

ALASKA COURT SYSTEM
OFFICE OF THE ADMINISTRATIVE DIRECTOR
ADMINISTRATIVE BULLETIN NO. 12
(AMENDED March 8, 2018)

TO: ALL HOLDERS OF ADMINISTRATIVE BULLETIN SETS:

All Justices	Senior Staff
All Judges	Court Analyst
Area Court Administrators	Central Services
Clerk of the Appellate Courts	Judicial Services
Rural Court Training Assistants	APD Warrants
All Clerks of Court	
All Magistrate Judges	
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SUBJECT: Guidelines for Inspecting and Obtaining Copies of Public Records

This bulletin is promulgated pursuant to Supreme Court Order No. 503 and establishes a procedure for inspecting and obtaining copies of public records, including the time, place and manner of inspection, together with fees that may be required for production of records.

I. DEFINITIONS (Administrative Rule 37.5(c))

“Administrative record” means any document, information, data, or other item created, collected, received, or maintained by the court system pertaining to the administration of the judicial branch of government and not associated with any particular case.

“Case record” means any document, information, data, or other item created, collected, received, or maintained by the court system in connection with a particular case.

“Court record” means both case records and administrative records, but does not include records that may be in the court’s possession that do not relate to the conduct of the court’s business.

II. GENERAL ACCESS TO COURT RECORDS (Administrative Rule 37.5(d))

Court records, regardless of the manner of creation, method of collection, form of storage, or the form in which the records are maintained, are accessible to the public, except as provided below.

A. Case Records NOT Accessible. The following case records and case-related documents are not accessible to the public:

1. memoranda, notes, or preliminary drafts prepared by or under the direction of any judicial officer of the Alaska Court System that relate to the adjudication, resolution, or disposition of any past, present, or future case, controversy, or legal issue;
 2. legal research and analysis prepared or circulated by judges or law clerks regardless of whether it relates to a particular case and written discussions relating to procedural, administrative, or legal issues that are or may be before the court; and
 3. documents, information, data, or other items sealed or confidential pursuant to statute, court rule, case law, or court order.
- B. Administrative Records NOT Accessible. The following administrative records are not accessible to the public:
1. personal information, performance evaluations, and disciplinary matters relating to any past or present employee of the Alaska Court System or any other person who has applied for employment with the Alaska Court System, and personnel records that are confidential under Alaska Court System Personnel Rules C1.07 and PX1.08;
 2. the work product of any attorney or law clerk employed by or representing the Alaska Court System if the work product is produced in the regular course of business or representation of the Alaska Court System;
 3. individual direct work access telephone numbers and email addresses of judges and law clerks;
 4. documents or information that could compromise the safety of judges, court staff, jurors, or the public, or jeopardize the integrity of the court's facilities or the court's information technology or recordkeeping systems;
 5. records or information collected and notes, drafts, and work product generated during the process of developing policy relating to the court's administration of justice and its operations;
 6. email messages that are created primarily for the informal communication of information and that do not set policy, establish guidelines or procedures, memorialize transactions, or establish receipts; and
 7. records that are confidential, privileged, or otherwise protected by law, rule, or order from disclosure.

III. CUSTODIAN OF COURT RECORDS

- A. The clerk is the custodian of case records of judicial proceedings within the court where the records are located.
- B. The area court administrator is the custodian of administrative records for the judicial district in which the records are located.
- C. The administrative director is the custodian of administrative records relating to overall administration of the Alaska Court System.
- D. The custodian may appoint a designee to respond to inspection and copy requests.

IV. FORM OF REQUEST

A. Administrative Records

- 1. A request to inspect or to obtain copies of administrative records shall be made in writing to the custodian of the records unless otherwise allowed by the custodian.
- 2. A written request to inspect or to obtain copies of administrative records shall include:
 - (a) The name, mailing address, and telephone number of the requesting person.
 - (b) The specific documents that the person wishes to inspect or to have copied.
 - (c) The date of the request.

B. Case Records

- 1. A request to inspect or to obtain copies of case records, including case files, case-related documents, exhibits, and audio recordings, should be submitted on a Case File Request Form or Audio Recording Request Form to the clerk of court where the case was filed.
- 2. Requests may be submitted in person during the court's regular working hours, or sent by mail to the court. Anchorage, Fairbanks, and courts in the First Judicial District accept requests by email. Email requests for copies are not accepted at other court locations.

3. A request to inspect a case file must specify the case number.
4. Court clerks are not obligated to answer questions, whether made in person, by letter, by email, or by telephone, about the content of court files. A clerk may not answer such an inquiry unless the time required to ascertain the answer is minimal, the answer is obvious from the face of the file documents, and the area court administrator has authorized answering such inquiries.

V. RESPONSE TO REQUEST

A. Case Files: Parties and Attorneys of Record. Upon request, a case file must be made available for inspection to an attorney or party or record as follows:

1. Immediately, if the case file is located in the clerk's office and if it is not being processed or used for research by a court employee.
2. If the case file is located outside the clerk's office, and the requestor is an attorney or party of record, the clerk will determine if the file is available for immediate inspection and, if so, make necessary arrangements for the immediate inspection of the file. If the case file is not available for immediate inspection because it is being processed or used for research by a court employee, the clerk will determine and notify the requestor of a time within 24 hours of the request when the case file will be available for inspection.
3. If the case is closed, response must be made as provided in paragraph C below.

B. Case Files: General Public.

1. Upon request, an open case file must be made available for inspection to a member of the general public at the court location at which the case is being heard within two working days after the request is made. Exception: If a case file is checked out of the clerk's office, is being processed by the clerk's office, or cannot be located, response must be made as provided in paragraph C below.
2. A court clerk is not required to extract information from any case file, or compile information from multiple case files, or perform other research of information in any case file.
3. A court clerk is not permitted to respond to a customer's request by extracting from a case file or from the court's electronic case management system any case-related information listed in

Administrative Rule 37.8(a)(1)-(10). This includes contact information for parties, witnesses, and victims, social security numbers, driver and vehicle license numbers, financial account numbers, names of minor children in domestic relations cases, juror information, party names protected under Administrative Rule 40(b) and (c), any information that is confidential or sealed, and attorney and other e-mail addresses used by the court to distribute court orders, notices, judgments, and other documents.

4. If the case is closed, response must be made as provided in D below.

C. Distribution of Compiled Information.

Information routinely compiled by the court may be made available unless the compiled information is privileged or reveals information that is confidential, sealed, or not available to the public under subsection (a) of Administrative Rule 37.8. A request from a person outside the court system for other compiled information must be approved by the administrative director. The request may be granted if resources are available to compile the information and if it is an appropriate use of public resources, such as for scholarly, governmental, or any other purpose in the public interest.

D. All Other Court Records and Administrative Records.

The custodian shall acknowledge a request for inspection or copying of records verbally or in writing no later than ten working days after the request is made.

- E. The response shall indicate whether the records are accessible to the public, and if so, when and where inspection may take place or copies may be obtained. The custodian must inform the requestor that the records will be available for inspection for no fewer than ten working days.

1. If the custodian determines the records can be made available for inspection or can be copied without unreasonable disruption to ongoing court or administrative activities, inspection or copying shall take place within five working days after the custodian receives the request.
2. If the custodian determines the records cannot be made available for inspection or cannot be copied within five working days after the custodian receives the request, the custodian shall notify the requestor of when and where inspection may take place or copies will be provided, and shall inform the requestor of the reasons for

the delay. Inspection must be permitted or copies provided within a reasonable time from the date of the request.

3. If the records do not exist, the response shall so indicate.
 4. If the request does not provide sufficient information to locate the records, the request shall be returned, and the requestor notified.
 5. If access to the records is not permitted under Rule 37.5(e) of the Rules Governing the Administration of All Courts, the response shall indicate the basis for denial of the inspection request.
 6. If the custodian cannot determine whether access is permitted, the response shall state that the inspection request has been referred to the office of the administrative director for determination. A response from the administrative director shall be forwarded to the custodian or the person making the request no later than ten working days after the director receives the referral.
 7. If the custodian determines that the number of records requested is so great that inspection or reproduction would create an unreasonable disruption to ongoing court or administrative activities, the custodian may require that the request be limited, or the custodian may limit the request.
 8. If the person making the request does not inspect or obtain the copies of the records during the time period permitted by the custodian, the request shall be deemed withdrawn, but may be renewed.
 9. The custodian shall charge a research fee, as provided in Administrative Rule 9(e), if a response to any request or to multiple similar requests from the same customer within a 30-day period requires more than 30 minutes of the custodian's or other court staff person's time.
- F. If a request is made to inspect records concerning a court employee, the custodian will make a reasonable effort to notify the court employee and to provide the employee with an opportunity to examine the records before, and if, the custodian determines that the records can be made available to the requestor.

VI. INSPECTION AND PHOTOCOPYING

Inspection and copying shall be conducted in a manner which will not disrupt ongoing court or administrative activities.

The requesting person shall be allowed to inspect or to obtain copies of original versions of public records in the court facility where such records are normally kept, during regular working hours. However, if access to the original records would result in disclosure of information to which access is not permitted, jeopardize the security of the records, or prove otherwise impractical, copies, edited copies, reasonable facsimiles, or other appropriate formats may be produced for inspection. Unless expressly allowed by the custodian, records shall not be removed from the area where they are normally kept.

VII. APPEAL

Any denial of or limitation upon a request to inspect public records may be appealed in writing to the administrative director, and a written response will be sent to the requesting person no later than five working days after the director receives the appeal.

VIII. COPIES OF RECORDS

The court may provide a photocopy, a certified copy, or an authenticated (sometimes called exemplified) copy.

A. Photocopy

A photocopy of a court document requires no action by the clerk other than making a photocopy of the original document.

B. Certified Copy

1. A certified copy of a document is one on which there is a certification by the clerk that the document is a full, true, and correct copy of the original document which is on file with the court. A clerk, deputy clerk or judicial officer may issue a certified copy of a court document.
2. A court can certify a copy of a document only if the original of the document is on file with or recorded with the court. Administrative Rule 9(e)(2). A court may not certify a copy of a document if the original document is on file in another court location.
3. If the document to be certified incorporates by reference other documents, either the referenced documents must be attached to the certified document or the certification must indicate that the referenced documents are not attached to the certified document.

C. Authenticated Copy

1. An authenticated copy is a copy to which is attached an authentication in which (a) the clerk of court attests that the document is a true and correct copy of the original document which is on file with the court; and (b) a judge certifies that the clerk signing the attestation is the clerk of court and that the attestation is in proper form. (Authenticated copies are sometimes referred to as exemplified copies.)
2. A court can authenticate a copy of a document only if the original of the document is on file with or recorded with the court. A court may not authenticate a copy of the document if the original document is on file in another court location. Only the clerk of court or acting clerk of court may sign the attestation part of the authentication. Deputy clerks are not authorized to sign attestations.
3. Authentications will be made on either form TF-315, Authentication Form for Alaska Court Records, or on forms that incorporate substantially similar language.
4. If the document to be authenticated incorporates by reference other documents, either the referenced documents must be attached and listed in the authentication or the authentication must indicate that the referenced documents are not attached.

D. Costs

1. The cost of providing copies of records is governed by Administrative Rule 9. The custodian of the record may require pre-payment of the copying fee before providing the copies.
2. If copies are requested in a format for which a fee has not been established under Administrative Rule 9, the administrative director may determine the fee to be charged.

E. The custodian may, in his or her discretion, allow the person requesting copies to make the copies, and may specify reasonable conditions under which this copying will be permitted.

F. Documents need not be reproduced in the exact form or medium in which they are stored. However, any alteration of the form or medium of public records must not change the substantive content of the information contained in the public record. When the actual content is changed, the nature of the change and why it was necessary must be communicated to the requesting person.

IX. REQUEST FOR INFORMATION

A request for information to be provided in writing after a search of records, or a request to compile statistics concerning information that is not maintained in tangible form by the Alaska Court System, must be made to the area court administrator or administrative director. Such requests are subject to the provisions of this bulletin and to the fee established in Administrative Rule 9(e)(5).

Dated: March 8, 2018

/s/
Christine E. Johnson
Administrative Director

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