



Administrative Policies
And Procedures
Tennessee Supreme Court

Page 1 of 12

Effective Date: 07/01/2017

Approved by: Chief Justice Jeff Bivins and Appellate Court Clerk James M. Hivner

Subject: Public Records Policy for the Office of the Appellate Court Clerk

I. Authority:

Tenn. Code Ann. §§ 10-7-503(g), 16-3-503, 16-3-504, 17-5-204, 18-3-101 - 102.

II. Definitions:

- A. "Appellate Courts" means the Supreme Court, the Court of Appeals, the Court of Criminal Appeals and, for purposes of this policy, the Board of Judicial Conduct.
- B. "Appellate Court Clerk" or "Clerk of the Appellate Courts" means the Clerk of the Supreme Court who, pursuant to statute, also serves as the Clerk of the Court of Appeals, the Clerk of the Court of Criminal Appeals and the Clerk of the Board of Judicial Conduct."
- C. "Public Records" include 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).
- D. "Court Records" include Case Records, Administrative Records, and Judicial Records of the appellate courts.
- (i) "Case Record" means any document, information, data, or other item created, collected, received, or maintained by the appellate courts or the appellate court clerk as a part of the official court file in connection with a particular case.
- (ii) "Administrative Record" means any document, information, data, or other item created, collected, received, or maintained by the appellate court clerk pertaining to the administration of the appellate courts or the appellate court clerk's office and not associated with a particular case.

(iii) "Judicial Record" means all records of the appellate courts other than Case Records or Administrative Records and are excluded from this Public Records Policy. For information regarding access to Judicial Records, refer to the Public Records Policy available for inspection or copying at the Administrative Office of the Courts located at 511 Union Street, Suite 600, Nashville or online at:

http://tncourts.gov/sites/default/files/docs/administrative_policy_aoc_records_policy_effective_2017july1.pdf.

- E. "Public Records Request Coordinator" or "PRRC" is the individual or individuals, designated in Section V.A.3 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)(2)(B). The Public Records Request Coordinator may also be a Records Custodian.
- F. "Records Custodian" is the office, official, or employee lawfully responsible for the direct custody and care of Court Records. Tenn. Code Ann. § 10-7-503(a)(1)(C). The Records Custodian is not necessarily the original preparer or receiver of the Court Record.
- G. "Requestor" is a person seeking access to Court Records, whether it is for inspection or duplication.
- H. "Employee" is any person in a full-time or part-time status that is employed by the Appellate Court Clerk.

III. Purpose:

Pursuant to Tennessee Code Annotated section 10-7-503(g), this Public Records Policy for the Office of the Appellate Court Clerk is hereby adopted to provide economical and efficient access to those Court Records which are Public Records as provided under the Tennessee Public Records Act, Tennessee Code Annotated sections 10-7-503 *et seq.*, ("TPRA") and under Rule 34 of the Rules of the Tennessee Supreme Court.

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, those Court Records which are Public Records are presumed to be open for inspection unless subject to an express exception under the TPRA, *see* Tenn. Code Ann. § 10-7-504; or, unless otherwise provided by state law, *see* Tenn. Code Ann. § 10-7-503(a)(2)(A), including but not limited to Rule 34 of the Rules of the Tennessee Supreme Court.

Employees of the Office of the Appellate Court Clerk shall timely and efficiently provide access and assistance to Tennessee citizens requesting to view or receive copies of those Court Records which are Public Records. No provisions of this Policy shall be used to hinder access to open Public Records. However, the integrity and organization of Court Records, as well as the efficient and safe operation of the Office of the Appellate Court Clerk shall be protected as provided by current law. Concerns about this Policy should be addressed to the Public Records Request Coordinator.

This Policy is available for inspection and duplication at the Office of the Appellate Court Clerk in each of the grand divisions and is posted online at <https://www.tncourts.gov/courts/appellate-court-clerks-office/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 by the Appellate Court Clerk and all Employees of the Appellate Court Clerk.

V. Policy and Procedures:

A. REQUESTING ACCESS TO COURT RECORDS

1. Public Record requests for Court Records shall be made to the Public Records Request Coordinator ("PRRC") or his/her designee in order to ensure Public Records requests are routed to the appropriate Records Custodian and fulfilled in a timely manner.
2. Requests for inspection may be made orally or in writing and may be made in person or by U.S. mail as follows:
 - a. Case Records: To the Clerk of the Appellate Courts in the grand division in which the case is pending or was filed.
 - i. Western Division/Jackson:
Appellate Court Clerk's Office
Western Division
Supreme Court Building
P.O. Box 909 or [6 Highway 45 Bypass]
Jackson, TN 38302-0909 [38301]
(731) 423-5840
 - ii. Middle Division/Nashville:
Appellate Court Clerk's Office
Middle Division

Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407
(615) 741-2681

- iii. Eastern Division/Knoxville:
Appellate Court Clerk's Office
Eastern Division
Supreme Court Building
P.O. Box 444 or [505 Main Street, Suite 200]
Knoxville, TN 37901 [37902]
(865) 594-6497

b. Administrative Records: To the Clerk of the Appellate Courts

Office of the Appellate Court Clerk
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407
(615) 741-2681

- 3. Upon receipt of a request for inspection, the PRRC may request a U.S. mail address or email address from the Requestor in order to provide any written communication required under the TPRA.
- 4. Requests for copies shall be made in writing and may be made in person or by U.S. mail as follows:

a. Case Records: To the Appellate Court Clerk in the grand division in which the case is pending or was filed.

- i. Western Division/Jackson:
Office of the Appellate Court Clerk
Western Division
Supreme Court Building
P.O. Box 909 or [6 Highway 45 Bypass]
Jackson, TN 38302-0909 [38301]
- ii. Middle Division/Nashville:
Office of the Appellate Court Clerk
Middle Division
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407
- iii. Eastern Division/Knoxville:

Office of the Appellate Court Clerk
Eastern Division
Supreme Court Building
P.O. Box 444 or [505 Main Street, Suite 200]
Knoxville, TN 37901[37902]

b. Administrative Records: To the Clerk of the Appellate Courts directed to the following address:

Office of the Appellate Court Clerk
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

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. The designated Records 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 requested records are not the subject of this Policy and the Appellate Court Clerk is not the Record 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) with notice of the date the request was received and the deadline for when a response to the request is due.
 - iv. If the requested records are not the subject of this policy and may be in the custody of a different governmental entity, and the PRRC knows the correct governmental entity to which the request should have been directed, advise the Requestor of the correct governmental entity and the PRRC for that entity.
- c. The designated PRRC is:
- i. Name or title: Clerk of the Appellate Courts
 - ii. Contact information:
Office of the Appellate Court Clerk

Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407
(615) 741-2681

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 Records Custodian may consult with the PRRC or counsel.

Inspection or copying of all or any part of a Case Record in a case that has been submitted for disposition shall be subject to such conditions as the Appellate Court in which the case is

pending deems necessary to prevent undue delay and may be deferred until the matter currently pending before the Appellate Court has been decided or resolved.

No person requesting to inspect or to obtain copies of a Case Record, except for persons entitled to the appellate record under Rule 25(c) of the Tennessee Rules of Appellate Procedure, shall be permitted to remove the Case Record from the Appellate Court Clerk's direct custody and control.

The Appellate Court Clerk shall not be required to produce or copy a Case Record that is not in the Appellate Court Clerk's possession or to request the return of all or any part of a Case Record from any person to whom the Case Record has been transmitted in accordance with Rule 25(c) of the Tennessee Rules of Appellate Procedure.

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 and this Rule.

b. Inspection of Public Records shall take place at the following locations:

i. Case Records:

A. Western Division/Jackson:
Office of the Appellate Court Clerk
Western Division
Supreme Court Building
6 Highway 45 Bypass
Jackson, TN 38301

B. Middle Division/Nashville:
Office of the Appellate Court Clerk
Middle Division
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

C. Eastern Division/Knoxville:
Office of the Appellate Court Clerk
Eastern Division

Supreme Court Building
505 Main Street, Suite 200
Knoxville, TN 37902

ii. Administrative Records:
Office of the Appellate Court Clerk
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

c. Appointments for inspection of Case Records are not required. Appointments for inspection of Administrative Records are required and may be scheduled by contacting the PRRC at (615) 741-2681.

5. Copies of Records

a. A Records Custodian shall promptly respond to a Public Records request for copies in the most economic and efficient manner practicable.

b. Copies will be available for pickup as follows:

i. Case Records:

A. Western Division/Jackson:
Office of the Appellate Court Clerk
Western Division
Supreme Court Building
6 Highway 45 Bypass
Jackson, TN 38301

B. Middle Division/Nashville:
Office of the Appellate Court Clerk
Middle Division
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

C. Eastern Division/Knoxville:
Office of the Appellate Court Clerk
Eastern Division

Supreme Court Building
505 Main Street, Suite 200
Knoxville, TN 37902

ii. Administrative Records:
Office of the Appellate Court Clerk
Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1407

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

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. Upon a request for copies of records, the Clerk of the Appellate Courts shall assess fees for the copying and labor in accordance with the fee schedule established pursuant to Tennessee Code Annotated §8-21-501.

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 Clerk of the Appellate Courts, 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 Clerk of the Appellate Courts, is not subject to judicial review, and does not establish any precedent.

f. Payment is to be made by personal check, cashier's check, money order, or other means as authorized by Tennessee Code Annotated § 8-21-501 and the Clerk of the Appellate Courts.

g. Payment in advance is required for all requests for copies of Public Records.

i. The Office of the Appellate Court Clerk may 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. 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.

7. Failure to Inspect or Pay for Copies

a. If a person makes two (2) or more requests to view a Public Record within a six-month period and, for each request, the person fails to view the Public Record within fifteen (15) business days of receiving notification that the Public Record is available to view, the Office of the Appellate Court Clerk is not required to comply with any Public Records request from the person for a period of six (6) months from the date of the second request to view the Public Record unless the Appellate Court Clerk determines failure to view the Public Record was for good cause.

b. If a person makes a request for copies of a Public Record and, after copies have been produced, the person fails to pay to the Office of the Appellate Court Clerk the cost for producing such copies, the Appellate Court Clerk is not required to comply with any Public Records request from the person until the person pays for

such copies; provided, that the person was provided with an estimated cost for producing the copies prior to producing the copies and the person agreed to pay the estimated cost for such copies.