

Court Services Division Policies and Procedures on Public Access to Court Files, Documents and Exhibits

Please note:

The following guide is the Ministry of the Attorney General's Court Services Division Policies and Procedures on Public Access to Court Files, Documents and Exhibits. The guide is being posted on the Ministry's website in order to enhance public access to court proceedings, information and documents. This guide was first compiled and provided to Ministry court staff in January 2006 as part of the Ministry's ongoing efforts to ensure that there is consistent application of these procedures across the province. Policies regarding access to court files, documents and exhibits are periodically reviewed and updated, subject to the direction of the judiciary. For example the ministry recently revised its policy on access to court files and documents under publication bans so that effective April 1, 2009 access to court files and documents under s. 486.4 and 486.5 publication bans will be allowed in the same manner as court files and documents under other *Criminal Code* publication bans. The ministry also has implemented a change to the policy on access to future court date information for Youth Criminal Justice Act matters. Effective April 30, 2009, members of the public will be given the next court date for YCJA matters, provided they have enough information about the matter to allow court staff to locate the next court date.

The material provided here is the same as the material on public access to court documents provided to court staff. In some instances terms or language may be technical. A glossary of legal terms in this document is available on the ministry website at ontario.ca/legalterms.

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Section 1: General Principles and Policies for Public Access

1.1 Open and Accessible Court System

Ontario's court system is based on the fundamental principles of openness and accessibility. In general, most court documents are publicly accessible, unless a statutory provision, common law rule or court order restricts access.

The court has a supervisory and protecting power over its records, and as a result, determines rules for public access. The Court Services Division of the Ministry of the Attorney General is responsible for the care and maintenance of court files and documents, with the exception of court files and documents in Provincial Offences courts, which are administered by municipal partners under a transfer agreement. The Court Services Division makes policies regarding the care and maintenance of court files and documents, in accordance with applicable law, and subject to judicial direction.

1.2 Judicial Direction

Each court has jurisdiction over its own records, and all policies respecting access to court documents, files and exhibits are subject to judicial direction. However, provisions of statutes and regulations, including rules of practice, providing for access to documents, existing jurisprudence on the subject and consultation with the judiciary have led to the result that, except in the specific circumstances outlined in this guide, many classes of documents can be released to the public. Judicial consent is required to obtain access to court exhibits (see Section 6).

1.3 Timeframes for Public Access

Timeliness is essential to ensure access to court files and documents. The ability of court staff to facilitate timely access can be affected by various factors. Court Services Division Record Retention Schedules outline the requirements for storing files on-site or off-site. Where on-site storage is limited, some files may be transferred off site sooner than set out in the Retention Schedules. By necessity, the time required for access to files and documents that are stored off-site will be longer than for files and documents stored at the courthouse.

In addition, court staff must prioritize their responsibilities to ensure:

- matters scheduled before the court are proceeding;
- the needs of parties, witnesses, interpreters and jurors are met; and
- judicial direction is followed.

Given these priorities, court staff must facilitate access to court files and documents as quickly and efficiently as possible.

1.4 Procedures for Ensuring Public Access

Because a court record may contain documents that are not publicly accessible, court staff must ensure that only publicly accessible documents are provided to members of the public for inspection.

In civil and family matters, Court Services Division requires the use of a correspondence pocket in court files. Documents for which public access is restricted must be filed in the

correspondence pocket. Court staff must remove the correspondence pocket from the file before providing the file to a member of the public for inspection. For additional information, please refer to section 3.7 on Other Documents Related to Civil Proceedings.

1.5 Copies

Members of the public can have a copy of any document in the court file, if:

- they have the right to see the document;
- the document can be photocopied; and
- they pay the relevant copy fee.

See section 7.3 for a chart of copy fees in each court.

1.6 Use of Cameras and Recording Devices in the Courtroom

No cameras (including cell phone cameras) or video recording devices are allowed in the courtroom, without the approval of the presiding judicial official (s. 136 of the *Courts of Justice Act*).

Audio recording devices are generally prohibited, unless used for note-taking purposes by a lawyer, a party acting in person, or a journalist, subject to judicial direction.

Section 2: Public Access to Criminal Court Files and Documents

2.1 General Principle of Public Accessibility

In general, once process is issued (i.e., an Information is sworn and an arrest is made or a summons is served), criminal court files and documents are publicly accessible, unless legislation, common law rule or a court order restricts access.

2.2 Criminal Court Files and Documents with Restricted Access

Exceptions to this general principle of public accessibility are outlined below:

2.2.1. Documents in *Youth Criminal Justice Act* Proceedings

General Rule:

Court files and documents of *Youth Criminal Justice Act* (YCJA) proceedings or other proceedings that make reference to YCJA information (e.g., *Parental Responsibility Act* Small Claims Court actions (section 3.2.1), child protection cases (section 4.2.1), or *Mental Health Act* (MHA) proceedings (section 2.2.9)) are not accessible to the public, unless the young person receives an adult sentence and:

- the appeal period has elapsed; or
- an appeal has been heard and the court of appeal has upheld the adult sentence, and
- there is no publication ban in place (s. 75(3) YCJA).

YCJA records are accessible to persons listed in s.119 of the YCJA, or if a court order is obtained pursuant to s.119(1)(s) of the YCJA.

Exception for information about courtroom location and future court dates:

Daily court lists providing the courtroom location for YCJA matters are available to the public. These lists include the initials of a young person and the charges they are facing.

Future court dates in YCJA matters are available to the public if sufficient information is provided to allow court staff to access the information in a reasonable amount of time. To obtain the information, the request must include the full name of the young person. Any of the following additional information will assist in accessing the information:

- court file number;
- last court date;
- charges against the young person; and
- date of birth.

Alternatively, the request can include the young person's initials, along with the last court date and court location.

If an exclusion or sealing order has been made in the YCJA matter, disclosure of next court date information is not permitted.

2.2.2. Pre-Enquête Documents and Recordings

Intake is presided over by a justice of the peace and is a forum for the police and individuals to bring Informations before a justice of the peace in order to lay criminal charges

The justice of the peace may conduct a *pre-enquête* hearing to determine whether legal process should issue (i.e., whether an Information is sworn and then whether to issue process by way of a summons or warrant). *Pre-enquête* hearings are not open to the public.

If Process Is Issued

For both private and Crown prosecutions, if process is issued, the documents of the *pre-enquête* hearing become publicly accessible once the defendant has been arrested or the summons has been served, unless there are legislative restrictions to access (e.g., *YCJA*) or a court order restricts access.

If Process Is Not Issued

If process is not issued, the documents and tapes of the *pre-enquête* hearing are not publicly accessible.

2.2.3. Documents Relating to a Peace Bond Application

An individual or peace officer may make an application to the court for a peace bond to request that a person be ordered to keep the peace. To begin the application, the complainant presents an Information at an initial interview with a justice of the peace.

If the justice of the peace issues process, any documents relating to the application are accessible to the public once the defendant has been served with the summons (or in rare circumstances, has been arrested), unless otherwise ordered by the court. If the justice of the peace refuses to issue process, there is no public access to the documents.

2.2.4. Warrants

Warrants Under the Criminal Code

1. Search Warrants and General Warrants

Search warrants give investigators the right to search and seize property. Specialized search warrants also exist for the seizure of blood samples, controlled substances, counterfeit money, a disorderly house, drugs, hate propaganda, lumber or lumbering equipment, obscene material, precious metals and proceeds of crime.

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 section 8 of the *Charter of Rights and Freedoms* (the right to be secure against unreasonable search or seizure).

Search warrants and general warrants, including those under the *Controlled Drugs and Substances Act*, 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
- a Report to a Justice Form 5.2 has been made and filed with the court office or an order of detention has been received from the presiding judicial official.

Forensic DNA warrants are publicly accessible if the warrant has not been sealed by court order.

2. Sealed Warrants

Under subsection 487.3(1) of the *Criminal Code (CC)*, the presiding judicial official may make an order sealing documents related to any warrant or any authorization to enter a place. Public access to sealed warrants is only permitted by order of the court. All documents related to sealed warrants, including electronic surveillance (e.g. wiretapping), are sealed in accordance with the terms of the sealing order.

3. Tracking Warrants and Number Recorder Warrants

Staff must seek judicial direction when a third party requests access to tracking warrants¹ issued under section 492.1 and number recorder warrants² issued under section 492.2 of the *Criminal Code*.

4. Warrants for Arrest

Warrants of arrest and/or copies of these warrants are generally not provided to the court. If a warrant of arrest or copy of a warrant of arrest is in the court file, court staff should treat the warrant in the same manner as the Information. Any public access restrictions that apply to the Information (e.g., *YCJA*) would also apply to the warrant. If the Information is publicly accessible, the warrant is accessible as well.

Unexecuted Warrants

Court staff cannot confirm the existence of an unexecuted warrant under the *Criminal Code* or the *Child and Family Services Act*. If the party requesting access does not already have confirmation that the warrant exists and has been executed, court staff can only confirm whether they would be able to provide access to a warrant, if one existed.

2.2.5. Production Orders

There are two distinct types of production orders provided for under the *Criminal Code*. The different public access to the two is summarized below.

Proceedings and records relating to a complainant or witness are not publicly accessible unless so ordered by the court. Production orders however, are to be managed in the same fashion as search warrants and may be publicly accessible if the requirements outlined below have been met.

Record Relating to a Complainant or Witness

A judge may grant an accused access to a record relating to a complainant or a witness. No person shall publish:

- the contents of an application by an accused who seeks production of a record;
- evidence taken, information given or submissions made; or
- the determination of the judge and reasons provided.

Production of Document

A judge or justice of the peace may order a person to produce a document or prepare a document from data under the care and control of a person. The proceedings for and documents produced are publicly accessible if:

¹ A tracking warrant authorizes the use of a tracking device.

² A number recorder warrant authorizes the installation and monitoring of a telephone number recorder.

- the production order has not been sealed by court order; and
- a Report to a Justice Form 5.2 has been made and filed with the court office or an order of detention has been received from the presiding judicial official.

2.2.6. Court Files and Documents under *Criminal Code* Publication Bans

When a publication ban is imposed by the court (e.g., s. 486.4 related to sexual offences or s. 517 related to judicial interim release or bail hearings) or is automatically provided for (e.g., s. 542 related to preliminary hearings), the court file and documents are still accessible to the public. Staff will notify the recipient that the file or document is under a publication ban and will warn him or her that publication, broadcasting or transmitting in any way the information governed by the publication ban could be a violation of law.

2.2.7. *In Camera* / Publicly-Excluded Proceedings

Under various sections of the *Criminal Code*³, the public may be excluded in whole or in part from a court proceeding. These proceedings are known as *in camera* or publicly excluded proceedings. If the public is excluded from a court proceeding, the public cannot access the records relating to that portion of the proceeding, except by court order.

2.2.8. Court Files and Documents in Section 276.1 and 278.2 Applications

Applications under section 276.1 (evidence of complainant's sexual activity) and section 278.2 (production of record to accused) of the *Criminal Code* require that specific documents be filed with the court. These documents may be filed at the time of the application or before the court date.

The judicial official will consider the application in a mandatory *in camera* proceeding. In the case of a section 276.1 application, if the judicial official grants the application, a mandatory *in camera* hearing will be held to determine if the evidence is admissible. In the case of a section 278.2 application, if the judicial official orders the record be produced to the court, the judicial official may hold an *in camera* hearing to determine whether to produce the record to the accused.

Documents filed in advance of these mandatory *in camera* proceedings are not publicly accessible prior to the court hearing, except by court order.

2.2.9. Documents Dealing with the Mental Health of the Accused

Access requests for:

- assessment reports prepared for the court under section 672.11 of the *Criminal Code* (mental disorder);
- any written information filed with the court regarding an accused person's fitness to stand trial; and

³ s. 486(1) - Exclusion of the public in certain cases; s. 486.5(6) - Judge may hold private hearing to determine whether a publication ban under s. 486.5(1) or (2) should be made; s. 276.1(3) and s. 276.2(1) - Evidence of complainant's sexual activity; s. 278.4(1) and s. 278.6(2) - Production of record to accused; s. 462.34(5) - Hearing to determine reasonableness of expenses in relation to an application of review of special warrants and restraint orders; s. 672.5(6) - Exclusion of public from all or part of a disposition hearing re: mental disorder; s. 672.5(10) and s. 672.51(6) - Exclusion of accused and/or certain persons from a mental disorder disposition hearing.

- any written information filed with the court regarding whether an accused person should be found not criminally responsible due to mental disorder,

must be referred to the presiding judicial official or another judge of the court if the presiding judicial official is not available.

As previously noted, any reference to *Youth Criminal Justice Act* information contained in *Mental Health Act* records is not publicly accessible.

2.2.10. Sealed Files and Documents

If the court seals a file or court document, public access is only permitted by order of the court.

2.2.11. Documents Relating to Absolute and Conditional Discharges

The *Criminal Records Act* of Canada denies public access to criminal records:

- after one year, if the defendant has received an absolute discharge; or
- after three years, if the defendant has received a conditional discharge.

The Province of Ontario has adopted this policy with regard to court documents that are the subject of an absolute or conditional discharge.

If an absolute or conditional discharge has been ordered, court staff must not allow access to the court documents and must not disclose the existence of these documents to any person, after the specified periods noted above, to any one other than the person who is the subject of the discharge or counsel acting on his or her behalf. Requests for access by the person who is the subject of the discharge must be made in writing to the court.

2.2.12. Documents Relating to a Pardon

If a pardon has been granted, documents relating to the original conviction in the custody of a department or agency of the Government of Canada are not publicly accessible, without prior approval of the Federal Minister of Justice. The Province of Ontario has adopted this policy with regard to court documents that are the subject of a pardon.

If a pardon has been granted, court staff must not allow access to the court documents and must not disclose the existence of these documents to any person, other than the person who is the subject of the pardon or counsel acting on his or her behalf. Requests for access by the person who is the subject of the pardon must be made in writing to the court.

2.3 Index Books

In criminal cases, index books are not accessible to the public, as they may contain information about documents for which access is prohibited.

2.4 Dockets and Case Event Lists

2.4.1. Pre-Court Docket and Case Event List

The pre-court docket or case event list is a list of names of the accused persons and the charges scheduled to be heard in a specific courtroom, on a specific date, and at a specific time.

Pre-enquête and *Youth Criminal Justice Act* dockets must remain confidential and are not publicly accessible. All other pre-court dockets are publicly available.

Court staff must make pre-court dockets or case event lists available to the public at no charge, by either posting the docket or list in a location convenient to the public or by making it available at the court counter. If a copy of the docket or list is requested, staff should charge the prescribed copy fee.

2.4.2. Post-Court Docket and Case Event List

The post-court docket or case event list is the same as the pre-court docket or list, with notes outlining the judicial decisions for each charge listed.

The post-court docket or list is publicly accessible, unless the docket or list includes cases that:

- have been sealed;
- are subject to a specific court order restricting access;
- pertain to youth matters; or
- are outside legislated disclosure periods (e.g., access to some matters are time limited, including absolute and conditional discharges, as outlined in section 2.2.10).

Court staff must make post-court dockets or lists available to the public for viewing at no charge. If a copy of the docket or list is requested, staff should charge the prescribed copy fee.

NOTE: Due to storage limitations in the court office, some older court dockets and lists may not be immediately available at the court counter. The time required to access older dockets and lists that are not stored in the court office might be longer.

2.5 Provincial Offences Act Court Documents

As noted previously in Section 1.1, municipal partners administer court files and documents in Provincial Offences courts under a transfer agreement with the province. In general, court documents related to the *Provincial Offences Act (POA)* are publicly accessible, unless otherwise ordered by the court.

However, the following court documents for *Provincial Offences Act* proceedings are not publicly accessible:

- applications for an order of examination under the *Mental Health Act*, unless approved by a justice of the peace, and
- all proceedings against young persons commenced under Part VI of the *Provincial Offences Act*.

2.6 Providing Information Over the Telephone

Publicly accessible information is available over the telephone.

2.7 Information on Criminal Records

Criminal court staff can only provide information and documents relating to matters that are either before the court or have been before the court in the past. If asked to provide information about an individual's general criminal record, court staff must refer the inquirer to local police services.

Section 3: Public Access to Civil Court Files and Documents

3.1 Courts of Justice Act Provisions for Public Access

Section 137 of the *Courts of Justice Act (CJA)* provides for public access to civil court documents.

Upon payment of the prescribed fee, members of the public are entitled to see any current list maintained by the court of civil proceedings commenced, any documents filed in a civil proceeding, or any judgments entered, unless a statutory provision, common law rule or court order restricts access.

3.2 Statutory Restrictions to Public Access

Statutory provisions restrict public access to the following civil court documents:

3.2.1. Documents Regarding *Parental Responsibility Act* Matters

Documents filed in the Small Claims Court in relation to the *Parental Responsibility Act* that include evidence obtained under the *Young Offenders Act (YOA)* or *Youth Criminal Justice Act (YCJA)* must be treated like *Young Offenders Act* or *Youth Criminal Justice Act* documents and are not publicly accessible. See section 2.2.1 for details on public access to these documents.

3.3 Files and Documents Under Publication Bans

In general, when the court imposes a publication ban, the public can still access the court file and documents. Staff must tell the person who is accessing the file or document that it is under a publication ban and must warn him or her that publication could be a violation of law.

3.4 Sealed Files and Documents

If the court seals a court file or document, access is only permitted by order of the court.

3.5 Index Books

Civil index books contain lists of court file numbers and names of the plaintiffs and defendants. In civil cases, information in index books is publicly available at no charge.

3.6 Case Event Lists and Post-Court Dockets

Subject to orders of the court and the statutory restrictions outlined in section 3.2 above, the post-court docket and case event lists are public documents and may be viewed at no charge. A copy of the docket or list can be provided to members of the public, upon payment of the relevant copy fee (see Section 7.3 on Copy Fees).

NOTE: Due to storage limitations in the court office, some older court dockets and case event lists may not be immediately available at the court counter. The time required to access older dockets and case event lists that are not stored in the court office might be longer.

3.7 Other Documents Related to Civil Proceedings

Other documents may be contained in the court file, even though they have not been filed in the proceeding within the meaning of s. 137 of the *Courts of Justice Act*. As section 137 does not apply to these documents, they are not automatically publicly accessible. Some examples of these documents include:

- correspondence between the trial coordinator and the parties to canvass available dates for events;
- correspondence between the court office and an individual regarding fees paid to court (e.g., regarding an NSF cheque);
- correspondence between the court office and an institution/agency (e.g., police) necessary for the institution/agency to enforce or register an order; and
- fee waiver information.

These documents must be filed in the correspondence pocket within the court file. Court staff must remove the correspondence pocket from the file before providing the file to a member of the public for inspection. However, if the court staff require someone to provide a document to the court before "filing" something further (e.g., court staff require a letter explaining, for the purposes of rule 61.13 of the *Rules of Civil Procedure*, why certain parties have not been served), that document, even if it is the form of a letter, should be placed in the part of the file that is publicly accessible and not in the correspondence pocket.

3.8 Providing Information Over the Telephone

Publicly accessible information is available over the telephone.

Section 4: Public Access to Family Court Files

4.1 Courts of Justice Act Provisions for Public Access

Section 137 of the *Courts of Justice Act (CJA)* provides for public access to family court documents.

Members of the public are entitled to see any current list maintained by the court of family cases started, any documents filed in a family case, or any orders signed, unless a statutory provision, common law rule or court order restricts access.

4.2 Statutory Restrictions to Public Access

Statutory provisions restrict public access to the following family court documents:

4.2.1. Child Protection Cases

Under subsection 45(4) of the *Child and Family Services Act (CFSA)*, child protection hearings and appeals of child protection decisions are closed to the public, unless ordered by the court. Under subsections 45(5) and 69(8) of the *Child and Family Services Act*, select members of the media may attend the hearings, unless the court makes an order excluding the media.

Subsection 45(8) of the *Act* prohibits the publication of any identifying information about a child, child's parent or foster parent or a member of the child's family in a child protection case. Court staff are therefore not permitted to provide public or media access to court documents filed in child protection cases, including any warrant issued under the *Child and Family Services Act*, even to members of the media who may have attended the hearing.

4.2.2. Secure Treatment Cases

Secure treatment cases involve applications to the court to commit a child to a secure treatment program. Under subsection 114(7) of the *Child and Family Services Act*, secure treatment hearings are closed to both the public and the media. Court staff are not permitted to provide access to court documents filed in these cases, including any warrant issued under the *Child and Family Services Act*.

4.2.3. Adoption Cases and Openness Orders

Under subsections 151(1) and 156(6) of the *Child and Family Services Act*, adoption hearings and appeals of adoptions orders are closed to the public. Subsection 151(2) of the *Child and Family Services Act*, states that court files concerning applications for adoption are only accessible to:

- the court;
- court employees;
- the parties and their lawyers or agents; and
- the Director or local director (appointed by the Minister of Community and Social Services (delegated to the current Minister of Children and Youth Services) or children's aid society under the *CFSA*).

The files are not accessible to the public, including members of the media.

Under subsection 162(2) of the *Child and Family Services Act*, the documents used in an application for an adoption order must be sealed with a certified copy of the original order placed within the sealed file. The sealed file can only be accessed through an order of the court or written direction of the Registrar of Adoption Information.

4.2.4. Proceedings under the *Family Responsibility and Support Arrears Enforcement Act, 1996*

The *Family Responsibility and Support Arrears Enforcement Act, 1996*, applies to cases involving the enforcement of support obligations in Ontario.

During a default hearing under the Act, the court may order a person who is 'financially connected' to the payor to file a financial statement and any other relevant documents with the court. Under subsection 41(24) of the Act, the person's financial statement or other documents must be sealed in an envelope in the court file and is only accessible through an order of the court.

Under section 54 of the Act, if a person needs information from another person or organization to enforce an order that is not filed with the Family Responsibility Office, the court can order that the requested information be provided to the court. The information that is obtained under this order must be sealed in an envelope in the court file. It is only accessible by court order, or in the other circumstances described in the Act at section 54.

4.3 Files and Documents Under Publication Bans

In family cases, other than cases under the *Child and Family Services Act*, when a publication ban is imposed by the court, the public can generally still access the court file and documents. Staff must notify the recipient that the file or document is under a publication ban and must warn him or her that publication could be a violation of law.

4.4 Sealed Files and Documents

If the court seals a court file or document, access is only permitted by order of the court.

4.5 Index Books

Family index books contain lists of court file numbers and names of the applicants and respondents. In family cases, other than, adoption, child protection and openness order cases, information in index books is publicly available at no charge.

4.6 Case Event Lists and Post-Court Dockets

Subject to orders of the court and the statutory restrictions outlined in section 4.2 above, the case event lists and post-court dockets are public documents and may be viewed at no charge. A copy of the list or docket can be provided to members of the public, upon payment of the relevant copy fee (see Section 7.3 on Copy Fees).

NOTE: Due to storage limitations in the court office, some older case event lists and post-court dockets may not be immediately available at the court counter. The time required to access older lists and dockets that are not stored in the court office might be longer.

4.7 Other Documents Related to Family Cases

Other documents may be contained in the court file, even though they have not been filed in the case within the meaning of s. 137 of the *Courts of Justice Act*. Because section 137 does not apply to these documents, they are not automatically publicly accessible. Some examples of these documents include:

- correspondence between the trial coordinator and the parties to canvass available dates for events;
- correspondence between the court office and an individual regarding fees paid to court (e.g., regarding an NSF cheque);
- correspondence between the court office and an institution/agency (e.g., police, Family Responsibility Office, Registrar General) necessary for the institution/agency to enforce or register an order; and
- fee waiver information.

These documents must be filed in the correspondence pocket within the court file. Court staff must remove the correspondence pocket from the file before providing the file to a member of the public for inspection.

4.8 Providing Information Over the Telephone

Only publicly accessible information is available over the telephone.

Section 5: Public Access to Enforcement Files

5.1 Documents in the Enforcement File Covered by Section 137 of the *Courts of Justice Act*

Enforcement documents filed with the court fall under section 137 of the *Courts of Justice Act* (CJA) and are therefore publicly accessible, upon payment of the prescribed fee, and provided that no statutory provision, common law rule or court order restricts access.

Examples of these documents include:

- writs;
- orders;
- schemes of distribution;
- notices of garnishment; and
- any other documents provided to the enforcement office on a form prescribed by the rules of the court.

5.2 Other Documents in the Enforcement File

Other documents may be contained in the enforcement file, even though they have not been filed in the proceeding within the meaning of s. 137 of the *Courts of Justice Act*. These documents are not automatically publicly accessible, and include any correspondence or material created or required by the enforcement office in order to conduct an enforcement (e.g., appraisals, notice of sale, contracts for storage of seized goods, etc.).

For information on access to documents needed to enforce a support obligation, see section 4.2.4. on Proceedings under the *Family Responsibility and Support Arrears Enforcement Act*, 1996.

Section 6: Public Access to Exhibits

6.1 Exhibits in Criminal Cases

Exhibits may take many forms. Examples include:

- physical evidence (e.g., guns, knives, clothing);
- photographic/electronic evidence (e.g., photos, videotapes, audiotapes, compact discs);
- business documents (e.g., phone records, bank records, business transaction records);
- expert reports (e.g., psychiatric reports, crime scene analyses, toxicologist reports);
- forensic documents; and
- intoxilyzer technician's certificates of analysis.

Judicial consent is required to obtain access to court exhibits. Court staff should advise the person requesting access that a judicial official's permission is required. Requests for permission to access exhibits may be made by a general application.

If the trial is ongoing, the application should be made to the presiding judicial official. After the trial is completed, it is not necessary that the request be made to the judicial official who presided at the trial, although, as a practical matter, this will often be the preferred course where the judicial official who presided over the trial is available.

6.2 Exhibits in Civil and Family Cases

6.2.1. Exhibits Filed in a Proceeding

If the exhibit was attached to an affidavit and filed with the court, it is a document filed in a proceeding and is publicly accessible under section 137 of the *Courts of Justice Act (CJA)* unless a statutory provision, common law rule or court order restricts access.

6.2.2. Exhibits Referred to in an Affidavit

If an exhibit is referred to in an affidavit as being produced and shown to the deponent, the party does not attach the exhibit to the affidavit. Instead, the party leaves the exhibit with the registrar/clerk for the court's use. In this case, the exhibit is not "filed" with the court and is not accessible under s. 137 of the *Courts of Justice Act*.

6.2.3. Exhibits Entered into Evidence During Trial

If the exhibit was entered into evidence in the course of a trial (i.e. marked, numbered and entered on a list by the registrar/clerk), the exhibit is not "filed" in the proceeding and is therefore not covered by s. 137. These exhibits are within the control of the court and are not publicly accessible, except by court order.

6.2.4. Copies of Exhibits in Exhibit Books

Since exhibit books are documents filed with the court within the meaning of s. 137 of the *Courts of Justice Act*, copies of exhibits contained in an exhibit book and filed with the Court of Appeal are publicly accessible, unless a statutory provision, common law rule or court order restricts access.

Section 7: Fees for Public Access to Court Documents

NOTE: Fees are subject to change.

7.1 Fees to Access Criminal Court Documents

7.1.1 Ontario Court of Justice and Superior Court of Justice

There is no charge to access criminal court documents or search criminal court files in the Ontario Court of Justice and Superior Court of Justice.

The Ontario Court of Justice fee schedule and the Superior Court of Justice fee schedule, under the *Administration of Justice Act*, set out the fee to be paid whenever a member of the public requests and is granted copies of all or portions of an Ontario Court of Justice criminal court record. The following copy fees apply:

For copies of documents in provincially-administered Ontario Court of Justice courts:

- i. not requiring certification, \$1.00 per page
- ii. requiring certification, \$3.50 per page

For copies of documents in municipally-administered Ontario Court of Justice courts, also known as *Provincial Offences Act* courts:

- i. not requiring certification, \$1.00 or \$2.00 per page (some locations opted into a fee reduction)
- ii. requiring certification, \$3.50 per page

For copies of Superior Court of Justice documents:

- i. not requiring certification, per page \$1.00
- ii. requiring certification, per page \$4.00

Copies of Informations, indictments and judicial interim release documents shall be provided upon request to the accused and their counsel of record without copy fees being charged. Requests should be made in person at the counter, or in writing by mail or facsimile transmission (FAX).

7.2 Fees to Access Civil and Family Court Documents and Enforcement Documents

7.2.1. Ontario Court of Justice

There is no fee to access court documents in the Ontario Court of Justice. Access to court documents, where there is no statutory provision or court order that restricts access, may be obtained at the originating or filing court.

7.2.2. Superior Court of Justice

There is no fee to access court documents at:

- the Family Court branch of the Superior Court of Justice; or for

- family cases heard by the Superior Court of Justice that are not appeals.

The following chart summarizes the prescribed fees under the *Administration of Justice Act* to access court documents in the Superior Court of Justice, including Small Claims Court and the Enforcement Office.

	Superior Court of Justice and Court of Appeal (excluding family cases that are not appeals) (O. Reg. 293/92)	Small Claims Court (O. Reg. 432/93)	Enforcement Office (O. Reg. 94/92)
For the preparation of records of orders (per name)	n/a	N/a	n/a
To inspect a court file (per file)			
By a solicitor* or party in the proceeding	no charge	no charge	n/a
By a person who has entered into an agreement with the Attorney General for the bulk inspection of court files	\$4.00	\$1.00	n/a
By any other person	\$10.00	\$10.00	n/a
For the retrieval from storage of a court file	\$61.00	n/a	n/a
For a search for writs (per name searched)	n/a	n/a	\$11.00
For a report showing the details of a writ, lien or order (per report)	n/a	n/a	\$6.00 (maximum \$60.00 per name)

n/a Fee schedule used by court staff does not include this service

* Note: Refers to a solicitor for a party in the proceedings, not any solicitor in general.

7.3 Copy Fees

The following chart summarizes copy fees prescribed under the *Administration of Justice Act* for each level of court.

	Certified (per page)	Non-certified (per page)
Superior Court of Justice and Court of Appeal – Fees O. Reg. 293/92, Amended to O. Reg. 169/07	\$3.50	\$1.00
Superior Court of Justice - Family Court - Fees O. Reg. 417/95, Amended to O. Reg. 170/07	\$3.50	\$1.00
Small Claims Court O. Reg. 432/93	\$3.50	\$1.00
Ontario Court of Justice – Fees O. Reg. 210/07	\$3.50	\$1.00 for provincially administered courts and either \$1.00 or \$2.00 for municipally administered courts.
Sheriff's Office O. Reg. 94/92	\$3.50*	\$2.00*

* For documents other than writs of execution, orders and certificates of lien. See section 7.2.2 above for fees for copies of a report showing the details of a writ, lien or order.

7.3.1. Fees for Copies of Endorsements

Court staff must provide photocopies of endorsements to parties to a case or their lawyer at no charge.

7.4 Fee Waiver

There is a fee waiver mechanism for persons who might otherwise be denied access to justice because of their financial circumstances. Information about the fee waiver process is available from court staff or at the Ministry of the Attorney General's website at the following web address: <http://www.attorneygeneral.ius.gov.on.ca>.