



SUPREME COURT OF BRITISH COLUMBIA

**POLICY ON ACCESS TO THE
COURT RECORD**

The Supreme Court of British Columbia

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www.bccourts.ca

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1 GENERAL PRINCIPLES

1.1 Introduction

The open court principle is a tenet of Canada’s justice system and a hallmark of a democratic society. Openness of the courts to public scrutiny fosters confidence in the integrity of the courts and understanding of the administration of justice.

Openness of and access to the courts is achieved mainly through the public’s ability to attend most court proceedings, which usually take place in person in a courtroom, but may also take place by telephone or videoconference. As many members of the public cannot attend court themselves, the public often relies on the media to inform them about court proceedings.

The Supreme Court of British Columbia (“Court”) recognizes that access to the court record is an important aspect of ensuring the Court is open to the public. The Court also recognizes that there is a presumption in favour of access to most parts of the court record. However, access to certain parts of the court record may be denied or restricted when it is justified based on the need to protect social values of superordinate importance. For example, access to parts of the court record in family law proceedings is restricted by statute.

The Court has a supervisory and protective power over the court record, and the responsibility to ensure that access to the court record respects applicable laws and takes into consideration the constitutional and other rights and interests involved.

1.2 Objectives of the Policy

The Court has established this policy governing access, and judges of the Court will exercise their discretion and determine issues concerning access in individual cases where the right to access a court record must be balanced against other important rights or social values.

The objectives of this policy are to set out the principles governing access to the court record; describe the various parts of the court record to which access may be sought and the rules governing access to each; and to establish processes by which the public, media, parties and lawyers may request access to the court record.

For access to parts of the court record that are not expressly addressed in this policy, those seeking access may apply to the Court for an order permitting access.

1.3 Definitions

For the purposes of this policy:

“Access” means the ability to search, view, listen, copy, publish or disseminate all or a portion of the court record. The level of access permitted may differ depending on the nature of the court record and the circumstances of a particular court proceeding.

“Application” means an application for access to the court record or a portion of the court record brought in accordance with Part 8 of this policy.

“Counsel of record” means a lawyer who has confirmed on the court record that they are acting for a party to a proceeding. Counsel of record includes trial level counsel, appellate counsel and Crown counsel assigned to the case.

“Court file” or “registry file” means one part of the court record that contains a variety of documents relating to a court proceeding including, but not limited to:

- pleadings, affidavits and the documents attached or appended to them, and other documents filed with the Court by the parties;
- in criminal proceedings, charging and related documents; and
- transcripts of proceedings if prepared.

The court file or the registry file includes the physical file in the court registry and/or the electronic file.

“Court record” means the documents in the court file, as well as information about the court proceeding stored by the court. In addition to things that form part of the court file, the following are examples of things that may form part of the court record in a proceeding:

- audio recordings of court proceedings;
- the court clerk’s log notes of court proceedings;
- orders granted by the court;
- reasons for judgment;
- records of orders made or granted by the Court, and supporting or related documents; and
- exhibits.

The court record does not include judges’ bench books, scheduling documents, or internal court documents.

“DARS” means the digital audio recording system the Court uses to create and store the audio recording of court proceedings and also refers to the audio recording itself.

“*In camera* proceeding” means a court proceeding that occurs either in whole or in part in a closed courtroom where the public and media are excluded.

“Request Form” means the Court Record Access Request Form submitted to the registry in accordance with Part 8 of this policy.

1.4 Administration of the Court Record

The Court Services Branch of the Ministry of Attorney General is responsible for the care and maintenance of the court record, and for implementing this policy and any specific directions or orders regarding access to the court record issued by the Court. The daily administration of the court record is carried out by the registry staff in the courthouses across the province.

Any Court Services Branch policies about procedures or fees applied during that administrative process are made by Court Services Branch, not the Court, and, as a result, the Court expresses no view about them.

1.5 Timeframes for Access

The ability of registry staff to facilitate timely access to the court record can be affected by various factors, including availability of staff resources and other tasks of priority to the judiciary and the registry. In addition, the timeframes required for access to items, files and documents that are stored off-site will necessarily be longer than for items, files and documents stored on-site at the courthouse.

2 ACCESS TO THE COURT RECORD: CRIMINAL PROCEEDINGS

2.1 Introduction

This section discusses some of the main types of material or information in the court record as it relates to criminal proceedings and some of the main factors that affect access to the court record in criminal proceedings.

2.2 Absolute Discharges

The [Criminal Records Act](#) imposes restrictions on public access to criminal records. If more than a year has elapsed since a person was discharged absolutely, registry staff must not allow access to the record of the discharge nor disclose the existence of the record or the fact of the discharge to any person other than the person who is the subject of the absolute discharge or counsel acting on their behalf.

A request for access by the person who is the subject of the discharge must be made in accordance with the procedure established by the court registry. For information, contact the court registry in the location where the proceeding took place.

See also 2.9 - [Conditional Discharges](#) and 2.19 - [Pardons](#).

2.3 Access for Accused, Counsel of Record and Others

Unless sealed, the court file and the court exhibits in respect of a criminal proceeding are open to inspection by:

- an accused;
- counsel of record; and
- a person assigned to prepare a pre-sentence report.

No other person may have access to the court file and the court exhibits in respect of a criminal proceeding except in accordance with this policy.

2.4 Affidavits

Affidavits and attached exhibits in criminal proceedings become part of the court record when filed. A member of the public may request access to an affidavit in a criminal proceeding by completing and submitting a Request Form as described in Part 8 of the policy.

2.5 Audio Recordings

See PART 6 - [LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS](#) and PART 7 - [OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS](#).

2.6 Bail Documents

Bail (or “judicial interim release”) applications involve various classes of documents, including material filed or submitted by the accused person (such as affidavits or reference letters) and documents created by the Court (such as release orders). Bail documents may also include documents submitted by sureties (such as surety declarations, affidavits or supporting documents). Documents relating to bail applications are not available to the public before a judge has heard and determined the bail application.

After a judge has heard and determined the application, the public may have access to a release order, if made, excluding the surety attachment page, if one exists. A member of the public may request access to a bail document other than a release order by completing and submitting a Request Form as described in Part 8 of the policy.

Often, publication bans are in place in relation to the details of a bail application. It is the responsibility of the person accessing a bail document to identify and comply with any bans.

See also Section 2.22 - [Publication Bans](#).

2.7 Closed Courtroom (In Camera) Proceedings

If the public is excluded from a criminal proceeding because of a legislative provision, common law rule or court order, there is no public access to the court record (or to that portion of the court record which is related to the publicly excluded proceedings) unless the Court makes an order allowing access.

2.8 Complainant’s Sexual History Evidence: Criminal Code s. 276

Section 276 of the *Criminal Code* limits the use to which an accused can put evidence of the complainant’s sexual history, in a trial of a sexual offence. To use any such evidence, the accused must apply to the trial judge under the relevant provisions of the *Criminal Code*. The application is heard *in camera*. As a result, there is no public access to the documents filed in relation to the application or the hearing.

Various publication bans apply in relation to the documents, evidence, and the judge's determination and reasons, depending on the circumstances.

See also Section 2.21 - [Production Order to Third Parties](#).

2.9 [Conditional Discharges](#)

The [Criminal Records Act](#) imposes restrictions on public access to criminal records. If more than three years has elapsed since a person was discharged on conditions, registry staff must not allow access to the record of the discharge nor disclose the existence of the record or the fact of the discharge to any person other than the person who is the subject of the conditional discharge or counsel acting on their behalf.

A request for access by the person who is the subject of the conditional discharge must be made in accordance with the procedure established by the court registry. For information, contact the court registry in the location where the proceeding took place.

See also Section 2.2 - [Absolute Discharges](#) and Section 2.19 - [Pardons](#).

2.10 [Copies](#)

If an individual is entitled to have access to the court record or some portion of the court record in respect of a criminal proceeding without first obtaining authorization from the Court, they may obtain a copy of it if:

- the document can be copied; and
- the relevant fee is paid.

Where authorization of the Court is required for access to the court record or some portion of it, copies will only be provided if the order or direction which authorizes access also authorizes the registry to provide a copy of the court record or portion of the court record.

2.11 [Court Clerk Log Notes](#)

See PART 6 - [LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS](#).

2.12 [Criminal Records Information](#)

The registry staff will only provide information and documents relating to matters that are either before the Court or have been before the Court. The registry staff cannot provide information about an individual's general criminal record. Members of the public who seek this type of information will be referred to local police services.

Where a copy of an accused person’s criminal record is filed in the court file or is marked as a court exhibit, a request for access may be made by completing and submitting a Request Form as described in Part 8 of the policy.

2.13 Exhibits

See PART 5 - [COURT EXHIBITS](#).

2.14 Hearing Lists

2.14.1 Before Hearing

The Supreme Court [hearing lists](#) provide the names of the parties, the courtroom, the date of the hearing and the time the hearing starts. Hearing lists for each Supreme Court registry are posted on the Court’s website on the day of the hearing and are also posted in the courthouse.

2.14.2 After Hearing - Results and Future Appearance Dates

The public can obtain information from the registry about the results of an appearance or hearing including the name of the accused, the courtroom, the date of the hearing, the time for an appearance or hearing and disposition unless a sealing order has been made or the public has been excluded from the courtroom.

For matters that have been before the Court within the last 5 days, the public may obtain this information from the Court Services Branch website:

<https://www2.gov.bc.ca/gov/content/justice/courthouse-services/daily-court-lists/criminal-court-lists>

2.15 Indictments

The indictment is the document by which charges are filed in the Supreme Court. In the Provincial Court, where charges usually begin, the charging document is called an information.

The public is entitled to have access to indictments and informations, unless the proceedings are under the [Youth Criminal Justice Act](#) (see [Section 110 \(1\) - Youth Criminal Justice Act Proceedings](#)).

For some charges, publication bans may apply to some of the content of the indictment or information, such as the name of the alleged victim of the offence charged. It is the responsibility of the person accessing the indictment to identify and comply with any bans.

See also Section 2.22 - [Publication Bans](#).

2.16 Mental Health Records

The public may not access documents in the court file which are related to:

- assessment reports prepared for the Court under s. 672.2 of the [Criminal Code](#) (mental disorder provisions);
- any written information filed with the Court regarding an accused person's fitness to stand trial; or
- any written information filed with the Court regarding whether an accused person should be found not criminally responsible due to mental disorder

unless the Court makes an order allowing access.

2.17 Notices of Application

The public may request access to a notice of application filed in criminal proceedings by completing and submitting a Request Form as described in Part 8 of the policy.

2.18 Orders

The public may have access to an order made in criminal proceedings unless the court record or the order is sealed.

2.19 Pardons and Record Suspensions

The [Criminal Records Act](#) imposes restrictions on public access to criminal records. Registry staff must not allow access to any record of a conviction in respect of which a pardon or record suspension has been granted nor disclose the existence of the record or the fact of the conviction to any person, other than the person who is the subject of the pardon or record suspension, or counsel acting on their behalf.

A request for access by the person who is the subject of the pardon or record suspension must be made in accordance with the procedure established by the court registry. For information, contact the court registry in the location where the proceeding took place.

See also Section 2.2 - [Absolute Discharges](#) and Section 2.9 - [Conditional Discharges](#).

2.20 Pre-Sentence Reports

In some criminal cases, the judge who finds an accused person guilty will ask that a pre-sentence report be prepared before the sentencing hearing is held. A pre-sentence report provides details about the accused person's background and circumstances and describes the sentencing facilities and programs that may be appropriate.

Pre-sentence reports are not available to the public before a judge has imposed sentence.

After the judge has imposed sentence, a member of the public may make a request for access to a pre-sentence report by completing and submitting a Request Form in accordance with Part 8 of this policy.

2.21 Production Orders to Third Parties

2.21.1 Sexual Offences: s. 278.1 to s. 278.9

For trials of sexual offences, an accused person may apply to the trial judge for an order requiring a third party to bring to court confidential records concerning the complainant or witness. Examples include medical, counselling, or school records in the possession of a hospital, medical professional, or counsellor.

By s. [278.4](#) and s. [278.6](#) of the [Criminal Code](#), the application proceedings are heard *in camera* with the public excluded. As a result, there is no public access to the documents filed in relation to the application or the hearing.

Section [278.9](#) also imposes, depending on the circumstances, various publication bans in relation to the documents, evidence, and the judge's determination and reasons.

2.21.2 Other Offences: O'Connor Applications

For trials of offences not covered by s. 278.1 through s. 278.9 of the [Criminal Code](#) an accused may apply to the trial judge for production of confidential records in the possession of third parties. The procedure for the application is described in the common law (*R. v. O'Connor*, [\[1995\] 4 S.C.R. 411](#) and *R. v. McNeil*, [2009 SCC 3](#)).

There is no public access to material relating to an *O'Connor* application, unless the Court makes an order allowing access.

2.22 Publication Bans

The presence of a publication ban does not prevent access to the court record in a criminal proceeding; however, anyone having access is required to abide by the terms of any publication ban in place. Although registry staff will try to notify the person requesting access of any publication bans or restrictions that may apply and will advise that publication, broadcast or transmission of the information contained in the court record could be an offence at law, it is the responsibility of the person requesting access to the court record to identify any publication bans or restrictions that apply and to comply with them. Failure to comply with the publication ban may result in serious sanctions including contempt of court proceedings. Information about publication bans issued in some criminal proceedings can be found [here](#).

2.23 Reasons for Judgment

Reasons for judgment in a criminal proceeding may include:

- rulings made before the final disposition of the guilt or innocence of the accused person
- reasons for judgment as to the guilt or innocence of the accused person, and
- reasons for judgment imposing sentence.

The Court's [website](#) publishes written reasons for judgment, and many transcribed oral reasons for judgment given by the judges of the Court since 1990:

www.bccourts.ca/search_judgments.aspx

Subject to the restrictions following, the public may have access to reasons for judgment in a criminal proceeding unless the reasons for judgment are sealed.

Because [s. 648](#) of the [Criminal Code](#) makes it an offence to publish, broadcast or transmit any part of the trial that was heard at a time when the jury was not present and because an accused has the ability to change the mode of trial from judge alone to judge and jury in certain circumstances, reasons for rulings made before the final disposition of guilt or innocence of the accused will not be released to the public before the delivery of the jury's verdict in a jury trial or before the judge has rendered a decision on the guilt or innocence of the accused in a trial by judge alone, unless the judge directs otherwise. Requests for access to the reasons for judgment before the final disposition of guilt or innocence of the accused should be addressed to the trial judge or, if the trial judge is unavailable, to the Chief Justice or Associate Chief Justice.

Rulings or reasons for judgment which are not covered by [s. 648](#) of the [Criminal Code](#) may still be subject to other publication bans. A publication ban does not necessarily act to prevent public access; however, it does restrict what use can be made of the information contained in the reasons for judgment. Anyone having access to reasons for judgment in a criminal proceeding is required to abide by the terms of any publication ban which may be in place. Although registry staff will try to notify a person accessing reasons for judgment of any publication bans or restrictions that may apply and will advise that publication, broadcast or transmission of the information protected by the ban could be an offence at law, it is the responsibility of the person to identify any publication bans or restrictions that may apply, and to comply with them. Failure to comply with the publication ban may result in serious sanctions including contempt of court proceedings.

For access to the audio recording of oral reasons for judgment that have not been transcribed see [PART 6 LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS](#) and [PART 7 OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS](#).

2.24 [Sealed Files](#)

The public may not have access to a sealed court record or a sealed document within the court record in a criminal proceeding unless the Court makes an order allowing access.

2.25 [Synopsis or Trial Plan](#)

For pre-trial conferences in criminal cases including proceedings pursuant to the [Extradition Act](#), Crown counsel files a *Crown Synopsis* setting out a brief summary of the case which, as at the time of its preparation, the Crown expects to present at the later trial. The synopsis does not bind the Crown, and is intended only as a tool to assist the judge managing the case, in order to ensure that the case is properly scheduled and proceeds in an orderly and efficient manner (see [Criminal Practice Direction 1 – Criminal Pre-trial Conference Process](#)).

For case management conferences in criminal cases subject to [Criminal Practice Direction 3 – Complex Criminal Cases](#), Crown counsel also files a *Trial Plan* setting out further details of the case. Similar to the *Crown Synopsis*, the *Trial Plan* does not bind the Crown and is intended only as a tool to assist the case management judge.

The public may not have access to a *Crown Synopsis* or *Trial Plan* unless the court makes an order allowing access.

2.26 Transcripts of Criminal Proceedings

Court files for criminal proceedings may include transcripts of the proceedings before the Court or another court (for example, the Provincial Court at a preliminary inquiry).

A member of the public may request access to a transcript of a criminal proceeding that is in the court file by completing and submitting a Request Form as described in Part 8 of the policy.

If a transcript of criminal proceedings has not been prepared, the public may make an application in accordance with Part 8 of this policy for authorization to order a transcript.

2.27 Victim Impact Statements

During sentencing proceedings, victims of the offence may file written victim impact statements describing the effects of the offence.

Victim impact statements are not available to the public before a judge has imposed sentence.

After the judge has imposed sentence, a member of the public may request access to a victim impact statement by completing and submitting a Request Form as described in Part 8 of the policy.

2.28 Warrants

2.28.1 Sealed Warrants

No one may access warrants which are sealed pursuant to the [Criminal Code](#) or any other legislative or common law authority unless the Court otherwise orders. For the purposes of this policy, a Sealed Warrant includes the warrant, any information or documents filed in support of the application for the warrant, and any information related to the execution of the warrant.

2.28.2 Unexecuted Warrants

The public may not access unexecuted warrants and registry staff cannot provide any information about unexecuted warrants.

2.28.3 Search Warrants and General Warrants

Search warrants issued under the [Criminal Code](#) or other statutes (most commonly the [Controlled Drugs and Substances Act](#) or the [Income Tax Act](#)) give investigators the right to search a place and to seize things as evidence of offences.

General warrants permit peace officers to use devices or investigative techniques described in the warrant if a search and/or seizure without the warrant would violate [s. 8](#) of the [Charter of Rights and Freedoms](#) (the right to be secure against unreasonable search or seizure).

Specialized search warrants allow for the seizure of specific items (such as proceeds of crime) or bodily substances (such as blood or DNA samples) or hand impressions.

Search warrants and general warrants, including the information to obtain upon which the warrants were issued, are publicly accessible, if:

- The warrant has not been sealed by court order;
- The warrant has been executed and a seizure has been made; and
- If required, a *Report to a Justice* ([Form 5.2](#)) has been filed with the Court, and an order for detention has been made under [s. 490](#) of the *Criminal Code*.

The same general rules apply to many specialized warrants, including DNA warrants, bodily substance warrants or impression warrants.

2.28.4 Arrest Warrants

A Warrant for Arrest authorizes the arrest of an individual identified in the Warrant for Arrest. Warrants for Arrest are rarely filed with the Court. However, if they are, the public may have access after execution of the warrant, unless a sealing order or other court order restricts or limits access.

2.28.5 Transmission Data Recorder (TDR) Warrants

A Transmission Data Recorder Warrant authorizes the installation and monitoring of a device, including a computer program within the meaning of s. 342.1(2) of the *Criminal Code*, which may be used to obtain or record transmission data via telephone or the internet. Transmission Data Warrants are issued pursuant to [s. 492.2](#) of the *Criminal Code*.

The public may not access a Transmission Data Recorder Warrant unless the Court makes an order allowing access to the Warrant.

2.28.6 Tracking Warrants

A Tracking Warrant authorizes the use of a tracking device which is a device which can ascertain by electronic or other means the location of any thing or person. Tracking Warrants are issued pursuant to [s. 492.1](#) of the *Criminal Code*.

The public may not access a Tracking Warrant unless the Court makes an order allowing access to the Tracking Warrant.

2.28.7 Wiretap Authorizations

[Part VI](#) of the [Criminal Code](#), prohibits the public from accessing wiretap authorizations, any material submitted to the Court in support of an application for a wiretap authorization or any material related to a wiretap authorization unless the Court makes an order allowing access to the wiretap authorization or the other material.

2.29 Youth Criminal Justice Act (YCJA) Proceedings

[Sections 118 and 119](#) of the [YCJA](#) prohibit public access to the court record of *YCJA* proceedings or other proceedings that make reference to *YCJA* information except to the limited class of people listed; therefore, there is no public access to the court record of *YCJA* proceedings unless the Court makes an order authorizing access.

3 ACCESS TO THE COURT RECORD: CIVIL PROCEEDINGS

3.1 Introduction

This section discusses some of the main types of material or information in the court record as it relates to civil proceedings, and some of the main factors that affect access to the court record in civil proceedings.

3.2 Affidavits

Affidavits and attached exhibits in civil proceedings become part of the court record when filed. The public may access an affidavit and an exhibit that is attached to an affidavit where that affidavit is filed with the Court unless a statutory provision, common law rule or court order restricts or limits access.

3.3 Audio Recordings

See PART 6 - LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS and PART 7 - OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS

3.4 Closed Courtroom (*In Camera*) Proceedings

If the public is excluded from a civil proceeding because of a legislative provision, common law rule or court order, there is no public access to the court record (or to that portion of the court record which is related to the publicly excluded proceedings) unless the Court makes an order allowing access.

3.5 Copies

If an individual is entitled to have access to the court record or some portion of the court record in respect of a civil proceeding without first obtaining authorization from the Court, they may obtain a copy of it if:

- the document can be copied; and
- the relevant fee is paid

Where authorization of the Court is required for access to the court record or some portion of it, copies will only be provided if the order or direction which authorizes access also authorizes the registry to provide a copy of the court record or portion of the court record.

3.6 Exhibits

See PART 5 - [COURT EXHIBITS](#).

3.7 Hearing Lists

3.7.1 Before Hearing

The Supreme Court [hearing lists](#) provide the names of the parties, the courtroom, the date of the hearing and the time the hearing starts. Hearing lists for each Supreme Court registry are posted on the Court's website on the day of the hearing and are also posted in the courthouse.

3.7.2 After Hearing - Results and Future Appearance Dates

The public can obtain information from the registry about the results of an appearance or hearing including the names of the parties, the courtroom, the date of the hearing, the time for the hearing and disposition unless a sealing order has been made or the public has been excluded from the courtroom.

3.8 Orders

The public may have access to an order made in civil proceedings unless the court record or the order is sealed.

3.9 Pleadings

The public may have access to the pleadings in civil proceedings, including the initiating documents, unless a sealing order restricts or prohibits access.

3.10 Publication Bans

The presence of a publication ban does not prevent access to the court record in a civil proceeding; however, anyone having access to the court record in a civil proceeding is required to abide by the terms of any publication ban in place. Although registry staff will try to notify the person requesting access to the court record of any publication bans or restrictions that may apply and will advise that publication, broadcast or transmission of the information contained in the court record could be an offence at law, it is the responsibility of the person seeking access to the court record to identify any publication bans or restrictions that apply and to comply with them. Failure to comply with a publication ban may result in serious sanctions including contempt of court proceedings.

3.11 Reasons for Judgment

The Court's [website](#) publishes written reasons for judgment, and many transcribed oral reasons for judgment given by the by judges, associate judges (formerly masters) and registrars of the Court since 1990:

www.bccourts.ca/search_judgments.aspx

The public may have access to reasons for judgment in a civil proceeding unless the reasons for judgment are sealed.

For access to the audio recording of oral reasons for judgment that have not been transcribed see *PART 6 [LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS](#)* and *PART 7 [OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS](#)*.

3.12 Sealed Files

The public may not have access to a sealed court record or a sealed document within the court record in a civil proceeding unless the Court makes an order allowing access.

3.13 Transcripts of Civil Proceedings

With some exceptions, including those set out below, anyone who was entitled to be present in court for a civil proceeding may have access to the transcript of the proceeding including the right to have a copy of the transcript, if one is in the court file.

If a transcript has not been prepared, a person entitled to have a transcript may, upon payment of the appropriate fee, request that a transcript be prepared. Individuals seeking to have a transcript of a civil proceeding prepared should contact a contracted transcription firm or an authorized reporter.

For access to the audio recording of proceedings that have not been transcribed see *PART 6 [LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS](#)* and *PART 7 [OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS](#)*.

3.13.1 Case Planning Conferences

In accordance with [Supreme Court Civil Rule 5-2\(7\)](#), no one may have access to a transcript of proceedings from a case planning conference unless the Court makes an order allowing access to the transcript.

3.13.2 Settlement Conferences

In accordance with [Supreme Court Civil Rule 9-2\(2\)](#), no one may have access to a transcript of proceedings from a settlement conference unless the Court makes an order allowing access to the transcript.

3.13.3 Trial Management Conferences

In accordance with [Supreme Court Civil Rule 12-2\(8\)](#), no one may have access to a transcript of proceedings from a trial management conference unless the Court makes an order allowing access to the transcript.

3.13.4 Judicial Management Conferences

No one may have access to a transcript of proceedings from a judicial management conference unless the Court makes an order allowing access to the transcript.

4 ACCESS TO THE COURT RECORD: FAMILY LAW PROCEEDINGS

4.1 Introduction

This section discusses some of the main types of material or information in the court record as it relates to family law proceedings, which includes adoption and [Child, Family and Community Service Act](#) proceedings, and some of the main factors that affect access to and searches of the court record in family law proceedings.

Due to the nature of family law proceedings, access is restricted by statute. The following subsections set out the statutory and other restrictions that apply to family law proceedings, what information is presumptively accessible to the public, and the process by which the public may apply for access.

4.2 Court File/Registry File

The court file, which is also referred to as the registry file, is defined in Section 1.3 – [Definitions](#). Public access to the court file or registry file in family law proceedings is restricted by statute.

4.2.1 Adoption Proceedings

[Section 43](#) of the [Adoption Act](#) says that no person other than the Provincial Director of Adoptions or their designate may search an application for an order under the *Adoption Act* or any document filed in court in connection with the application, unless the Court makes an order allowing access.

4.2.2 Child, Family and Community Service Act Proceedings

[Supreme Court Family Rule 22-8\(1\)\(b\)](#) says that, unless the Court otherwise orders, no one other than

- a party's lawyer;
- a party;
- a person authorized in writing by a party; or
- a person authorized in writing by a party's lawyer

may search a registry file in respect of proceedings under the [Child, Family and Community Service Act](#).

4.2.3 Other Family Law Proceedings

[Supreme Court Family Rule 22-8\(1\)\(a\)](#) says that, unless the Court otherwise orders, no one other than

- a lawyer, whether or not a lawyer for a party;
- a party;
- a person authorized in writing by a party; or
- a person authorized in writing by a party's lawyer

may search a registry file in respect of a family law case. Family law case is defined by [Supreme Court Family Rule 1-1\(1\)](#).

4.2.4 Separation Agreements

[Supreme Court Family Rule 22-8\(6\)](#) says that, unless the Court otherwise orders, no one other than

- a party;
- a party's lawyer;
- a person authorized in writing by a party; or
- a person authorized in writing by a party's lawyer

may search a separation agreement filed under [s. 122](#) of the [Family Relations Act](#).

Anyone entitled to access the court file or registry file as set out in Section 4.2.3 may search a separation agreement filed under the [Family Law Act](#) unless the court record or the separation agreement is sealed.

4.3 Applications to Access the Court Record in Family Law Proceedings

Where an order is required for access to any part of the court record in a family law proceeding, an application must be filed in accordance with the procedures set out in Part 8 of the policy.

If the Court makes an order authorizing the applicant to access any part of the court record in a family law proceeding, the order may include conditions that restrict the use of the court record and prohibit any further distribution of it.

4.4 Audio Recordings

See [PART 6 LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS](#) and [PART 7 OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS](#).

4.5 Closed Courtroom (In Camera) Proceedings

If the public is excluded from a family law proceeding because of a legislative provision, common law rule or court order, there is no public access to the court record (or to that portion of the court record which is related to the publicly excluded proceedings) unless the Court makes an order allowing access.

4.6 Copies

If an individual is entitled to have access to the court record or a portion of the court record in respect of a family law proceeding without first obtaining a court order, they may obtain a copy of it if:

- the document can be copied; and
- the relevant fee is paid

Where an order is required for access to the court record or some portion of it, copies will only be provided if the order which authorizes access also authorizes the registry to provide a copy of the court record or portion of the court record.

4.7 Docket Information

[Supreme Court Family Rule 22-8\(2\)](#) authorizes the Registrar to compile and maintain a record of:

- the parties as identified in the style of cause (which is the name of the case, usually the parties' names e.g. *Lee v. Smith*);
- the case file number as set out in the style of proceedings;
- the category or type of proceeding;
- the date the proceeding was started.

If the Registrar maintains this record, members of the public may have access to it unless a statutory provision, common law rule or court order restricts access.

4.8 Exhibits

See PART 5 - [COURT EXHIBITS](#).

4.9 Hearing Lists

4.9.1 Before Hearing

The Supreme Court [hearing lists](#) provide the names of the parties, the courtroom, a brief description of the nature of the hearing, the date of the hearing and the time for the hearing. Hearing lists for each Supreme Court registry are posted on the Court's website on the day of the hearing and are also posted in the courthouse.

4.9.2 After Hearing - Results and Future Appearance Dates

The public can obtain information from the registry about the results of an appearance or hearing including the names of the parties, the courtroom, the date of the hearing, the time for the hearing and disposition unless a sealing order has been made or the public has been excluded from the courtroom.

4.10 Orders

Anyone entitled to access the court file or registry file as set out in Section 4.2 - [Court File/Registry File](#) may access orders made in family law proceedings unless the court record or the order is sealed.

The public may not have access to orders made in family law proceedings, unless the Court makes an order allowing access.

4.11 Publication Bans

The presence of a publication ban does not prevent access to the court record in a family law proceeding; however, anyone having access to a court record in a family law proceeding is required to abide by the terms of any publication ban in place. Although registry staff will try to notify the person requesting access to the court record of any publication bans or restrictions that may apply and will advise that publication, broadcast or transmission of the information contained in the court record could be an offence at law, it is the responsibility of the person seeking access to the court record to identify any publication bans or restrictions that apply, and to comply with them. Failure to comply with the publication ban may result in serious sanctions including contempt of court proceedings.

4.12 Reasons for Judgment

4.12.1 Published reasons for judgment

The Court's [website](#) publishes written reasons for judgment, and many transcribed oral reasons for judgment given by judges, associate judges (formerly masters) and registrars of the court since 1990:

http://www.bccourts.ca/search_judgments.aspx

The reasons for judgment are searchable by the parties' names; the presiding judge, associate judge or registrar; the citation for the judgment; the date of release; and by key word.

4.12.2 Unpublished reasons for judgment

Anyone entitled to access the court file or registry file as set out in Section 4.2 - [Court File/Registry File](#) may access unpublished reasons for judgment made in family law proceedings unless the reasons for judgment are sealed. The public may not have access to unpublished reasons for judgment made in family law proceedings, unless the Court otherwise orders.

For access to the audio recording of oral reasons for judgment that have not been transcribed see [PART 6 LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS](#) and [PART 7 OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS](#).

4.13 Sealed Files

The public may not have access to a sealed court record or a sealed document within the court record in a family law proceeding unless the Court makes an order allowing access.

4.14 Transcripts of Family Proceedings

With some exceptions, including those set out below, anyone who is entitled to access the court file or registry file as set out in Section 4.2 - [Court File/Registry File](#) in a family law proceeding may have access to the transcript of the proceeding if it is in the court file, including the right to have a copy of the transcript, unless the court record or the transcript is sealed.

If a transcript has not been prepared, a person entitled to have a transcript may, upon payment of the appropriate fee, request that a transcript be prepared. Individuals seeking to have a transcript of a court proceeding prepared should contact a contracted transcription firm or an authorized reporter.

For access to the audio recording of proceedings that have not been transcribed see *PART 6 LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS* and *PART 7 OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS*.

4.14.1 Judicial Case Conferences

In accordance with [Supreme Court Family Rule 7-1\(19\)](#), no one may have access to a transcript of proceedings from a judicial case conference unless the Court makes an order allowing access to the transcript.

4.14.2 Settlement Conferences

In accordance with [Supreme Court Family Rule 7-2\(2\)](#), no one may have access to a transcript of proceedings from a settlement conference unless the Court makes an order allowing access to the transcript.

4.14.3 Trial Management Conferences

In accordance with [Supreme Court Family Rule 14-3\(8\)](#), no one may have access to a transcript of proceedings from a trial management conference unless the Court makes an order allowing access to the transcript.

4.14.4 Judicial Management Conferences

No one may have access to a transcript of proceedings from a judicial management conference unless the Court makes an order allowing access to the transcript.

5 COURT EXHIBITS

5.1 Introduction

This section discusses access to court exhibits. For the purposes of this policy court exhibits mean tangible items, including documents, that are formally entered as evidence in a trial or at a court hearing. For the purposes of this policy, a court exhibit is different from an exhibit attached or appended to an affidavit and filed with the court.

Examples of court exhibits to which this section applies include:

- physical evidence (e.g., guns, knives, clothing);
- photographic/electronic evidence (e.g., photos, videotapes, audiotapes, compact discs, USB drives);
- business documents (e.g., phone records, bank records, business transaction records); and
- expert reports (e.g., psychiatric reports, crime scene analyses, toxicologist reports).

When an exhibit is being viewed, the registry staff will supervise the viewing to ensure the integrity of the exhibit is maintained.

5.2 Criminal Proceedings

Anyone other than the individuals described below must complete and submit a Request Form as described in Part 8 of this policy to request access to court exhibits in a criminal proceeding. This enables the Court to consider the competing interests in respect of public access, distribution and broadcast of court exhibits.

5.2.1 Accused

The accused may have access to the court exhibits in relation to any portion of the proceedings where they were entitled to be present.

5.2.2 Counsel of Record

Counsel of record may have access to the court exhibits in relation to any portion of the proceedings where they were entitled to be present.

5.2.3 Pre-Sentence Report

A person assigned to prepare a pre-sentence report may have access to the court exhibits except for any sealed exhibits.

5.3 Civil Proceedings

Anyone other than the individuals described below must complete and submit a Request Form as described in Part 8 of this policy to request access to court exhibits in a civil proceeding. This enables the Court to consider the competing interests in respect of public access, distribution and broadcast of court exhibits.

5.3.1 Party

A party in a civil proceeding may have access to and may, upon the payment of the appropriate fee, obtain copies of the court exhibits.

5.3.2 Counsel of Record

Counsel of record in a civil proceeding may have access to and may, upon the payment of the appropriate fee, obtain copies of the court exhibits.

5.3.3 Other Person Authorized in Writing by Party or Counsel

A person other than a party or counsel of record who is authorized in writing by a party or by counsel of record may have access to and may, upon the payment of the appropriate fee, obtain copies of the court exhibits.

5.4 Protocol for Media Access to Exhibits in Criminal or Civil Proceedings

Accredited media may request the implementation of a protocol for media access to court exhibits in a criminal or civil proceeding by completing a [Request to Implement Protocol for Media Access to Exhibits](#) and following the instructions for submission.

An accredited member of the media is a journalist who is approved for accreditation by the Accreditation Committee, which is comprised of professional journalists. For more information on the accreditation process, see the [Media Accreditation Process](#) document on the Court's website.

Where there is no such protocol, a member of the media may still request access to a court exhibit in a criminal or civil proceeding by completing and submitting a Request Form as described in Part 8 of this policy.

5.5 Family Law Proceedings

Access to exhibits in family law proceedings are restricted by statute as set out below. Where an application is required for access to a court exhibit in a family law proceeding, the application must be brought in accordance with the procedures set out in Part 8 of the policy. This enables the Court to consider the competing interests in respect of public access, distribution and broadcast of court exhibits.

5.5.1 Adoption Proceedings

No person other than the Provincial Director of Adoptions or their designate may access exhibits in respect of adoption proceedings unless the court issues an order granting access pursuant to s. 43 of the *Adoption Act*.

5.5.2 Other Family Law Proceedings

[Supreme Court Family Rule 22-8\(5\)](#) says that exhibits produced at the trial or hearing of a family law proceeding, which includes [Child, Family and Community Service Act proceedings](#), must be sealed by the registrar and no person other than:

- a party;
- a party's lawyer;
- a person authorized by a party; and
- a person authorized by a party's lawyer

may search the court exhibits without a court order.

6 LISTENING TO AUDIO RECORDINGS OF COURT PROCEEDINGS

6.1 Introduction

This section sets out the Court’s policy regarding listening to the audio recording of a court proceeding and for viewing the court clerk’s log notes. Part 7 sets out the Court’s policy regarding obtaining a copy of an audio recording of a court proceeding.

Court registries in Abbotsford, Duncan, Kamloops, Kelowna, New Westminster, Prince George, Vernon, Victoria and Vancouver have listening stations where anyone can listen to the audio recording of court proceedings from anywhere in the province. For situations where an individual is unable to visit one of the locations listed above to listen to the audio recording, see Part 7 – [OBTAINING COPIES OF AUDIO RECORDINGS](#).

6.2 General Policy

Except as otherwise provided by statute, the [Supreme Court Civil Rules](#), [Supreme Court Family Rules](#), [Supreme Court Criminal Rules](#), court order, or this policy, a person who was present or entitled to be present in the courtroom for a proceeding, is entitled to listen to the audio recording of that proceeding.

6.3 Closed Courtroom (In Camera) Proceedings

If the courtroom is closed for a proceeding or portion of a proceeding, a person who was present during the proceeding may listen to the audio recording of that proceeding.

A person who was excluded from the proceeding is not entitled to listen to the audio recording of the proceeding, unless the Court makes an order allowing the excluded person access to the audio recording.

6.4 Conferences

The [Supreme Court Civil Rules](#), [Supreme Court Family Rules](#) and this policy provide that no one may have access to an audio recording of a case planning conference, judicial case conference, trial management conference, judicial management conference, or a settlement conference unless the Court makes an order allowing access to the audio recording.

6.5 Court Clerk Log Notes

During a trial or other hearing, the court clerk records information about the trial or hearing including appearance information, witness names, start and stop times for proceedings, the result of a hearing, and other such information. The clerk's notes are referred to as "log notes".

A person, who is entitled to listen to the audio recording of a proceeding in accordance with this policy or by the Court's determination or order, is also permitted to view the log notes that relate to it.

6.6 Jury Charges

An individual who was present or who was entitled to be present in the courtroom when a jury was charged is entitled to listen to the audio recording of the jury charge.

6.7 Oral Reasons for Judgment

Unless the proceedings were sealed, a person who was present or who was entitled to be present in the courtroom when oral reasons for judgment were given is entitled to listen to the audio recording of the oral reasons for judgment.

The audio recording of oral reasons for judgment may not be the final version of the reasons for judgment. In the event a transcript of oral reasons for judgment is ordered, the draft will be provided to the judge to review and edit. The oral reasons for judgment are not final until they have been transcribed, edited and signed by the judge who gave them.

6.8 Pardons

No one is entitled to listen to or obtain a copy of the audio recording in respect of proceedings in which a pardon has been granted unless the Court makes an order allowing access to the audio recording.

6.9 Publication Bans

The presence of a publication ban does not prevent anyone from listening to the audio recording of a proceeding; however, anyone listening to the audio recording of a proceeding is required to abide by the terms of any publication ban which may be in place. Although registry staff will try to notify the person wishing to listen to the audio recording of a proceeding of any publication bans or restrictions that may apply and will advise that publication, broadcast or transmission of the information contained in the court record could be an offence at law, it is the responsibility of the person who is listening to the audio recording to identify any

publication bans or restrictions that may apply, and to comply with them. Failure to comply with the publication ban may result in serious sanctions including contempt of court proceedings.

7 OBTAINING COPIES OF AUDIO RECORDINGS OF COURT PROCEEDINGS

7.1 Introduction

The open court principle does not generally include a right to make or keep an audio or video recording of the proceedings. In appropriate circumstances the Court will release a copy of the audio recording where the appropriate safeguards can be put in place.

This section describes the Court's policy concerning who may obtain a copy of an audio recording of criminal, civil and family law proceedings, and on what basis.

7.2 Obtaining Copies of Audio Recordings of Criminal Proceedings

7.2.1 Oral Reasons for Judgment

A person seeking a copy of the audio recording of oral reasons for judgment in respect of a criminal proceeding must make an application in accordance with Part 8 of this policy.

7.2.2 Other Criminal Proceedings

7.2.2.1 Accused

An accused person in a criminal proceeding, who was entitled to be present in the courtroom for the proceeding, may request access to a copy of the audio recording of the proceeding by completing and submitting a Request Form and a copy of the Model Access Order for Audio Recordings as described in Part 8 of the policy.

If the Court authorizes the accused person to obtain a copy of the audio recording of a proceeding, the order may include conditions that restrict the use of the copy and prohibit any further distribution of it.

7.2.2.2 Counsel of Record

Counsel of record in a criminal proceeding, who was entitled to be present in the courtroom for the proceeding, may obtain a copy of the audio recording of the proceeding or a portion of the proceeding upon providing an undertaking in the form attached as [Appendix A](#).

The undertaking includes conditions that restrict the use of the copy and prohibit any further distribution of it.

7.2.2.3 Other Lawyer

A lawyer who is not counsel of record in a criminal proceeding, who was entitled to be present in the courtroom for the proceeding, may obtain a copy of the audio recording of the proceeding or a portion of the proceeding by providing:

- an undertaking in the form attached as [Appendix A](#), and
- a letter of authorization from the accused or counsel of record in the proceeding, authorizing the lawyer to obtain a copy of the audio recording.

The undertaking includes conditions that restrict the use of the copy and prohibit any further distribution of it.

7.2.2.4 Other Person

A person other than the accused, counsel of record or other lawyer may request access to a copy of the audio recording of criminal proceedings by completing and submitting a Request Form and a copy of the Model Access Order for Audio Recordings as described in Part 8 of the policy.

If the Court authorizes the applicant to obtain a copy of the audio recording of a proceeding, the authorization may include conditions that restrict the use of the copy and prohibit any further distribution of it.

7.3 Obtaining Copies of Audio Recordings of Civil Proceedings

This section describes the Court's policy concerning who may obtain a copy of an audio recording of a civil proceeding and on what basis.

7.3.1 Conferences

The [Supreme Court Civil Rules](#) and this policy provide that no one may have access to an audio recording of a case planning conference, trial management conference, judicial management conference, or settlement conference unless the Court makes an order allowing access to the audio recording.

A person wishing to obtain a copy of the audio recording of a case planning conference, trial management conference, judicial management conference, or settlement conference must make an application in accordance with the [Supreme Court Civil Rules](#) and Part 8 of this policy.

If the Court makes an order permitting a person to obtain a copy of the audio recording of a case planning conference, trial management conference, judicial management conference, or a

settlement conference, the order may include conditions that restrict the use of the copy and prohibit any further distribution of it.

7.3.2 Oral Reasons for Judgment

Anyone wishing to obtain a copy of the audio recording of oral reasons for judgment in respect of a civil proceeding must make an application in accordance with the [Supreme Court Civil Rules](#) and Part 8 of this policy.

7.3.3 Other Civil Proceedings

For civil proceedings other than case planning conferences, trial management conferences, judicial management conferences, settlement conferences and oral reasons for judgment, the Court's policy in relation to who may obtain a copy of the audio recording and on what basis is as follows:

7.3.3.1 Party

A party to a civil proceeding, who was entitled to be present in the courtroom for the proceeding, may request access to a copy of the audio recording of the proceeding or portion of the proceeding by completing and submitting a Request Form and a copy of the *Model Access Order* attached as [Appendix B](#) and as described in Part 8 of the policy.

If the Court authorizes the party to obtain a copy of the audio recording of the proceeding, the authorization may include conditions that restrict the use of the copy and prohibit any further distribution of it.

7.3.3.2 Counsel of Record

Counsel of record in a civil proceeding, who was entitled to be present in the courtroom for the proceeding, may obtain a copy of the audio recording of a civil proceeding upon providing the undertaking attached as [Appendix A](#).

The undertaking includes conditions that restrict the use of the copy and prohibit any further distribution of it.

7.3.3.3 Other Lawyer

A lawyer who is not counsel of record, who was entitled to be present in the courtroom for the proceeding, may obtain a copy of the audio recording of a civil proceeding or portion of a civil proceeding by providing:

- an undertaking in the form attached as [Appendix A](#), and
- a letter of authorization from a party or counsel of record authorizing the lawyer to obtain a copy of the audio recording.

The undertaking includes conditions that restrict the use of the copy and prohibit any further distribution of it.

7.3.3.4 Other Person

A person, other than those categories of persons listed above, may make a request for a copy of the audio recording of a civil proceeding by completing and submitting a Request Form and a copy of the *Model Access Order* attached as [Appendix B](#) and as described in Part 8 of the policy.

If the Court authorizes the applicant to obtain a copy of the audio recording of a civil proceeding, the authorization may include conditions that restrict the use of the copy and prohibit any further distribution of it.

7.4 Obtaining Copies of Audio Recordings of Family Law Proceedings

This section describes the Court’s policy concerning who may obtain a copy of an audio recording of a family law proceeding and on what basis.

7.4.1 Conferences

The [Supreme Court Family Rules](#) and this policy provide that no one may have access to an audio recording of a judicial case conference, trial management conference, judicial management conference, or a settlement conference unless the Court makes an order allowing access to the audio recording.

A person seeking to obtain a copy of the audio recording of a judicial case conference, trial management conference, judicial management conference, or a settlement conference must make an application in accordance with the [Supreme Court Family Rules](#) and Part 8 of this policy.

If the Court makes an order permitting a person to obtain a copy of the audio recording of a judicial case conference, trial management conference, judicial management conference, or a settlement conference, the order may include conditions that restrict the use of the copy and prohibit any further distribution of it.

7.4.2 Oral Reasons for Judgment

A person wishing to obtain a copy of the audio recording of oral reasons for judgment in respect of a family law proceeding must make an application in accordance with [Supreme Court Family Rules](#) and Part 8 of this policy.

7.4.3 Other Family Law Proceedings

For family law proceedings other than judicial case conferences, trial management conferences, judicial management conferences, settlement conferences and oral reasons for judgment, the Court's policy in relation to who may obtain a copy of the audio recording and on what basis is as follows:

7.4.3.1 Party

A party to a family law proceeding, who was entitled to be present in the courtroom for the proceeding, may apply to obtain a copy of the audio recording of that proceeding by making a without notice application in accordance with [Supreme Court Family Rule 10-8](#) and sections 8.3, 8.4 and 8.5 of this policy.

If the Court makes an order permitting the party to obtain a copy of the audio recording of the proceeding, the order may include conditions that restrict the use of the copy and prohibit any further distribution of it.

7.4.3.2 Counsel of Record

Counsel of record in a family law proceeding, who was entitled to be present in the courtroom for the proceeding, may obtain a copy of the audio recording of a family law proceeding upon providing the undertaking attached as [Appendix A](#).

The undertaking includes conditions that restrict the use of the copy and prohibit any further distribution of it.

7.4.3.3 Other Lawyer

A lawyer who is not counsel of record, who was entitled to be present in the courtroom for the proceeding, may obtain a copy of the audio recording of a family law proceeding or portion of a family law proceeding by providing:

- an undertaking in the form attached as [Appendix A](#), and
- a letter of authorization from a party or counsel of record authorizing the lawyer to obtain a copy of the audio recording.

The undertaking includes conditions that restrict the use of the copy and prohibit any further distribution of it.

7.4.3.4 Other Person

A person, other than those categories of persons listed above, who was entitled to be present in the courtroom for the proceeding, may apply to obtain a copy of the audio recording of a family law proceeding by making an application in accordance with the [Supreme Court Family Rules](#) and Part 8 of this policy.

If the Court makes an order authorizing the applicant to obtain a copy of the audio recording of the family law proceeding, the order may include conditions that restrict the use of the copy and prohibit any further distribution of the audio recording.

8 PROCEDURE FOR ACCESS REQUESTS AND APPLICATIONS

8.1 Introduction

This section provides directions for making a request for access to the court record or a portion of the court record using the Request Form or by bringing a court application.

8.2 Request Form

In order to request access to certain types of records in the court file, court exhibits and audio recordings of certain court proceedings, an individual must complete a copy of the [Request Form found at Appendix D](#) and submit it to the registry in the location where the proceeding took place.

The Request Form will be reviewed by the presiding judge or associate judge, or if the presiding judge or associate judge is unavailable, the Chief Justice or Associate Chief Justice. The reviewing judge or associate judge will make a determination regarding the request for access and record it on the Request Form.

If access is authorized on the basis of the Request Form, registry staff will contact the requestor to coordinate access in accordance with the direction of the judge or associate judge.

If the judge or associate judge determines that the request cannot be authorized on the basis of the Request Form alone, they may direct that the requestor bring a court application seeking access. The procedure for bringing an application for access to the court record or a portion of the court record is set out in Sections 8.3 and 8.4 below.

8.3 Court Application

An application for an order allowing access to the court record or a portion of the court record must be brought in accordance with the applicable *Rules of Court*, (e.g., [Supreme Court Civil Rules](#), [Supreme Court Family Rules](#) or [Supreme Court Criminal Rules](#)) unless the Court directs otherwise.

8.4 Determination of Application

Applications for access to the court record for any ongoing proceeding will be determined by the judge or associate judge who presided over, or is assigned to the proceeding.

Applications for access to a transcript or the audio recording of a case planning conference, judicial case conference, trial management conference, judicial management conference, or settlement conference will be determined by the judge or associate judge who presided.

Applications for access to the court record for any proceeding that has concluded will be determined by the judge or associate judge who presided at the hearing.

Where the judge or associate judge who presided at the hearing is not available to hear the application for access to the court record (e.g., because of retirement or illness) or where no particular judge or associate judge is associated with the proceeding, the Chief Justice or the Associate Chief Justice or their designate will determine the application.

Applicants should be aware that, especially for concluded proceedings or proceedings adjourned for a lengthy time, it may not always be possible to schedule an application before the appropriate judge or associate judge on short notice because a judge or associate judge may have many ongoing obligations in other proceedings and in the various court registries across the province. Unless otherwise directed, without notice applications made in accordance with *Supreme Court Family Rule 10-8* will be considered by the judge or associate judge without a hearing (i.e., do not need to be scheduled).

8.5 Model Access Order for Audio Recordings

An applicant seeking an order authorizing the applicant to obtain a copy of the audio recording of a proceeding or a portion of a proceeding must use the *Model Access Order* found in [Appendix B](#). The *Model Access Order* includes conditions that restrict the use of the copy and prohibit any further distribution of the audio recording.

Where an applicant seeks an order in terms that vary from those contained in the *Model Access Order*, the applicant must:

- a) identify the differences in the terms sought as compared with the *Model Access Order*; and
- b) explain to the Court the basis upon which it may make an order authorizing access on terms different from those provided for in the *Model Access Order*.

APPENDIX A – UNDERTAKING OF COUNSEL

- 1) I, _____ [*insert counsel's name*] acknowledge that:
 - a) I am a lawyer in good standing with the Law Society of British Columbia or a visiting lawyer authorized to practice law in British Columbia pursuant to s. 15(1)(e) of the *Legal Profession Act*;
 - b) the DARS is being provided to me solely for the purpose of [*describe the specific activity that release of the disc is intended to facilitate – e.g. “to review the evidence of a witness in the case of R. v. X, in order to prepare the case including cross examination(s) in the proceeding Y. v. Z.” etc.,*] and that
 - c) any other use of the DARS is prohibited.
- 2) I undertake that I will not:
 - a) copy, store or transfer the DARS or any portion of it to any device except as may be done by the software or operating system incidental to reviewing the contents, and such review shall only be carried out on computer equipment and peripheral devices belonging to my firm or employer, to me or to a person identified in paragraph 3 of this undertaking;
 - b) upload the DARS or any portion of it to the Internet or otherwise make the DARS or any portion of it available through any medium save and except as permitted by the terms of this undertaking;
 - c) distribute the DARS or any portion of it in any way save and except as permitted by the terms of this undertaking;
 - d) use the DARS for the preparation of an official transcript of the proceedings; however, I may direct my administrative staff to prepare an unofficial transcript to be used for internal purposes. For the purpose of this undertaking, an official transcript is a transcript prepared by an authorized reporter pursuant to the *Official Reporters (Supreme Court) Regulation*, BC Reg 227/2021;
 - e) distribute or disseminate an unofficial transcript of the proceedings beyond the individuals authorized to access the DARS in this undertaking. For the purposes of this undertaking, distribution or dissemination does not include relying on an unofficial transcript prepared from the DARS to make submissions or including brief quotations from an unofficial transcript in written submissions, provided that its origin in an unofficial transcription is made clear to the Court;
 - f) attach an unofficial transcript to an affidavit prepared for any court proceeding; or
 - g) allow any of these things to be done by anyone else.

- 3) Except as otherwise provided by this undertaking, I undertake to not allow anyone to access the DARS except those individuals enumerated in this paragraph and that where such individuals are accessing the DARS, I will provide all such individuals with a copy of this undertaking:
 - a) other lawyers, articled students or administrative staff members within my law firm, office or who are employed by my employer, and who are assisting me in this matter;
 - b) _____ [*insert name*], an expert witness. For the purpose of this undertaking, an expert witness is a person who has been retained by a party or ordered by the Court to provide opinion evidence in a proceeding; or
 - c) _____ [*insert name*], a witness (*e.g., police witness or civilian witness who are listening to their own evidence*)
- 4) I may, after providing a copy of this undertaking, allow in my presence or in the presence of an individual identified in paragraph 3(a),
 - a) an accused in a criminal proceeding who is my client to listen to that portion of the DARS and to read an unofficial transcript of that portion of the proceedings for which the accused was present or was entitled to be present either in person or by some other means;
 - b) a person who is a party in a civil proceeding (including a family proceeding) who is my client to listen to that portion of the DARS and to read an unofficial transcript of that portion of the proceedings for which my client was present or was entitled to be present either in person or by some other means; and
 - c) a witness in any proceeding to listen to and, to read an unofficial transcript of, the portion of the DARS which contains the witness' own evidence.
- 5) I may, after providing a copy of this undertaking, allow an expert witness to listen to that portion of the DARS and to read that portion of an unofficial transcript of the proceedings which relates to the opinion that the expert witness will be providing in the proceeding.
- 6) Other than as provided by paragraphs 3-5, I undertake that I will not provide the DARS or an unofficial transcript of the DARS to anyone without first obtaining a court order authorizing such dissemination.
- 7) When the DARS or an unofficial transcript is not being used for the purpose permitted by this undertaking, I undertake that I will keep the DARS and any unofficial transcript(s) in a secure place where neither can be accessed by persons other than those who are authorized to access the DARS or the unofficial transcript.

- 8) I undertake to delete and/or destroy the DARS on or before *[insert here either the last currently scheduled court or chambers date for the proceeding, or another specified date]*.
- 9) I undertake that if I require the DARS beyond the date specified, I will provide a new undertaking to the issuing registry prior to expiry of the date specified in this undertaking.

APPENDIX B – MODEL ACCESS ORDER

- 1) The DARS is being provided to the requestor, _____ [*insert requestor's name*]:
 - a) solely for the purpose of [*describe the specific proceeding and the activity that release of the disk is intended to facilitate - e.g. "to review the evidence of a witness in the case of R. v. X, in order to prepare the case including cross examination(s) in the proceeding Y v. Z" etc.,*] and
 - b) any other use of the DARS is prohibited.
- 2) The requestor must not:
 - a) copy, store or transfer the DARS or any portion of it to any device except as may be done by the software or operating system incidental to reviewing the contents, and such review shall only be carried out on computer equipment and peripheral devices belonging to the applicant;
 - b) upload the DARS or any portion of it to the internet or otherwise make the DARS or any portion of it available through any medium;
 - c) distribute the DARS or any portion of it in any way; or
 - d) allow any of these things to be done by anyone else.
- 3) The requestor must not provide access to the DARS or any portion of it to anyone else.
- 4) When the DARS is not being used for the purpose permitted by this order, the requestor must keep the DARS in a secure place where it cannot be accessed by anyone except pursuant to the terms of this order.
- 5) The requestor must delete, destroy or return the DARS to the court registry that issued it on or before [*insert here either the last currently scheduled court or chambers dates for the proceeding, or another specified date*].
- 6) If the requestor requires the DARS beyond the date specified, the requestor must bring a further request or application to the court for an order extending the time that the requestor may retain the DARS before it must be deleted, destroyed or returned to the court registry.

APPENDIX C – REQUEST TO IMPLEMENT PROTOCOL

[Request to Implement Protocol for Media Access to Exhibits](#)

APPENDIX D – COURT RECORD ACCESS REQUEST FORM

[Court Record Access Request Form](#)

Policy History

Title	Date
<i>Court Record Access Policy</i>	Effective February 28, 2011 Replaced with <i>Policy on Access to Court Record</i>
<i>Policy on Access to Court Record</i>	Effective March 28, 2022
	February 17, 2023: <ul style="list-style-type: none"> Updated link to Court Services Branch website in section 2.14.2.
	March 10, 2023: <ul style="list-style-type: none"> Updated section 7.4.3.1 to refer to “sections 8.3, 8.4 and 8.5 of this policy” rather than “Part 8 of this policy”. Updated section 8.4 to refer to applications being “determined” rather than “heard” and to add that unless otherwise directed, without notice applications made in accordance with <i>Supreme Court Family Rule 10-8</i> will be considered by the judge or master without a hearing.
	October 25, 2023: <ul style="list-style-type: none"> Updated link to Criminal Practice Direction 3 in section 2.25.
	November 3, 2023: <ul style="list-style-type: none"> Added sections 3.13.4 and 4.14.4 regarding transcripts of proceedings from judicial management conferences. Updated sections 6.4, 7.3.1, 7.3.3, 7.4.1, 7.4.3 to refer to audio recordings from judicial management conferences. Updated section 8.4 to refer to audio recordings and transcripts from judicial management conferences.
	January 15, 2024: <ul style="list-style-type: none"> Edited sections 3.11, 4.12.1, 8.2 and 8.4 to refer to associate judges rather than masters.