



Administrative Policies
And Procedures
Tennessee Supreme Court
Administrative Office of the Courts

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Effective Date: 07/01/2017

Approved by: Chief Justice *JBS* Jeff Bivins and Director Deborah Taylor Tate *DTT*
Subject: AOC Records Policy

I. Authority:

Tenn. Code Ann. §§ 10-7-503, 16-3-501, 16-3-803.

II. Definitions:

- A. "Records Custodian" is the office, official, or employee lawfully responsible for the direct custody and care of a public record. Tenn. Code Ann. § 10-7-503(a)(1)(C). The records custodian is not necessarily the original preparer or receiver of the record.
- B. "Public Records" includes all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. Tenn. Code Ann. § 10-7-503(a)(1)(A).
- C. "Public Records Request Coordinator" is the individual or individuals, designated in Section V, B.1.c of this Policy who has, or have, the responsibility to ensure public records requests are routed to the appropriate records custodian and are fulfilled in accordance with the Tennessee Public Records Act. Tenn. Code Ann. § 10-7-503(a)(1)(B). The Public Records Request Coordinator may also be a records custodian.
- D. "Requestor" is a person seeking access to a public record, whether it is for inspection or duplication.
- E. "Employee" is any person who works for the Administrative Office of the Courts ("AOC") in a full-time or part-time status.
- F. "Judge" is any state judge or justice who serves in a full-time or part-time status, including senior, special, and retired judges who are designated by the Chief Justice or as otherwise provided by law.

G. "Judicial Staff" is any person who works for a state judge in a full-time or part-time status.

III. Purpose:

Pursuant to Tenn. Code Ann. § 10-7-503(g), the following Public Records Policy for the AOC is hereby adopted to provide economical and efficient access to public records as provided under the Tennessee Public Records Act, Tenn. Code Ann. §§ 10-7-503 *et seq.* ("TPRA").

The TPRA provides that all state, county, and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen unless otherwise provided by state law. Tenn. Code Ann. § 10-7-503(a)(2)(A). Accordingly, the public records of the AOC are presumed to be open for inspection unless otherwise provided by state law.

Employees of the AOC, judges, and judicial staff shall timely and efficiently provide access and assistance to Tennessee citizens requesting to view or receive copies of public records. No provisions of this Policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the AOC and state judiciary shall be protected as provided by current law. Concerns about this Policy should be addressed to the AOC's Public Records Request Coordinator.

This Policy is available for inspection and duplication at the AOC and is posted online at tncourts.gov/AOC-records-policy. This Policy shall be reviewed as needed, but no less frequently than every two years.

IV. Application:

This Policy shall be applied consistently throughout the divisions of the AOC and to all employees of the AOC.

This policy shall be applied consistently among the judges and their judicial staff. This policy does not apply to Court Clerks who maintain the official court records or to Court Reporters who create the official record maintained by the Court Clerks. While recordings and documents maintained by Court Reporters that are not part of the official court record must be properly preserved, Court Reporters who receive requests to copy or inspect recordings or documents that are not included in the official court record must forward such requests to the judge.

This policy also applies the Boards and Commission staffed by members of the judiciary and/or AOC employees, including:

- A. Access to Justice Commission
- B. Advisory Commission on the Rules of Practice and Procedure
- C. Alternative Dispute Resolution (ADR) Commission
- D. Board of Judicial Conduct
- E. Governor's Council for Judicial Appointments
- F. Integrated Criminal Justice Steering Committee
- G. Judicial Ethics Committee
- H. Supreme Court Building Commissions
- I. Tennessee Code Commission
- J. Trial Court Vacancy Commission
- K. Commission on Continuing Legal Education and Specialization
- L. Tennessee Lawyers' Fund for Client Protection
- M. Tennessee Lawyer Assistance Program

This policy excludes the Board of Law Examiners and Board of Professional Responsibility.

V. Policy and Procedures:

A. REQUESTING ACCESS TO PUBLIC RECORDS

1. Public record requests shall be made to the Public Record Request Coordinator ("PRRC") or his/her designate in order to ensure public records requests are routed to the appropriate records custodian and fulfilled in a timely manner.
2. Requests for inspection only cannot be required to be made in writing. The PRRC shall, however, request a U.S. mail address or email address from the requestor in order to provide any written communication required under the TPRA.
3. Requests for inspection may be made orally or in writing and may be made in person or by U.S. mail to the AOC located at 511 Union Street, Suite 600, Nashville, TN 37219; by telephone at (615) 741-2687; or by email at AOCpublicrecords@tncourts.gov.
4. Requests for copies shall be made in writing and may be made in person or by U.S. mail to the AOC located at 511 Union Street, Suite 600, Nashville, TN 37219; by telephone at (615) 741-2687; or by email at AOCpublicrecords@tncourts.gov.
5. Unless there is an indication that the requestor is not a Tennessee citizen, proof of Tennessee citizenship by presentation of a valid

Tennessee's driver's license is not required as a condition to inspect or receive copies of public records.

B. RESPONDING TO PUBLIC RECORDS REQUESTS

1. Public Records Request Coordinator

- a. The PRRC shall review public records requests and make an initial determination of the following:
 - i. If the requestor is a Tennessee citizen;
 - ii. If the records requested are described with sufficient specificity to identify them; and
 - iii. If the AOC, judge, or judicial staff is the custodian of the requested records.
- b. The PRRC shall acknowledge receipt of the request and take the following actions, if appropriate:
 - i. Deny the request on the basis that:
 - A. The requestor is not a Tennessee citizen;
 - B. The request lacks specificity and/or needs clarification;
 - C. The AOC, judge, or judicial staff is not the custodian of the requested records; or
 - D. The requested records do not exist.
 - ii. Contact the requestor to see if the request can be narrowed and/or clarified.
 - iii. Forward the public records request to the appropriate records custodian(s) in the AOC with notice of the date the request was received and the deadline for when a response to the request is due.
 - iv. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct government entity, advise the requestor of the correct governmental entity and PRRC for that entity, if known.

c. The designated PRRC is:

- i. Name or title: AOC Communications Director
- ii. Contact information: 511 Union Street, Suite 600, Nashville, TN 37219; by telephone at (615) 741-2687; or by email at AOCpublicrecords@tncourts.gov.

2. Records Custodian

a. Upon receiving a public records request from the PRRC, if the requested records are practicably available and not exempt from disclosure, a records custodian shall promptly make the requested public records available pursuant to Tenn. Code Ann. § 10-7-503(a)(2)(B)(i). If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC or counsel.

b. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are subject to inspection; to redact records; or for other similar reasons, then the records custodian shall inform the PRRC, who shall, within seven (7) business days from the PRRC's receipt of the request, send the requestor a Public Records Request Response pursuant to Tenn. Code Ann. § 10-7-503(a)(2)(B)(iii).

c. If a records custodian reasonably determines that production of records should be in installments, the records custodian shall inform the PRRC, who shall, within seven (7) business days from the PRRC's receipt of the request, send the requestor a Public Records Request Response informing the requestor that the production of records will be in installments and that a records production schedule will be provided as expeditiously as practicable.

d. If a records custodian determines that a public records request should be denied because of an applicable exemption, the records custodian shall inform the PRRC, who shall, within seven (7) business days from the PRRC's receipt of the request, deny the request in writing and include the basis for such denial, pursuant to Tenn. Code Ann. § 10-7-503(a)(2)(B)(ii).

e. If a records custodian discovers public records responsive to a records request were omitted in a production, the records

custodian shall notify the PRRC, who shall contact the requestor concerning the omitted documents and produce those public records as quickly as practicable.

3. Redaction

a. If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access.

b. Whenever a redacted record is provided, a records custodian should provide the requestor with the basis for redaction, which shall be general in nature and not disclose confidential information. A records custodian is otherwise not required to provide any sort of privilege log.

4. Inspection of Records

a. There shall be no charge for inspection of public records that are subject to inspection under the TPRA.

b. Inspection of records shall take place at the AOC located at 511 Union Street, Suite 600, Nashville, TN 37219. The location for inspection of records within the AOC shall be determined either by the PRRC or the appropriate records custodian.

c. Appointments for inspection of public records are required and may be scheduled by contacting the AOC Communications Director at (615) 741-2687.

5. Copies of Records

a. A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.

b. Copies will be available for pickup at the AOC at 511 Union Street, Suite 600, Nashville, TN 37219.

c. Upon payment for postage, copies will be mailed to the requestor's home address by the United States Postal Service.

d. A requestor will not be allowed to make copies of records with any type of personal equipment, including but not limited to cell phones, portable scanners, or portable copy machines.

6. Fees and Procedures For Billing and Payment

- a. Fees for labor and copies of public records shall not be used to hinder access to public records.
- b. Prior to producing copies of records, records custodians shall provide requestors with an itemized estimate of the fees, including labor costs, to the extent possible.
- c. Pursuant to Tenn. Code Ann. § 10-7-503(a)(7)(C)(i), upon a request for copies of records, the AOC shall assess fees for the copying and labor based on the most current version of the "Schedule of Reasonable Charges" issued by the Office of Open Records Counsel, available at:
<http://www.comptroller.tn.gov/openrecords/>.
- d. A records custodian may waive or reduce fees if:
 - i. The fees total less than ten dollars (\$10.00);
 - ii. The person requesting the copies is indigent pursuant to Federal poverty guidelines and signs a sworn statement to that effect; or
 - iii. The person requesting the copies does so on behalf of a government agency.
- e. The Administrative Director, or his or her designee, may waive or reduce any part of the fees calculated under this Policy upon a submission of a written request for waiver or reduction. Any decision to waive or reduce the fees is in the sole discretion of the Administrative Director, is not subject to judicial review, and does not establish any precedent.
- f. Payment is to be made by personal check, cashier's check, or money order made payable to the State of Tennessee and delivered to the AOC.
- g. Payment in advance is required for all requests for copies of records.
 - i. The AOC will aggregate records requests when more than four (4) requests are received within a calendar month, either from a single individual or a group of individuals deemed working in concert and adopts the "Frequent and Multiple

Request Policy” and any successor policy developed by the Office of Open Records Counsel.

ii. Such requests may be aggregated on any level whether by attorney, case, division, office or otherwise.

iii. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the Office of Open Records Counsel.