searches. See [Access Requests at a Court Location](#).

- ➔ The Court of Justice hears **provincial and municipal ticket cases**.
  - For traffic tickets, the ticket holder can use the [My Alberta eServices](#) portal [Fine Payments](#) web page to search using the ticket number to look for violation tickets, notices of time to pay and notices of conviction, or to pay the fine online. To use the site, the user must know the ticket number.
  - For adults, if the ticket number is not known, court staff or RCAS Contact Centre staff can find the record and provide the ticket number.
  - For youths, RCAS Contact Centre staff will not be able assist beyond giving the date and courthouse for the next hearing; inquiries must be made at a court counter.
  - If the user has the ticket number but cannot find the ticket on the [Fine Payments](#) web page, this may mean that it is not yet in the system. Simply try again later.
- ➔ For all tickets, at the Court of Justice counter, the information required to search is the [accused's](#) first name and surname. To limit search fees and to narrow the results to the intended accused, other details may be necessary, such as a location, ticket number or birth date.
- ➔ If the accused in a provincial or municipal ticket case is a [youth](#):
  - To members of the [public](#) and the [media](#), court staff can provide only the next court appearance date and location.
  - Court staff can provide more information only to the youth, the youth's [parents](#) or guardians and the youth's [lawyer of record](#).
  - For other inquiries, court staff will consult the Assistant Chief Justice or designate.
  - For more information about access to youth records, see [Chapter 5, Traffic and other Provincial Offences](#) and [Chapter 6, Youth Justice Matters](#).
- ➔ **For civil and family information**, the requester must provide the [case number](#) or a [party's](#) first and last name. Additional details such as the court location may help to narrow the search results to the intended [case](#) or party and reduce [search fees](#).

➔ **For criminal information**, the requester must provide the [accused's](#) first and last name. Searching using a common name may lead to a significant cost for viewing multiple files. To limit the search and reduce search costs, the requester may wish to provide more information, such as:

- a [case number](#)
- the court location
- the name of a co-accused or victim
- the accused's birth date
- the charges.

**Note:** In criminal matters, this search of the Court's information is ***not a criminal record check***. It can only show the records the Court has about an individual's interactions with the Courts in Alberta. [Criminal record checks](#) and [vulnerable sector checks](#) are available from police services.

## Information by Telephone and Email

The RCAS Contact Centre provides court information via phone and email and does not charge a fee. RCAS Contact Centre Advisors can provide information about civil and family law proceedings, as well as about provincial tickets and criminal proceedings. They can also assist callers with information about available services and referrals to external agencies.

However, the RCAS Contact Centre does not have access to some categories of court information or to the documents on the case file. RCAS Contact Centre Advisors do not have access to information about:

- Court of Appeal cases
- Child protection cases

As well, statutes restrict the information that can be provided about youth offence matters. *For youth matters, the RCAS Contact Centre can provide only the courthouse and next court date.* For more information about accessing information in youth matters, see [Chapter 6, Youth Justice Matters](#).

- ➔ RCAS Contact Centre services are free to use.
- ➔ Services are available Monday to Friday, from 8:15 am to 4:30 pm, except on statutory holidays and the days between Boxing Day and New Year's Day.

- Call toll free, 1-855-738-4747; in Edmonton, call 780-638-4747
  - There is also an Information Kiosk in the Edmonton Law Courts (main floor, Court of Justice annex)
- ➔ Members of the [media](#) are encouraged to use the RCAS Contact Centre’s email address [CourtChecks@gov.ab.ca](mailto:CourtChecks@gov.ab.ca).
- ➔ For additional services available to the [media](#) via the Department of Justice Media Line, see [Requests for Comments](#).

For each subject area (Civil, Family, Criminal, Traffic, Youth), RCAS Contact Advisors will need the requester to provide the details noted above. As detailed in other chapters of this Guide, sometimes the law limits access to the information or it can only be provided at a court location.

For information not available via the RCAS Contact Centre, Contact Advisors will refer the caller to the appropriate court office.

## Documents Filed in Court

Timeliness is an important part of access to court information. Court staff will provide access as quickly as possible, although they must first ensure that:

- Judicial direction is followed.
- Matters in court proceed on time.
- The needs of parties, witnesses, interpreters and jurors are met.

Court counter services are available at courthouses Monday to Friday from 8:15 a.m. to 4:00 p.m., except for statutory holidays and the days between Boxing Day and New Year’s Day.

Staff will review the court file’s status before providing access. Staff must ensure that they provide only publicly accessible documents for viewing by members of the [public](#) or the [media](#). Court staff must limit access to [court information](#) when the law or a court order require a restriction.

## Historical searches

Searches for information from closed [cases](#) may take longer. The paper files for historical matters are not stored in the local courthouse, so retrieval may take some time. Criminal files are “historical” after five years from the date of

sentencing. For historical files, the approximate date of disposition may also be required to enable retrieval of the correct record.

### Search Request Forms

Search request forms are available online. (Available on the [Media](#) web page for the Court of Justice, the [Public and Media Access](#) web page for the Court of King's Bench and the website of the [Court of Appeal](#).)

- Search Request (Criminal/Traffic)
- Search Request (Civil/Family)

The [Application for Release of Young Offender Data](#) form, which is the form required to apply for youth information, is also available online or from the court clerk.

**Note:** If you are having difficulty opening a Search Request or the [Application for Release of Young Offender Data form](#), (i.e. getting messages about updating Adobe Reader):

- Choose "Always Open in System Viewer" after download.
- Try right-clicking on the link or download button and choosing "Save Link As..." and then opening the file from your computer.
- Or try clicking the pdf icon in the address bar and selecting open in Adobe Viewer or see more information [here](#).

In the Court of King's Bench for civil matters, court information may be viewed in person, or it can be requested through the online search portal at this website:

<https://eservices.alberta.ca/court-of-kb-civil-search-request.html>

Please note the online search portal is reserved only for King's Bench searches. For King's Bench search requests submitted through the online portal, the search request is completed by filling out and submitting the web-based form. Court of Appeal and Court of Justice search requests continue to be submitted to the specific court location.

In the Court of King's Bench for criminal matters, court information may be viewed in person, or it can be requested through the online search portal at this website:

[Court of King's Bench Criminal Search \(alberta.ca\)](#)

Please note the online search portal is reserved only for King's Bench searches. Court of Appeal and Court of Justice search requests continue to be submitted to the specific court location.

## **Fees**

### **King's Bench Civil Portal**

Search requests must be paid for in advance.

Payment must be provided in advance through the website, which accepts credit cards and Interac Online. Some things to note about submitting a civil search request through the online portal:

- All searches are province wide.
- Search by party name will produce a list of all the actions for or against the named person or company. This is sometimes referred to as a "litigation search".
- The search fee is \$25 to search for actions commenced by a party and \$25 to search for actions against a party. Parties can be persons or companies.
- If you know the action or file number or are searching for a specific action or file (example Jane Doe vs. John Doe), choose the "Search by Action/File number" option. The fee is \$25 and will include a list of all documents filed.
- Certification fee is \$10.00 per document.
- Copies of Clerk's notes can be obtained by completing the name of party to be searched and action number fields. There is no additional cost for this request.
- Additional fees may be assessed by court offices, including photocopy fees.

## King's Bench Criminal Portal

Search requests must be paid for in advance.

Payment must be provided in advance through the website, which accepts credit cards and Interac Online. Some things to note about submitting a criminal search request through the online portal:

- All name searches are province wide and court files are specific to a location.
- Searching by an accused name will produce a list of any charges against an accused person or company.
- The search fee is \$25 to search for actions against a party.
- Certification fee is \$10.00 per document.
- Copies of Clerk's endorsements can be obtained by completing the Party Name and Specific Court File Number fields.
- Additional fees may be assessed by court offices, including photocopy fees.

Once the search request and payment are received by the Clerks' Office and the search request is processed, results and any requested documents will be emailed to requesters. There is a fee for emailing documents.

### In Person

If members of the [public](#) and the [media](#) wish to view court information in person, or wish to search for Court of Appeal or Court of Justice matters, they can request access by completing a search request form (links below) and paying the search fee of \$25 for each search request. There is a \$25 viewing fee for each additional file. In-person payment can be made by cash, cheque, or credit card. Once payment is received and the search request is processed, the court information will be retrieved by staff. There may be a viewing area at or near the court counter. Unless the law or a court order restricts access, anyone may receive a photocopy of documents. There is a fee for photocopies.

Note: Search requests for Court of Appeal matters are subject to the [Public Access to the Court Record Policy](#).

- **Self-made copies:** anyone who has access to view a file and to receive copies may make their own copy of a document (for example, with a smartphone or a portable scanner), if they can do so without disrupting court operations. Only the search fee is then charged. Photos may be taken only of documents in the court file or of exhibits. The photography and portable scanning must take place in the court administration area or in a courtroom.

**Note:** The Court of Appeal’s official record is electronic; the making of self-made copies is not applicable to the Court of Appeal unless records exist only in paper.

- **In criminal and youth matters,** the accused and the lawyer of record are entitled to free copies of some records. See [Table 64](#).

### Table 3: Procedure – Fees

Court staff must charge a fee for searches, inspections, and copies of court files. Transcripts must be ordered from [Transcript Management Services](#). The cost of transcripts is set by the Alberta Rules of Court, [Schedule B](#), Division 4, Tariff of Fees Payable for Court Reporting Services.

**Alberta Rules of Court, rule 13.32 and  
[Schedule B: Court Fees and Witness and other Allowances](#)**

### Table 4: Procedure – Search requests

For access to court documents and information at a court location, the requester must complete a search request form (links above). Court staff can ask a supervisor for help if they are having difficulty with a request. If the search request is submitted through the online portal, the requester will have provided all required information through the web-based form and no additional paperwork is required.

- **In JOIN** (criminal and youth matters in the trial courts), always check for a **BPF** (Ban on Publication see File) event code, read the comments, and review the file.
- For searches by **accused and counsel**, see [Table 66](#).
- **In CASES** (family and civil cases in the trial courts), always check for the codes and comments that indicate a restriction on access or publication as set out in this Guide and review the file.

**For details about access to information from various categories of [cases](#), see the individual chapters in this Guide:**

- 3 [Civil Matters – Restrictions on Access](#)
- 4 [Family Matters – Restrictions on Access](#)
- 5 [Traffic and other Provincial Offences – Restrictions on Access](#)
- 6 [Youth Justice Matters – Restrictions on Access](#)
- 7 [Criminal Matters – Restrictions on Access](#)
- 8 [Exhibits – Restrictions on Access](#)
- 9 [Public Fatality Inquiries – Restrictions on Access or Publication](#)

## Exhibits

[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 custody and supervision over them. Exhibits are not kept indefinitely in the Court's records.

Consistent with the open court principle, exhibits are available to the public and the media, with certain exceptions. When considering a request for access to an exhibit, the Court weighs factors such as the effect that access would have on privacy interests or on the right to a fair trial.

To request access to an exhibit, complete the form [Request for Exhibit or Private Hearing Record](#), and pay the search, copy or emailing fees.

If you are having trouble opening **PDF forms** (i.e. getting messages about updating Adobe Reader):

- Choose "Always Open in System Viewer" after download.
  - Try right-clicking on the link or download button and choosing "Save Link As..." and then opening the file from your computer.
  - Or try clicking the pdf icon in the address bar and selecting open in Adobe Viewer or see more information [here](#).
- ➡ **Self-made copies:** anyone who has been granted access to an exhibit may make their own copy of a document or photograph (for example, with a smartphone or a portable scanner), if they can do so without disrupting court operations. Only the search fee is then charged. The photography and portable scanning must take place in the court administration area or in a courtroom.

**Note:** The Court of Appeal’s official record is electronic; the making of self-made copies is not applicable to the Court of Appeal.

- ➔ Only a [judge](#) can direct who has access to exhibits.

Unless access to an exhibit is governed by statute or restricted by a sealing order, restricting access to an exhibit is a discretionary decision. For more information about discretionary orders, see [Orders Restricting Access or Publication](#).

## Table 5: Procedure – Request for exhibit or private hearing record

### King's Bench and Court of Justice

Use the [Request for Exhibit or Private Hearing Record](#) form for **public** and **media** requests for access to exhibits or to files or documents from private hearings.

If you are having trouble opening **PDF forms** (i.e. getting messages about updating Adobe Reader):

- Choose “Always Open in System Viewer” after download.
- Try right-clicking on the link or download button and choosing "Save Link As..." and then opening the file from your computer.
- Or try clicking the pdf icon in the address bar and selecting open in Adobe Viewer or see more information [here](#).

Upon receipt of the completed Request form from the requester, court staff will check whether the file is accessible. (The file may be **sealed** or a law or court order may make the file inaccessible to the public.) If the file is not accessible, the requester will need a court **order** to view the information.

If the file is accessible, court staff will promptly send the completed Request form to a judge (the presiding judge, if available, or if that judge is not available, to any judge of that court) for a review and response. Court staff will also send the judge a copy of any Request forms that are already on the court file.

1. Judges will respond as quickly as possible.
2. Court staff will then process the request as instructed by the judge.
3. The completed Request form will be retained on the court file.

### Court of Appeal

Exhibits from the trial court may be included in the Extracts of Key Evidence. Requests to access Extracts of Key Evidence must be made in accordance with the [Public Access to the Court Record Policy](#).

## Transcripts

**Transcripts** are available only from [Transcript Management Services](#), on payment of a fee. Because of the work needed to prepare them, transcripts are more expensive than photocopied documents. Requesting a faster delivery time increases the cost.

- ➔ Fees for transcripts are set in the *Alberta Rules of Court: Schedule B, Division 4, Tariff of Fees Payable for Court Reporting Services*.
- ➔ Transcripts can be ordered online with a credit card; for users without a credit card, or for more information about transcripts, contact Transcript Management Services:
  - Online ordering:  
<https://www.alberta.ca/order-courtroom-transcript.aspx>.
  - Email questions to [tms.calgary@gov.ab.ca](mailto:tms.calgary@gov.ab.ca) (or leave a voicemail message at 403-297-7392)
  - In the Court of Appeal, only the transcript of the oral submissions or argument can be ordered, and only for proceedings that took place on or after January 1, 2019. Any request for a transcript prior to that date must first be approved by the Court. See [Policy on Access to Transcripts of Oral Proceedings and Undertaking](#). Transcripts of any oral decision are generally not available. The Court of Appeal requires a completed [Undertaking to the Court of Appeal for Access to Court Transcript](#). You must upload and provide the Undertaking when ordering a Court of Appeal transcript.
- ➔ **Publication bans** generally do not affect **access** to a transcript. All transcripts bear a general warning notice:

This transcript may be subject to a publication ban or other restriction on use, prohibiting the publication or disclosure of the transcript or certain information in the transcript such as the identity of a party, witness, or victim. Persons who order or use transcripts are responsible to know and comply with all publication bans and restrictions. Misuse of the contents of a transcript may result in civil or criminal liability.

- ➔ **Sealing orders** and **confidentiality** requirements may restrict access to a transcript. To release a transcript from a sealed or confidential matter, it is necessary to first obtain a court order and provide it to Transcript Management Services.
- ➔ In the Court of King's Bench, Resolution Counsel meetings and Early Intervention Case Conferences, Pretrial Conferences and Judicial Dispute Resolutions involving self-represented litigants are recorded, but transcripts are not available except as permitted by the Chief Justice or Associate Chief Justice.

- In the Court of Appeal, Appeal Conferences are recorded, but transcripts are not available unless permission is obtained from the Court.

## Court Audio Recordings

### Unofficial recording by accredited media

Only [accredited media](#) may be permitted to use devices to record the audio of court proceedings. See [Cameras and Electronic Recording Devices](#).

### Official court audio record

Except in exceptional circumstances, the Court of Appeal will not grant permission to release court audio.

For proceedings heard in the Court of King's Bench or Court of Justice, all requests for a copy of the official audio record must include a signed Undertaking to the Court for Access to Court Audio Recording.

- For requests made by [accredited media](#) and members of the Law Society of Alberta, a court order is generally not required.
- [Parties](#), [accused](#) and members of the [public](#) must provide the signed Undertaking to the Court for Access to Court Audio Recording and obtain a court order permitting access. The form used for the request includes a space for the Court's order.
- The following documents are available on the [Media](#) web page for the Court of Justice and/or the [Public and Media Access](#) web page for the Court of King's Bench:
  - Policy for Access to Court Audio Recordings in the **Court of King's Bench** of Alberta
  - Policy for Access to Court Audio Recordings in the **Court of Justice** of Alberta
  - Request for Court Audio Recording and Undertaking to the Court

## Table 6: Procedure – Court Audio Request and Undertaking

*Unless an access restriction applies to the case, a court order to obtain court audio is not required for members of the Law Society of Alberta and members of accredited media. For lists of [accredited media](#), see:*

- **Court of Justice:** Media Undertaking List on the [Media](#) web page.
- **King’s Bench:** Media Undertakings List on the [Public and Media Access](#) web page.

### Requests for Comments

Court staff cannot comment on any [case](#).

- ➔ On receiving a request for comment or substantive inquiries regarding the Courts, judges or the content of court decisions, court staff will refer the matter to the Chief’s Office for the respective court.
- ➔ Inquiries about cases in the Court of Justice are referred to its Communications Officer.
  - [MediaPC@albertacourts.ca](mailto:MediaPC@albertacourts.ca)
- ➔ Inquiries about cases in the Court of King’s Bench are referred to its Communications Officer.
  - [CommunicationsOfficer.QB@albertacourts.ca](mailto:CommunicationsOfficer.QB@albertacourts.ca)
- ➔ Inquiries about cases in the Court of Appeal are referred to [Justice Communications](#).
- ➔ For comments from the Minister or from Alberta Crown Prosecution Service, or statistics from the JSG, members of the [media](#) can contact the JSG Media Line (780-644-3009).
- ➔ For inquiries about specific court case-related details, see [Information by Telephone and Email](#).

## 2. About Restrictions on Access or Publication

### 2.1 General

This section of the Guide describes the different types of restrictions and how they affect [access](#) and [publication](#). After this section, the Guide explains the authority for specific restrictions in civil, family, provincial ticket, youth criminal and criminal law [cases](#). The Guide has a separate section on access to [exhibits](#) in each of those types of [cases](#).

- ➔ **Restrictions on [access](#)** prevent members of the [public](#) or the [media](#) from viewing the affected [court information](#), unless they first obtain a court order to permit access. Usually, the [parties](#) to an action have access to their own court file, even when it is closed to the public and the media.
- ➔ **Restrictions on [publication](#)** do not limit viewing of the [court information](#) or obtaining copies of court documents but do prohibit [publishing](#) the protected information.

### 2.2 Statutory Restrictions on Access or Publication

Sometimes the law requires a restriction on [access](#) to or [publication](#) of information, without the need for a court order. One example of this is the ban on identifying a young person involved in proceedings under the [Youth Criminal Justice Act](#).

### 2.3 Orders Restricting Publication or Public Access

The two basic types of court orders that restrict access to court information or restrict publishing court information are *mandatory* court orders and *discretionary* court orders.

- ➔ A court order is ***mandatory*** when a law says that a [judge](#) or other [judicial officer](#) “shall” (must) make an order. Usually, a [party](#) must first apply for the order, but there are a few laws that require the judge to make the order even if no one applies for it. (This is different from a statutory restriction, which applies to everyone without a court order being required.)

- A court order is **discretionary** when the judge can choose whether or not to make the order.
- When judges consider making a discretionary order that restricts access or publication, they apply a test developed by the Supreme Court of Canada that was reformulated in *Sherman Estate v Donovan*, 2021 SCC 25 at para 38.

For the Court to exercise discretion in a way that limits the open court presumption, it must establish that:

- (1) court openness poses a serious risk to an important public interest;
- (2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
- (3) as a matter of proportionality, the benefits of the order outweigh its negative effects.

The applicant must show there is a serious risk that disclosure of sensitive biographical core information will adversely affect their dignity (such as information relating to a stigmatized medical condition, involvement in stigmatized work, sexual orientation, history of sexual assault or harassment), or present a serious risk of physical harm. Other categories of recognized public interests that may justify sealing orders, such as trade secrets and competitively sensitive information, do not require consideration of dignity.

In the Court of Justice and King's Bench, the [media](#) may register to receive Notice of Applications for discretionary court orders that restrict access or publication. The Court of Appeal also requires that notices of such applications be given to the media, but it does not yet have an electronic notice system. It has used the Court of King's Bench's system in the past.

**Note:** Most court orders that restrict access or publication are permanent: they will apply in other proceedings in the same [case](#), and in an appeal from the trial court's ruling. Restrictions ordered by one Court usually remain in effect in the Court appealed to unless that Court actually removes the restriction by an order of its own.

Some restrictions are temporary. They expire when the trial or proceeding is over, or when directed by a judge. ***In this Guide, such temporary restrictions are specifically identified when applicable.***

### **Table 7: Procedure – Applications for restricted court access or publication**

Applications for a discretionary order restricting court access or publication require notice to [parties](#), the [media](#) and others if the Court directs.

#### **Court of Justice**

1. For family and criminal law matters, anyone who seeks an order to restrict access or publication must apply online using the prescribed form on the Court’s website: [Electronic filing of Notice of Application for Publication Ban \(Practice Note and online form\)](#). This form sends a notice of the application to [media](#) who have registered to receive notices.

#### **King’s Bench**

1. For all applications for a discretionary restriction on access or publication, applicants must complete the online [E-Notice of Restricted Access Application](#), and must file a copy of the notice when filing the application.
2. For civil and family law matters, the procedure is set out in the *Alberta Rules of Court*, Part 6, [Division 4](#).
3. For criminal matters, the procedure is set out in the *Court of King’s Bench of Alberta Criminal Procedure Rules*, Part 2, Division 7 and [Criminal Practice Note #4](#).

#### **Court of Appeal**

1. A restricted access order made by a court appealed from applies to the appeal, unless otherwise ordered by a single appeal judge.
2. A single appeal judge may make a restricted court access order under the *Alberta Rules of Court*, Part 6, [Division 4](#).

***Alberta Rules of Court, r 14.83***

When a [judge](#) makes an order in court that restricts [access to court information](#), or restricts [publishing](#) information relating to a court proceeding, court staff note the order on the “Orders Restricting Publication or Public Access” form, also known as the “Goldenrod form” (See [Appendix 1](#)). The form is kept in the court file. The completed form is itself a concise record of the court order or orders made during the [case](#). The reverse side of this form provides instructions on its use and lists some of the common restrictions required by law.

- Unless [access](#) to the file is restricted, anyone may have a copy of a document, including the completed “Orders Restricting Publication or Public Access” form, on providing the required information and paying the required fee.

Sometimes restriction orders are prepared by counsel or the judge and are filed and served, rather than the order being made in court. Unless the restriction order specifically restricts access to the order, these forms of order are also available on providing the required information and paying the required fee.

- A [publication ban](#) restricts [publication](#) only. It does not limit [access](#) to information in the court file.
  - Orders that **restrict publication** include a ban on identifying someone or on publishing information until the end of the [trial](#).
  - [Documents](#) and [transcripts](#) that are subject to a [publication ban](#) are available to members of the [public](#) and the [media](#), but it would be an [offence](#) for them to [publish](#) the protected information.
- Orders that **restrict access** include [sealing orders](#), confidentiality orders and orders for [private hearings](#).
- This is not a complete list. Other types of orders are possible.

### **Table 8: Procedure – Orders restricting publication or public access**

**See “Orders Restricting Publication or Public Access” form** (see [Appendix 1](#)). The clerk in court must complete the Goldenrod form and attach it to the [court file](#) whenever a judge makes an order in court that restricts access to the file or restricts publishing information from a file or court proceeding.

1. The form includes instructions on how to use it – clerks should review to ensure they follow the correct procedure.
2. This is a cumulative form. If at all possible, note later restrictive orders in same case on the same form.
  - If photocopies or scans of the form are needed, use manual settings on your photocopier to ensure that the copies or scans are not too dark.

3. The order or orders must also be noted in the applicable computer [docket system](#) (JOIN or CASES). In the following sections in this chapter, this Guide includes specific instructions for each type of restriction.
4. Court staff **must post a sign** about the restriction (“Ban on Publication” or “Private Hearing”) in the courtroom where the matter is being heard. A notice must also be posted on the courtroom door.
5. Court staff must also log the applicable ban in the **FTR Log Notes** as set out in the [Digital Recording Manual](#). (staff link)

## Appeals

When the Court of Appeal requests the publication and access status from another Court, that Court must forward a photocopy or scan of the following by email or fax:

1. the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)),
2. the related clerk’s notes or court endorsements, and
3. a copy of any other order that restricts access or publication.

The Court of Appeal does not require the original form from the other Court.

## 2.4 Types of Restrictions on Access or Publication

### A. Publication Bans

Sometimes a law or a court order requires a [publication ban](#). Publication bans forbid [publishing](#) the protected information. A publication ban does not restrict access to a court file or limit viewing or copying information in the court file for private use, unless the law or the court order specifically requires those restrictions **in addition to** the publication ban.

- **Publication bans do not prevent access to the information in the court file.** Court staff will provide the information but will inform the requester about the publication ban.
- Sometimes the only information that cannot be published is information that would identify the person protected by the ban; these bans are called “**identification bans.**” Examples include:
  - The court-ordered ban on identifying victims in some criminal proceedings (see [7.6](#) in this Guide); and

- The statutory ban on identifying children and their parents or guardians in child protection proceedings (see 4.5 in this Guide).
- ➔ **Most publication bans are permanent** and will apply in other proceedings in the same [case](#), including an appeal from the trial court’s ruling. Bans made by one Court usually remain in effect in the Court appealed to unless that Court removes the ban by an order of its own.
- ➔ **Some publication bans expire** when the trial or proceeding is over, or when directed by a judge.
  - Under the *Criminal Code*, some bans last only until the end of a trial. See sections on judicial interim release ([7.3](#)), preliminary inquiry ([7.4](#)) and jury trials ([7.5](#)). These bans are sometimes called “interim bans” because they are in effect only until the trial is over.
  - A judge may also order a common law ban that is temporary in its effect.

### Table 9: Publication bans – Statutory provisions

*Note: This table lists common statutory provisions and is not comprehensive.*

#### Statutory Publication Bans (no order required)

##### *Child Protection Proceedings*

- All child protection statutes have a ban on publishing information that would identify a child, parent, or guardian in connection with the child protection proceeding.

***Child, Youth and Family Enhancement Act, section 126.2***  
***Protection of Children Abusing Drugs Act, section 7***  
***Protection of Sexually Exploited Children Act, section 6.3(1)***

##### *Criminal Code*

- section [278.95\(1\)](#) – ban on publication of application to admit evidence of complainant’s prior sexual conduct, content of the hearing and decision
- section [278.9\(1\)](#) – ban on publication of application to admit complainant’s or witness’ personal records, content of the hearing and decision
- section [542\(2\)](#) – fact of or details of any confession tendered at a preliminary inquiry

- section 648(1) – proceedings in the absence of the jury – automatic

### **Youth Criminal Justice Proceedings**

There are restrictions on [access](#) to records under the following statutes. See Chapter 6.

#### ***Youth Criminal Justice Act***

- section 110(1) – no publication of information that could identify the young person as a young person dealt with under the Act
- section 111(1) – no publication of information that could identify a young witness or young victim in connection with proceedings under the Act

#### ***Youth Justice Act (Alberta)***

- section 24 – no publication of information that could identify the young person as a young person dealt with under the Act, or as a young witness or young victim in connection with proceedings under the Act

### **Mandatory Publication Bans (court must make order)**

#### ***Criminal Code***

- section 486.4 – in any sexual offence case, and in any other case when the victim or witness is under age 18, the Court must inform the victim or witness of their right to apply for an order, and must make the order if the victim or witness asks for it.
- section 486.4(3) – in section 163.1 (child pornography) proceedings, judge must make order banning publication of the identity of a witness under age 18 and of any person who is the subject of material that constitutes child pornography.

### **Discretionary Publication Bans (court *may* make order; discretionary)**

There are specific procedural and substantive requirements for discretionary publication bans. For more information about discretionary orders, see [Orders Restricting Access or Publication](#).

A discretionary publication ban may be set out in a statute. The Court may also have the power at common law to make a discretionary order banning publication of information (a “common law” ban).

#### ***Criminal Code***

- section 486.5(1) – identity of any victim or witness in proceedings other than those addressed in s 486.4, upon application of the prosecutor, victim or witness.

- section 486.5(2) – identity of any "justice system participant" (s 2) in any prosecution for an offence listed in s 486.2(5), upon application of the prosecutor or a justice system participant.
- section 517 – evidence, information, submissions and judicial reasons at judicial interim release hearing – discretionary upon prosecutor's application (mandatory upon accused's application).
- section 539(1) – evidence taken at preliminary inquiry – discretionary upon prosecutor's application (mandatory upon accused's application).
- section 631(6) – identity of a juror, upon application of the prosecutor or on the Court's own motion.

#### ***Protection Against Family Violence Act***

- s 8(3) – a report or any part of a report of a hearing; usually used to ban publication of identity, but a complete ban is also available.

#### **CIVIL**

#### ***Adult Guardianship and Trusteeship Act***

- s 113(2)(c) – information given at a hearing or contained in documents filed with or received by the Court.

#### ***Income Tax Act***

- s 241(4.1)(b) - The person who presides at a legal proceeding relating to the supervision, evaluation or discipline of an authorized person may ban the publication of the information.

#### ***Customs Act***

- s 107(11)(b) - The person presiding at a legal proceeding relating to the supervision, evaluation or discipline of a specified person may order any measure that is necessary to ensure that customs information is not used or provided to any person for any purpose not relating to that proceeding, including banning the publication of information.

#### **FAMILY**

#### ***Child, Youth and Family Enhancement Act:***

- s 126.3 – no publication that reveals the deceased child received intervention services, the name or a photograph of the deceased child, of any parent or guardian of the deceased child or of any other individual identified in the order.

#### ***Family Law Act***

- s 100 – any report that may identify the child

#### ***Family Homes on Reserves and Matrimonial Interests or Rights Act***

- s 19 – any information in a court document or record, including the name or identifying information of a party, witness or child

## Table 10: Procedure – Publication bans

**If a document or court file is subject to a publication ban order or a statutory ban, court staff must inform the person who seeks to view the document or file.**

1. For court staff procedure on publication ban orders made in court, see “Orders Restricting Publication or Public Access” form ([Appendix 1](#)).
2. Statutes and court rules usually impose a publication ban *during the application* for a publication ban, so the [court clerk](#) should post the “Ban on Publication” sign.
3. A **publication ban does not, on its own**, limit [public](#) or [media access](#) to the information in the court file, but makes it an offence for anyone to [publish](#) the protected information.

**Note the publication ban order in the relevant electronic docket system.**

In [JOIN](#) (King’s Bench and Court of Justice criminal/youth/provincial offence matters):

1. For the first order in that Court that restricts access or publication, enter the event code **BPF** (Ban on Publication see [File](#)). Entering **BPF** sets the **BAN** flag on the Charge Detail inquiry screen to **Y**.
2. In the **comment screen**, **specify** the statute, section number and short description, e.g., BAN ON PUBLISHING VICTIM/WITNESS IDENTITY (for common law orders, describe the order), the date of the order if different from the date of entry in JOIN and the name of the judge who made the order.
3. BPF can be used once for each Court of Justice docket number and once for each King’s Bench docket number (even if already used on the Court of Justice record for the same matter).
4. For later publication ban orders, add the order details to existing comments for the initial BPF code.
5. **If the BPF comment screen becomes full**, make the last comment “CONTINUES: SEE BAN COMMENT.” Then add a **BAN** event and comment as at #2 above.
  - **Note:** The code BAN does *not* set the BAN flag to Y.
6. If an existing publication ban is lifted, use event **RTF** (Refer to File) to add details regarding the order that lifted a publication ban.
7. If all publication bans and restrictions on access are lifted, use event code **BPL**. This code does not have a comment screen. Use **RTF** and comment to add an explanation.

For further instructions, see the [CJ Criminal](#) and [KB Criminal Manuals](#).  
(staff links)

In **CASES** (King's Bench and Court of Justice civil, family or child protection matters):

1. For a **statutory ban**, enter the code **SBPUB** (Statutory Ban on Publication). This sets the Confidential flag to Y, which is correct for child protection matters per *CYFEA*, section [126](#). (Child protection is the only matter SBPUB applies to.)
2. For a **court-ordered ban**, enter the code **BPUB** (Ban on Publication).
  - **BPUB** also sets the confidential flag to Y. **However**, as noted above, a **publication ban does not, on its own**, limit [public](#) or [media access](#) to the affected court information from the court file or system. It only makes it an offence for anyone to [publish](#) the protected information.
3. **In the comment (BR-ID: COMNTU), specify** the date, the statute name and section number and a brief description (for common law orders, describe the order); for a court-ordered ban, add the name of the judge who made the order.

## B. Private Hearings

**Note:** Private hearings may also be called “closed,” “in camera” or “[public](#) excluded.” This Guide uses the term “private hearings” to encompass all these terms.

A private hearing is a hearing in a courtroom that is closed to the public. Private hearings are open only to those specifically permitted to attend. Usually this will be the judge, court staff, the [parties](#) and their lawyers. Some legislation permits the Court to also exclude a party.

Any member of the [public](#) or the [media](#) may ask to view or copy [court information](#) from a private hearing, unless the law or a court order restricts access.

- ➡ The special search request form is the “[Request for Exhibit or Private Hearing Record](#).” Payment of the search fee is required.
  - For the procedure relating to this request form, see [Table 5](#).
  - For access to audio recordings from private hearings, see [Table 6](#).

## Table 11: Private hearings – Statutory provisions

**Note:** This table lists common statutory provisions and is not comprehensive.

### Proceedings that *must* be heard in private

#### *Criminal Proceedings*

- About the admissibility of evidence regarding a complainant’s sexual activity.  
**Criminal Code, section 276**
- About the production of a personal information record.  
**Criminal Code, sections 278.4, 278.6**
- A hearing on legal expenses.  
**Criminal Code, section 462.34**
- An application to consider a claim of privilege for a document in the possession of a lawyer.  
**Criminal Code, section 488.1**
- A hearing on whether to issue process in a matter.  
**Criminal Code, sections 507, 507.1**

#### *Child, Youth and Family Enhancement Act*

- Application to admit confidential information into evidence.  
**Section 109(5)**

#### *Legal Profession Act*

- When necessary to prevent the disclosure of evidence for which solicitor-client privilege may be claimed.  
**Section 112(3)**

#### *Mental Health Act*

- Appeal from a Mental Health Act Review Panel decision must be heard in private unless the Court otherwise directs.  
**Section 43(8)**

#### *Securities Act*

- Claim of solicitor-client privilege must be heard in private (“in camera”).  
**Section 57**

### Proceedings that *may* be heard in private, at the judge’s discretion

**Note:** Each statutory provision concerning a discretionary restriction will set out the basis for the exercise of discretion. The Court may also have the power at common law to order a private hearing. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

## CRIMINAL AND YOUTH

- In any proceeding, a judge may order a private hearing (exclude any or all members of the public), on the grounds set out in this section.  
*Criminal Code, section 486*
- A judicial interim release hearing.  
*Criminal Code, section 517*
- A preliminary inquiry.  
*Criminal Code, section 537(1)(h)*
- A disposition hearing.  
*Criminal Code, section 672.5(6)*
- An extradition hearing or a bail hearing in an extradition proceeding.  
*Extradition Act, section 27*
- A proceeding in youth court; certain persons cannot be excluded.  
*Youth Criminal Justice Act, section 132*

## FAMILY

### Child Protection

- Exclude anyone, except a Director or a lawyer representing a party.  
*Child, Youth and Family Enhancement Act, section 24*
- Exclude anyone, except the Coordinator, a Director or a lawyer representing the child or the guardian of the child.  
*Protection of Children Abusing Drugs Act, section 6*
- Exclude anyone, except a Director or a lawyer representing a party.  
*Protection of Sexually Exploited Children Act, section 6.2*

### Family Law

- Exclude anyone (including a child, whether or not the child is a party) except the parties to the proceeding, their lawyers or a lawyer representing the child.  
*Family Law Act, section 99*

### Family Violence

- Exclude any or all persons, other than the parties, from the courtroom.  
*Protection Against Family Violence Act, section 8(2)*

## CIVIL

### *Adult Adoption Act*

- Application for an adult adoption order may be heard in private.  
**Section 8**

### *Adult Guardianship and Trusteeship Act*

- Order to limit which persons can be present during a hearing.

**Section 113(2)(a)*****Cooperatives Act***

- Interested persons can apply for an order under the *Cooperatives Act* that a court hearing, or hearing conducted by a court-appointed inspector, be heard in private.

**Section 294(1)*****Fatality Inquiries Act***

- Part or all of a public fatality inquiry may be heard in private.

**Section 41*****Income Tax Act***

- The person who presides at a legal proceeding relating to the supervision, evaluation or discipline of an authorized person may hold a private hearing.

**Section 241(4.1)(a)*****Customs Act***

- The person presiding at a legal proceeding relating to the supervision, evaluation or discipline of a specified person may order any measure that is necessary to ensure that customs information is not used or provided to any person for any purpose not relating to that proceeding, including holding the hearing in private.

**Section 107(11)(a)****HEALTH*****Public Health Act***

- Application for an order directing a person having information under section 53 (that a person has a communicable disease) to release it.

**Section 54****Table 12: Procedure – Private hearing – Digital Display System**

The Digital Display System (DDS) gets its information from [JOIN](#) and [CAMS](#). The presiding judge may instruct staff not to include the private hearing in the listings of the day's proceedings. (The hearing subtype code is X for Exclude; do not send.)

**Court of Justice**

- For process hearings, use "**Process Hearing**" in JOIN in place of the accused's name. *Do not use "Private Informant."*
- If process issues, change the record back to the accused's name.

**Table 13: Procedure – Private hearing – Courtroom clerk**

If a **private hearing** is taking place, the **court clerk** must:

1. Place the **“Private Hearing”** sign on the clerk’s desk and outside the courtroom.
  - **Note**, signs must say “Private Hearing,” *not* “In Camera.”
2. If the private hearing was **ordered** by the **judge** in the courtroom, note the private hearing on the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)). Add the order to the appropriate place on the form (Part I, criminal and youth); Part II, other statutes; Part III, common law).
  - If necessary, seek the judge’s instructions regarding the statute or common law information.
3. Make sure the **public leaves the courtroom** and no one can enter. For process hearings, Judges may decide to allow other counsel to remain in the courtroom.
4. For courthouses with **media rooms** (Calgary, at this writing), the clerk must adjust the Crestron system to turn off audio and video to the media room.
5. Indicate in the **log notes** “Clerk - Private Hearing commences” when the matter starts and when the private hearing concludes or is no longer private, indicate in the log notes “Clerk - Private Hearing Concluded.” Refer to the [Digital Recording Manual](#) for details (staff link).
6. In the Court of Justice, note these details on the **endorsement sheet** as well.
  - *These steps are **essential** for correct handling of the audio and court exhibits or documents.*
7. In the Court of Justice **process hearings**, if process is denied, the *entire process hearing* must be logged as a private hearing, unless the judge instructs otherwise.
8. Access to **exhibits** from private hearings is according to the procedure for “Request for Exhibit or Private Hearing Record.” See [Table 5](#).
9. **For documents not marked as exhibits**, such as those to be filed immediately after court, the clerk must mark them as “from private hearing.” The documents should be marked in the same way as sealed files or documents; see [Table 20: Procedure – Sealed documents and files – File handling](#).
  - Marking a document “private hearing” does not seal the document, but ensures that **the judge can review whether there should be access to the document** in the event that a [Request for Exhibit or Private Hearing Record](#) form is submitted.
10. The Request for Exhibit or Private Hearing Record procedure will apply to log notes, documents, and exhibits. See [Table 5](#).

### Table 14: Procedure – Private hearing – Data entry

In **JOIN** (King’s Bench and Court of Justice criminal/youth/provincial offence matters): Use **BPF**; in the comment, note the date and PRIVATE HEARING; for details on the use of BPF/BAN, see [Table 10](#).

In **CASES** (King’s Bench and Court of Justice family and civil matters):

1. For a private hearing by order, use the code **ORPH**. Add a comment (**BR-ID: COMNTU**) to explain what the proceeding was.
2. For a private hearing required by statute or a court rule or policy, use the code **PHM**. Add a comment to explain what the proceeding was.

### Table 15: Procedure – Request for private hearing record

#### King’s Bench and Court of Justice

Use the [Request for Exhibit or Private Hearing Record](#) form for [public](#) and [media](#) requests for access to exhibits and documents from [private hearings](#). For details, see [Table 5](#).

### Table 16: Procedure – Private hearings – Transcript Management

The requester must obtain a court order for the transcript and provide it to Transcript Management Services. The table of contents in the transcript will include a heading such as “Private Hearing.”

### Sealed Court Documents or Files

A law or a court order may seal a court file or a document. Sometimes the law requires the judge to make a sealing order, and sometimes the order is at the judge’s discretion.

- ➔ For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

The seal may affect all or part of a court file. When a court order seals all or part of a file, the [sealing order](#) itself is generally not sealed unless that is specifically ordered by the judge.

- ➔ When a court file or document is sealed:

- Members of the [public](#) and the [media](#) may have access to it only if they first obtain a court order permitting access.
- Court staff cannot release the [procedure card](#) or the appeal summary to a member of the [public](#) or the [media](#), unless that person first obtains a court order for the release.
- The order identifies the parties and counsel and describes the terms of the order. This is essential information for anyone who wishes to appeal from the order.

### Table 17: Sealing court information — Statutory provisions

**Note:** This table lists common statutory provisions and is not comprehensive.

#### Mandatory Seal

##### *Criminal Code*

- section [187](#) – all documents relating to an application under Part VI (generally deals with wire taps) must be sealed and kept by the Court in a place with no public access, subject only to further order of a court. A specific sealing order is therefore not required.

##### *Business Corporations Act*

- section [231\(6\)](#) – documents in the Court’s possession relating to an application made under ss 231 or 232 (investigation of a corporation) are confidential, unless the Court orders otherwise.

##### *Child, Youth and Family Enhancement Act*

- section [74.1\(1\)](#) – the Clerk of the Court must seal all court documents relating to an adoption, and the documents cannot be inspected by any person except by court order or with the Minister’s written consent.
- section [109\(7\)](#) – documents, records or other information subpoenaed by the Court under s 109 (medical evidence) must be sealed, and any part of the record relating to these documents, records or information cannot be made available to the public.

##### *Legal Profession Act*

- section [112\(2\)\(b\)](#) – the public must be refused access to records containing evidence or answers relating to information that may be subject to solicitor-client privilege.

#### Sealing records on the Court’s discretionary order

**Note:** Each statutory provision concerning a discretionary restriction will set out the basis for the exercise of discretion. The Court may also have the power at common law to make a discretionary restriction order. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

***Adult Guardianship and Trusteeship Act***

- section [113\(2\)\(c\)](#) – restrict access to information in court documents or given at a hearing.

***Criminal Code***

- section [487.3](#) – sealing material filed in support of an *ex parte* application for a warrant under the *Criminal Code* or any other any other federal statute, a production order under ss 487.012 or 487.013 of the *Code* or a Feeney warrant under s 529 of the *Code*.

***Customs Act***

- section [107\(11\)\(d\)](#) – The person presiding at a legal proceeding relating to the supervision, evaluation or discipline of a specified person may order any measure that is necessary to ensure that customs information is not used or provided to any person for any purpose not relating to that proceeding, including sealing the records of the proceeding.

***Family Law Act***

- section [65\(7\)](#) – order that financial disclosure documents may not be inspected by anyone other than the parties, except on further order of the Court.

***Family Law Practice Note 10***

- [Family Law Practice Note 10](#) applies to anyone who requests access to a King’s Bench court file in family law matters. For details, see Access to court files in family law proceedings (Family Practice Note 10).

***Income Tax Act***

- section [241\(4.1\)\(d\)](#) - The person who presides at a legal proceeding relating to the supervision, evaluation or discipline of an authorized person may seal the record of the proceeding.

***Mandatory Testing and Disclosure Act***

- s [16\(3\)](#) –order that information disclosed under s 16(2)(c) (pursuant to a subpoena, warrant or order) be sealed from the public.

**Table 18: Procedure – Sealed audio – courtroom clerk**

The judge presiding over a proceeding may direct the court audio to be sealed before, during or after a proceeding.

**For all courts**, the clerk must log “**Sealed proceedings commence**” in the log notes and the audio must be sealed in the courtroom using the digital recording program. When the matter ends or becomes unsealed the clerk must log “**Sealed portion concludes.**”

For specific instructions and for what to do if the audio is sealed after court, see [Digital Recording Manual](#). (staff link)

- *These steps are **essential** for correct handling of the audio and court exhibits or documents.*

In the Court of Justice, the clerk may need to note the sealed proceeding on the endorsement sheet, *in addition to* the FTR log notes.

### **Table 19: Procedure – Sealed documents and files – Data entry**

If sealed by an order made in the courtroom, note the sealing order on the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)), and in the relevant [docket system](#).

**In CASES** (King’s Bench or Court of Justice civil or family matter):

1. If the sealing is by a **judge’s order**, enter the code **ORSLD** (Order to Seal Document) if the order seals only a specific document or documents, or **ORSEL** (Order to Seal) if the order seals the entire file.
2. In the **comment screen**, enter a brief description of the order; in the Judge/Justice/Applications Judge field, enter the Judge or Justice’s name.
3. For sealing by a **mandatory requirement** (statute or court policy), the codes are **DSEAL** (Document Sealed) and **FSEAL** (File Sealed).
4. In the **comment screen**, enter the statute name and the section number, with a brief description.
5. Only the code **ORSEL** and **FSEAL**, not **ORSLD** or **DESEAL**, causes the information message **CONFIDENTIAL** to display on the procedure screen.
6. If a document or file is unsealed, the codes are **DUNSL** (Document Unsealed) or **FUNSL** (File Unsealed). To remove the **CONFIDENTIAL** flash on the procedure screen, change the confidential indicator to **N** in the starting action screen.

**In JOIN** (King’s Bench or Court of Justice criminal/youth/provincial offence matters):

1. Enter the code **BPF**, or if BPF is already in use, add a new comment in the comment screen; for details, see [Table 10](#).

## Table 20: Procedure – Sealed documents and files – File handling

**Members of the public and the media must present a court order before they can be allowed to view or copy a sealed file or record. If an entire file is sealed, the log notes are also not to be provided except with a court order.**

**Note:** Normally **the sealing order itself is not sealed**. If it appears that it is, or if any of the terms of the order are unclear, court staff must seek directions from the presiding judge.

When a document or file is sealed by law or a court order, court staff for the Court of Justice or the Court of King's Bench must:

1. Place the sealed document or file in an envelope.
2. Write the **case name** and **case number** on it; if sealed by a court order, write the name of the judge who gave the order.
3. Seal the envelope with tape and sign it.
4. If the document or file is too big for an envelope, put it in a filing box, write the case name and docket number on it, seal the box, and sign it. Usually the box is stored with the file. If it must be kept elsewhere because of space constraints, note on the endorsement sheet or clerk's notes where the box is stored.

Court of Justice and Court of King's Bench staff can **open** a sealed document or file only on the **instructions of a judge**. If the item is to remain sealed afterward, staff must re-seal the envelope or the box again.

1. Record the date and the name of the judge who gave the order to open the envelope or the box.
2. If the envelope or the box is to be resealed, again record the date and the name of the judge on the envelope or the box.

### Confidential Documents or Court Files

Sometimes a law or a court order makes a **court file** or a **document** in a court file confidential. When a file or record is confidential, it is not physically sealed, but there is no **public** or **media** access without a judge's order.

- ➡ Members of the **public** and the **media** can have access to a confidential file or document only if they first obtain a court order permitting access.

## Table 21: Procedure – Confidentiality

1. If the confidentiality requirement was imposed by an order made in court, note it on the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).
2. Add it to the relevant [docket system](#).

### King’s Bench and Court of Justice

In **CASES** (civil or family matter):

1. For child protection, enter the code **SBPUB** (Statutory Ban on Publication). This sets the Confidential flag to Y, which is correct for child protection matters per CYFEA, section [126](#) (Child protection is the only jurisdiction SBPUB applies to.)
2. For other jurisdictions in CASES there no codes specific to confidentiality; the closest available codes are **ORSEL** (Order to Seal File) or **FSEAL** (File Sealed Mandatory) and **ORSLD** (Order Seal Document) or **DSEAL** (Document Sealed Mandatory). Use the comment to clarify the status.
3. **ORSEL** and **FSEAL** will set the confidential flag to Y.

In **JOIN** (criminal/youth/provincial offence matter): Use **BPF** and comment, or if BPF has already been used, add a further comment; for details, see [Table 10](#).

## Pseudonyms

A court order may permit a witness or a party to use a [pseudonym](#) (an alternate name), testify behind a screen or in some other way prevent anyone, even people in the courtroom, from identifying the person. The identifying information is also concealed in the court file by a [sealing order](#) or by editing the documents in the court file.

- ➡ These orders may be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

## Table 22: Procedure – Pseudonym/anonymity orders

Upon receiving a **search request** for a file that has a pseudonym/anonymity order on it, seek instructions from the judge.

For orders made in court, **note the pseudonym order on the form** “Orders Restricting Publication or Public Access” (see [Appendix 1](#)).

- For criminal and youth matters, *Criminal Code* section [486.31](#) (no disclosure of witness identity) is available (**Part I of the form**).

- For family and civil matters, this will most likely be a common law order (**Part III of the form**).

### King's Bench and Court of Justice

For all orders, make an entry in the relevant docket system.

1. In [CASES](#) (civil or family matter): the order would probably include both a publication ban (**BPUB**) on identity and a sealing order (**ORSEL**). In the comment, **do not include the real identity or initials** of the protected person; description is "PSEUDONYM; IDENTITY SEALED ON FILE."
2. In [JOIN](#) (criminal/youth/provincial offence matter: use **BPF** and comment. In the comment, **do not include the real identity or initials** of the protected person; description is "NO DISCLOSURE OF IDENTITY OF [e.g., "UNDERCOVER OFFICER"]; IDENTITY SEALED ON FILE." For details on using BPF, see [Table 10](#).

## 3. Civil Matters – Restrictions on Access

### 3.1 General

Civil court cases can exist in any of the three levels of court: Court of Justice, Court of King’s Bench or Court of Appeal.

- ➔ Court files in most civil cases are accessible to members of the [public](#) and the [media](#). The law or a court order may limit [access](#) to some court information or the [publication](#) of some information.

Before providing access to information in a case, court staff must always check the court file *and* the applicable [docket system](#) for any [laws](#) or [orders](#) that might restrict access. If a publication ban order affects the case, court staff will inform the person who is requesting access.

- ➔ A [publication ban](#) forbids only [publication](#), not [access](#) to the information in the court file.

Unless a file is [sealed](#) or marked [confidential](#), on payment of the applicable fee, members of the [public](#) and the [media](#) may view a file or receive copies of a file or part of a file, including the clerk’s notes (in the Court of King’s Bench) or endorsement sheets (in the Court of Justice). In civil and family cases, they may receive a printout from the Court’s electronic [docket system](#) listing the events in a case and the documents on the Court’s file. (In the Court of King’s Bench and Court of Justice, the printout is sometimes called the “procedure card;” in the Court of Appeal, the printout is called an “Appeal Summary.”)

- ➔ For general access procedures, see [Information Requests](#).
- ➔ For access to [exhibits](#), see Part 8.

### 3.2 Adult Guardianship and Trusteeship Act (AGTA)

The Court of King’s Bench hears applications under the *AGTA*. The hearing of an application is generally open to the [public](#) and the [media](#) and records under the *AGTA* are generally accessible. However, a judge may make an order:

- Limiting the persons who may be present at all or part of a hearing (an [exclusion order](#)),

- Requiring that all or part of the hearing be held as a [private hearing](#),
  - **Restricting access** to information given at hearing or contained in documents filed with or received by the Court ([a sealing order](#)), or
  - **Restricting publication** of information given at hearing or contained in documents filed with or received by the Court ([a publication ban](#)).
- ➔ These orders are discretionary. The Court will consider whether a restriction order is in the best interests of the adult who is the subject of an application or to whom an application relates or in the interests of the proper administration of justice. For more about discretionary orders, see [Orders Restricting Publication or Private Access](#).
- ➔ To learn about accessing information from private hearing see [Table 5](#).

### **Table 23: Procedure – Adult Guardianship and Trusteeship Act**

The party who wishes to apply for a private hearing order, publication ban order or sealing order must provide notice to the media and must serve notice of the application upon other parties to the proceedings. For notice to the media, see [e-Notice of Restricted Access Applications](#). As proof of the required media notice, the applicant must present a print copy of the media notice email to the clerk.

1. For **orders made in court**, enter the order on **Part II** of the “Orders Restricting Publication or Public Access” form. See [Appendix 1](#).
2. For court staff procedure on **publication ban orders** (orders made under the AGTA, section [113\(2\)\(c\)](#)), see [Table 10](#).
3. For court staff procedure on **private hearings** (orders made under the AGTA, section [113\(2\)\(a\)](#) or [\(b\)](#)), see [Table 12](#) to [Table 16](#).
4. For court staff procedure on **sealing orders** (orders made under the AGTA, section [113\(2\)\(c\)](#)), see [Table 18](#), [Table 19](#) and [Table 20](#).

## **3.3 Corporations and Cooperatives**

Legislation that concerns corporations and cooperatives may have provisions that require the Court to hold certain proceedings as a [private hearing](#). Sometimes the legislation gives the judge discretion to order a private hearing. The legislation may require or permit confidentiality or a publication ban.

The Court of King's Bench hears [cases](#) under this legislation. If that Court orders a matter to be heard in private, then an appeal to the Court of Appeal will also be heard in private.

The Court of King's Bench **must** hold the following proceedings as [private hearings](#):

- an [ex parte](#) application for an investigation order under the *Canada Business Corporations Act*, section [229](#).
- an application regarding an appeal tribunal's decision with respect to confidentiality under the *Marketing of Agricultural Products Act*, section [42\(2\)](#).
- a claim of solicitor-client privilege under the *Securities Act*, section [57\(3\)](#).

The following provisions **permit the Court** to order a [private hearing](#). These orders would be discretionary. For more information about discretionary orders, see [Orders Restricting Publication or Public Access](#).

- an application by a corporation to review an authorization under the *Alberta Corporate Tax Act*, section [60.2\(10\)](#);
- a court hearing in an investigation or a hearing conducted by a court-appointed inspector under the *Cooperatives Act* (Alberta), section [294\(1\)](#);
- an application to review an authorization under the *Fuel Tax Act*, section [35\(10\)](#) or the *Tourism Levy Act*, section [10.1\(10\)](#).
- an application for an investigation hearing under the *Canada Cooperatives Act*, section [332\(1\)](#).

On judicial review, the Court may give directions to protect the [confidentiality](#) of trade union membership or choice of bargaining agent representation: *Labour Relations Code*, section [19\(3\)](#). Such an order is also [discretionary](#).

The *Business Corporations Act* has several restrictive provisions relating to investigating a corporation.

- An application for an investigation or for a related order (section [232](#)) must be [heard in private](#) unless the Court orders otherwise: section [231\(4\)](#).
- Except with the Court's authorization or the consent of the corporation that is under investigation, there is a [publication ban](#) on matters concerning the Court's order for

investigation and other orders relating to an investigation: section 231(5).

- Documents in the Court’s possession are **confidential** unless the Court orders otherwise: section 231(6).
- The publication ban and confidentiality provisions do not apply to court orders made under sections 231 and 232: section 231(7).

### Table 24: Procedure – Corporations and cooperatives

If a party is applying for restricted access or a publication order, that party must provide a copy of the required media notice to the clerk.

#### If a restriction is ordered in court, the clerk must

- **note it in Part II** (statutory restriction) or **Part III** (common law restriction) of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)), and
  - note it in [CASES](#).
1. For court staff procedure on **publication bans** see [Table 10](#).
  2. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
  3. For court staff procedure on **sealing orders** see [Table 18](#), [Table 19](#) and [Table 20](#).

## 3.4 Mandatory Testing and Disclosure Act

The Court of Justice hears applications under the *Mandatory Testing and Disclosure Act*.

- ➡ Information about an applicant or a source individual under this Act is **confidential**: see section 16 of the *Act*. (A “source individual” is the person whom the applicant wants to have tested for a communicable disease.)

Under this Act, a subpoena, warrant or court order may require information about an applicant or a source individual. The Court may order a **private hearing** for that part of the case. The Court may also order that information be **sealed** in the court file, and that the records relating to that information not be made available to the **public**.

If a party appeals the case to the Court of King’s Bench, that Court may also order a [private hearing](#) for the part of the case relating to information required by a subpoena, warrant or court order.

- Those orders would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### **Table 25: Procedure – *Mandatory Testing and Disclosure Act***

Information about an applicant and a source individual is **confidential**.

Proceedings relating to information disclosed pursuant to a subpoena may be **held in private**, and the Court may direct that the information be **sealed**, and the record of the proceedings not made available to the public.

***Mandatory Testing and Disclosure Act, section 16(1), 16(3), 16(4)***

These applications are entered on CASES; MTDA is entered on the Start Action Screen.

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
2. For court staff procedure on **sealing** see [Table 18](#), [Table 19](#) and [Table 20](#).

## **3.5 Mental Health Act**

The Court of Justice can issue a warrant to detain and assess a person under the *Mental Health Act*, including persons under the age of 18 years old.

The Court of King’s Bench hears appeals from decisions and orders of Review Boards under this Act. The appeal is held as a [private hearing](#), unless the Court orders otherwise.

### **Table 26: Procedure – *Mental Health Act***

For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

***Mental Health Act, section 43(8)***

Confidentiality under the *Health Information Act* applies to the Minister, employees, physicians, and the Review Board.

***Mental Health Act, section 17(1.1)***

## **3.6 Public Health Act**

The Court of King’s Bench hears applications under the *Public Health Act*.

- ➡ Records under this Act may be confidential and not available to members of the [public](#) and the [media](#).

A [judge](#) of the Court of King’s Bench may order the following applications to be [heard in private](#).

- to cancel a certificate directing a medical examination or a treatment: section [39\(8\)](#);
  - to cancel an isolation order: section [49\(4\)](#);
  - for confidentiality or disclosure of communicable disease information: section [54\(3\)](#).
- ➡ Those orders would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

If a party appeals a ruling made in a private hearing, the Court of Appeal will hear the appeal in [private](#).

### **Table 27: Procedure – Public Health Act**

For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

For orders made in court, enter the private hearing in Part II of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

*Public Health Act, sections [39\(8\)](#), [49\(4\)](#), [54\(3\)](#)*

## **3.7 Safer Communities and Neighbourhoods Act (SCAN Act)**

Under the *SCAN Act*, a person may make a complaint to the Director of Law Enforcement regarding activities on or near a property or use of a property. Among other available responses, the Director may apply to the Court of King’s Bench for a community safety order. The identity of a complainant under this Act is confidential, and the Director and others acting under the Director’s direction are not compellable to disclose the complainant’s identity.

### **Table 28: Confidentiality under SCAN Act**

Except with the complainant’s written consent, the identity of a complainant is confidential and the Director and others acting under the Director’s authority cannot be compelled to disclose it.

***Safer Communities and Neighbourhoods Act, s 31***

**CASES** Data Entry: Code for community safety order is **CSOR**.

### **3.8 Protecting Survivors of Human Trafficking Act**

#### Confidentiality

- Any information relating to the location of a victim must be kept confidential unless the victim or a person acting on the victim's behalf consents to the release of the information.
- Although by default, the victim's location must be kept confidential, it may be disclosed if mentioned in a court order or disclosed in a transcript of the hearing. This may happen if a judge orders that the respondent be restrained from attending at or entering the residence of the victim or another family member.

#### Publication Ban

- If the victim or any witness is a child, any information that could identify the child may not be published.
- If the victim or any witness is not a child, the court may order that any information that could identify the victim or witness may not be published.

#### **Table 29: *Protecting Survivors of Human Trafficking Act***

##### Confidentiality:

Except with the victim's consent or if the court orders that the respondent be restrained from attending at or entering the victim's or family member's residence, the location of a victim is confidential and must not be disclosed.

For court staff procedure on confidential information see [Table 21](#).

***Protecting Survivors of Human Trafficking Act, s 11***

## Publication Ban

For court staff procedure on **publication bans** see [Table 10](#).

*Protecting Survivors of Human Trafficking Act, s 10*

## Family Matters – Restrictions on Access

### 4.1 General

Both the Court of Justice and the Court of King's Bench can hear family cases, depending on the situation. A party may appeal an order made in the Court of Justice to the Court of King's Bench and may appeal an order made in the Court of King's Bench to the Court of Appeal.

- Some court cases in family matters are subject to [confidentiality](#) requirements or [publication bans](#) required by law or court order. Before providing access, court staff will check the court file for any specific restrictions.
- The RCAS Contact Centre can provide some non-restricted information for free via phone or email.

### 4.2 Court of King's Bench Practice Notes and Early Intervention Case Conference

*This Guide mentions only the specific Family Practice Notes and Notices to the Profession and Public that may affect access to court information.*

These Family Practice Notes may apply to cases heard in the Court of King's Bench under the [Family Law Rules](#), Part 12 of the [Alberta Rules of Court](#). Family Practice Note 10 also applies to cases under the federal [Family Homes on Reserves and Matrimonial Interests or Rights Act](#).

#### i. Access to court files in family law proceedings ([Family Practice Note 10](#))

Access to family court files under [Family Practice Note 10](#) is subject to existing laws, court orders and court practice notes that restrict access to such records.

The following information is available to anyone upon providing a search request and paying the search fee:

- the procedure card (list of proceedings and documents filed),
- scheduling information (upcoming proceedings), and
- addresses for service.

For search fees and procedures generally, see Documents Filed in Court.

Apart from specific restrictions on access, the following people can have access to a court file in a family matter in the Court of King’s Bench:

- (a) a [party](#) to the action, [lawyer of record](#), lawyer for the children or a government employee acting in the course of employment in respect of the specific file;
  - (b) a person authorized by a party, lawyer of record or lawyer for the child(ren) of a party by means of a filed Authority to Access Family Law File (the form is appended to the [Practice Note](#) on the court website), and
  - (c) members of [accredited media](#).
- Each time *any other person* requests access to a court file in a family matter, they must complete and serve a Request to Access Family Law File form upon the parties, the lawyers of record and the lawyer for the child(ren) and file an Affidavit of Service with the Court. (The blank form is appended to [Family Practice Note 10](#).)
  - Both the Request to Access form and the Authority to Access form are included in the Practice Note, and court staff must provide the relevant addresses for service on request.

If a party or a child of a party wishes to prevent access to all or part of the court file, they must bring a restricted court access application under Part 6, Division 4 of the [Alberta Rules of Court](#). The applicant must give notice under Rule [6.31](#), including notice to the person requesting access to the file and notice to the media under Rule [6.32](#). Media notice is provided by means of an online form: [e-Notice of Restricted Access Application](#).

If a party or child of a party does not file a restricted court access application within 30 days of service of the Request to Access Family Law File, **or** if the Court does not make an order to restrict access, court staff must grant access to the file.

### **Table 30: Procedure – Access to court files in family law proceedings (King’s Bench)**

#### **Initial information on request**

- When requested pursuant to a search request, court staff must provide the following upon payment of the search fee (and copy fee if any; see “Self-service copies”):
  - procedure card
  - scheduling information
  - addresses for service

*Family Practice Note 10, sections 3 and 6*

- ➞ With a search request, the following people have access to the file *unless their access is restricted* by an existing sealing order, confidentiality order or similar access restriction:
  - a party, the current lawyer of record or the lawyer for the child(ren)
  - a government employee acting in the course of employment in respect of the specific file
    - a person authorized by a party, lawyer of record or lawyer for the child(ren) of a party by means of a filed Authority to Access Family Law File
  - members of **accredited media**

*Family Practice Note 10, section 4*

- ➞ **Note:** For *Family Law Act* matters, there may be a confidentiality order in place for financial disclosure information. If so, a court order is required before court staff can provide that information to any member of the public or the media. This requirement is in addition to FPN 10 requirements.

*Family Practice Note 10, section 1*  
*Family Law Act, section 65(7)*

### Required before providing further information to other persons

- ➞ For anyone not listed in section 4, the following must be in place, *each time* they request access to anything more than the procedure card, scheduling information or addresses for service:
  - ➞ An **Authority to Access Family Law File** is on the court file and it names the person who is seeking access. (The blank form is appended to [Family Practice Note 10](#).)

**OR**

- ➞ The person who is seeking access has:
  - served a **Request to Access Family Law File** (the blank form is appended to [Family Practice Note 10](#)) and filed an [Affidavit of Service](#); 30 days have passed since the date of service;

**and,**

- **either** no party or child of a party has applied to the Court to restrict access, **or** the Court has not made an order restricting access.

➡ **Note:** For *Family Law Act* matters, there may be a confidentiality order in place for financial disclosure information. If so, a court order is required before court staff can provide that information to any member of the public or the media. This requirement is in addition to [Family Practice Note 10](#) requirements.

*Family Law Act*, section 65(7)

### Restricted Court Access Application

For court staff procedure, see [Table 7](#).

## ii. Early Intervention Case Conference (EICC)

[Mandatory EICCs](#) are required when a party does not have a lawyer, and when a trial of three days or more is scheduled. All [EICCs](#) are held as a [private hearing](#). The parties and counsel can have access to the digital recording or a transcript only with leave of the Court.

Commencing October 1, 2020, the Court of Appeal introduced an Appeal Conference pilot project that is applicable to family law fast track appeals. These proceedings are held as a private hearing. For more info, visit <https://www.albertacourts.ca/ca/publications/jdr>.

### Table 31: Procedure – Early intervention case conference

1. For court staff procedure for **private hearings**, see [Table 13](#) and [Table 14](#).
2. The clerk must indicate in the body of the log notes in bold font: "**Transcripts, audio, clerk's notes, and log notes will not be released to the parties (or counsel) without a court order.**"

## iii. Allegation of sexual abuse ([Family Practice Note 5](#))

[Family Practice Note 5](#) applies in the [Judicial Districts](#) of Calgary, Edmonton, Grande Prairie, and Red Deer. The party making an allegation of child sexual abuse against a parent must provide a Notification in Form 1 to Child and Family Services and to the Clerk of the Court. On receiving the Notification, court staff must seal related forms and reports in the court file. The parties or their counsel can receive a copy unless the case management judge directs otherwise.

- ➡ If a Form 1 Notification is on the court file, that form, and all Children's Services forms and reports are sealed on the court file.

Members of the [public](#) and the [media](#) cannot access them, except with an order from the Court.

### Table 32: Procedure – Allegation of child sexual abuse

1. The CASES code for a Family Practice Note 5 form is **PN5F**.

**Court staff must seal related forms and reports.** For court staff procedure on sealed documents and files, see [Table 19](#) and [Table 20](#).

[Family Practice Note 5](#)

#### iv. Intervention by a parenting expert ([Family Practice Note 7](#))

The Court may appoint a Parenting Expert to conduct an Intervention where a family is experiencing a state of conflict. There are two types of Interventions:

- **Evaluative Interventions** provide information to the Court to assist in decision making; and
- **Therapeutic Interventions** work directly with the family in an effort to resolve disputes, manage conflict and make changes in the existing family dynamic.

The Parenting Expert provides an Intervention Report to the Court. The Intervention Report is sealed on the court file. Represented parties may review the Intervention Report at their lawyer's office, under supervision. A party who does not have a lawyer may ask the Court to arrange for him or her to review the entire Intervention Report in the presence of a court clerk. Parties must not be in possession of a cellphone or other electronic device while viewing the Report, and they must not make notes or copies of the Report except with the Court's permission.

The parties must not discuss the Intervention Report with the children, and they must not attach the Report as an exhibit to any affidavit filed with the Court.

### Table 33: Procedure – Intervention by parenting expert

#### King's Bench

The Parenting Expert's Intervention Report must be **sealed on the court file**.

[Family Practice Note 7, para 33](#)

1. The CASES code for a Family Practice Note 7 Report is **FPN7R**.

2. For court staff procedure on **sealed documents, audio and files**, see [Table 18](#) and [Table 20](#).

### **Court of Appeal**

If a party appeals a King's Bench court order to the Court of Appeal, the Parenting Expert's Intervention Report may be filed at the Court of Appeal as part of the Extracts of Key Evidence. Requests to access Extracts of Key Evidence must be made in accordance with the [Public Access to the Court Record Policy](#).

### **v. Child Custody / Parenting Evaluation ([Family Practice Note 8](#))**

Where the parties have reached an impasse and are unable to agree on parenting issues such as parenting arrangements, parenting responsibilities and/or decision-making, the Court may appoint a Parenting Expert to provide the Court with a Child Custody / Parenting Evaluation ("Evaluation"): an objective assessment of the family. The parties cannot receive a copy of the Evaluation Report, but they may receive a copy of the appendix to the Report, containing the Parenting Expert's recommendations.

Represented parties may view the Evaluation Report at their lawyer's office, under supervision. Parties without a lawyer may contact the Court to arrange to review the Evaluation Report in the presence of a clerk of the Court. Parties must not be in possession of a cellphone or other electronic device while viewing the Report, and they must not make notes or copies of the Report except with the Court's permission. Children must not see any part of the Report, and the parents must not discuss the Report with the children.

### **Table 34: Procedure – Parenting time / parenting responsibilities assessment**

The Evaluation Report must be **sealed on the court file**. With the Court's permission, a party without a lawyer may make an appointment to view the Report in the presence of court staff. The party must not have a cell phone or other electronic device, and may not take notes, except with the Court's permission.

[Family Practice Note 8](#), para 32, 34

1. The CASES code for a Family Practice Note 8 Report is **FPN8R**.
2. Add a comment (**BR-ID: COMNTU**); in the comment, add "Per Family Practice Note 8, evaluation report is sealed."

3. For court staff procedure on **sealed documents, audio, and files**, see [Table 18](#) and [Table 20](#).

### Court of Appeal

If a party appeals an order of the Court of King's Bench to the Court of Appeal, the Evaluation Report may be filed at the Court of Appeal as part of the Extracts of Key Evidence. Requests to access Extracts of Key Evidence must be made in accordance with the [Public Access to the Court Record Policy](#).

## 4.2 Family Law Act (FLA)

The [Family Law Act \(FLA\)](#) applies to family matters, but does not include divorce, adoption or child protection matters. Both the Court of Justice and the Court of King's Bench can hear most *FLA* matters. However, only the Court of King's Bench has the following powers under the *FLA*, and therefore records about these matters are kept in the Court of King's Bench:

- To issue a declaration regarding a person's legal status:
    - surrogacy (section [8.2](#))
    - parentage (section [9](#))
  - To give an order:
    - for exclusive possession of a home (section [68](#))
    - for exclusive use of household goods (section [73](#))
    - directing the Registrar of Land Titles to cancel the registration of an order for exclusive possession of property (section [76](#))
    - that money be held in trust for someone (section [66\(3\)\(b\)](#))
    - that property be held in trust for someone or transferred to them (section [66\(3\)\(d\)](#)), or
    - that payment of a support order be secured by a charge on property (section [66\(3\)\(g\)](#)).
- ➡ Specific procedures apply to accessing court information in proceedings at the Court of King's Bench under the *FLA*; see [Access to court files in family law proceedings](#). As well, the Court

of King’s Bench may make specific orders that restrict [access](#) or [publication](#) in specific [cases](#).

The Court may order a [private hearing](#). The order cannot exclude the [parties](#), their lawyers or the child’s lawyer.

- ➔ For more information about accessing records from private hearings see [Table 5](#).

The Court may also order a [publication and broadcast ban](#) on any report of a proceeding that may identify the child.

- ➔ A publication ban does not restrict access to the court file, but court staff will inform the requester about the existence of the ban.

On application by any person, the Court may order that financial documents filed with the Court are not available for inspection by anyone other than the parties, except with an order of the Court.

- ➔ This order has the effect of making the financial documents [confidential](#). It restricts access to the documents, unless the person who wants to see the documents can obtain a court order to permit access.

All restrictive orders available under the *FLA* are discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 35: Procedure – Family Law Act

#### Court of Justice

On *Family Law Act* files, any **child protection documents** must be put into an unsealed, marked envelope when put on file. Staff must mark the envelope “Child Protection – Confidential.” This information must be removed from the file before it is provided to members of the [public](#) or [media](#) for viewing. See [Child Protection](#)

On files where the child protection documents were not kept separate from the *Family Law Act* matters, staff may **consult the court** before providing access.

#### Court orders

- ➔ For orders made in court, enter order in **Part II** of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

On application, a judge may order that **no one can view** financial disclosure documents filed under section 65. The effect is similar to a **sealing order**: there can be

no access by members of the [public](#) or [media](#), unless they obtain an order that permits access.

- For court staff procedure on **sealing** see [Table 18](#), [Table 19](#) and [Table 20](#).

**Reference: *Family Law Act*, section 65(7)**

The court may make an order to exclude anyone except the parties, the parties' lawyers, and a child's lawyer.

- For court staff procedure on private hearings see [Table 12](#) to [Table 16](#).

**Reference: *Family Law Act*, section 99**

The court may order a [publication and broadcast ban](#) on any report of a proceeding that may identify the child.

- For court staff procedure on **publication bans** see [Table 10](#).

**Reference: *Family Law Act*, section 100**

### 4.3 Family Homes on Reserves and Matrimonial Interests or Rights Act

The Court of King's Bench hears proceedings under this Act. Specific procedures apply to accessing court information; see [Access to court files in family law proceedings](#).

The Court may order a [private hearing](#). The order cannot exclude the [parties](#) from the hearing.

The Court may also order a [publication and broadcast ban](#) on the name or identifying information of a party, child, or witness.

- ➡ A publication ban does not restrict access to files, but court staff will inform the requester about the ban.

The Court may make an order prohibiting disclosure to the public of any information in a court document or record related to a proceeding.

- ➡ This order makes the court documents [confidential](#). It restricts access to the documents, unless the person who wants to see the documents can obtain a court order to permit access.
- ➡ The order prohibits anyone who has the information from disclosing it to others.

All these orders are discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 36: Reference – Family Homes on Reserves and Matrimonial Interests or Rights Act

- For orders made in court, enter the order in Part II of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

*Family Homes on Reserves and Matrimonial Interests or Rights Act, section 19(1)(a)*

For court staff procedure on **publication bans** see [Table 10](#).

*Family Homes on Reserves and Matrimonial Interests or Rights Act, section 19(1)(b)*

For court staff procedure on **confidentiality orders** see [Table 10](#).

*Family Homes on Reserves and Matrimonial Interests or Rights Act, section 19(1)(c)*

## 4.4 Divorce Act

The [Divorce Act](#) applies to all matters involving divorce, and may include spousal support, child support and parenting arrangements. The Court of King’s Bench hears [cases](#) under this Act.

Specific procedures apply to accessing court information in proceedings under this Act; see [Access to court files in family law proceedings](#). As well, using the Court’s common law powers, a judge may order a publication ban, sealing order or other restriction on access or publication.

- These orders would be discretionary. For more about discretionary orders, see [Orders Restricting Access or Publication](#).

There are no statutory [publication bans](#) or restrictions on access to court information contained in the *Divorce Act*.

### Table 37: Procedure – Divorce Act

For the procedure to apply for a [discretionary](#) restriction on access or publication in the Court of King’s Bench, see [Table 7](#).

- For orders made in court, enter the order in Part II of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).
1. For court staff procedure on **publication bans** see [Table 10](#).
  2. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

3. For court staff procedure on **sealing** see [Table 18](#), [Table 19](#) and [Table 20](#).

## 4.5 Adoption of Children

The adoption of children falls under the *Child, Youth and Family Enhancement Act (CYFEA)*. The Court of King's Bench hears adoption [cases](#).

- Hearings are [private](#) and adoption records are [sealed](#). There is no access for the [public](#) or the [media](#), except with a court order.

### Table 38: Procedure – Adoption

Adoption files are sealed. The information on the adoption hearing list is **confidential**. Court staff do not post the list in any public location.

- Court staff cannot disclose the existence of an adoption file to any member of the [public](#) or the [media](#).
- For rules about disclosing adoption information to adopted children, adoptive parents, birth parents and others after the adoption, see *CYFEA*, Part 2, Division 2, [Adoption Information](#). The Post-Adoption Registry submits the request to the Court.

The Court usually hears adoptions in private; however, the Court may order a public hearing.

***CYFEA*, section 68**

1. For court staff procedure for distributing an adoption order, see *CYFEA*, section [74](#).
2. For court staff procedure when an adoption order is set aside, see *CYFEA*, section [73.1\(5\)](#).

The judge may order the **publication of an adoption judgment**. Judgments must not identify the child or members of the birth or adoptive families.

***CYFEA*, section [74.1](#) and section [126.2](#)**

## 4.6 Adoption of Adults

Under the *Adult Adoption Act*, the Court may order a private hearing.

- That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).
- To learn about accessing information from private hearings see [Table 5](#).

**Table 39: Procedure – Adult Adoption Act**

An application for an adult adoption may be heard in private.

- For court staff procedure for **private hearings**, see [Table 13](#) and [Table 14](#).  
**Adult Adoption Act, section 8**

## 4.7 Child Protection

The Court of Justice hears child protection [cases](#) in the first instance. Most child protection cases fall under the [Child, Youth and Family Enhancement Act](#). Some child protection matters may fall under the [Protection of Sexually Exploited Children Act](#), the [Drug-Endangered Children Act](#) or the [Protection of Children Abusing Drugs Act](#).

- ➔ Court files are confidential. The [public](#) and the [media](#) do not have access to information except as directed by a judge.
- ➔ These Acts also impose a [ban on publishing](#) information that would identify parents, guardians and children as being involved in child protection proceedings.

### a. Access to Court Proceedings

The [public](#) and the [media](#) can attend most court proceedings in child protection cases.

- ➔ Daily court lists display the courtroom locations for child protection cases in courthouses.
  - Court staff can generally provide the next court date in a child protection case.
  - RCAS Contact Centre staff do not have access to child protection information.
- ➔ The request for the next court date should include:
  - the child's or guardian's full name, and
  - the court location if known.
- ➔ If the full name is not known, the request should include other details such as:
  - the initials of the child or parent, or the docket number,
  - the court location, and

- the last court date.
- ➔ If the next proceeding is a [private hearing](#), court staff can provide the date but must also inform the requester that the hearing is private and members of the [public](#) and the [media](#) cannot attend.

### **b. Child, Youth and Family Enhancement Act (CYFEA)**

Personal information relating to children and guardians under the [CYFEA](#) is confidential.

- ➔ There is no [public](#) or [media](#) access to court files under this Act.
- ➔ Those involved in a civil action may apply to a judge for disclosure of a record that contains information held under this Act.

### **Table 40: Procedure – CYFEA Confidential Records**

The Act requires that personal information under the Act be kept confidential.

**CYFEA, section 126**

- ➔ Use the CASES code **SBPUB** for child protection files. See Table 21.

Court staff can disclose personal information under the Act only to:

- The child’s guardian or the guardian’s lawyer of record.
- The child or the child’s lawyer of record.
- Administrators of child protection legislation in a Canadian jurisdiction.

**CYFEA, section 126**

- To a person involved in a civil matter under the Act or another act, with a court order for disclosure.

**CYFEA, section 126.11**

### **i. Private hearings**

The judge may order that all or part of a hearing be held as a [private hearing](#).

- ➔ That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).
- ➔ To learn about accessing information from private hearings see [Table 5](#).

### Table 41: Procedure – CYFEA Private Hearings

By its order, the Court can exclude almost anyone, including a child or the child’s guardian, from all or part of the proceedings. The Court cannot exclude a director or a lawyer representing a party.

**CYFEA, section 24**

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
2. For orders made in court, **enter the order in Part II** of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

### ii. Medical Records

Proceedings that concern whether a child’s medical records in child protection proceedings may be entered into evidence are often heard in private.

### Table 42: Procedure – CYFEA Medical Records

An application regarding the admissibility of medical records, in child protection proceedings, must be [heard in private](#) when the records were kept by a hospital board, a mental health board or the Chief Medical Examiner.

**CYFEA, section 109**

#### Sealed records

After proceedings concerning medical records:

- The records are [sealed](#).
- That part of the proceeding’s record (including the transcript or written [judgment](#)) is not made available to the public, and
- If a party appeals an order made under this section, the Court of King’s Bench must hear the appeal in [private](#).

**CYFEA, section 109**

#### Court staff procedure

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
2. For court staff procedure on **sealing** see [Table 18](#), [Table 19](#) and [Table 20](#).

### iii. Publication Ban

Under the *CYFEA*, no one may publish the name or photograph of a child or the child’s parent or guardian in a way that reveals that the child is receiving or has

received services. The mandatory [publication ban](#) does not apply if the child is deceased.

- Certain people may apply to the Court for a publication ban concerning a deceased child (see below).
- Such an order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Private Access](#)

### Table 43: **CYFEA Publication Ban**

- This provision affects judgments and any other court documents intended for publication.

Anyone who does publish identifying information is liable to a fine of up to \$10,000 or up to 6 months' imprisonment in default of payment.

**CYFEA, section 126.2(4)**

A director or a child over age 16 may publish or consent to the publication of identifying information. Children under age 16, parents, guardians or, with the Court's permission, other interested parties, may apply to the Court for permission to publish identifying information.

**CYFEA, section 126.2(2)**

#### **Deceased child**

The mandatory publication ban does not apply in respect of a deceased child.

**CYFEA, sections 126.2(4.1)**

- If a child who received intervention services has died, a family member may apply to the Court for an order banning publication of the name or photograph of the child or the child's parent or guardian, or other person identified in the court order.
- "Family member" means the deceased child's parent, guardian, grandparent, sibling, or someone who stands in place of a parent. (A "member of a prescribed class of individuals" may also make an application, but as of March 2022 there is no regulation that describes such a class.)

**CYFEA, section 126.3**

### **c. Protection of Sexually Exploited Children Act (PSECA)**

The same access restrictions apply under the *PSECA* as under the *CYFEA*.

- Members of the [public](#) and the [media](#) cannot have access to court information. Personal information relating to children and guardians is confidential.

No one may publish the name or photograph of a child or the child's parent or guardian in a way that reveals that the child is receiving or has received services. If a child has been apprehended for more than two days, the privacy provisions of the *CYFEA* will apply.

#### **Table 44: Procedure – PSECA Publication Ban**

If a director does not return an apprehended child within two days, the child is deemed to have been apprehended under the *CYFEA*, section 19.

***PSECA*, section 3(3)**

- The privacy provisions of the *CYFEA* will apply. See the section on the [CYFEA](#).
- For CASES, see [Table 40](#).

No one may [publish](#) the name or a photograph of a child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received services under the *CYFEA*.

***PSECA*, section 6.3**

A director or a child over age 16 may [publish](#) or consent to the publication of the child's name or photograph. Children under age 16, parents, guardians or, with the court's permission, other interested parties, may apply to the Court for permission to publish the information.

***PSECA*, section 6.3(2)**

The judge may order that all or part of a hearing be held as a [private hearing](#).

- That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

#### **Table 45: Procedure – PSECA Private Hearing**

By its order, the Court can exclude almost anyone, including a child or the child's guardian, from all or part of the proceedings. The Court cannot exclude a director or a lawyer representing the child.

***PSECA*, section 6.2**

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
2. For orders made in court, **enter the order in Part II** of the "Orders Restricting Publication or Public Access" form (see [Appendix 1](#)).

#### d. Drug-Endangered Children Act (DECA)

The same access restrictions apply under the *DECA* as under the *CYFEA*.

- ➔ Members of the [public](#) and the [media](#) cannot have access to the records.
- ➔ Personal information relating to children and guardians is confidential.

No one may [publish](#) a report of a proceeding under the *DECA* that contains identifying information about the children, or the guardians involved, except with the Court's consent. If a child has been apprehended for more than two days, the privacy provisions of *CYFEA* will apply.

#### Table 46: Procedure – *DECA* Privacy Provisions

If a director does not return an apprehended child within two days, the child is deemed to have been apprehended under the *CYFEA*, section [19](#).

*DECA*, section [5](#)

- ➔ The privacy provisions of the *CYFEA* then apply. See the section on the [CYFEA](#).
- ➔ For CASES, see [Table 40](#).

#### e. Protection of Children Abusing Drugs Act (PChAD)

No one may publish a report of a proceeding under this Act that contains identifying information about the children, or the guardians involved, except with the Court's consent.

#### Table 47: *PChAD* Publication Ban

No one may publish the name or a photograph of a child or of the child's parent or guardian in a manner that reveals that the child is receiving or has received services under this Act.

*PChAD*, section [7](#)

- This is like the *CYFEA* publication ban; see [Table 43](#).

The judge may order a [private hearing](#) for all or part of a proceeding.

- ➔ That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 48: Procedure – PChAD Private Hearing

By its order, the Court can exclude almost anyone, including a child or the child’s guardian, from all or part of the proceedings. The Court cannot exclude a co-ordinator, a director or a lawyer representing the child or a guardian.

**PChAD, section 6**

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
2. For orders made in court, **enter the order in Part II** of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

## 4.8 Family Violence Matters

### a. Protection Against Family Violence Act

The *Protection Against Family Violence Act (PAFVA)* allows a person to apply for a [protection Order](#). Court staff must keep the [claimant’s](#) location confidential unless the claimant consents to disclosing this information.

### Table 49: Procedure – PAFVA claimant location

Court staff must keep the **claimant’s location confidential**, unless the claimant or a person acting on the claimant’s behalf consents to disclosure.

**PAFVA, section 8(1)**

Although by default, the claimant’s location must be kept confidential, it may be disclosed if mentioned in a court order or disclosed in a transcript of the hearing. This may happen if a judge orders that the respondent be restrained from attending at or entering the residence of the claimant or another family member.

**PAFVA, section 8(1.1)**

### Table 50: Procedure – Charge or conviction information

The emergency protection order application may sometimes include information relating to the respondent that includes charges or convictions under the *Youth Criminal Justice Act*.

- ➡ If the EPO application includes **information about YCJA matters**, staff must provide access only as set out in the YCJA. See [YCJA Access to records](#).

The judge may hold all or part of a hearing as a [private hearing](#).

- ➡ That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 51: Procedure – PAFVA private hearing

By its order, the Court can exclude all or any member of the [public](#) from a hearing. The Court cannot exclude the parties.

*PAFVA, section 8(2)*

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
2. For orders made in court, **enter the order in Part II** of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

The Court can order a [ban on publishing](#) a report of a hearing or of any part of a hearing. Often the order only restricts publishing information about the claimant’s identity.

- ➡ That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 52: Procedure – PAFVA publication ban

The Court can order a publication ban on all or any part of a proceeding.

*PAFVA, section 8(3)*

1. For court staff procedure on **publication bans** see [Table 10](#).
2. For orders made in court, **enter the order in Part II** of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

## 4.9 Family Orders and Agreements Enforcement Assistance Act

Information received by a court pursuant to the Family Orders and Agreements Enforcement Assistance Act is sealed. The court may disclose the information to any person, service or body or official of the court that it considers appropriate and may make any order to protect the confidentiality of the information.

**Table 53: Procedure – FOAEA**

Information obtained pursuant to the Family Orders and Agreements Enforcement Assistance Act must be sealed and kept in a location to which the public has no access. see [Table 19](#)

*Family Orders and Agreements Enforcement Act, s 13*

## 4. Traffic and other Provincial Offences – Restrictions on Access

### 4.1 General

Traffic Court is part of the Court of Justice. It deals with offences (commonly referred to as provincial offences) under many provincial statutes, municipal bylaws, and a few federal statutes. Traffic Court does not deal with charges under federal statutes, including the *Criminal Code*.

- ➔ For general access procedures, see [Access Requests](#).
- ➔ Access to young persons' [cases](#) under the *Provincial Offences Procedures Act* is more limited than for adult [cases](#). See part 6.3 of this Guide.

## 5. Youth Justice Matters – Restrictions on Access

### 5.1 General

Any level of court, Court of Justice, Court of King's Bench or Court of Appeal, can hear youth justice [cases](#), but most often the Court of Justice hears them. Members of the [public](#) and the [media](#) do not have access to youth court information except as directed by a judge. There is a mandatory [publication ban](#) on identifying a young person as an accused or as a victim in youth justice matters.

- The young person and the lawyer of record are entitled to free copies of some records. See [Table 66](#).
- For general access procedures, see [Access Requests](#).

### 5.2 Access to court proceedings

Generally, the [public](#) and the [media](#) can attend court proceedings in youth cases.

- In courthouses, court staff post daily lists providing the courtroom locations for youth cases, and court staff can provide the date and the courthouse for the next court appearance.
- The request for the next court date should include the young person's full name if known.
- If the full name is not known, the request should, if possible, include other details such as:
  - the young person's initials or the docket number,
  - the court location, or
  - the last court date.
- If the next proceeding is a [private hearing](#), court staff can provide the date, but must also inform the requester that the hearing is private and members of the [public](#) and the [media](#) cannot attend.

## Table 54: Youth identification in court records

Court staff may use identifying information in court records, including the [docket system](#) and docket lists. Written judgments are released for publication but must not contain identifying information.

*Youth Justice Act (Alberta), section 24(2)*  
*Youth Criminal Justice Act, sections 110 and 111*

### 5.3 Youth Justice Act (Alberta)

This Provincial Act applies to provincial offences when the person charged with the offence is a young person. (For federal offences, see the section on the *Youth Criminal Justice Act* below.)

- ➔ Court information under this Act is generally not available to members of the [public](#) or the [media](#).
- ➔ For matters under the *Youth Justice Act*, no one may publish information that could identify a young person:
  - who is an accused, a witness or a victim,
  - in connection with an [offence](#), alleged offence or a court proceeding under the Act.
- ➔ Court staff can provide the court location and next appearance date. For traffic offences, users can search by ticket number to see the ticket information online. See [Information Requests](#).
- ➔ The form to apply for youth information, the [Application for Release of Young Offender Data](#) form, is available online or from the court clerk. Court staff will transmit the completed form to the Minister's designated agent to request written authorization to release information.
- ➔ After the proceedings have ended, and after the term of any sentence imposed, records are available only to the Minister and anyone authorized in writing by the Minister. Court staff may share identifying information to assist with justice administration if the intention is not to make the information known to the public.

A youth court judge may make an order to permit publishing information that could identify the child or the young person, if the child or the young person

applies, and the justice is satisfied that publication would not be contrary to the best interests of the child or the young person.

### Table 55: Procedure – Access to *Youth Justice Act* records

- ➔ To access *Youth Justice Act* records, requesters must complete a form: [Application for Release of Young Offender Data](#).
- ➔ Court staff will forward the completed form to the Minister’s designated agent.

The Court must keep youth records separate from records of proceedings in adult court. **During** the proceedings and the sentence, only the following people can access the court information:

- the counsel or the [parent](#) of the young person,
- the provincial director appointed under the *Youth Criminal Justice Act*,
- a judge who hears the appeal on the proceeding, or
- the Alberta Minister of Justice, the Minister’s agent, or anyone with the Minister’s written authorization (a “Ministerial Order”).

***Youth Justice Act (Alberta)*, section 33(3)**

- ➔ Some court locations do not have separate file storage for youth records; that is permissible providing that the records are marked as being youth records and access is controlled as the law requires.

**After** the proceedings are completed, only the Minister or someone with the Minister’s written authorization (“Ministerial Order”) can see the court information.

***Youth Justice Act (Alberta)*, section 33(4)**

## 5.4 Youth Criminal Justice Act (YCJA)

The *YCJA* applies to federal [offences](#) when the person charged with an offence is a [young person](#).

### Table 56: *Criminal Code* bans in youth justice matters

In addition to bans on publishing information that would identify a young person in connection with proceedings under the *YCJA*, bans under the *Criminal Code* may apply in youth proceedings. For those bans, see the section on [Criminal Matters](#).

## A. Identity not to be published; exceptions

Generally, no one may publish the name of a young person or other information if it would identify them as being dealt with under the *YCJA*, whether as an [accused](#), [victim](#) or [witness](#). However, there are some exceptions to this rule.

- ➔ The table below describes the exceptions that allow [publication](#) of a young person's name or identifying information.

**Table 57: When young person's identity may be published**

Offence or circumstances	Identifiable?	YCJA section
Young person receives an adult sentence	Yes	<a href="#">110(2)(a)</a>
Young person is at large and police have applied for publication of identity	Yes, if ordered by a judge; maximum 5 days	<a href="#">110(4), (5)</a>
Young person is 18 or older and wants to publish identity	Yes, youth may publish or cause to be published, unless in <a href="#">custody</a>	<a href="#">110(3)</a>
Young person is under 18 and applies to the Court for permission to publish	Yes, with court order	<a href="#">110(6)</a>

The table below describes the exceptions allowing publication of a young victim's or witness's name or identifying information.

**Table 58: When young victim's or witness' identity may be published**

Who can publish or cause to be published?	When?	YCJA section
<a href="#">Victim</a> or <a href="#">witness</a>	18 or over	<a href="#">111(2)(a)</a>
Victim or witness	Under 18, <ul style="list-style-type: none"> <li>- with <a href="#">parent's</a> consent</li> <li>- with court order</li> </ul>	<a href="#">111(2)(a)</a> <a href="#">111(3)</a>
<a href="#">Parents</a>	Child is deceased	<a href="#">111(2)(b)</a>

## Private hearing

The judge may order a [private hearing](#) for all or part of a proceeding.

- That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 59: Procedure – Private hearing under YCJA

The Court may order a private hearing on the grounds set out in the Act.

**YCJA, section 132**

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
2. For orders made in court, **enter the order** in Part II of the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

## Access to records

There is no access to records under the YCJA, except as specifically authorized or required by the Act: section [118\(1\)](#). People employed in keeping or maintaining the records can have access to them: section [118\(2\)](#).

- **It is an offence to permit access except as authorized under the Act: section [138\(1\)](#).**

### i. Public and media access

Court information under the YCJA is generally **not available** to members of the [public](#) or the [media](#), except as directed by a youth court judge. In [cases](#) that are currently before the Court, staff can provide the date and the courthouse location for the next court appearance. See [Access to Court Proceedings](#).

### Table 60: Procedure – Public and media access to YCJA records

The young person and the lawyer of record are entitled to free copies of some records. See [Table 66](#).

Court staff must forward access requests received from members of the [public](#) or the [media](#) to a youth court judge, usually the Assistant Chief Justice or designate.

The judge will decide whether the person making the request can have access to the youth court information or a copy of any part of a youth court record. The judge may

direct that the requester make a formal court application for access to the records, with notice to the Crown and the young person.

**YCJA, sections 119(1)(s), 123(1)(b)**

Access to records under the *YCJA* is strictly limited. The Act says that the criminal justice system for young persons must be separate from that for adults. The records system need not be physically separate, but access and use of the records must comply with the Act. See **YCJA, sections 3(1)(b), 114-120, 123-127**.

The *YCJA* requires “enhanced procedural protection to ensure that young persons are treated fairly and that their rights, *including their right to privacy*, are protected”: section 3(1)(b)(iii) [emphasis added]. There are limits on both *who* can access records *and* on the time during which the records are accessible. This time constraint does not apply to the young person and their counsel. They can have access at any time: section 124.

- See [Table 62](#): Persons permitted to access youth records.
- Records are available to members of the [public](#) or the [media](#) only as directed by a youth court judge; see item (s) in [Table 63](#).

## ii. Adult criminal records relating to *YCJA* proceedings

Restricted access does not apply to the records of young persons who received an adult sentence. The [Criminal Records Act](#) applies to those records, and court staff can release them to anyone who is entitled to them under the *Criminal Code*.

### Table 61: Adult criminal records under *YCJA*

The rules for accessing adult criminal records will apply if:

1. The young person received an adult sentence, and the appeal period has elapsed, or
2. The Court of Appeal heard the appeal and confirmed the adult sentence.

For such records, see [Criminal Matters](#) (Part 7 of this Guide).

**YCJA, section 117**

In [JOIN](#), the event code is **ASI (Adult Sentence Imposed)**. The record must continue to be treated as a youth record **if**:

1. The appeal period has not elapsed, or

2. After hearing the appeal, the Court of Appeal struck down the adult sentence.

If the Court of Appeal upholds the adult sentence, that Court's staff will send the information to the trial court for that Court's staff to update the [JOIN](#) record.

The youth record is also treated as an adult record if the youth committed offences as an adult during the access period for youth offences. See [Table 64](#) and [Table 65](#).

### iii. Persons with access to youth records

The following categories of persons have access to youth records, but *only during the access period* (see [Time limits on access to youth records](#)). After the access period, only a youth court judge can permit access: *YCJA*, section [123](#).

**It is an offence to permit access except as authorized under the Act: section [138\(1\)](#).**

- A person who is permitted to access youth records can have any information contained in the record and can have a copy of any record: *YCJA*, section [122](#).
- Access to certain records is more limited. See [Table 62](#): Sentencing materials in *YCJA* proceedings.

### **Table 62: Persons permitted to access youth records**

**During the access period**, records can be disclosed to people listed in *YCJA*, section [119\(1\)](#):

- (a) The young person
- (b) The young person's lawyer or the lawyer's representative
- (c) The Attorney General
- (d) The victim of the offence or alleged offence
- (e) The young person's parents or guardians during the proceedings and term of any sentence
- (f) An adult whom the court permits to assist the young person during the proceedings and sentence
- (g) A peace officer, for law enforcement purposes, or during the term of the youth sentence
- (h) A judge, court or review board

- (i) The provincial director or the director of the correctional facility or penitentiary where the young person is serving a sentence
- (j) Anyone participating in a conference or extrajudicial measures program
- (k) An ombudsman, or a privacy or information commissioner investigating a complaint to which the record relates
- (l) A coroner or a child advocate appointed by the legislature or parliament
- (m) A person acting under the *Firearms Act*
- (n) A member of a department or agency of a Canadian government, or an organization under contract, in relation to duties relating to the young person or the Act
- (o) A person carrying out a criminal record check for a government in Canada
- (p) An agent or employee of the Government of Canada for statistical purposes
- (q) An accused or counsel, with an affidavit swearing that access to the record is necessary for a full answer and defence
- (r) Anyone, by order in counsel of the Governor General or lieutenant governor
- (s) Other people can have access if permitted by a youth court judge. The judge must be satisfied that access to the record is:
  - (i) in the public interest for research or statistical purposes, or
  - (ii) in the interest of the proper administration of justice.

#### iv. Reports related to sentencing

Specific access restrictions may apply to these records.

#### **Table 63: Sentencing materials in YCJA proceedings**

**Staff must check with the Family & Youth Assistant Chief Justice or the presiding judge before providing access to YCJA sentencing materials.**

##### **Medical or psychological report**

- Only the following people can have access to a medical or psychological report (a “section 34 report”) or a forensic DNA analysis:
  1. the young person
  2. the young person’s lawyer
  3. the Attorney General
  4. the young person’s parents

5. an adult assisting the young person
6. a peace officer
7. a judge, court, or review board
8. an accused or accused's counsel who swear that access is necessary to make a full answer and defence
9. with a judge's order, anyone whose access is desirable in the interest of the proper administration of justice

**YCJA, section 119(6)**

### **Access to these reports may be further limited**

- Despite section 119(6), if the Court believes that withholding the report would endanger anyone, the Court may direct that a copy of the report be given to the provincial director or to the director of a facility where the youth is serving a sentence: **YCJA, section 34(7)(b)(ii)**
- A youth court must withhold all or part of section 34 report from a [private prosecutor](#), if the Court believes that disclosure of the report or part is not necessary for prosecuting the case and might be prejudicial to the young person: **YCJA, section 34(9)**
- A youth court must withhold all or part of a section 34 report from the young person, the young person's [parents](#) or a [private prosecutor](#) if the Court believes that disclosing all or part of the report would seriously impair the treatment or recovery of the young person, or would be likely to endanger the life or safety of another person or result in serious psychological harm to them: **YCJA, section 34(10)**.

### **Child welfare assessment**

At any stage of the proceedings, a youth court may refer a young person to a child welfare agency for assessment to decide if the young person needs child welfare services: **YCJA, section 35**.

### **Pre-sentence report**

The Court may withhold a pre-sentence report from a [private prosecutor](#) if the Court believes disclosure would be prejudicial to the young person and not necessary for prosecuting the charge; if the pre-sentence report is submitted orally in court, the Court may exclude the private prosecutor from the courtroom: **YCJA, section 40(7)**.

### **Progress report**

When a young person is in custody, the director of the facility must bring the young person to court at the end of each year of custody. The Court may decide to review the sentence, and if it does review the sentence, must ask the [provincial director](#) to submit a progress report on the young person's performance during the youth

sentence. The Court may withhold the report from a [private prosecutor](#) on the same grounds as in section 40(7): *YCJA*, sections [94\(9\)](#), [\(12\)](#).

### Application for continuation of custody

The Attorney General or the [provincial director](#) may apply to the Court for an order that the youth person serve more of their sentence in custody, rather than receiving probation. The Court must ask the [provincial director](#) to submit a progress report on the young person's performance during the youth sentence.

The Court may withhold the report from a [private prosecutor](#) on the same grounds as in section 40(7): *YCJA*, sections [99\(1\)](#), [\(3\)](#).

## v. Access period - time limits on access to youth records

The “access period” is the limited time during which access to youth records is available as permitted by the *YCJA* (see Table 64 below), unless the records can be treated as adult records. See “Adult criminal records relating to *YCJA* proceedings” and “When access periods do not apply”.

- **After the access period, there is no access, except with a court order.** It is an offence to provide access or disclose the records to anyone, except with a court order: *YCJA*, section [138\(1\)](#).
- If it is difficult to determine the access period, staff will consult the Assistant Chief Justice or designate.
- Access periods do not apply to young persons and their counsel. They can have access at any time: see the *YCJA*, section [124](#).

**Table 64: Access periods for *YCJA* records**

Disposition	Access Period	After Access Period
<a href="#">Extrajudicial sanction</a>	2 years after the young person agrees to the sanction section <a href="#">119(2)(a)</a>	<b>No disclosure</b> , except with a court order section <a href="#">123</a>
<a href="#">Acquittal</a>	2 months after appeal period, or if an appeal is held, 3 months after the end of the proceedings section <a href="#">119(2)(b)</a>	<b>No disclosure</b> , except with a court order section <a href="#">123</a>

<b>Not criminally responsible</b>	No time limit specified section 119(2)(b) <i>If an access request is received, staff must consult the Assistant Chief Justice</i>	<b>No disclosure</b> , except with a court order section 123
<b>Charge is <b>withdrawn</b> or <b>dismissed</b>, or young person receives a reprimand after being found guilty</b>	2 months after the withdrawal, dismissal or finding of guilt section 119(2)(c)	<b>No disclosure</b> , except with a court order section 123
<b>Absolute discharge</b>	1 year after young person is found guilty section 119(2)(e)	<b>No disclosure</b> , except with a court order section 123
<b>Conditional discharge</b>	3 years after the young person is found guilty section 119(2)(f)	<b>No disclosure</b> , except with a court order section 123
<b>Summary offence</b>	3 years after young person completes sentence section 119(2)(g)	<b>No disclosure</b> , except with a court order section 123
<b>Indictable offence</b>	5 years after young person completes sentence section 119(2)(h)	<b>No disclosure</b> , except with a court order section 123
Further <b>summary offence</b> while a young person, during the access period for an earlier summary or indictable offence	The latest of: - 3 years ( <i>or 5 years</i> ) after young person completes the initial sentence for the earlier summary ( <i>or indictable</i> ) offence OR - 3 years after young person completes the sentence for the later offence section 119(2)(i)	<b>No disclosure</b> , except with a court order section 123
Further <b>indictable offence</b> while a young person, during the	5 years after young person completes the sentence for the later indictable offence	<b>No disclosure</b> , except with a court order section 123

access period for an earlier summary or indictable offence	section <a href="#">119(2)(j)</a>	
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### When access periods do not apply

If a person is convicted of an offence after becoming an adult, but during the access period for a summary or indictable youth offence, then the access provisions for the accessible youth offences no longer apply. The youth record is treated like an adult record. See the section on [Criminal Matters](#) in this Guide.

### Table 65: Adult offences during the access period

Following a conviction for an offence as an adult committed during the access period for a summary or indictable offence, the record *for the accessible offence or offences* is dealt with as an adult record. Section [82](#) (effect of absolute discharge or termination of sentence) does not apply. The record will be accessible under the *Criminal Records Act*.

**YCJA, section [119\(9\)](#)**

## 6. Criminal Matters – Restrictions on Access

For general access procedures, see [Information Requests](#).

- Generally, [court information](#) from adult criminal cases is available to the [public](#) and the [media](#) after the [accused](#) has been [arrested](#) or has received a [summons](#). At that point, the accused knows of the charge they are facing.

Staff cannot disclose records concerning a matter for which there is an outstanding *warrant in the first instance*.

- Specific procedures apply to reports and other [exhibits](#) in criminal matters. See section [8.4](#).

In the trial courts, court staff can provide the Ticket Detail Inquiry or Charge Detail Inquiry from the Court's [docket system \(JOIN\)](#) to an accused or accused's counsel. Staff must redact security information such as user IDs before providing a copy of a [JOIN](#) record. Staff may not provide screenshots of JOIN.

### Table 66: Information and endorsements for accused and counsel

On active files, an [accused](#) and counsel are each entitled to **one free copy** of the [Information](#) or [Indictment](#), the accused's own statement and the court [endorsements](#).

*Criminal Code, section 603*

The Crown discloses most of the documents and information to the accused or the accused's counsel.

- **On active files**, an accused and the accused's counsel are each entitled to:
  1. In Court of Justice, **one free copy** of the [Information](#), the endorsements sheets, and if used, the clerk's notes.
  2. In the Court of King's Bench, **one free copy** of the [Indictment](#) and the clerk's notes.
- **For investigative searches**, the accused and the accused's counsel are each entitled to **one free copy** of the Information to Obtain a Search Warrant, Warrant to Search, Report to a Justice and Telewarrant. Other documents are available on payment of the applicable fee.

To learn about access to [exhibits](#) in criminal law [cases](#), see the section on [Exhibits](#).

## 6.1 Warrants

A [warrant](#) is a court order that authorizes a specific act, such as an [arrest](#) or a search of a place. Both the Court of Justice and the Court of King's Bench can issue most types of warrants. However, only the Court of King's Bench can issue wiretap warrants.

### A. Types of warrants

The *Criminal Code* provides for several types of warrants. The following is a list of the most common types.

**Table 67: Types of Warrants**

Type of Warrant	What the warrant gives legal authority for
<b>Arrest warrant</b>	To take a person into <a href="#">custody</a> and deprive them of liberty: <i>Criminal Code</i> , section <a href="#">511</a> <ul style="list-style-type: none"> <li>• <b>Staff cannot disclose records</b> concerning a matter for which there is an outstanding <i>warrant for arrest in the first instance</i> (<a href="#">JOIN</a> event code WPI)</li> </ul>
<b>Blood sample warrant</b>	To draw blood for various driving offences to detect drugs or alcohol: <i>Criminal Code</i> , section <a href="#">320.29</a>
<b>Controlled Drugs and Substances Act warrant</b>	To search a building, place or receptacle for controlled substances: <i>Controlled Drugs and Substances Act</i> , section <a href="#">11</a>
<b>DNA warrant</b>	To obtain DNA samples from suspects for comparison to samples seized during an investigation: <i>Criminal Code</i> , section <a href="#">487.05</a>
<b>Feeney warrant</b>	To enter a dwelling or other place to apprehend a fugitive or suspect: <i>Criminal Code</i> , section <a href="#">529</a>
<b>General warrant</b>	To use any device or investigative technique or do anything described in the warrant: <i>Criminal Code</i> , section <a href="#">487.02</a>
<b>Search warrant</b>	To search a building, place or receptacle: <i>Criminal Code</i> , section <a href="#">487</a>

Type of Warrant	What the warrant gives legal authority for
Tracking warrant	To place a device in or on anything (often a vehicle) to track it during an investigation: <i>Criminal Code</i> , section <a href="#">492.1</a>
Transmission data recorder warrant	To install a device to record transmission data relating to the data generated by transmitting a telecommunication, but not including the content or meaning of the communication: <i>Criminal Code</i> , section <a href="#">492.2</a>
Wiretap warrant	To intercept communications on a phone or in a residence or vehicle: <i>Criminal Code</i> , section <a href="#">186</a>

### i. Informations and warrants for arrest

An [Information](#) is the court document that starts the prosecution of most [offences](#). It is a [statement](#) in writing and under [oath](#) that someone has committed an offence. In law, any person may appear before a [judge](#) or [hearing officer](#) to lay a private Information, but in practice they are usually laid by police officers. Based on the Information, a judge may issue either a [summons](#) or a warrant for the [accused's arrest](#).

Informations are accessible after the accused has been arrested or has received a summons. Arrest warrants are filed with the [Information](#) in the court file.

When there is an [Indictment](#), it is accessible in the same manner as an [Information](#) in the court file.

### Search warrants

A [search warrant](#) is a court order that directs owners of private property to allow the police to enter and search for items named in the warrant. Applications to obtain a search warrant are heard in private.

Search warrants are accessible to members of the [public](#) and the [media](#) if:

- The warrant was not sealed by a court order,
- The warrant was executed, and
- The police officer has filed a written "Report to a Justice."

Members of the [public](#) and the [media](#) can then [access](#) the report, the warrant and the “Information to Obtain” the warrant, unless a sealing order prevents access.

## Table 68: Procedure – Warrants

### Unsuccessful applications

Court staff will return all documents connected with unsuccessful applications to the applicant with express instructions that on reapplication, the applicant must advise the next judge or justice of the peace of the failed application.

### Unexecuted warrants

**Court staff cannot confirm the existence of an unexecuted warrant.** There must be a written Report to a Justice on the court file. Without this confirmation, staff can only confirm whether they would be able to provide access to a warrant of that type, if one existed, and if it had been executed.

### Executed Warrants

Executed warrants are accessible by the [public](#) and the [media](#) unless sealed.

A judge may make an order sealing a warrant and all documents relating to the application for the warrant.

- That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Private Access](#).
- Unless specifically ordered by the judge, the [sealing order](#) itself is not sealed.

Sealing orders may be limited:

- in duration. They may expire on a certain date or a certain number of days after the warrant was executed, or
- by any limitation on the complete sealing of the “Information to Obtain” the warrant (examples include the use of [pseudonyms](#) for confidential informants and sealing only certain parts of a document).

A member of the public or media who believes that a warrant has been executed, due to media coverage, through their inquiries with police or otherwise, but a Report to Justice has not been filed, can submit a request, using the Request for

Exhibit or Private Hearing Record Form amended to apply to the circumstances, to the supervising justice of the Court location that they believe holds the warrant and ask for access to the executed warrant and information to obtain. A justice will not confirm the existence of an unexecuted warrant.

### Table 69: Sealing Order for a Warrant or other Authorization

The application and reasons for a sealing order are set out in the *Criminal Code*, section [487.3](#).

For court staff procedure on **sealing** see [Table 18](#), [Table 19](#) and [Table 20](#).

### Wiretap warrants (interception of private communications)

Wiretap warrants allow police to place a listening device on a person's phone or in a residence or vehicle.

All documents relating to an application to intercept communications are confidential. They are sealed in a packet immediately after the judge has made a decision on the application.

### Table 70: Procedure – Wiretap warrants

When the application is made by telephone or fax, the facsimile of the authorization remains with the applicant.

*Criminal Code*, section [184.3](#)

The packet cannot be opened:

- Unless the agent is before a Court of King's Bench Justice with an application for renewal, or
- With a Court of King's Bench order.

*Criminal Code*, section [187](#)

**All wiretap and electronic surveillance matters are confidential.** Court staff will provide information to a Crown Prosecutor only, on presentation of the proper control number. Only staff with specific authorizations can handle these applications. Those staff must not disclose the applications to other staff.

## 6.2 Private hearings

The Court usually hears proceedings against an accused in open court. Sometimes the law or a court order requires a [private hearing](#) for particular kinds of applications.

- ➡ Such a court order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Private Access](#).

**Table 71: Reference – Required and discretionary private hearings in criminal matters**

**Proceedings that *must* be heard in private**

- About the admissibility of evidence regarding a complainant’s prior sexual conduct.  
*Criminal Code, sections 276*
- About the production of a personal information record.  
*Criminal Code, sections 278.4, 278.6*
- A hearing on legal expenses.  
*Criminal Code, sections 462.34(5)*
- An application to consider a claim of privilege for a document in the possession of a lawyer.  
*Criminal Code, sections 488.1*
- A hearing on whether to issue process in a matter.  
*Criminal Code, sections 507, 507.1*

**Proceedings that *may* be heard in private, at the judge’s discretion**

For more about discretionary orders, see [Orders Restricting Access or Publication](#).

- In any proceeding, a judge may order a private hearing (exclude any or all members of the public) on the grounds set out in this section.  
*Criminal Code, section 486*
- A judicial interim release hearing.  
*Criminal Code, section 517*
- A preliminary inquiry.  
*Criminal Code, section 537(1)(h)*
- An extradition hearing or a bail hearing in an extradition proceeding.  
*Extradition Act, section 27*

**Table 72: Procedure – Private hearing in criminal matter**

For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

**For orders made in court, note the order** on the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)).

**A. Process hearing**

A judge or justice of the peace who receives an [Information](#) must hear the allegations and witnesses in a [private hearing](#). The judge or justice may agree

that there is a sufficient basis for the charge. If the accused is not already in custody, the judge or justice may “issue process”: issue a [summons](#) or a warrant for arrest, or simply confirm an appearance notice that was already served on the accused.

- ➔ To request records from a process hearing, any member of the [public](#) or the [media](#) may use the form [Request for Exhibit or Private Hearing Record](#).

### Table 73: Procedure – Process hearing

The procedure for process hearings is set out in the *Criminal Code*, section 507.

- For the Digital Display System (DDS) see [Table 12](#).
- For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

### Private prosecution

A private prosecution is one where a judge or justice of the peace receives an [Information](#) brought by a private citizen or a private organization. The Court hears this initial complaint in a [private hearing](#). If the judge or justice does not issue process, the [private prosecutor](#) may begin proceedings to compel the judge or justice to issue process. Unless the private prosecutor does commence proceedings within six months, or if process does not issue within six months after that proceeding, then the law treats the [Information](#) as never having been laid.

- ➔ To request records from a process hearing in a private prosecution, any member of the [public](#) or the [media](#) may use the form [Request for Exhibit or Private Hearing Record](#).
- ➔ A youth court judge may withhold materials on sentencing in youth justice cases from a [private prosecutor](#). See [Reports related to sentencing](#).

### Table 74: Reference – Private prosecutions

The procedure for process hearings in private prosecutions is set out in the *Criminal Code*, section 507.1.

- For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

## Production orders

A judge may order a person to produce a document, or to prepare and produce a document from data under the person's care and control, and to provide the record or records to the person authorised in the order. This order is called a Production Order. The Court hears applications for Production Orders in [private](#). The documents produced are not available to the [public](#) or the [media](#) unless they are later marked as exhibits. For records that become exhibits, see the section on [Exhibits](#).

The Information to Obtain (ITO) is a document containing the information that an investigating officer provides to a judge when applying for a Production Order.

The public or media can access information about an application for a production order when:

- a. The documents are not sealed,
- b. The Order has been executed, and

Before access is granted, Court staff must obtain confirmation, by email, from the officer that applied for the order or other appropriate police authority with knowledge of the case, that the order was executed and whether documents or data were produced. Written confirmation of this information must be kept with the production order. If Court staff cannot confirm that the production order was executed, access will not be provided, and staff must not confirm the existence of the production order.

- c. Documents or Data Were Produced.

### Requests Referred to Supervising Justice:

When an order has been executed but documents or data have not been produced, the access request will be referred to the supervising justice to determine if access will be restricted.

If Court staff cannot confirm the existence of a production order to the person requesting access, but a member of the public or media believes that a production order has been executed, due to media coverage, through their inquiries with police or otherwise, they can submit a request, using the Request for Exhibit or Private Hearing Record Form amended accordingly, to the supervising justice of the Court location that they believe holds the production order and ask for access to the executed order and information to obtain. A justice will not confirm the existence of an unexecuted production order.

### **Table 75: Procedure – Production Order Applications**

Process for Court staff for requests to access production orders and ITOs:

- a. If no sealing order, and unclear if order executed, staff contact the police officer that applied for the order or other appropriate police authority with knowledge of the case, by email to confirm if order executed and documents obtained.
- b. Email communication with police must be kept on the production order file.
- c. If no sealing order, order executed and documents obtained, release records.
- d. If no sealing order, order not executed, do not confirm existence of production order and application.

- e. If no sealing order, order executed, no documents obtained, refer to supervising justice.
- f. If no sealing order, no confirmation from police regarding execution or documents obtained, person requesting access can complete amended Request for Exhibit or Private Hearing Record Form requesting supervising justice to allow access.

### i. Claim of privilege

A claim of privilege is a claim that a party does not need to provide a document to the other party. The Court must hold a [private hearing](#) to decide a claim of privilege for a document in the possession of a lawyer.

- ➔ To learn about accessing information from private hearings see [Table 5](#).

### Table 76: Procedure – Claim of privilege

For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

An application to determine a claim of privilege for a document held by a lawyer must be heard in [private](#).

*Criminal Code, section 488.1*

### ii. Personal information records

When the application for a Production Order concerns a personal information record of a complainant in a sexual assault matter, no one may [publish](#) information about the application, the hearing or the judge's decision, unless the judge orders that the decision may be published. The Court must hear the application in [private](#).

To learn about accessing information from private hearings see [Table 5](#).

### Table 77: Procedure – Personal Information Records

- For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

- For court staff procedure on **publication bans** see [Table 10](#).

A record containing personal information relating to a complainant or witness cannot be produced to an accused except in accordance with sections 278.3 to 278.91 of the *Criminal Code*.

***Criminal Code, section 278.2***

An application for an order requiring someone to produce a personal information record for the judge to review must be [heard in private](#).

***Criminal Code, section 278.4***

When a personal information record has been produced to the judge for review, the judge may hold a [private hearing](#) to decide whether the record should be produced to the accused.

***Criminal Code, section 278.6***

There is a [ban on publishing](#) the contents of the application, the evidence taken, the information given, and the submissions made at a hearing. There is a ban on publishing the determination of the judge and reasons unless the judge, after taking into account the interests of justice and right to privacy, orders that the determination may be published.

***Criminal Code, section 278.9***

## Accused in possession of records relating to complainant

When an [accused](#) has records relating to a sexual assault complainant and seeks to admit them into [evidence](#), the proceedings relating to admissibility are held in [private](#). The contents of the application, any evidence taken, the information given, and the representations made during the admissibility proceedings are subject to a [publication ban](#). The judge's decision will not be [published](#) unless the judge decides that the evidence is admissible, or the judge makes an order permitting publication.

### Table 78: Procedure – Records relating to complainant

- For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
- For court staff procedure on **publication bans** see [Table 10](#).

Except in accordance with this section, no record in the possession or control of the accused relating to a complainant can be admitted into evidence.

***Criminal Code, section 278.92***

An application for a judge to order a hearing to determine admissibility must be [heard in private](#).

***Criminal Code, section 278.93***

The hearing on admissibility must be [heard in private](#).

***Criminal Code, section 278.94***

The contents of the application, the evidence taken, the information given and the representations made at an application under [section 278.93](#) or at a hearing under [section 278.94](#) are subject to a publication ban. Unless the judge finds the records to be admissible or orders that the decision can be published, there is a [ban on publishing](#) the judge's decision.

***Criminal Code, section 278.95*****Admissibility of evidence of complainant's sexual activity**

When an [accused](#) asks the Court to permit admissibility of [evidence](#) of the complainant's sexual activity, the proceedings relating to admissibility are held in [private](#). The contents of the application, any evidence taken, the information given, and the representations made during the admissibility proceedings are subject to a [publication ban](#). The judge's decision will not be [published](#) unless the judge decides that the evidence is admissible, or the judge makes an order permitting publication.

**Table 79: Procedure – Admissibility of evidence of complainant's sexual activity**

- For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).
- For court staff procedure on **publication bans** see [Table 10](#).

Evidence of the complainant's sexual activity is inadmissible except on the conditions set out in this section.

***Criminal Code, section 276***

An application for a judge to order a hearing to determine admissibility must be [heard in private](#).

***Criminal Code, section 278.93***

The hearing on admissibility must be [heard in private](#).

***Criminal Code, section 278.94***

The contents of the application, the evidence taken, the information given and the representations made at an application under [section 278.93](#) or at a hearing under [section 278.94](#) are subject to a publication ban. Unless the judge finds the records to be admissible or orders that the decision can be published, there is a [ban on publishing](#) the judge's decision.

***Criminal Code, section 278.95***

### 6.3 Judicial interim release (Bail)

Members of the [public](#) and the [media](#) can attend [bail](#) and bail review hearings, and the [court information](#) is accessible. However, a judge may order a ban on publishing information about the hearing.

- If the accused asks for the ban, the judge must order it; the ban is mandatory. If the prosecutor asks for the ban, the order is discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).
- This is a **temporary ban**: it continues in effect until the accused is [discharged](#) or, if [ordered to stand trial](#), until the end of the accused's trial. It does not matter whether the trial is heard in the Court of Justice or the Court of King's Bench, the ban remains in place until the trial ends.
- The publication ban does not apply to appeals from conviction or sentence. However, it would apply to an application for judicial review of a bail decision brought to the Court of Appeal pursuant to section [680](#) of the *Criminal Code*.
- A victim of an offence, or a victim serving organization on their behalf, can obtain a copy of the accused's judicial interim release order at no charge. The victim or the organization will need to provide sufficient information to identify the accused, such as full name, and if possible, date of birth.
- To request reports and other [exhibits](#) from bail and bail review hearings, see [Exhibits](#).

#### Table 80: Procedure – Publication Ban on Judicial Interim Release

The judge must order a [publication ban](#) if the accused applies and may do so if the prosecutor applies.

*Criminal Code, section 517*

1. For court staff procedure on **publication bans** see [Table 10](#).
2. A ban ordered by the Court of Appeal on a bail appeal is a common-law order and court staff should note the ban in **Part III** of the on the "Orders Restricting Publication or Public Access" form (see [Appendix 1](#)).

## 6.4 Preliminary inquiry

Members of the [public](#) and the [media](#) can usually attend [preliminary inquiries](#). Usually these court records are accessible. There is a statutory ban on publishing information about an admission or [confession](#) made during a preliminary inquiry. A judge may also order a [ban on publishing](#) information about evidence taken during the preliminary inquiry.

- ➔ Both the statutory ban and the court-ordered ban are **temporary**: they continue in effect until the accused is [discharged](#) or, if [ordered to stand trial](#), until the end of the accused's trial.
- ➔ Usually the trial ends in the Court of King's Bench. The ban on publishing information about the preliminary inquiry will apply there as well, until that trial ends.

The judge may order a [private hearing](#) for the preliminary inquiry.

- ➔ That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 81: Procedure – Preliminary Inquiry

The judge must order a [publication ban](#) if the accused applies and may do so if the prosecutor applies.

- For court staff procedure on **publication bans** see [Table 10](#).  
*Criminal Code, section 539*

There is a **mandatory ban** on publishing a report of an admission or confession in a preliminary inquiry.

*Criminal Code, section 542(2)*

The judge may order a [private hearing](#) for the preliminary inquiry.

- For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).  
*Criminal Code, section 537(1)(h)*.

## 6.5 Jury trials and jurors

Proceedings to [empanel](#) (select) a [jury](#) are open to the [public](#) and the [media](#). The Court may order a [ban on publishing](#) the names or identifying information of jurors. To protect juror anonymity in court, the Clerk of the Court will call prospective jurors by their assigned juror numbers and not by their names.

- An order to ban publishing the identity of jurors is discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

There is a statutory [ban on publishing](#) information about any part of the trial at which the jury is not present (a “*voir dire*”) until the jury retires to consider its verdict.

### Table 82: Procedure – Jury trials

- For court staff procedure on **publication bans** see [Table 10](#).

The judge may order the clerk to call out both the names and numbers on juror cards.  
*Criminal Code, section 631(3.1)*

The judge may order a publication ban on the name and identifying information of a juror.  
*Criminal Code, section 631(6)*

There is a **statutory ban** on publishing information heard during the jury’s absence, until the jury retires to consider its verdict.  
*Criminal Code, section 648*

## 6.6 Identity protection

### A. Non-disclosure of witness’ identity

In any proceedings against an accused, the judge may order that any information that could identify a witness not be disclosed during the proceedings. The judge may hold a hearing to determine whether to make the order and may hold the [hearing in private](#).

- Those orders would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 83: Procedure – Non-disclosure of witness’ identity

The judge may make an order that information that could identify a witness not be disclosed during the proceedings. The judge may hold a [private hearing](#) to determine whether to make the order.

*Criminal Code, section 486.31*

1. For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

2. For court staff procedure on **non-disclosure of identity/pseudonym orders**, see [Table 22](#).
3. The clerk must **review the file** before providing access and **must remove** any documents that could disclose the witness' identity. If necessary, consult the judge who made the order.

## Ban on publishing name or identifying information

The judge may order a ban on publishing the name or identifying information of a [victim](#), [witness](#) or [justice system participant](#).

- **Publication bans do not affect access** to the file by the [public](#) and the [media](#).
- **It is an offence** to publish the information in any document or broadcast or transmit it in any way.

In **proceedings concerning sexual offences**, the judge must inform a victim or a witness who is under age 18 of the right to apply for a publication ban. The judge must make the publication ban order if the victim, witness, or prosecutor applies for it.

In proceedings concerning any offence, **if the victim is under age 18**, the judge must inform the victim of the right to apply for an order banning publication of a witness's identity and must make the order if the victim, witness, or prosecutor applies for it.

- The above orders are mandatory if the protected person or the prosecutor applies for an order.

In any proceedings, the judge may make an order [banning publication](#) of the identity of a victim or witness (who is not under 18). The judge may also make this order to protect justice system participants in proceedings concerning criminal organizations, terrorism or the [Security of Information Act](#). The judge may order a [private hearing](#) for the publication ban application.

- The above orders are discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

In proceedings concerning child pornography, the judge must always make the order banning publication of the victim's identity.

## Table 84: Procedure – Identification bans

A judge may, or in some circumstances, must, order a ban on publishing information that could identify a victim, witness, or justice system participant.

*Criminal Code*, sections [486.4](#), [486.5](#)

For court staff procedure on **publication bans** see [Table 10](#).

## 6.7 Order to protect security of witness

In any proceedings against an accused, the judge may make any order necessary to protect the security of a witness.

- ➔ That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

## Table 85: Procedure – Order for security of witness

In any proceedings against an accused, the judge may make any order, other than one that the Court could order under any of sections [486](#) to [486.5](#) of the *Criminal Code*, if the judge is of the opinion that the order is necessary to protect the security of any witness and is otherwise in the interest of the proper administration of justice.

*Criminal Code*, section [486.7](#)

Court staff must **note the order** on the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)), and in [JOIN](#). See [Table 10](#).

## 6.8 Non-conviction records

Non-conviction records include records of charges that have been stayed, withdrawn, or dismissed, or the accused has been acquitted, as well as peace bonds and weapons prohibitions.

### A. Stay of proceedings

A [stay of proceedings](#) is a suspension of court proceedings without a finding of guilt or innocence.

#### i. Stay by Crown

In any criminal matter, the Crown may stay the proceedings for one or more charges at any time before the Court gives its judgment. The Crown stays proceedings by directing the [Clerk of the Court](#) to enter the stay in the record.

The Crown may restart the proceedings by giving notice to the [Clerk of the Court](#). The Crown must give notice within six months after the date of the alleged offence for summary matters or within one year after the stay for indictable matters. After that time, the Crown cannot prosecute the case on the original Information or Indictment.

- If the Court had ordered a publication ban on judicial interim release or preliminary inquiry proceedings in the case (see sections [7.3](#) and [7.4](#)), those bans will end when the Crown's time to recommence the proceedings has passed.

### Table 86: Procedure – Stay of proceedings by Crown

The JOIN event code for a stay **by the Crown** is **STY**.

In JOIN, the charge detail screen shows the date of the stay (event code **STY**). From the charge detail screen, press F4 to see the file detail screen, which shows the offence date (code **OFF DATE**).

- If the Crown's time to recommence proceedings has passed, **this ends interim bans** such as the judicial interim release ban (see section [7.3](#)) and preliminary inquiry ban (see section [7.4](#)).

After the end of the permitted time to recommence the proceedings, they are deemed never to have been commenced.

*Criminal Code, section [579\(2\)](#)*

Summary proceedings may be instituted **no more than six months** after the time the subject-matter of the proceedings arose unless the prosecutor and defendant agree.

*Criminal Code, section [786\(2\)](#)*

### Stay by the Court

The Court can stay criminal proceedings if putting a person on trial would amount to an abuse of process and would violate the principles of fundamental justice. A judicial stay of proceedings prevents the Court from ever ruling on the accused's guilt or innocence. The order is final unless the stay is reversed by a court on appeal of the decision.

### Table 87: Procedure – Judicial Stay

The **JOIN** event code for a **judicial stay** is **STJ**. Unlike Crown stays, this acts as an end to the case with no possibility of recommencing, unless the stay is struck down on appeal.

Anyone whose rights or freedoms, as guaranteed by the *Charter*, have been infringed or denied may apply to a court of competent jurisdiction to obtain such remedy as the Court considers appropriate and just in the circumstances.

***Canadian Charter of Rights and Freedoms, section 24(1)***

## Withdrawn charges

**Crown counsel** can **withdraw charges** or an **Information** at any time before the accused enters a **plea** or an **Indictment** is preferred. After that time, the Crown can only withdraw the charge or Information with the Court's permission. The Crown will bring the charge before the Court for a withdrawal on the record. When an **Information** is withdrawn, all the related arrest **warrants**, **recognizances** or detention orders are vacated: they no longer have any legal effect.

### Table 88: Procedure – Withdrawn charges

The JOIN codes are:

1. **WDN** (Withdrawn)
2. **WDB** (Withdrawn Before First Appearance Date)
3. **WHD** (Withdrawn Mental Health Diversion) – withdrawn after successful completion of mental health diversion.
4. **WPT** (Withdrawn – Process Transferred) – case has not ended but has been transferred to another court.

## Discharge after Preliminary Inquiry

Preliminary Inquiries are held in the Court of Justice. At the end of a **preliminary inquiry**, the judge will either discharge the accused or order the accused to stand trial.

- ➔ **Discharge the accused**, if the judge finds there is not enough evidence to put the accused on trial. A discharge:
  - Brings the **case** to an end.
  - **Ends a preliminary inquiry publication ban**, if one had been ordered under the *Criminal Code*, section **539**.
  - **Ends a judicial interim release (bail) publication ban**, if one had been ordered under the *Criminal Code*, section **517**.
  - Does *not* end other bans.

- ➔ **Order the accused to stand trial**, if the judge finds there is enough evidence. The case will then be transferred to the Court of King’s Bench.
  - The following **publication bans continue in the Court of King’s Bench**, if they were ordered in the Court of Justice:
    - Preliminary inquiry ban under the *Criminal Code*, section 539. This ban applies to any publication of the evidence from the preliminary inquiry. **The ban expires at the end of the trial.**
    - Judicial interim release (bail) ban under the *Criminal Code*, section 517. This ban applies to any publication of the evidence, information, representations of counsel and reasons of the judge or justice of the peace from the judicial interim release proceeding. **The ban expires at the end of the trial.**
    - Any other ban ordered in the Court of Justice, including identification bans under the *Criminal Code*, sections 486.31, 486.4, or 486.5.

### Table 89: Procedure – Discharge and order to stand trial

When the judge in a preliminary inquiry has taken all the evidence, the judge must order the accused to stand trial or must discharge the accused.

*Criminal Code*, section 548

The JOIN event codes are:

1. **OST** (Ordered to Stand Trial)
2. **ODC** (Order for Discharge)

**Note:** In the Court of King’s Bench JOIN record, the notation “Indictment not confirmed” does not mean the record is not publicly accessible. It simply means the Indictment is not yet in the court file.

### Dismissal of proceedings

The Court may dismiss a charge for “want of prosecution” at any time before the trial begins. An **accused** can ask the Court to dismiss charges. The Court may order a case dismissed if the case cannot proceed further:

- When the Crown is not prepared to proceed, but the Court refuses to adjourn the case to a later date,

- When the Crown elects to offer no evidence, and
- When the Crown did not attend court, or for another reason cannot move the prosecution forward.

The dismissed charge can be re-started with a new Information or direct Indictment only if the Attorney General or Deputy Attorney General consents in writing.

### Table 90: Reference – Dismissal of proceedings

Following the proceedings, the Court must either convict the defendant, discharge the defendant under the *Criminal Code*, section 730 (see [Absolute and Conditional Discharges](#)), make an order against the defendant or **dismiss the Information**.

*Criminal Code*, section 804

The JOIN event codes are:

1. **DIB** (Dismissed Before First Appearance Date)
2. **DIS** (Discharged)

### Acquittal on a charge

If the Court finds that the Crown did not prove its case on the required burden of proof beyond a reasonable doubt, the Court must acquit the accused.

### Table 91: Reference – Acquittal

Where the accused is tried and found not guilty of an offence, the Court must immediately acquit the accused of that offence and must cause an Order Acquitting Accused (Form 37) to be drawn up, and on request must make out and deliver to the accused a certified copy of the Order.

*Criminal Code*, section 570(2)

Upon the Court's adjudication or on request from the accused, the clerk will prepare an Order Acquitting Accused (Form 37). This form is signed by the judge, justice of the peace or court staff who have been designated by the judge. Upon request, a certified copy of the Order Acquitting Accused is issued to the accused. The original Order is placed on the court file.

The JOIN event code is:

1. **ACQ** (Acquittal)

## Peace bond

A peace bond is a court order intended to keep one person from harming another. It is a [recognizance](#), with or without a cash deposit, requiring the defendant to “keep the peace and be of good behaviour.” A peace bond lasts for up to 12 months. It may include other conditions such as requiring the defendant:

- to abstain from consuming alcohol and non-prescribed drugs,
- to attend counselling,
- to not contact or communicate with a certain person, or
- to not possess any weapons or ammunition.

The defendant must abide by all the terms and conditions of the peace bond. If a peace officer or probation officer charges the accused with breach of the peace bond, the defendant owes to the government the money promised. If the Court convicts the defendant of the breach, the conviction results in a criminal record.

### Table 92: Reference – Peace Bonds

Peace Bonds may be ordered at common law.

#### ***Criminal Code* peace bonds**

Procedure and conditions for basic peace bonds are set out in section 810 of the *Criminal Code*.

***Criminal Code*, section 810**

Fear of certain offences (section 423.1, intimidate a justice system participant or a journalist; or a criminal organization offence).

***Criminal Code*, section 810.01**

Fear of terrorism offence.

***Criminal Code*, section 810.011**

Fear of forced marriage or marriage under the age of 16 years.

***Criminal Code*, section 810.02**

Fear of sexual offence.

***Criminal Code*, section 810.1**

Fear of serious personal injury offence.

***Criminal Code*, section 810.2**

**Table 93: Procedure – Peace Bonds**

For procedure and JOIN entries, see [CJ Criminal Manual](#), Peace Bonds (staff link).

## 6.9 Post-conviction records

### A. Absolute and conditional discharges

After the Court has ordered an absolute or conditional discharge (*Criminal Code*, section 730), there is a limited time for [public](#) and [media](#) access to the records. After the access time ends, court staff cannot disclose the record and the fact it exists to anyone other than the person who is the subject of the discharge or that person's lawyer.

Upon conviction, if the judge orders an [absolute discharge](#), the offender is regarded as not having been convicted of the offence. The offender cannot again be charged with the same offence. However, the police keep a record of the absolute discharge, and it can be used against the offender if the offender commits another offence.

- After one year from the date of the absolute discharge, **court staff cannot tell a requester whether the record or court file exists.**

A [conditional discharge](#) requires the offender to follow certain rules (terms of probation) for a specified period of time. (Note that a conditional sentence is different from a conditional discharge.) The conditional discharge becomes absolute if the offender complies with the conditions. If the accused breaches the conditions, the accused may be charged with the breach, and the original charge may be brought back to the Court to be prosecuted.

- After three years from the date of a conditional discharge, court staff **cannot tell a requester whether the record or court file exists.**

**Table 94: Procedure – Absolute and conditional discharges**

Where an accused, other than an organization, pleads guilty to or is found guilty of an offence ... the Court before which the accused appears may ... instead of convicting

the accused, by order direct that the accused be discharged absolutely or on the conditions prescribed in a probation order made under subsection 731(2).

***Criminal Code, section 730(1)***

In JOIN, the discharge is entered on the sentencing screen (**SEN**), under probation, and on the **CHARGDET** screen it is entered as “conditional discharge” or “absolute discharge.”

- For additional information, see [CJ Criminal Manual](#), Probation Order (staff link).

**When an accused receives a discharge, and**

- it has been more than one year since an [absolute discharge](#), or
- it has been more than three years since a [conditional discharge](#),

***court staff cannot tell a requester that the record or file exists***, unless the requester is the person who is the subject of the discharge or that person’s lawyer.

The existence of the record and the fact of the discharge cannot be disclosed to anyone, except with the approval of the Solicitor General of Canada.

***Criminal Records Act, section 6.1***

## Record suspensions (formerly “pardons”)

The Parole Board of Canada issues [record suspensions](#) (formerly called pardons). A record suspension allows people convicted of a criminal offence to have their criminal record kept separate and apart from other criminal records. After the Parole Board grants a record suspension for an [offence](#), court staff cannot tell a requester whether the file exists, unless the requester is the person who is the subject of the pardon or that person’s lawyer. Disclosure to any other person requires the approval of the Solicitor General of Canada.

Anyone who needs copies of court documents to support an application for a record suspension must ask for them at the Trial Court. The Trial Court’s information includes any decision made on appeal by the Court of Appeal.

### Table 95: Procedure – Record suspensions

After the Parole Board grants a [record suspension](#) for an [offence](#), ***court staff cannot tell a requester whether the record or court file exists***, unless the requester is the person who is the subject of the pardon or that person’s lawyer. Disclosure to any other person requires prior approval by the Solicitor General of Canada.

***Criminal Records Act, section 6***

**Data entry for record suspension:**

1. Upon receiving a notice of Record suspension, place the notice on the top of the file.
2. On the event entry screen in JOIN, enter **RSG** (Record Suspension Granted). This changes the **Record Suspension indicator** on the CHRGDET screen from N (No) to Y (Yes).
3. For files in **AHI** (Accused History), find the file and enter Y in the Record Suspension field. Press F5 twice to update.

**Data entry for revocation of record suspension:**

1. For charges in JOIN, enter **RSS** (Revoked Record Suspension) on the event entry screen. This changes the Record suspension indicator on the CHRGDET screen from Y (Yes) to N (No).
2. For charges in AHI (Accused History), find the record and enter **R** (Revoked) in the Record Suspension or Pardon field. Press F5 twice to update.
3. For charges disposed of before the computer docket system (JOIN or earlier system) began, note Record Suspension Revoked and the date of the revocation in the paper file and in the index book, procedure card or docket control ledger.

**Controlled Drugs and Substances Act**

Records of convictions that occurred before November 17, 2022 in respect of an offence under section 4(1) (possession of a controlled substance listed in schedules I, II and III) are to be kept separate and apart from other records of convictions by November 16, 2024. Records of convictions that occur after November 17, 2022 in respect of an offence under section 4(1) are to be kept separate and apart from other records of convictions two years after the conviction or two years after the expiry of any sentence imposed for the offence, whichever is later, and the person convicted of the offence is deemed to never have been convicted of that offence.

Once the record of conviction is kept separate and apart from other records only the offender or their counsel can be provided with a certified copy of conviction.

**Waivers of inadmissibility**

In the United States, the Department of Homeland Security issues [waivers of inadmissibility](#). These waivers allow a person to enter the United States when they would otherwise be inadmissible. Waivers do not limit access to court information in Canada.

Anyone who needs copies of court documents to support an application for a waiver of inadmissibility must ask for them in the Court of Justice or the Court of King's Bench. This information includes any decision made on appeal by the Court of Appeal.

## 6.10 Mental State of the Accused

An [accused](#) person is presumed to be mentally fit to stand trial and to have the mental capacity to be responsible for their actions. However, an accused's mental state may become an issue before or during the [trial](#).

If the Court has reasonable grounds to believe that an accused is [unfit to stand trial](#), it will make an order for a psychiatrist to assess the accused's current mental state. The psychiatrist will prepare a report, and if necessary, the Court will hold a fitness hearing to decide whether the accused is unfit to stand trial. The psychiatrist's report is an [exhibit](#) in the hearing.

- ➔ Some records submitted during a fitness hearing may be unavailable to members of the [public](#) and the [media](#).
- ➔ Other [publication bans](#) or [access](#) restrictions may also apply to these records.

Even if an accused is [fit to stand trial](#), the Court may find that he or she is [not criminally responsible](#) (NCR), due to a [mental disorder](#). If the Crown proves that the accused committed a criminal act, but the Court finds the accused not criminally responsible for the act, then usually the Court will refer the accused to a Review Board for a disposition hearing under section [672.45\(1\)](#) of the *Criminal Code*.

### Table 96: Procedure –Disposition hearing

The Court must keep a record of the disposition hearing and include the assessment report in it. Immediately after a disposition, the Court must send the following to the [Review Board](#):

- a [transcript](#) of the hearing;
- all documents and information in the Court's possession; and
- the [exhibits](#) or copies of the exhibits.

The Court must provide every party with a copy of the disposition and its reasons for making the disposition.

*Criminal Code*, section [672.52\(1\) to \(3\)](#)

The Court may order that a disposition hearing be held in private.

- ➔ That order would be discretionary. For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 97: Procedure – Private disposition hearing

The Court may order a private disposition hearing if it is in the best interests of the accused and not contrary to the public interest.

*Criminal Code, section 672.5(6)*

For court staff procedure on **private hearings** see [Table 12](#) to [Table 16](#).

Court staff cannot disclose disposition information to the [public](#) or the [media](#), and there is a [publication ban](#) if:

- The information was withheld from the accused or another party, or
- The judge or the review board finds that the disclosure would be seriously prejudicial to the accused or another person.

If the disposition information was withheld from a person, the Court must also exclude that person from the hearing when the disposition information is presented.

The information may be disclosed to the accused only when the reasons for withholding the information no longer exist.

- ➔ The Court may disclose the disposition information to a person with a valid interest in the record for research, statistical or administration of justice purposes or when authorized in writing by the accused.
- ➔ For how to access disposition hearing information that was withheld from the accused, see [Table 5](#).

### Table 98: Procedure – Disposition information withheld

**Staff must record orders** to withhold disposition information on the “Orders Restricting Publication or Public Access” form (see [Appendix 1](#)) and in [JOIN](#), specifying the record or records that were withheld and noting that a judge’s direction is required before staff can give access to a record to members of the [public](#) or the [media](#).

- On the “Orders Restricting Publication or Public Access” form, **note the order** to withhold disposition information on **Part II** of the form.
- In [JOIN](#), use the code **BPF**; in the comment screen, note the order pursuant to Criminal Code sections [672.51\(5\)](#) or [\(6\)](#), and that access to the record must be approved by a judge. For more details for using **BPF**, see Table 10.
- Anyone who wants access to the disposition information can request it using the [Request for Exhibit or Private Hearing Record](#).

*Criminal Code, section [672.51\(6\)](#) to [\(11\)](#)*

## 7. Exhibits – Restrictions on Access

- To request access to an exhibit, it is necessary to complete the form [Request for Exhibit or Private Hearing Record](#), and pay the search and copy fees. Only a [judge](#) can direct who has access to exhibits.

Unless access to an exhibit is governed by statute or restricted by a sealing order, restricting access to an exhibit is a discretionary decision.

For more about discretionary orders, see [Orders Restricting Publication or Public Access](#).

### Table 99: Procedure – Exhibits on court file

**Court staff must confirm the status of reports and other documentary exhibits that are not marked as exhibits but are left on the court file.**

- Check with the judge – if the judge reviewed them and used them to support a decision, then they should be marked as exhibits.
- If reports and other documents were not consulted by the judge and were not formally entered as exhibits, they should be returned to the person who provided them or destroyed. They should not be left on the court file.

#### King’s Bench and Court of Justice

For the procedure for access to exhibits, see [Table 5](#).

#### Court of Appeal

Exhibits that are relevant to the appeal may be included in the Extracts of Key Evidence. Requests to access Extracts of Key Evidence must be made in accordance with the [Public Access to the Court Record Policy](#).

## 7.1 Exhibits in Civil Matters

In civil matters, most [exhibits](#) are documents or reports, and sometimes they are kept on the file permanently. Anyone may ask to view or copy exhibits in civil matters.

## 7.2 Exhibits in Family Matters

In family matters, most [exhibits](#) are documents or reports, and sometimes they stay on the file permanently. Anyone may ask to view or copy exhibits in family matters.

In the Court of King's Bench, [Family Practice Note 10, Access to Court Files in Family Law Proceedings](#), applies to accessing exhibits.

## 7.3 Exhibits in Youth Criminal Matters

Members of the [public](#) and the [media, as well as the accused and their counsel](#), cannot access [exhibits](#) in youth criminal matters, except on a judge's [direction](#). Court staff will forward requests from members of the [public](#) and the [media](#) to the Assistant Chief Justice or designate.

## 7.4 Exhibits in Criminal Matters

Criminal files may contain reports that were entered as [exhibits](#); exhibits may include sensitive information about people who may or may not have been involved in the court action. Examples include photographs, audiovisual recordings, [psychiatric assessments](#), pre-sentence reports and victim impact statements. Members of the public and the media, as well as the accused and their counsel, cannot access exhibits in criminal matters, except on a judge's direction.

### A. Materials on sentencing

#### Pre-sentence report

A judge may direct a probation officer to prepare and file a pre-sentence report. This report may include a consideration of *Gladue* factors if the offender is Indigenous. Alternatively, the judge may direct that a specialized "*Gladue* report" be prepared by a Gladue caseworker. The report is a form of pre-sentence report tailored to the specific circumstances of Indigenous offenders.

The purpose of each of these reports is to give the judge information about the offender to help the judge decide on the appropriate sentence for the [offence](#). A report which examines an Indigenous offender's background and circumstances also aids the judge in fulfilling their duties under [s 718.2\(e\)](#) of the *Criminal Code*.

- Pre-sentence and *Gladue* reports may be accessible to the [public](#) and the [media](#) after sentencing; see the form [Request for Exhibit or Private Hearing Record](#). For a description of the procedure, see [Table 15: Procedure – Request for private hearing record](#).

### Table 100: Procedure – Pre-sentence report

The Court may direct a probation officer to file a pre-sentence report.

***Criminal Code, s. 721(1)***

The court clerk must provide copies of the pre-sentence report to the [offender](#), or the offender's [counsel](#) and the [prosecutor](#).

***Criminal Code, s. 721(5)***

There is no specific provision in the *Criminal Code* that would require the Court to order a *Gladue* report.

### Forensic assessment

A [forensic](#) assessment is a psychiatric or psychological assessment of the [accused](#).

- Forensic assessments may be accessible to the [public](#) and the [media](#) after sentencing; see the form [Request for Exhibit or Private Hearing Record](#). For a description of the procedure, see [Table 15](#).

### Table 101: Procedure – Forensic assessment

When the Court refers an accused for forensic assessment, court staff will note this on the [endorsements](#) or clerk's notes.

### Victim impact statement

A Victim Impact Statement is a written [statement](#) prepared by a person affected by a crime. Before sentencing, Victim Impact Statements ("VIS") are sealed unless they become necessary for the disposition, except that court staff may open the sealed envelope to make required copies of the statement.

- Victim impact statements may be accessible to the [public](#) and the [media](#) after sentencing. See the form [Request for Exhibit or Private Hearing Record](#). For a description of the procedure, see [Table 15: Procedure – Request for private hearing record](#).

**Table 102: Procedure – Victim Impact Statement**

- The JOIN codes are **VIS** (Victim Impact Statement) and **VIR** (Victim Impact Statement to be read in court).
- During the sentencing hearing, the clerk must notify the judge and counsel of the Victim Impact Statement, and whether the victim wishes to read it in court. To read the statement, the victim will take the witness stand and read verbatim what is written in the statement.

For sentencing, court staff must provide copies as soon as practicable after a finding of guilt. Court staff must provide copies to the [offender](#), or the offender's [counsel](#), and the [prosecutor](#).

*Criminal Code, section 722.1*

## 8. Public Fatality Inquiries – Restrictions on Access or Publication

Part 4 of the *Fatality Inquiries Act* governs public fatality inquiries. Members of the [public](#) and the [media](#) can attend fatality inquiries. Information from fatality inquiries may be published, except for portions of the inquiries that are held in private.

- ➔ No one may disclose oral testimony or documentary evidence introduced or heard in private, unless it is in the findings of the judge or in the written report of the judge.

Only the following persons can examine the evidence ([exhibits](#)) at public fatality inquiries:

- the judge,
  - the inquiry counsel,
  - the next of kin, personal representative or insurance, beneficiary of the deceased, and
  - anyone who has the presiding judge’s permission.
- ➔ For [public](#) and [media](#) access to exhibits in public fatality inquiries, see the form [Request for Exhibit or Private Hearing Record](#).

### Table 103: References – *Fatality Inquiries Act*

**Examining evidence at the inquiry:** see section [40.1](#).

**Private hearing:** see sections [41](#) and [42](#).

- For court staff procedure on private hearings, see [Table 12](#) to [Table 16](#).

## Glossary

### Absolute discharge

An offender who receives an absolute discharge is deemed not to have been convicted of the offence. **Compare:** [Conditional discharge](#).

### Access

In relation to [court information](#), access may include a search, viewing a file and making a copy of all or part of a file. Not all types of access are always available.

### Accredited media

For the purpose of the Court's media programs, the Court defines professional media as including persons or organizations who in the practice of journalism regularly gather, assess and accurately present news and information using print, broadcast or electronic means. Personal or non-commercial blogs or websites do not qualify as professional media. To be considered as accredited media, a person or organization must: (i) satisfy this definition of professional media (ii) meet the standards of professional conduct and (iii) provide a written undertaking to comply with the law, court orders and court policies. The Court's acceptance of the undertaking gives the person or organization the status of "accredited media," enabling their participation in the Court's media programs. The Court reserves the right to decide whether to accept the undertaking. **See** [Media](#).

### Accused

A person who is charged with a [crime](#). **Compare:** [Defendant](#); [Offender](#).

### Acquittal

The decision by a judge or jury that the accused is not [guilty](#) of the charge.

### Act

A law passed by Parliament or a Provincial legislature. Also called a statute.

### Affidavit

A written statement of facts, sworn or affirmed to be true before an officer such as a notary public or commissioner for oaths, who has the authority to administer such oaths or affirmations. **See also:** [Affirmation](#); [Oath](#).

### Affirmation

A legally binding promise that an [affidavit](#) or declaration is true or that the [witness](#) will tell the truth; made by someone who does not want to swear on a religious document or a sacred object. **Compare:** [Oath](#).

### Appeal

A request to a higher court, usually composed of a panel of judges, to vary or reverse the judgment of a trial court, intermediate level appellate court, board, or administrative tribunal.

### Appeal Summary

A type of procedure card used in the Court of Appeal.

**Appellant**

The [party](#) who commences an appeal with the filing of a Notice of Appeal. An appeal can be brought by any party from the trial or hearing appealed from.

**Applications Judge**

In the Court of King's Bench, an officer of the Court who has some of the same powers of a judge.

**Arrest**

To deprive a person of liberty, through legal authority, by holding the person in custody.

**Audio**

See: [Court audio](#).

**Bail**

An accused's release from custody before trial or an offender's release from custody before the hearing of an appeal against a conviction or sentence. Also, the money or other security used by the accused or by someone on the accused's behalf to insure the accused's appearance at trial. **See also:** [Judicial interim release](#).

**Case**

Any matter initiated in a court.

**Case file**

See [Court file](#).

**Case name**

The short name of a [case](#); in civil and family matters, usually the surname or corporate name of each of the two main [parties](#): "Smith v Jones." **Compare:** [Style of cause](#).

**Case number**

The number assigned to a [case](#) by the Court. This identifying number may also be called a *file number* in family and civil matters in the trial courts, a *docket number* in adult and youth criminal matters or a *ticket number* in provincial offence proceedings. The Court of Appeal uses the term *appeal number* for all matters.

**CAMS**

The [docket system](#) used for [cases](#) in the Court of Appeal.

**CASES**

The [docket system](#) used for civil and family [cases](#) in the Court of Justice and the Court of King's Bench.

**Charge Detail Inquiry**

A [JOIN](#) function that provides the details of a file, an accused and charge(s) in adult or youth criminal matters. **See also:** [Ticket Inquiry](#).

**Child**

Under the *Child, Youth and Family Enhancement Act* and other provincial legislation, a person under the age of 18 years. Under the *Youth Criminal Justice Act*, a person who is, or in the absence of evidence to the contrary, appears to be less than 12 years old. **See also:** [Young person](#).

**Claimant**

In a proceeding under the *Protection Against Family Violence Act*, means a family member for whom a protection order is sought or granted.

**Clerk of the Court**

In Alberta, the Executive Director of administration for the Court. **See also:** [Court Clerk](#); [Judicial Clerk](#); [Registrar](#).

**Complainant**

The person who alleges that a [crime](#) has been committed. **See also:** [Victim](#).

**Conditional discharge**

Similar to an [absolute discharge](#), except that the offender must comply with conditions set out in a probation order. If the offender violates these conditions, the discharge may be revoked. A conviction will then be entered, and an appropriate sentence imposed.

**Confession**

A statement made by the accused admitting guilt. Confessions which have been made freely and voluntarily may be allowed in court as evidence.

**Confidential**

When a file or record is made confidential by law or by a judge's order, the file or document is not physically sealed, but there is no [public](#) or [media](#) access without a judge's order. **Compare:** [Sealing order](#).

**Contact order**

Under the *Family Law Act*, an order providing for contact between a [child](#) and a person who is not a [guardian](#).

**Conviction**

A judge's decision that the accused is guilty of the charge.

**Copy fee**

The fee for photocopies of court documents is \$1 per page. **See also:** [Search fee](#).

**Counsel of record**

See [Lawyer of record](#).

**Court administration**

The Resolution and Court Administration Services branch of Alberta Justice.

**Court administration records**

Includes administrative policies and procedures of Resolution and Court Administration Services Division and information specifically gathered or created for the purposes of managing those policies and procedures, including personnel and financial information that is in the custody or control of Resolution and Court Administration Services Division. It does not include a court record.

**Court audio**

Depending on the context, this may mean media recording of proceedings in open court (see above at [Cameras and Electronic Recording Devices](#)), or the official recording of court proceedings that is the source for the transcript (see above at [Court Audio Recordings](#)).

**Court Clerk**

“Court clerk” is defined in the Alberta Rules of Court as “the clerk, deputy clerk or acting clerk of the Court at a judicial centre, and includes a person authorized by the court clerk. The court clerk maintains court records, files documents, issues process and swears in witnesses. For the purpose of the Court of Appeal, rule 14.2(1)(a) states that a reference to the Court Clerk is to be read as a reference to the Registrar. See also: [Judicial clerk](#).”

**Court file**

The paper or electronic documents collected by the Court relating to an individual [case](#).

**Court information**

The [court record](#), [docket system](#) and any other document or information, regardless of the medium in which it is created or stored, that is collected, received, maintained or otherwise handled by a court in connection with a [case](#), but not including a [court administration record](#) or judicial information.

**Court manager**

The manager of a court location.

**Court proceedings**

Matters heard before a justice, Applications Judge, Justice of the Peace or other court officer.

**Court record**

The part of [court information](#) which contains the permanent record of a case and which, barring specific exclusions by statute or court order, is available to the public. **See also:** [Court file](#); [Court information](#); [Docket system](#); [Document](#); [Exhibit](#); [Transcript](#).

**Crime**

An act or omission which is prohibited by the [Criminal Code](#) and punished, usually by fine, probation or imprisonment. **See also:** [Offence](#).

**Crown counsel or the Crown**

The lawyer representing the Crown (the government); in criminal [cases](#) sometimes called the prosecutor.

**Custody**

The care and control of a thing or person. In criminal matters, and rarely in family and civil matters, imprisonment, or physical detention of a person. **See also:** [Contact order](#); [Parenting time](#).

**Defence counsel**

The lawyer representing the defendant or accused. **See also:** [Lawyer of record](#).

**Defendant**

The person against whom a claim is made in a civil or family law matter. **See also:** [Accused](#).

**Direction**

A [judge's](#) instruction. **See also:** [Order](#).

**Direct indictment**

See [Preferred indictment](#).

**Disposition**

In a court, the [judge's](#) ruling. In criminal matters, the final determination of a criminal case.

**Discharge**

After a preliminary inquiry, a judge's finding that there is not enough evidence against an accused to justify a trial. **See also:** [Absolute discharge](#); [Conditional discharge](#); [Ordered to stand trial](#).

**Dismiss, Dismissal**

A [judge](#) has discretion to dismiss charges when the prosecution has not proven the elements of an offence at the end of its case, or when the prosecution has not proceeded or cannot proceed with a prosecution. Dismissal is also one of the Court's possible decisions at the end of a proceeding in summary conviction court.

**Docket**

The list of matters to be heard in a courtroom on a certain day.

**Docket system**

System containing information sometimes called a "procedure record" or "procedure card," regardless of the medium in which it is created or stored, about each [case](#) including:

- a. information about the Court and [judicial centre](#),
- b. docket or [court file](#) number,
- c. names and roles of [parties](#),
- d. names of [lawyers of record](#),
- e. names of [judicial officers](#),

- f. nature of the [case](#),
- g. list and corresponding filing dates of [documents](#) in the [court file](#) or [court record](#),
- h. hearing dates, and
- i. [dispositions](#) with their corresponding dates.

For the individual docket systems of each court, see: [CASES](#); [JOIN](#).

### **Document**

Any medium on which is recorded anything that can be read or understood by a person or by a computer system or other device.

### **Emergency Protection Order**

An order under the [Protection Against Family Violence Act](#). An Emergency Protection Order is an order made by a judge or a justice of the peace to protect a victim of domestic violence where the situation is serious and urgent. **See also:** [Protection Order](#).

### **Empanel a jury**

Select jurors and enter their names on the official list. **See also:** [Jury](#).

### **Endorsement**

The outcome of an event in a [court proceeding](#), as noted on the [court file](#). In the Court of King's Bench, this may be called the clerk's notes.

### **Evidence**

Proof of facts presented at a court proceeding.

### **Ex parte**

By or for one party; an *ex parte* proceeding is one in which a party has not received notice and is therefore not present at the proceeding and not represented. An *ex parte* application may be held as a [private hearing](#).

### **Exclusion order**

An order that someone is required to stay out of a courtroom; sometimes used to exclude witnesses to ensure a witness cannot hear another witnesses' testimony. Compare [private hearing](#).

### **Exhibit**

A [document](#) or object entered as [evidence](#) on the [court record](#).

### **Extortion**

Forcing a person to give up property or money through the use of violence, fear or under pretence of authority.

### **Extrajudicial sanction**

Under the *Youth Criminal Justice Act*, a sanction directed by a prosecutor under section [10](#) of the Act.

### **Forensic**

Medical procedures and scientific testing done for use in court.

**Guardian**

Under the *Child, Youth and Family Enhancement Act* and the *Family Law Act*, a person who is or is appointed a guardian of the child or a person who is a guardian of the child under an agreement or order made under the Act. **See also:** [Parent](#).

**Guilty**

The finding by the [judge](#) or [jury](#) that the [accused](#) committed a crime or an offence. The accused can admit that he or she committed a [crime](#) or an offence by pleading guilty. **See also:** [Plea](#).

**Hearing**

The presentation of evidence or argument in court. For example, a [preliminary inquiry](#), chambers application, [trial](#), sentence hearing or [appeal](#).

**Hearing Officer**

See [Justice of the Peace](#).

**Hybrid offence**

An offence for which the prosecution can choose whether to proceed by indictment or by summary conviction.

**Indictable offences**

The most serious criminal offences. These include [crimes](#) like murder, robbery, drug trafficking, robbery, certain types of sexual assault and other very serious criminal acts. The penalties can include long terms of imprisonment, possibly even life imprisonment. **See also:** [Indictment](#); [Information](#). **Compare:** [Summary conviction offence](#).

**Indictment**

The formal procedure used to deal with serious charges. Also, the formal document by which the Crown sets out the allegation that a person has committed a [crime](#). **Compare:** [Summons](#).

**Information**

The court document that starts the prosecution of an offence. It charges the accused with offences under a [statute](#) such as the *Criminal Code* or another Act of Canada or Alberta.

**JOIN**

The [docket system](#) used for criminal and youth [cases](#) in the Court of Justice and the Court of King's Bench.

**Judge**

A person with the authority to hear evidence and decide cases in court, including justices of the Court of Justice, the Court of King's Bench and Court of Appeal. **See also:** [Judicial officer](#).

**Judgment**

The official decision of a judge. **See also:** [Order](#).

**Judicial centre**

The court location that is the base point for a judicial district. This is where the court file for court proceedings in that district is stored.

**Judicial clerk**

An officer of the Court who maintains court records, files documents, issues process and swears in witnesses. **See also:** [Court clerk](#)

**Judicial district**

In the Court of King's Bench, a geographic part of Alberta defined in the [Judicial Districts Regulation](#).

**Judicial interim release hearing**

The legal procedure by which an accused in custody is released until trial or appeal. Also known as a bail hearing. **See also:** [Bail](#).

**Judicial officer**

In the Court of Appeal, the Court's Justices; in the Court of King's Bench, the Court's Justices and Applications Judges; in the Court of Justice, the Court's Justices and Justices of the Peace. Justices, Judges and Justices of the Peace have authority to order restrictions on access or publication; Applications Judges do not.

**Jury**

A group of people randomly selected by the parties' respective counsel from a pool of ordinary citizens. The jury listens to the evidence and follows the judge's instructions on how to apply the law. The jury then decides, in a criminal matter, whether the accused is guilty or not guilty, or in a civil matter, gives judgment in favour of either the plaintiff or the defendant. (Civil jury trials are rare in Alberta.)

**Justice Communications**

Alberta Justice, Communications Branch.

**Justice of the Peace**

In Court of Justice, an officer of the Court who has some of the same powers of a [judge](#).

**Justice system participant**

In the [Criminal Code](#), a member of the Senate, the House of Commons, a legislative assembly or a municipal council, or a person who plays a role in the administration of criminal justice.

**Law**

A rule set by a statute or the common law.

**Lawyer of record**

The lawyer recognized by the Court as representing a [party](#) in a [case](#); also called "counsel of record." **See also:** [Crown counsel](#), [Defence counsel](#).

**Media**

The main means of mass communication, especially newspapers, radio, television and Internet, and the reporters and journalists working for media organizations, whether based in Canada or elsewhere. **See also:** [Accredited media](#).

**Mental disorder**

Means any illness or condition that impairs the mind, but it does not include impairment caused by the accused's own choice to take drugs or alcohol or temporary states such as hysteria or a concussion. **See also:** [Not criminally responsible](#); [Unfit to stand trial](#).

**Not criminally responsible**

A finding that a [mental disorder](#) made the [accused](#) unable to understand the physical consequences of the act or to know that it was morally and legally wrong. **See also:** [Mental disorder](#). **Compare:** [Unfit to stand trial](#).

**Oath**

A legally binding promise to tell the truth, made by swearing on a religious document or a sacred spiritual object. A person who does not want to swear in this manner may instead make an [affirmation](#).

**Offence**

A [crime](#) or the contravention of a statute, bylaw or regulation.

**Offender**

A person who is convicted of a [crime](#) or of contravening a statute, bylaw or regulation. **Compare:** [Accused](#).

**Order**

A [judge](#)'s formal written direction. **See also:** [Direction](#).

**Ordered to stand trial**

After a preliminary inquiry, when a judge finds that there is enough evidence against an accused to justify a trial and orders the accused to stand trial. **See also:** [Discharge](#).

**Pardon**

See [Record suspension](#).

**Parent**

Under the [Youth Criminal Justice Act](#) (Canada) and the [Youth Justice Act](#) (Alberta), parent of a young person includes anyone who has a legal duty to provide for, or has the custody or control of, the young person. **See also:** [Guardian](#).

**Parenting time**

Means the time that a child spends in the care of a spouse, parent, or guardian, whether or not the child is physically with that person during that entire time. It includes the time during which the spouse, parent or guardian has the day-to-day care and control of the child, supervises the child's daily activities and makes day-to-day decisions affecting the child. **See also:** [Custody](#). **Compare:** [Contact order](#).

**Parties**

The parties to a proceeding or action, their lawyers, and other authorized agents. “Parties” includes the [Crown](#) in criminal matters.

**Personal information record**

In the [Criminal Code](#), any form of record that contains personal information for which there is a reasonable expectation of privacy, other than the records of an investigator or prosecutor.

**Plea**

A plea is the [accused’s](#) formal answer to the [Crown’s](#) charge that the accused has committed an [offence](#).

**Preferred indictment**

Under the [Criminal Code](#), section [577](#), a Crown prosecutor may prefer a “direct indictment,” requiring that the accused be placed on trial without a preliminary inquiry being held. A preferred indictment can only be made:

(a) in the case of a prosecution conducted by the Attorney General or one in which the Attorney General intervenes, the personal consent in writing of the Attorney General or Deputy Attorney General is filed in court, or

(b) in any other case, a judge of the court so orders.

**Preliminary inquiry**

A hearing to decide whether there is enough evidence against the accused to justify holding a trial.

**Private hearing**

A hearing in a courtroom closed to the public. Also called “closed courtroom” or “in camera.”

**Private prosecutor**

A private citizen who initiates a criminal proceeding.

**Procedure card**

A printed or electronic index of all events and all documents filed in a [case](#).

**Protection Order**

Under the [Protection of Children Abusing Drugs Act](#), an order to protect a child who is using drugs. Under the [Protection Against Family Violence Act](#), an order requested in a non-emergency situation or in a review hearing relating to an emergency protection order. **See also:** [Emergency Protection Order](#).

**Provincial director**

Under the [Youth Criminal Justice Act](#) (Canada) and the [Youth Justice Act](#) (Alberta), the provincial director for Alberta appointed or designated under the federal Act, including the provincial director’s delegate.

**Pseudonym**

A false or fictitious name used in place of a party's, complainant's, or a witness's actual name.

**Psychiatric assessment**

A description assessment of the accused's state of mind, prepared by a mental health professional. **See also:** [Forensic](#); [Mental disorder](#); [Not criminally responsible](#); [Unfit to stand trial](#).

**Public**

Any person, or any member of a media organization, private organization or club, governmental department, or agency for whom access to court records is not defined by statute or other authority. "Public" does not include the judiciary, judicial officers and staff involved in the operation of the Court. It also does not include parties accessing the record in their own court actions. **Compare:** [Media](#).

**Publication ban**

A law or judge's order that prohibits publishing the information protected by the ban. Publication bans do not limit viewing the information or receiving copies of court documents; only publishing, broadcasting, or transmitting the protected information. **See also:** [Publish](#).

**Publish**

To place information in any publicly available place such as a newspaper, a broadcast, the Internet, or social media. **See also:** [Publication ban](#).

**Recognizance**

An accused's formal promise to appear and respond to criminal charges.

**Record suspension**

A record suspension allows people convicted of a criminal offence to have their criminal record kept separate and apart from other criminal records. Formerly called a pardon. **Compare:** [Waiver of inadmissibility](#).

**Registrar**

The Executive Director for the Court of Appeal; references to "Clerk of the Court" include the Registrar of the Court of Appeal. **See also:** [Court Clerk](#).

**Respondent**

The [party](#) responding to an application or appeal.

**Review Board**

A tribunal appointed by a province or territory under the [Criminal Code](#), section [672.38](#), to make or review dispositions for accused who are found not criminally responsible or unfit to stand trial. **See also:** [Not criminally responsible](#); [Unfit to stand trial](#).

**Search fee**

The fee for a search of court files is \$25 per file, per day. The fee also covers inspection of one file. There is a \$25 viewing fee for each additional file.

**Sealing order**

A judge's order directing that a document, exhibit, or file be sealed in an envelope or in secure storage and made inaccessible to everyone, including court staff. A statute may also require a document, exhibit, or file to be sealed. **Compare:** [Confidential](#).

**Search warrant**

A court order that directs owners of private property to allow the police to enter and search for items named in the warrant.

**Show cause hearing**

In criminal matters, a hearing in which the Crown counsel tries to convince the judge that the accused should be held in custody until the trial. **See also:** [Bail](#); [Hearing](#). Also, in any matter, a proceeding requiring a party to convince the judge that he or she should not be held in contempt of court.

**Statement**

In criminal matters, a written description of events given to the police. It is signed by the person making the statement. Under the *Family Law Act*, a description by a party, used in place of an affidavit. **See also:** [Affidavit](#).

**Statute**

A written law passed by a legislative body.

**Stay of proceedings**

A Crown stay is a decision by the Crown to discontinue the prosecution. Stayed charges can be recommenced within a year (six months for summary matters), although this is uncommon. **See also:** [Withdraw a charge](#). The Court may order a judicial stay, usually as a remedy for a breach of *Charter* rights. A judicial stay brings a proceeding to an end permanently unless the stay decision is reversed on appeal.

**Style of Cause**

A complete listing of the full name of each party to a [case](#) and that party's role in the [case](#). **Compare:** [Case name](#).

**Summary conviction offence**

Summary conviction offences are generally less serious than [indictable](#) or [hybrid](#) offences. The potential penalties are less. **Compare:** [Indictable offence](#).

**Summons**

A document requiring a person to appear before a [judge](#) or a [Justice of the Peace](#).

**Testimony**

The oral evidence of a [witness](#) in a court proceeding, such as a [trial](#).

**Ticket Inquiry**

A [JOIN](#) function used to display details of a ticket, events and court appearances in provincial offence matters. **See also:** [Charge Detail Inquiry](#).

**Transcript**

A certified written record of what was said in a trial, hearing, or oral disposition. In the Court of King's Bench and the Court of Justice, a transcript is part of the [court record](#) of a proceeding, but in the Court of Appeal, it is not. The Court of Appeal provides access to transcripts of oral argument for proceedings held on or after January 1, 2019. See [Policy on Access to Transcripts of Oral Proceedings and Undertaking](#).

**Trial**

A hearing where both sides present evidence and the judicial officer makes a decision.

**Unfit to stand trial**

Means that, because of a [mental disorder](#), the [accused](#) cannot understand the nature or purpose of the trial, understand the consequences of the trial or give instructions to legal [counsel](#). **See also:** [Mental disorder](#). **Compare:** [Not criminally responsible](#).

**Verdict**

The decision of a [judge](#) or [jury](#) as to the [guilt](#) of the [accused](#).

**Victim**

Under the [Criminal Code](#), a person against whom an offence has been committed, or is alleged to have been committed, who has suffered, or is alleged to have suffered, physical or emotional harm, property damage or economic loss as the result of the commission or alleged commission of the offence and includes, for the purposes of sections [672.5](#), [722](#) and [745.63](#), a person who has suffered physical or emotional harm, property damage or economic loss as the result of the commission of an offence against any other person. **See also:** [Complainant](#).

**Voir dire**

From Latin; a part of a trial during which the parties (usually via their lawyers) present arguments to the judge about whether certain evidence should be permitted in the trial itself. In jury trials, the jury is not in the courtroom during a *voir dire*.

**Waiver of inadmissibility**

In the United States, advance permission for people from other countries to enter the United States, even if circumstances exist that would otherwise make that person ineligible to enter the United States (such as a criminal record). **Compare:** [Record suspension](#).

**Warrant**

A court order that authorizes an action. **See also:** [Arrest](#); [Search warrant](#).

**Withdraw a charge**

The Crown may withdraw a charge before the accused enters a plea, or with leave of the Court, at a later point in the proceedings. This means that the Crown discontinues the prosecution. **See also:** [Stay of proceedings](#).

**Witness**

Someone who has direct knowledge about a fact or facts; also, someone who testifies in court about the fact or facts that they have direct knowledge of. **See also:** [Testimony](#).

**Young person**

Under the [Youth Criminal Justice Act](#) and the [Youth Justice Act](#), a person who is or, in the absence of evidence to the contrary, appears to be twelve years old or older, but less than eighteen years old and, if the context requires, includes any person who is charged under either Act with having committed an offence while he or she was a young person or who is found guilty of an offence under either Act.

## Appendix 1

# Instructions

## for using the form “Orders Restricting Publication or Public Access”

(Instructions are not to be copied to the court file,  
but must be on every clerk’s desk in every courtroom.)

### 1) All courts and all orders restricting publication or public access

- a) Copies of the form must be available in every courtroom.
- b) The form must be used in all courts whenever a Judge or Justice of the Peace makes an order in court that *restricts public access* to the courtroom or the court file or *restricts publication* of any information about the matter.
- c) The form must be used for such orders in **civil and family** matters, as well as in **criminal and youth** matters.
- d) This form is NOT to be used for Vexatious Litigant Orders (VLO) and Other Restricting Orders (ORO), which restrict a *party’s* access to litigating matters before the court. See <https://intranet.albertacourts.ab.ca/CS/VexatiousLitigants/default.aspx>.

### 2) Using the form

- a) When a Judge or Justice of the Peace makes an order in court, the clerk must immediately complete the form and give it to the him or her to sign, or sign it for him or her. This is a cumulative record, so if at all possible, *the same copy of the form should be used each time the case comes before the court.*
- b) When a Judge or Justice of the Peace makes an order outside of court, if a formal form of order has not otherwise been provided, the Judicial Assistant will complete the form, obtain the Judge’s or Justice of the Peace’s signature on it, and bring it to court administration for the court file.
- c) To fill in the form, the Clerk or Judicial Assistant must:
  1. Complete the file information at the top, including the name of the accused or parties, the docket number, and the name of the city or town where the order was made.
  2. Put the name of the Judge and the date in the space across from the order’s description, leaving room for the judge’s signature. *Print neatly – this information is important for the court record.*
  3. Give it to the judge to sign, or sign on the judge’s behalf.
- d) For *statutory orders*, in most cases the Clerk or Judicial Assistant can simply write the name of the statute and the section number; for *identity bans*, add the name(s) of the protected persons. For *Parts II (other statutes) and III (common law)*, add a description or attach a separate note if necessary.

### 3) Adding the restriction to the docket system

- a) Enter the restriction into the applicable docket system (JOIN, CASES, or CAMS) as soon as possible after the order is made.
- b) Keep the completed form the top of the court file or attached on the front of the Information.
- c) Add any later orders in the same matter *to this same form* when possible.

### 4) File transfer or appeal

- a) If the matter is transferred to another court, send the *original form* to that court. The Court of Appeal accepts photocopies or scans. The earlier court must retain a copy on its file.

### 5) Reproducing the form

- a) Print or download the form from the intranet Privacy & Access Protocols page, <https://intranet.albertacourts.ab.ca/CS/Pages/Protocols.aspx>. The current version is always posted here.
- b) *Do not store large volumes of the form.* Statutory provisions may change, making older versions outdated.
- c) Print or copy the form on yellow paper: Boise-Cascade “Goldenrod” paper (Boise MP Colors, Item Number MP2201, Colour Code GD), *or similar*.
- d) For use in the courtroom, print only the first two pages; print them double-sided. *A copy of this instruction page must be kept on the clerk’s desk in every courtroom.*

# ORDERS Restricting Publication or Public Access

**TAKE NOTE:** This is a record of **only the court orders** that restrict access or publication in this case. Statutes may impose other restrictions. Everyone who publishes information relating to this case must comply with all relevant orders and laws affecting publication.

Accused/Parties:	CJ Docket #:
Court Location:	KBKB Docket #:
	CA Docket #:

For each order, *print* Court, name of Judge or Justice of the Peace, and *add signature* of Judge, Justice of the Peace, or Clerk on their behalf, and the Date. *List all orders on the same form when possible.*

## Part I: Criminal Proceeding for Adult or Young Person

<input type="checkbox"/> <b>CC 486 – Exclusion of some or all members of the public (private hearing / in camera hearing).</b> <i>Specify time and date of proceeding:</i> _____
<input type="checkbox"/> <b>CC 486.31 – NO DISCLOSURE of witness' identity.</b> <i>Note, identity information may be sealed on file; do not include real identity in the JOIN entry. Before permitting public access, consult presiding Judge, Justice of the Peace, or in Court of Appeal, the CMO.</i>
<input type="checkbox"/> <b>CC 486.4 – Ban publication of victim's or witness' identifying information: sexual offences, usury, extortion, or victim under age 18.</b> [NOTE: Ban mandatory for CC 163.1 (child pornography) and where victim under age 18]  Name(s) of protected person(s): _____
<input type="checkbox"/> <b>CC 486.5 – Ban publication of identifying information of victim, witness or justice system participant: other offences, victim over 18</b>  Name(s) or undercover identity of protected person(s): _____
<input type="checkbox"/> <b>CC 486.7 – Any order necessary for the security of a witness: <u>explain details of order.</u></b> <i>Before permitting public access to file, consult presiding Judge, Justice of the Peace, or in Court of Appeal, the CMO.</i>
<input type="checkbox"/> <b>CC 517 – Ban publication re judicial interim release: until discharge or end of trial.</b>
<input type="checkbox"/> <b>CC 537(1)(h) – Private hearing in preliminary inquiry (only prosecutor, counsel, and accused to remain).</b>  <i>Specify time and date of proceeding:</i> _____
<input type="checkbox"/> <b>CC 539 – Ban publication re preliminary inquiry: until discharge or end of trial.</b>
<input type="checkbox"/> <b>CC 631(6) – Ban publication of juror identity.</b>  Name(s) of protected person(s): _____

# ORDERS Restricting Access or Publication, pg 2

For each order, print Court, name of Judicial Officer, signature of Judicial Officer or Clerk, and the Date.

## Part II: Other Statutes – Ban, Private Hearing, or Seal

Examples: *Adult Guardianship and Trusteeship Act*, s 113(2)(c); *Extradition Act*, s 26; *Family Law Act*, s 100; *Protection Against Family Violence Act*, s 8(3).

Statute: Name, section number, and description:

## Part III: Common Law – Ban, Private Hearing, or Seal. Attach separate note if necessary.

- Ban on Publication
- Private Hearing – specify date, time
- Seal – specify:
- Portions sealed (specify)
  - File sealed until a date or event (specify)
  - File sealed permanently

**STATUTORY Restrictions:** This is a list of *only the most common* statutory restrictions on access or publication that may apply to court records and court proceedings. **Other restrictions may apply.** In some circumstances, a restriction listed below may not apply or may be removed by the Court. This list is only intended to assist those who propose to publish information regarding this case. **It is not intended to be a comprehensive list of all statutory restrictions that may apply.**

### Alberta Statutes

- **Business Corporations Act** B Investigation – s 231
- **Jury Act** – Part of trial in absence of jury – s 20; continues until jury retires to consider verdict
- **Public Health Act** – Health record of person with communicable disease – s 53
- **Youth Justice Act** B Identifying information re accused, convicted offender, complainant or witness under the age of 18 – s 24

### Child and Family Matters

Information that could identify a child, parent or guardian who is the subject of proceedings under these Acts:

- **Child, Youth and Family Enhancement Act**
  - No publication of name or photograph – s 126.2
  - Adoption heard in private and records are sealed – s 74.1
  - Proceedings re subpoenaed medical records must be heard in private and records are sealed – s 109
- **Drug-endangered Children Act** – s 5
- **Protection of Children Abusing Drugs Act** – s 7
- **Protection of Sexually Exploited Children Act** – s 6.3(1)

### Federal Statutes

- **Criminal Code of Canada**
  - Application to intercept communications – s 187
  - Application re evidence of complainant's sexual activity – s 278.95
  - Application re personal information record relating to complainant or witness – s 278.9
  - Search warrant, unless charge laid – s 487.2
  - Private hearing to adjudicate claim of privilege – s 488.1(10)
  - Admission or confession in preliminary inquiry – s 542; continues until accused is discharged, or if committed to stand trial, until end of trial.
  - Part of trial in absence of jury – s 648(1); continues until jury retires to consider verdict
  - Mental disorder disposition hearing – s 672.51(7)-(11)
- **Youth Criminal Justice Act**
  - Identifying information re accused or convicted offender, or young victim or witness – s 110(1); s 111(1)

Revised 2021-February-5. To make more copies for use in courtrooms, start with the current original, available on the intranet.

