



Alberta Courts

Court of Appeal of Alberta • Court of Queen's Bench of Alberta • Provincial Court of Alberta

Public and Media Access Guide

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1. General Principles and Procedures

1.1 Scope of this Guide

This guide covers [access](#) to [court files](#), [documents](#) and [exhibits](#) by members of the [public](#), including the [media](#). It also covers restrictions on access to or publication of information from court files or proceedings. The guide does not address electronic filing or electronic court records systems.

Note: in this document,

- “[court record](#)” may refer to court files, documents, [transcripts](#), or exhibits.
- “[access](#)” may include searching for, viewing, or copying all or part of a court file. Not all types of access are always available.

This guide applies to court records in both civil and criminal proceedings, in Alberta’s Court of Appeal, Court of Queen’s Bench, and Provincial Court. In this document, “court” refers to one or all of these courts. Sometimes, access to court records is limited in some way. A statute may require, or a [judge](#) can order, that information in a court file be kept from public access. In some matters, a statute or a judge’s [order](#) allows access, but does not allow publication or broadcast of the information. This guide describes these limitations. Although these limitations on access are many, it must be remembered that they are exceptions to the general rule that court records are accessible to the public and media. Access to the vast majority of court records is not restricted.

This guide does not deal with access to [court administration records](#). Access to those records is governed by the [Freedom of Information and Protection of Privacy Act](#).

See the [glossary](#) for the definitions of terms used in this guide.

We thank the Ontario Ministry of the Attorney General, Court Services Division, for allowing access to its *Court Services Division Policy and Procedures on Public Access to Court Files, Documents and Exhibits*.

1.2 Open Court System

Generally, court proceedings and court files are open to public access. Under the *Canadian Charter of Rights and Freedoms*, section 2(b), everyone has the fundamental freedom of “thought, belief, opinion and expression, including freedom of the press and other media of communication.” In *Vancouver Sun* (2004), the Supreme Court of Canada wrote that the “open court principle is inextricably linked to the freedom of expression protected by s. 2(b) of the *Charter*” and advances its core values.

However, sometimes full access to court proceedings or court records is restricted, when the restriction is necessary to protect other social values of superordinate importance. Access may be limited by [law](#) (a statutory provision or a common law rule) or by a court order made by a [judge](#). Each court has the power to supervise and protect its own records, so policies about access to [court records](#) are subject to judicial [direction](#).

A. Access to Courthouses and Courtrooms

Members of the public and the media may attend all sessions of the courts unless the law requires, or a judge orders, that all or part of a proceeding be held in private. Spectators in the courtroom must not disturb the court process. If court is in session, spectators should enter quietly and close doors to the courtroom gently. Spectators should not talk in the courtroom.

The “[bar](#)” in a courtroom is a railing enclosing the part of the room where the judges and lawyers sit, witnesses are heard and prisoners are tried. Members of the public and media must stay behind the bar unless invited by the judge or the [clerk](#).

For information on accessing court files and exhibits during a [trial](#), see the section on [Exhibits](#), on page [48](#).

B. Cameras and Electronic Recording Devices

Cameras or electronic recording devices of any kind may not be used in courthouses or courtrooms without prior approval. Requests for permission to use a camera or other video or audio recording device may be made to the local court administrator, who will contact the appropriate authority for a decision. Prior approval for members of accredited media organizations in the Court of Queen’s Bench and the Provincial Court is governed by the [Queen’s Bench Audio Recording Policy](#), which the Provincial Court has also adopted.

C. Access Requests at a Court Location

Timeliness is an important part of access to court files. Court staff will provide access as quickly as possible, although they must first ensure that:

- Matters scheduled to be heard in court proceed on time;
- The needs of parties, witnesses, interpreters and jurors are met; and
- Judicial direction is followed.

Staff will review the court file's status before providing access. Staff must ensure that only publicly accessible documents are provided for inspection by members of the public or media. Court staff must limit access to court files when a restriction is required by law or a court order.

i. Search requests

Members of the public and media can request access to court files by completing a search request form and paying the prescribed fee of \$10 per search. The fee also covers inspection of one file.

Requests must include specific information:

- **For civil files**, the information must include the file number or the party's name, and the court location.
- **For criminal files**, the information must include the accused's name and the court location. To limit the search and reduce search costs, more information may be needed, such as the names of other [parties](#), the [accused's](#) birth date, or the charges.

Court staff will not perform searches based on only general or vague information. Court staff cannot provide information about a person's general criminal record.

Reference Table 1

Criminal and Youth Justice Files

An accused and the accused's [counsel](#) are each entitled to one free copy of the [Information](#) and [endorsements](#). For investigative searches, the accused and the accused's counsel are each entitled to one free copy of the Information to Obtain a Search Warrant, Warrant to Search, Report to a Justice and Telewarrant.

*Criminal Code, [section 603](#)***Forms:**

- Application to Access Young Offender Data
- Application to Access Young Offender Record

Queen's Bench Civil Files and Court of Appeal Files

A Search Request form is required.

Forms:

- [Search Request](#)

Audio Recordings

Members of the public and media can listen to or receive a copy of audio recordings from Transcript Management Services only with a court order. The Court of Appeal does not record hearings and cannot provide transcripts or recordings.

ii. Media requests by phone

Accredited media outlets can still make search and photocopy requests by telephone. Here's how the process works:

- Media representatives call the appropriate court location with their request.
- The court clerk fills out a search request form and advises the media representative of the associated costs and confirms where to submit payment.
- The clerk completes the search and sends the requested documents by fax, mail or email to the media outlet.
- Media outlets submit payment to the court location that completed the search request within two weeks of notification. Payments can be made by mail-in cheque, or in-person with cash, debit, cheque or credit card.

iii. Inspecting a Court File

Anyone may inspect a court file unless access is restricted by law or a court order. The fee for inspecting one court file is included in the initial search fee of \$10. There is a \$10 inspection fee for each additional file.

iv. Obtaining Copies of a Court File

Anyone may obtain a photocopy of documents from a court file unless access is restricted by law or a court order. The fee for photocopying is \$1 per page.

Transcripts are more expensive because of the work needed to prepare them. The cost of a transcript is based on a per-character fee set out in the Alberta Rules of Court. The fee is also determined by how quickly the transcript is required. For more information, see the Request for Transcript form used by Transcript Management Services.

| | |
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| Reference Table 2 | <p>Requirement to charge fees for search, inspection and copies</p> <p><i>Alberta Rules of Court, Schedule E, Tariff of Fees Provincial Court Fees and Costs Regulation</i></p> <p>Members of the public must view court files in a secure viewing area under staff supervision. Staff must maintain a record of the files viewed.</p> |
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D. Media Relations

Depending on the nature of the inquiry, court staff may refer members of the media to the Office of the Chief Justice or Chief Judge of the Court or to the Law Information Centre's Court Check Media Line. The Court Check Media Line staff have access to [docket information](#) concerning criminal matters. The Court Check Media Line staff can therefore assist the media, but not the public, with some inquiries.

i. Requests for Comments about a Case

Court staff cannot comment about any case.

- **Substantive inquiries concerning the court's decisions or the content of matters in court:** court staff will refer requests for comment to the Office of the Chief Justice or Chief Judge of the court.
- **Docket-related matters:** court staff will refer requests for comments to the Court Check Media Line.
- **Court documents:** court staff will directly assist the public and media with requests for court documents.

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| Reference Table 3 | <p>Requests for Comments Docket-related</p> <p>On receiving a request for comment regarding a docket-related matter, court staff will provide the phone number for the Court Check Media Line: (780) 638-3695 or CourtChecks@just.gov.ab.ca.</p> |
|------------------------------|---|

In turn, the Court Check Media Line staff may refer the media to the applicable court office to obtain background information on the case. The Court Check Media Line staff have no access to physical court files and can access docket information only via the electronic docket system (“JOIN”, the Justice Online Information Network).

Content-related

On receiving a request for comment or substantive inquiries regarding decisions of the court or the content of decisions, court staff will refer the matter to the Office of the Chief Justice or Chief Judge of the Court.

ii. Docket Searches

The Court Check Media Line accepts requests for [docket information](#) only from members of the media, not the public. Normally, Court Check Media Line staff will perform the check for court locations anywhere in Alberta. Because of the daily volume of requests for docket searches, Court Check Media Line staff may limit the number of requests from individual media to their three top searches.

Court staff assist members of the public with requests for docket information, including phone requests.

Reference Table 4

If experiencing difficulty with a request, court staff can ask their supervisor for help.

iii. Historical Searches – Criminal Files

Criminal files are called “historical” after five years from the date of sentencing. Court Check Media Line staff do not have access to court files and therefore will refer requests for historical information to court staff. For criminal file searches, the [accused’s](#) name and a court location are needed. For historical files, the approximate date of sentencing may also be required.

2. Restrictions on Access or Publication

2.1 General

Generally, [court records](#) and court proceedings are open to the public. As explained at section 1.2 above, this is a fundamental principle of our legal system. The purpose of this guide is to describe restrictions on access or publication that are exceptions to this principle. The authority for the restriction may come from the law or from a court order.

Here we describe the different types of restrictions and their impact on access and publication. Following this section, we describe in detail the sources of authority for specific restrictions in civil, family, youth criminal, and criminal law matters.

2.2 Statutory Restrictions on Access or Publication

Sometimes the law sets a restriction on access or publication of information, without the need for a judge's order. One such statutory restriction is the ban on identifying a young person involved in proceedings under the [Youth Criminal Justice Act](#).

2.3 Orders Restricting Access or Publication

There are two types of court orders that restrict access or publication of court information: mandatory court orders and discretionary court orders.

Mandatory court orders happen when a law says that a [judge](#) “shall” (must) make an order when a party applies for it, and the party has applied for it.

Discretionary court orders happen when the judge makes an order without being required to by law. In this case, the judge had a choice whether or not to make the order. When judges consider making a discretionary court order that restricts access or publication, they apply a test developed by the Supreme Court of Canada in a line of cases (the “*Dagenais/Mentuck* test”):

The order should be made only when:

- (a) it is necessary to prevent a serious risk to the proper administration of justice because reasonable alternatives will not prevent that risk; and

- (b) the order’s beneficial effects outweigh its harmful effects on the rights and interests of the parties and the public, including the effects on the right to free expression, the right of the accused to a fair and public trial, and the administration of justice.

The media may register to receive notice of applications for discretionary court orders that restrict access or publication.

| | |
|-----------------------------|---|
| Reference Table 5 | Discretionary Court Orders <ul style="list-style-type: none"> • For Queen’s Bench civil and family law matters, Civil Practice Note 12 provides the procedure and form of notice. • For Queen’s Bench criminal matters, Criminal Practice Note 4 applies. • For Provincial Court family and criminal law matters, a Notice to the Profession applies. |
|-----------------------------|---|

Orders that restrict access include [sealing orders](#), confidentiality orders, and orders for an [in camera](#) (private or closed court) [hearing](#). Orders that restrict publication include a ban on identifying someone or on publishing information until the end of the [trial](#). This is not a complete list. Other types of orders are possible.

When a judge makes an order that restricts access to a court file, or restricts publishing information about a court proceeding, the order is noted on the “Orders Restricting Access or Publication” form kept in the court file (see [Appendix A](#)). The reverse side of this form lists some of the common restrictions required by law. Unless access to the file is restricted, anyone may have a copy of a completed form on paying the required fee. A publication ban restricts publication only, not access.

| | |
|-----------------------------|---|
| Reference Table 6 | Form – Orders Restricting Access or Publication <p>This form must be completed and filed whenever a judge makes an order that affects access to the file or publication of information from a file or court proceeding.</p> <p>Orders noted on the form must also be noted in the applicable computer docket system.</p> |
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2.4 Examples of Restrictions

The following are examples of restrictions that may be based on law or a court order. This is not a complete list. Other types of orders are possible.

A. Private Hearings

[Private hearings](#) are open only to the [parties](#) involved. Private hearings are rare. The only people allowed in the courtroom during the proceedings, apart from the judge and court staff, are the parties involved and their lawyers. Any member of the public or media may ask to view or copy a court file from a private hearing, unless access is otherwise restricted by law or a court order. Court staff will provide a “Request for Exhibit or Private Hearing Record” form for this purpose (see [Appendix B](#)). Payment of search and photocopy fees is required.

Note: Private hearings may also be called “closed”, “in camera”, or “public excluded”. This document uses the term “private hearings” to include all these terms.

| Reference Table 7 | Request for Exhibit or Private Hearing Record |
|----------------------|--|
| | <p>The “Request for Exhibit or Private Hearing Record” form is used to process public and media requests for access to exhibits and to files from private hearings (see Appendix B). Court staff will deal with Request forms as quickly as possible, although they must first ensure that:</p> <ul style="list-style-type: none"> • Matters scheduled to be heard in court proceed on time; • The needs of parties, witnesses, interpreters and jurors are met; and • Judicial direction is followed. <ul style="list-style-type: none"> • Court staff will check whether the file is accessible. (The file may be sealed, or a law or court order may make the file inaccessible to the public.) • If the file is not accessible, the inquirer will need a court order to view the information. • If the file is accessible, court staff will provide the form to the inquirer. • Court staff will promptly send the completed Request form to a judge (the presiding judge, if available, or if that judge is not available, to any judge of that court) for a |

review and response.

- Court staff will also send the judge a copy of any Request forms that are already on the court file.
- Judges will respond as quickly as possible.
- Court staff will then process the Request as instructed by the judge.
- The completed Request form will be retained on the court file.

Courtroom clerk

If a private hearing is taking place, the court clerk must:

- Place the “Closed Court” sign outside the courtroom and make sure the public leaves the courtroom or is kept from entering.
- Make an index entry in the log notes, noting the closed court proceeding.
- In criminal matters, write the following on the [endorsement sheet](#):

DISPOSITION:

[Crown / Defence] apply to have [evidence / portion of evidence] heard in private.

[Defence / Crown] [consent / object / no comment]

Application [granted / denied].

Criminal Code or statute section number (if any):

If the private hearing was by court order (not statutory), court staff will note the private hearing on the “Orders Restricting Access or Publication” form, as follows:

- On the inside of the file, staff will add the note or stamp “In private” and the date of the private hearing.
- Staff will note the private hearing in the applicable computer docket system.

Transcript management

- The audio record of a private hearing will be sealed. The

courtroom clerk can archive it directly to the sealed folder or it can later be moved by Information Technology Services (ITS).

- If a [transcript](#) is required, a CD will be provided to the court reporter. The CD is shredded after the transcript is prepared. The transcript is stamped “Includes In Camera Evidence”.

Note: The Court of Appeal does not record hearings and cannot provide transcripts.

Exhibit management

[Exhibits](#) from private hearings are not sealed unless they are sealed by a separate law or court order.

B. Sealed Court Files or Documents

A court file or document may be sealed by law or a court order. Sometimes the law requires the judge to make a sealing order, and sometimes the order is at the judge’s discretion. (For more about discretionary orders, see section [2.3](#) on page [9](#).)

The seal may affect all or part of a court file. Once sealed, no one, including court staff, has access to the court file or document, except with a court order. When files are sealed by court order, the [sealing order](#) itself is not sealed unless specifically ordered by the judge.

Reference Table 8

Sealing

For court staff procedure on **sealing orders**, see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

Court staff may disclose that a sealed court file exists, except when that disclosure is forbidden by law or a court order. (Adoption is one example: court staff cannot confirm whether an adoption file exists, because all files under the [Child, Youth and Family Enhancement Act](#) are confidential.)

- If the sealing order does not state that the order itself is also sealed, the public and media can have access to the sealing order.
- If the order states to seal the file including the order,

anyone who wants access to the order will require a court order.

Applications to seal or unseal an entire court file

- In Provincial Court, members of the public or media may make an application to the Chief Judge, Deputy Chief Judge, Assistant Chief Judge, or a judge that has been appointed to hear such applications.

Provincial Court [Notice to the Profession](#)

- In the Court of Queen's Bench, the application must be made to the Chief Justice, Associate Chief Justice, or a justice that has been appointed to hear such applications.

Queen's Bench [Civil Practice Note 12](#)

Queen's Bench [Criminal Practice Note 4](#)

- In the Court of Appeal, an application must be made to the Chief Justice or the Chief Justice's designate, unless otherwise ordered.

C. Confidential Court Files or Documents

A court file or document may be made confidential by law or a court order. Only court staff has access to a confidential court file or document.

Reference Table 9

For court staff procedure on **confidentiality orders**, see "[Orders Restricting Access or Publication – Instructions](#)" in [Appendix A](#).

Court staff may be restricted from disclosing the existence of a confidential file, depending on the court order or law affecting the confidential file. In some cases, court staff may be able to disclose that a file exists, but may not be able to provide access to it.

D. Pseudonyms

A court order may permit a witness or party to use a [pseudonym](#) (an alternate name) or testify behind a screen, or in some other way prevent the person from being identified, even by people in the courtroom. The identifying information will also be concealed in the court file by a [sealing order](#), or by editing the documents.

Reference
Table 10

For court staff procedure on **pseudonym orders**, see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

E. Publication Bans

[Publication bans](#) may be required by law or a court order. Publication bans prohibit publishing certain information related to a court proceeding. A publication ban will prohibit publishing the information in print, radio, television, or via the Internet. Publication bans restrict only publication, not access. A publication ban does not limit viewing, searching, or copying for private use, unless those restrictions are specified in the law or the court order.

Publication bans vary in their scope. Some are permanent, while others expire when the [trial](#) or proceeding is over. Sometimes the only information that cannot be published is information that would identify the person protected by the ban.

Reference
Table 11

For court staff procedures on **publication ban orders**, see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

3. Restrictions on Access to Civil Matters

Civil court files can begin in any of the three levels of court: Provincial Court, Court of Queen’s Bench, or Court of Appeal.

Court files in most civil matters are accessible to members of the public. The law or a court order may limit access to some court files or the publication of some information. For information about access to exhibits in civil matters, see page [48](#).

Before providing access to a file, court staff will always check the file and the applicable computer docket system for any orders that might restrict access. If there is a publication ban order affecting the file, court staff will inform the person who is requesting access. Note, however, that a publication ban order prohibits only publication, not access.

3.1 *Adult Guardianship and Trusteeship Act (AGTA)*

This Act came into force on October 30, 2009, replacing the *Dependent Adults Act (DAA)* except for matters already commenced under the *DAA*. Records under *AGTA* are generally accessible. Under *AGTA*, a judge may make an order

- **limiting the persons** who may be present at all or part of a hearing,
- requiring that all or part of the hearing be held in **private**,
- **restricting access** to information given at hearing or contained in documents filed with or received by the court, or
- **restricting publication** of information given at hearing or contained in documents filed with or received by the court.

These orders would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).

Reference Table 12

Adult Guardianship and Trusteeship Act (AGTA)

- For court staff procedure on **private hearings** (*AGTA* s. 113(2) (a) or (b)), see [Private Hearings](#), on page [11](#).
- For court staff procedure on **publication ban orders** (*AGTA*, s. 113(2)(c) (“restricting publication”)), see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

- For court staff procedure on **sealing orders** (*AGTA*, s. 113(2)(c) (“restricting access”)), see [Sealed Court Files or Documents](#), on page 13.

***Dependent Adults Act* matters**

The *Dependent Adults Act* (*DAA*) continues to apply to matters that had been commenced under the *DAA* when it was in force. Documents in *DAA* files are accessible to the general public, with some exceptions.

Accessible

- The Notice of Motion to have a person declared a dependent adult.
- The Order declaring someone a dependent adult.

Not accessible

- The affidavit in support of an application, including the physician’s or psychologist’s report.

Limited access

- Court staff will check with the Public Trustee or Public Guardian before allowing an interested party (an adult person who is concerned for the welfare of the proposed dependent adult) access to documents dealing with the personal history or records of the dependent adult that were obtained by the Public Trustee or Public Guardian.
- Court files are accessible if, in the Public Trustee’s or Public Guardian’s opinion, disclosure is in the best interests of the dependent adult.
- Court files are accessible with the Minister’s written consent. *Dependent Adults Act*, sections 1(i), 49(1), 49(4.1)

4. Restrictions on Access to Family Matters

4.1 General

Family matters can be heard in the Provincial Court, Court of Queen’s Bench, or Court of Appeal, depending on the situation.

Some court files in family matters are subject to confidentiality requirements or [publication bans](#) required by law or court order. Before providing access, court staff will check the court file for any specific restrictions.

For information about access to exhibits in family matters, see page [48](#).

Reference Table 13

Court of Queen’s Bench matters

Assessment by parenting expert

The parents may view the Report but may have copies only with prior leave of the court. Legal counsel may not provide copies of the Report or disclose its contents to anyone, other than their client or experts retained for the client. The children must not see the Report or receive copies of it.

[Family Practice Note 7](#), s. 35

The Assessment Order will state that the Assessment is not confidential, unless the Expert considers that information disclosed by the children should not be disclosed to the parents. In that event, the Expert must bring the concern to the Court and the Court may order that information be kept confidential. (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).)

[Family Practice Note 7](#), s. 40

Allegation of child sexual abuse

For family matters in the Court of Queen’s Bench, when an allegation of child sexual abuse is made against a parent in a proceeding for [custody](#) and access, court staff must seal related forms and reports in the court file.

[Family Practice Note 8](#)

Provincial Court matters

Child protection references in family files

Court staff must always review family files and remove any references to Children's Services matters before providing the files to a member of the public.

4.2 Family Law Act (FLA)

The [Family Law Act \(FLA\)](#) came into force on October 1, 2005. It applies to family matters, but does not include divorce, adoption, or child protection matters. *FLA* matters may be heard in either Provincial Court or the Court of Queen's Bench.

Under this *Act*, the court may order a [private hearing](#). (As mentioned above, private hearings are rare.) The [parties](#), their lawyers, and the child's lawyer cannot be excluded. The court may also order a publication and broadcast ban on any report of a proceeding that may identify the child. These orders are discretionary; see section [2.3](#) on page [9](#).

Reference Table 14

The *Family Law Act* came into force on October 1, 2005. Files that were commenced under previous statutes are usually continued under this *Act*.

- For court staff procedure on **private hearings** (*FLA*, s. 99), see [Private Hearings](#), on page [11](#).
- For court staff procedure on **publication ban orders** (*FLA*, s. 100), see "[Orders Restricting Access or Publication – Instructions](#)" in [Appendix A](#).

Note: The *Parentage and Maintenance Act (PMA)* is one of the statutes replaced by the *FLA*. *PMA* files are confidential. However, new applications in the same matter are usually brought as *FLA* applications, and that portion of the file is generally accessible. When a new *FLA* application is filed,

- Staff convert the *PMA* file to an *FLA* file, removing the "Confidential" indicator in CASES.
- The *PMA* documents in the file are stored in an unsealed envelope in the file. The envelope is endorsed with the style of cause, action number and "Confidential".

4.3 Divorce Act

The [Divorce Act](#) applies to all matters involving divorce, and may include spousal support, child support, [custody](#), or access. Divorce matters are heard in the Court of Queen’s Bench.

There are no statutory [publication bans](#) or restrictions on access to court files under the *Divorce Act*. A presiding judge may order a publication ban, sealing order, or other restriction on access or publication. (These orders would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).)

Reference Table 15

Divorce Act matters

- The procedure to apply for a discretionary order that restricts access or publication is set out in [Civil Practice Note 12](#).
- For court staff procedure on publication ban orders and sealing orders, see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

4.4 Adoption

The adoption of children falls under the [Child, Youth and Family Enhancement Act](#) (*CYFEA*). Court files under this Act are confidential. Adoption matters are heard in the Court of Queen’s Bench. Hearings are private and adoption records are sealed.

Reference Table 16

Adoption

The information on the Hearing List is confidential and cannot be posted.

- Court staff cannot disclose the existence of an adoption file to any member of the public or media.

For rules about disclosing adoption information to adopted children, adoptive parents, birth parents, and others after the adoption, see *CYFEA*, sections 74.2 to 75. The Post-Adoption Registry submits the request to the court.

Hearings are normally held in private. The court may order that an adoption hearing be held publicly.

(CYFEA, section 68)

The court may order that a previous adoption order be set aside.

(CYFEA, section 73.1)

- For court staff procedure for **distributing an adoption order**, see *CYFEA*, section 74.
- For court staff procedure when an **adoption order is set aside**, see *CYFEA*, section 73.1(4).

Judgments in adoption matters may be released for publication on the order of the presiding judge. Judgments must not identify the child or members of the birth or adoptive families.

(CYFEA, section 74.1 and section 126.2)

Adoptions commenced before November 1, 2004, fall under the *Child Welfare Act*. This Act has similar provisions to those under the *Child, Youth and Family Enhancement Act*.

The [Adult Adoption Act](#) applies to the adoption of people who are 18 years of age or older. A petition for adoption under this Act may be heard in private. That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#). For information on access to files from private hearings, see page [11](#).

Reference
Table 17

For court staff procedure on **private hearings**, see [Private Hearings](#), on page [11](#).

4.5 Child Protection Matters

Child protection matters are heard in Provincial Court.

Most child protection matters fall under the [Child, Youth and Family Enhancement Act](#). Some child protection matters may fall under the [Protection of Sexually Exploited Children Act](#), the [Drug-Endangered Children Act](#), or the [Protection of Children Abusing Drugs Act](#).

A. ***Child, Youth and Family Enhancement Act (CYFEA)***

Personal information relating to children and guardians under [CYFEA](#) is confidential. There is no public access to court files under this Act. Those involved in a civil action may apply to a judge for disclosure of a record that contains information held under this Act.

Proceedings commenced before November 1, 2004, fall under the *Child Welfare Act*, which has provisions that are similar to *CYFEA*'s.

| | |
|------------------------------|--|
| Reference Table 18 | <p><i>Child, Youth and Family Enhancement Act (CYFEA)</i></p> <p>Confidential records</p> <p>Records under the <i>Act</i> must be kept confidential. (CYFEA, section 126)</p> <ul style="list-style-type: none"> ● Personal information under the <i>Act</i> can be disclosed only as specifically permitted in the <i>Act</i>. <p>Court staff can disclose personal information under the <i>Act</i> only to:</p> <ul style="list-style-type: none"> ● Any person or organization if the disclosure is necessary for services to the child or the child's family. ● The child's guardian or the guardian's lawyer. ● The child or the child's lawyer. ● Administrators of child protection legislation in other Canadian jurisdictions. <p>(CYFEA, section 126)</p> <ul style="list-style-type: none"> ● To a person involved in a civil matter under the <i>Act</i> or another act, with a court order for disclosure. (CYFEA, section 126.11) |
|------------------------------|--|

The judge may order that all or part of a hearing be held as a [private hearing](#). That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).

Reference
Table 19**Child, Youth and Family Enhancement Act (CYFEA)****Private Hearings**

The court can order anyone, including a child or the child's guardian, to be excluded from all or part of the proceedings. A director or a lawyer representing the [parties](#) cannot be excluded.

([CYFEA](#), section 24)

- For court staff procedure on private hearings, see [Private Hearings](#), on page [11](#).

Medical Records

An application regarding the admissibility of medical records must be heard in private when the records were kept by a hospital board, a mental health board, the Chief Medical Examiner or the Alberta Alcohol and Drug Abuse Commission (AADAC).

([CYFEA](#), section 109)

Sealed Records

After proceedings concerning medical records:

- The records are sealed.
- That part of the proceeding's record (including the transcript or written [judgment](#)) is not made available to the public, and
- A Queen's Bench appeal of an order made during the proceedings must also be heard in private.

([CYFEA](#), section 109)

- In the Court of Appeal, the application must be made to one justice in Chambers (see [Part F., Motions](#), in the Court of Appeal Consolidated Practice Directions).

Under the *Act*, no one may publish information that could identify a child or child's guardian who has come to the attention of the Minister of Children and Youth Services or a director of Children and Youth Services.

| | |
|------------------------------|--|
| Reference Table 20 | <p><i>Child, Youth and Family Enhancement Act (CYFEA)</i></p> <p>Identity not to be published</p> <p>This provision affects judgments and any other court documents intended for publication.</p> <p>Anyone who does publish identifying information is liable to a fine of up to \$10,000 or up to 6 months' imprisonment in default of payment. There are exceptions that allow a director or a child 18 or over to publish or consent to the publication of identifying information.</p> <p style="text-align: right;">(CYFEA, section 126.2)</p> |
|------------------------------|--|

B. Protection of Sexually-Exploited Children Act (PSECA)

The same access restrictions apply under *PSECA* as under *CYFEA*. Members of the public and media cannot have access to the court file, and personal information relating to children and guardians is confidential.

The judge may order that all or part of a hearing be held as a private hearing. (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).) No one may publish information that could identify a child or child's guardian who has come to the attention of the Minister of Children and Youth Services or a director of Children and Youth Services under the *Act*.

| | |
|------------------------------|--|
| Reference Table 21 | <p><i>Protection of Sexually-Exploited Children Act (PSECA)</i></p> <p>If a director does not return an apprehended child within two days, the child is deemed to have been apprehended under <i>CYFEA</i>, section 19.</p> <p style="text-align: right;">(PSECA, section 3(3))</p> <p>The privacy provisions of <i>CYFEA</i> apply. See the section on CYFEA.</p> <p>No one may publish information that could identify a child or child's guardian who has come to the attention of the Minister of Children and Youth Services or a director of Children and Youth Services under the <i>Act</i>.</p> <p style="text-align: right;">(PSECA, section 6.3)</p> |
|------------------------------|--|

The court can order a private hearing. A director or a lawyer for a party cannot be excluded.

([PSECA](#), section 6.2)

- For court staff procedure on private hearings, see “[Private Hearings](#)” on page [11](#).

C. *Drug-Endangered Children Act (DECA)*

The same access restrictions apply under *DECA* as under *CYFEA*. Members of the public and media cannot have access to the records, and personal information relating to children and guardians is confidential.

No one may publish a report of a proceeding under the act that contains identifying information about the children or guardians involved, except with the court’s consent.

Reference Table 22

If a director does not return an apprehended child within two days, the child is deemed to have been apprehended under *CYFEA*, section 19.

([DECA](#), section 5)

- The privacy provisions of *CYFEA* apply. See the section on [CYFEA](#).

D. *Protection of Children Abusing Drugs Act (PChAD)*

The same access restrictions apply under *PChAD* as under *CYFEA*. Members of the public and media cannot have access to the records, and personal information relating to children and guardians is confidential.

The judge may order that all or part of a hearing be held as a [private hearing](#). (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).) No one may publish a report of a proceeding under the act that contains identifying information about the children or guardians involved, except with the court's consent.

**Reference
Table 23*****Protection of Children Abusing Drugs Act (PChAD)***

If a director does not return an apprehended child within two days, the child is deemed to have been apprehended under *CYFEA*, section 19.

([PChAD](#), section 5)

- The privacy provisions of *CYFEA* apply. See the section on [CYFEA](#).
- For court staff procedure on private hearings ([PChAD](#), section 6), see “[Private Hearings](#)”, on page [11](#).

4.6 Family Violence Matters

The *Protection Against Family Violence Act (PAFVA)* allows a person who has been the subject of family violence to apply for a [protection order](#). Court staff must keep the [claimant](#)'s location confidential, unless the claimant consents to disclosing this information.

The judge may order that all or part of a hearing be held as a private hearing. (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).) For information on access to files from private hearings, see page [11](#).

The court can order a [ban](#) on publishing a report of a hearing or of any part of a hearing. (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).) Some ban orders only affect publishing information about the claimant's identity.

**Reference
Table 24*****Protection Against Family Violence Act (PAFVA)***

Court staff must keep the claimant's location confidential, unless the claimant or a person acting on the claimant's behalf consents to disclosure.

([PAFVA](#), section 8)

- It is rare for a claimant to consent to disclosure. There is no form for this. If a claimant consents, court staff should make a notation on the file.

For court staff procedure on **private hearings** ([PAFVA](#), section 8), see "[Private Hearings](#)", on page [11](#).

For court staff procedures on **publication ban orders** ([PAFVA](#), section 8), see "[Orders Restricting Access or Publication – Instructions](#)" in [Appendix A](#).

5. Restrictions on Access to Youth Criminal Matters

5.1 General

Youth criminal matters can be heard at any level of court: Provincial Court, Court of Queen’s Bench, or Court of Appeal. Court files are confidential. Publication [bans](#), including those under the *Criminal Code*, may apply in youth matters.

Reference
Table 25

For other bans, see the section on [Criminal Matters](#) on page [36](#).

Daily court lists providing the courtroom locations for youth matters are posted in courthouses, and court staff can generally provide the next court date in a youth matter. The request for the next court date should include the young person’s full name and the court location. If the full name is not known, the request should if possible include the young person’s initials, the court location, and the last court date. If the court has ordered a private hearing in the matter, court staff can provide the date but will also inform the inquirer that the hearing is private and members of the public will not be able to attend.

5.2 Youth Justice Act (Alberta)

This provincial act applies to proceedings commenced against young persons under the [Provincial Offences Procedures Act](#). (For federal offences, see the section on the *Youth Criminal Justice Act*, below.)

Court files under this Act are not generally available to members of the public or the media, except with the Minister’s written authorization. Court staff can provide the application form (“Application for Release of Young [Offender](#) Data”), and can fax the completed application to the Chair of the Youth Transition Team.

Reference
Table 26

[Youth Justice Act \(Alberta\)](#)

Access to Records

Youth records must be kept separate from records of proceedings in adult court. During the proceedings and the sentence, only the following people can access the file:

- the counsel or parent of the young person,
- the [provincial director](#) appointed under the *Youth Criminal Justice Act*,
- a judge who hears the appeal on the proceeding, or
- the Alberta Minister of Justice, the Minister's agent, or anyone *with* the Minister's written authorization (a "Ministerial Order").

([YJA](#), section 33)

Application to Access Young Offender's Record

After the proceedings are completed, only the Minister or someone with the Minister's written authorization ("Ministerial Order") can see the file.

([YJA](#), section 33)

Reference:

Application for Access AFTER Disposition
– Provincial Statute Offences

Under this Act, no one may publish information that could identify:

- a young person who is
 - an [accused](#),
 - a witness, or
 - a victim,
- in connection with an
 - [offence](#) or alleged offence under the *Act*, or
 - a court proceeding under the *Act*.

Identifying information may be disclosed to assist with justice administration if the intention is not to make the information known in the community.

A youth court justice may make an order permitting the publication of information that could identify the child or young person, if the child or young person applies and the justice is satisfied that publication would not be contrary to the best interests of the child or young person.

**Reference
Table 27**

Court staff may use identifying information in [court records](#), including the computer registry system and [docket](#) lists. Court staff can release [judgments](#) for distribution only if they do not include identifying information.

Youth Justice Act (Alberta), section 24(2)

5.3 Youth Criminal Justice Act (Federal)

The *Youth Criminal Justice Act* applies to federal [offences](#). Proceedings commenced before April 1, 2003 or concerning offences that occurred before April 1, 2003, fall under the *Young Offenders Act*, which has similar provisions to the *Youth Criminal Justice Act*.

A. Access to Records

Members of the public and media cannot access court files under the *Youth Criminal Justice Act*, unless they have a court order. However, if the young person received 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, then the rules for accessing adult criminal records will apply (see page [36](#)).

**Reference
Table 28****Youth Justice Files**

An [accused](#) and [counsel](#) are each entitled to one free copy of the [information](#) and [endorsements](#).

Criminal Code, [section 603](#)

Forms:

Application to Access Young Offender Data
Application to Access Young Offender Record

Access to records under the act is strictly limited. The Act says that the criminal justice system for young persons must be separate from that for adults; included in the requirements of the act is “procedural protection to ensure that young persons are treated fairly and that their rights, including their right to privacy, are protected”: section 3(1)(b)(iii). There are limits on who can access records and on the time period during which the records are accessible.

Records are available to members of the public or media only if they have a court order, which will only be available in limited circumstances (see item (s) in Table 29, below). These restrictions do not apply to the records of young persons who

received an adult sentence. The [Criminal Records Act](#) applies to those records, and they can be released to anyone who is entitled to them under the *Criminal Code*.

Access periods for *YCJA* records are listed in the following table.

| Access periods for YCJA records | | |
|---------------------------------|--|--|
| Section 119(2) | Category | Access only within |
| (a) | Extrajudicial sanction | 2 years after the youth agrees to the sanction |
| (b) | Acquittal | 2 months after appeal period, or if an appeal is held, 3 months after the end of the proceedings |
| (b) | Not criminally responsible | No time limit specified |
| (c) | Charge is withdrawn or dismissed, or youth receives a reprimand after being found guilty | 2 months after the withdrawal, dismissal, or finding of guilt |
| (d) | Charge is stayed | 1 year after stay |
| (e) | Absolute discharge | 1 year after youth is found guilty |
| (f) | Conditional discharge | 3 years after youth is found guilty |
| (g) | Summary offence | 3 years after youth completes sentence for that offence |
| (h) | Indictable offence | 5 years after youth completes sentence for that offence |

| Extending the access period | | |
|---|-------------------------------|---|
| Further offences during the access period | | |
| Section 119 | Category | Access within |
| (2)(i) | Summary offence while a youth | The latest of <ul style="list-style-type: none"> - access period for the first offence - 3 years after youth completes sentence for new offence |

| Extending the access period | |
|---|--|
| Further offences during the access period | |
| (2)(j) Indictable offence while a youth | The latest of <ul style="list-style-type: none"> - access period for the first offence - 5 years after youth completes sentence for new offence |
| (9) Offence as an adult, during access period for a summary or indictable offence | Access provisions no longer apply; <ul style="list-style-type: none"> - record for the accessible offence is dealt with as an adult record - s. 82 (effect of absolute discharge or termination of sentence) does not apply to the accessible record |

| Persons Permitted to Access Youth Records | |
|--|--|
| Reference Table 29 | <p>Records can be disclosed only to people listed in <i>YCJA</i>, section 119(1). They are listed below.</p> <ul style="list-style-type: none"> (a) The young person (b) The young person's lawyer or the lawyer's representative (c) The Attorney General (d) The victim of the offence (e) The young person's parents or guardians during the proceedings and sentence (f) An adult permitted by the court to assist the young person during the proceedings and sentence (g) A peace officer (h) A judge, court or review board (i) The provincial director or the director of the correctional facility or penitentiary (j) Anyone participating in a conference or extrajudicial measures program (k) An ombudsman, or a privacy or information commissioner (l) A coroner or a child advocate appointed by the legislature or parliament |

Persons Permitted to Access Youth Records

- (n) A member of a department or agency of a Canadian government, or an organization under contract, in relation to duties relating to the young person or the Act
- (o) A person carrying out a criminal record check for a government in Canada
- (p) An agent or employee of the Government of Canada for statistical purposes
- (q) An [accused](#) or [counsel](#), with an affidavit swearing that access to the record is necessary for a full answer and defence
- (r) Anyone, by order in counsel of the Governor General or lieutenant governor
- (s) Other people can have access if they obtain a court order.

The judge must be satisfied that access to the record is

- (i) in the public interest for research or statistical purposes, or
- (ii) in the interest of the proper administration of justice.

(YCJA, [section 119\(1\)\(s\)](#))

If the court has withheld a medical, psychological or pre-sentence report from a person, that person must not be given access to the report.

(YCJA, [section 119\(5\)](#))

Only certain persons can have access to medical and psychological reports or the results of a [forensic](#) DNA analysis.

(YCJA, [section 119\(6\)](#))

Court staff who maintain the records also have access.

i. Identity not to be Published

Generally, no one may publish the name of a young person or other information if it would identify them as being dealt with under the *Youth Criminal Justice Act*, whether as an [accused](#), or as a victim or witness. However, there are some exceptions to this rule. The chart below describes the exceptions that allow publication of a youth's name or identifying information.

| Offence or Circumstances | Identifiable? | YCJA section |
|---|--|--|
| Youth receives an adult sentence | Yes | 110(2)(a) |
| Youth receives a youth sentence for a ' presumptive offence ' (an offence for which an adult could be sentenced to two or more years) | Yes, unless – prosecutor notified court that an adult sentence would not be sought; judge must order a ban – judge ordered a ban | 110(2)(b) , 65 75 |
| Youth is at large and police have applied for publication | Yes, if ordered by a judge; maximum 5 days | 110(4) , (5) |
| Youth is 18 or older and wants to publish | Yes, youth may publish or cause to be published, unless in custody | 110(3) |
| Youth is under 18, but applies to the court to publish | Yes, with court order | 110(6) |

The chart below describes the exceptions allowing publication of a young victim's or witness's name or identifying information.

| Who can publish or cause to be published? | When? | YCJA section |
|---|---|---|
| Victim or witness | 18 or over | 111(2)(a) |
| Victim or witness | Under 18 – with parent's consent – with court order | 111(2)(a) 111(3) |
| Parents | Child is deceased | 111(2)(b) |

ii. Private hearing

The judge may order that all or part of a hearing be held as a [private hearing](#). (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).)

Reference
Table 30

Private hearing

Youth Criminal Justice Act ([YCJA](#)), [section 132](#)

For court staff procedure on private hearings, see "[Private Hearings](#)", on page [11](#).

6. Restrictions on Access to Criminal Matters

Files dealing with criminal matters are generally available to the public after the accused has been arrested or has received a summons. At that point, the accused knows of the charge they are facing. There are exceptions when the law or a court order limits access or publication. These exceptions are outlined below.

For information on access to exhibits in criminal law matters, see page [49](#).

Reference Table 31

Criminal Files

An [accused](#) and [counsel](#) are each entitled to one free copy of the [Information](#) and [endorsements](#).

Criminal Code, [section 603](#)

6.1 Warrants

A [warrant](#) is a court order that authorizes a specific act, such as an [arrest](#) or a search of someone's home. Most types of warrants can be issued in either Provincial Court or the Court of Queen's Bench. Wiretap warrants are issued only in the Court of Queen's Bench.

A. Types of Warrants

| Type of Warrant | What the warrant gives legal authority for |
|---|---|
| Arrest warrant | To take a person into custody and deprive them of liberty |
| Blood warrant | To draw blood for various driving offences to detect drugs or alcohol |
| <i>Controlled Drugs and Substances Act</i> warrant | To search a building, place, or receptacle for controlled substances |
| DNA warrant | To obtain DNA samples from suspects for comparison to samples seized during an inspection |

| Type of Warrant | What the warrant gives legal authority for |
|--------------------------------|---|
| Feeney warrant | To enter into a dwelling or other place to apprehend a fugitive or suspect |
| General warrant | To perform a procedure, such as allowing the police to enter upon private property to look through a window to observe evidence |
| Number recorder warrant | To place a device to identify the telephone number or location of the telephone used to place or receive a call |
| Search warrant | To search a building, place, or receptacle |
| Tracking warrant | To place a device in or on any thing (often a vehicle) in order to track it during an investigation. |
| Wiretap warrants | To place a listening device on a phone or in a residence or vehicle |

i. Informations and Warrants for Arrest

An [Information](#) is the court document that starts the prosecution of most [offences](#). It is a [statement](#) in writing and under [oath](#) that someone has committed an offence. In law, any person may appear before a judge or [hearing officer](#) to lay a private Information, but in practice they are almost always laid by police officers. Based on the Information, a judge may issue either a [summons](#) or a warrant for the [accused's arrest](#).

Informations are accessible after the accused has been arrested or has received a summons. Warrants for arrest are not usually filed with the court.

ii. Search Warrants

A [search warrant](#) is a court order that directs owners of private property to allow the police to enter and search for items named in the warrant. Applications to obtain a search warrant are heard in private.

Search warrants are accessible to the public and media if:

- the warrant was not sealed by a court order,
- the warrant was executed, and

- the police officer has filed a written “Report to a Justice”.

Members of the public and media can then inspect the report, the warrant, and the “Information to Obtain” the warrant.

| | |
|--------------------------------------|---|
| <p>Reference Table 32</p> | <p>Unsuccessful applications</p> <p>Court staff will return all documents connected with unsuccessful applications to the applicant with express instructions that on reapplication, the next judge or justice of the peace must be advised of the failed application.</p> <p>Unexecuted warrants</p> <p>Court staff cannot confirm the existence of an unexecuted warrant. The person requesting access must have confirmation that the warrant exists and has been executed. Without this confirmation, staff can only confirm whether they would be able to provide access to a warrant of that type, if one existed and if it had been executed.</p> <p>Executed Warrants</p> <p>Executed warrants are accessible by the public unless sealed.</p> |
|--------------------------------------|---|

A judge may make an order sealing a warrant and all documents relating to the application for the warrant. (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).) Unless specifically ordered by the judge, the [sealing order](#) itself is not sealed.

Sealing orders may be limited:

- to expire on a certain date, or a certain number of days after the warrant was executed, or
- by any limitation on the complete sealing of the “Information to Obtain” the warrant (examples include the use of [pseudonyms](#) for confidential informants and sealing only certain parts of a document).

| | |
|--------------------------------------|--|
| <p>Reference Table 33</p> | <p><i>Criminal Code</i>, section 487.3 – sealing order for a warrant or other authorization.</p> |
|--------------------------------------|--|

iii. Wiretap Warrants (Interception of Private Communications)

Wiretap warrants allow police to lawfully place a listening device on a person's phone, or in a residence or vehicle.

All documents relating to an application to intercept communications are confidential and are sealed in a packet by the judge immediately on deciding on the application.

| | |
|------------------------------|---|
| Reference Table 34 | Wiretap Warrants When the application is made by telephone or fax, the facsimile of the authorization remains with the applicant. <i>Criminal Code, section 184.3</i> The packet cannot be opened: <ul style="list-style-type: none"> ● Unless the agent is before a Queen's Bench Justice on application for renewal, or ● With a Queen's Bench Order. All wiretap and electronic surveillance matters are confidential. Court staff will provide information to a Crown Prosecutor only on presentation of the proper control number. <i>Criminal Code, section 187</i> |
|------------------------------|---|

6.2 Production Orders

A judge may order a person to produce a document, or to prepare and produce a document from data under the person's care and control. The application for a production order is heard in private. The documents produced are not available to the public. For records that have been admitted into evidence, see the section on [Exhibits](#), on page [48](#).

When the application for a production order concerns a [personal information record](#) of a [complainant](#) in a sexual assault matter, no one may publish information about the application, the hearing, or the judge's decision. The judge may make an order that permits publishing the decision.

Reference
Table 35

Criminal Code

- [section 278.4](#), production of personal information record; hearing must be held in camera
- [section 278.9](#), publication ban unless judge orders that the decision may be published
- [section 488.1\(10\)](#), claim of privilege for a document; hearing in camera

For court staff procedure on private hearings, see “[Private Hearings](#)”, at page [11](#).

6.3 Judicial Interim Release ([Bail](#))

Members of the public can attend [bail](#) and bail review hearings, and these court files are accessible. However, a judge may order a ban on publishing information about the hearing. The ban continues until the [accused](#) is [discharged](#) or, if [ordered to stand trial](#), until the end of the accused’s [trial](#).

Reference
Table 36

Publication Ban

- For court staff procedures on [publication ban](#) orders, see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).
- The form “Orders Restricting Publication or Access” has an item for noting bail and bail review bans under the *Criminal Code*, [section 517](#).

Note:

- A ban ordered by the Court of Appeal on a bail appeal is a common-law order and court staff should note the ban in Part IV of the form.
- This would be a discretionary order. For more about discretionary orders, see section [2.3](#) on page [9](#).)

6.4 Preliminary Inquiry

The public can attend [preliminary inquiries](#), and these [court records](#) are accessible. However, a judge may order a ban on publishing information about the hearing. The ban continues until the [accused](#) is [discharged](#) or, if ordered to stand trial, until the end of the accused’s trial.

There is a statutory ban on publishing information about an admission or [confession](#) in a preliminary inquiry. The ban continues until the accused is [discharged](#) or, if ordered to stand trial, until the end of the accused’s trial. The judge may order that the hearing be held in private. (That order would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).) For information on access to files from private hearings, see page [11](#).

Reference Table 37

- Preliminary inquiry publication ban order – *Criminal Code*, [section 539](#)
 - For court staff procedures on **publication ban orders**, see “[Orders Restricting Access or Publication –Instructions](#)” in [Appendix A](#).
- Admission or confession (statutory ban on publication) – *Criminal Code*, [section 542\(2\)](#)
- Order for private hearing – *Criminal Code*, [section 537\(1\)](#)
 - For court staff procedure on **private hearings**, see “[Private Hearings](#)”, on page [11](#).

6.5 Jurors

Proceedings to [empanel](#) (select) a [jury](#) are open to the public. The court may order a ban on publishing the names or identifying information of jurors. Also, a judge may order the court clerk to call out only the number, and not the name, on juror cards. (Those orders would be discretionary. For more about discretionary orders, see section [2.3](#) on page [9](#).)

There is a statutory ban on publishing any portion of the trial at which the jury is not present, until the jury retires to consider its verdict. (A part of the trial held when the jury is not present is usually called a *voir dire*. It is a mini-trial within the

trial during which the counsel present arguments to the judge about whether certain evidence should be permitted to be presented during the trial itself.)

Reference
Table 38

For court staff procedures on **publication ban orders**, see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

Reference:

The judge may order the clerk to call out only the numbers on juror cards.

Criminal Code, [section 631\(3.1\)](#)

The judge may order a [publication ban](#) on the names and identifying information of a juror.

Criminal Code, [section 631\(6\)](#)

Statutory ban on publishing information from a trial heard during the jury’s absence, until the jury retires to consider its verdict.

Criminal Code, [section 648](#)

6.6 Complainants, Witnesses, and Justice System Participants

A. Name or identifying information

The judge may order a ban on publishing the name or identifying information of a [complainant](#), witness, or [justice system participant](#).

In proceedings concerning sexual offences, usury or extortion, the judge must advise a complainant, or a witness who is under age 18, of the right to apply for a publication ban. The judge must make the publication ban order if the complainant or the witness applies for it.

In proceedings concerning any offence, the judge may make an order banning publication of a witness’s identity. The judge may also make this order to protect justice system participants in proceedings concerning criminal organizations, terrorism, or the [Security of Information Act](#). These would be discretionary orders. For more about discretionary orders, see section [2.3](#) on page [9](#). The hearing to decide an application for the ban may be held in private. For information on access to files from private hearings, see page [11](#).

In proceedings concerning child pornography, the judge must always make the order banning publication of the victim’s identity.

| | |
|--------------------------------------|--|
| <p>Reference Table 39</p> | <p>Files subject to a publication ban remain accessible to the public, unless there is also a sealing order on the file.</p> <p>Identification Ban (<i>Criminal Code</i>, sections 486.4, 486.5)</p> <ul style="list-style-type: none"> • Judgments affected by this ban can be distributed and published if they do not contain identifying information about the protected person. • For court staff procedures on publication ban orders, see “Orders Restricting Access or Publication – Instructions” in Appendix A. • For court staff procedure on private hearings, see “Private Hearings”, on page 11. |
|--------------------------------------|--|

B. Prior Sexual Conduct

The application for a hearing to decide whether evidence of a sexual assault [complainant](#)’s prior sexual conduct is admissible in court must be heard in private. The hearing itself must also be heard in private. For information on access to files from private hearings, see page [11](#).

| | |
|--------------------------------------|---|
| <p>Reference Table 40</p> | <p><i>Criminal Code</i>, section 276.1(3).</p> <p>For court staff procedure on private hearings, see “Private Hearings”, on page 11.</p> |
|--------------------------------------|---|

There is a ban on publishing all of:

- the contents of an application for a hearing,
- the evidence, information, and argument from the application or the hearing,
- the judge’s decision on the application for a hearing, and
- the judge’s decision on admitting the evidence,

unless the judge decides that the evidence is admissible, or the judge orders that the decision and reasons may be published.

Reference
Table 41

Criminal Code, [section 276.3](#)

C. Personal Information Records

In a sexual assault matter, an [accused](#) may apply to admit a [complainant](#)'s or witness's [personal information record](#) into evidence.

- The judge must hold a [private hearing](#) to decide whether the person who has the record must produce it for the judge to review.
- After the judge reviews the record, the judge may hold a private hearing when deciding whether the record should be produced to the accused.

For information on access to files from private hearings, see page [11](#).

Reference
Table 42

Criminal Code, [section 278.4\(1\)](#), [278.6\(2\)](#).

For court staff procedure on **private hearings**, see "[Private Hearings](#)", on page [11](#).

There is a ban on publishing:

- the application to have the record provided to the accused,
- the evidence, information, or argument
 - from the hearing to decide whether the record must be provided to the judge for review, and
 - from the hearing to decide whether the record must be provided to the accused, and
- the judge's decision and reasons for the decision from either hearing, unless the judge orders that the decision may be published.

Reference
Table 43

Criminal Code, [sections 278.4\(1\)](#), [278.6\(2\)](#).

- Decisions concerning a production of records application may be affected by a ban on publishing the complainant's name or identifying information (*Criminal Code*, [section 486.4](#)).
- If the judge orders that the decision can be published, and the

section 486.4 ban is on file, the [judgment](#) must not contain identifying information about the complainant.

For court staff procedures on **publication ban orders**, see “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

6.7 Privilege

A claim of privilege is a claim that a document does not need to be provided to the other party. A hearing to decide a claim of privilege for a document in the possession of a lawyer must be heard in private. For information on access to files from private hearings, see page [11](#).

Reference Table 44

Criminal Code, [section 488.1\(10\)](#).

For court staff procedure on **private hearings**, see “[Private Hearings](#)”, on page [11](#).

6.8 Absolute and Conditional Discharges

Upon conviction, if the judge orders an absolute discharge, the offender is regarded as not having been convicted of the offence. The offender cannot again be charged with same the offence. However, the police keep a record of the absolute discharge and it can be used against the offender if the offender commits another offence. A conditional discharge requires the offender to follow certain rules for a specified time. The conditional discharge becomes absolute if the offender complies with the conditions.

When an accused receives a [discharge](#), and

- it has been more than one year since an [absolute discharge](#), or
- it has been more than three years since a conditional discharge,

court staff cannot tell an inquirer that the file exists, unless the inquirer is the person who is the subject of the discharge or that person’s lawyer.

Reference Table 45

Criminal Records Act, [section 6.1](#).

[Accused](#) or [counsel](#) must apply in writing.

6.9 Pardons

After a pardon has been granted for an [offence](#), court staff cannot tell an inquirer whether the file exists, unless the inquirer is the person who is the subject of the pardon or that person's lawyer. Disclosure to any other person requires prior approval by the Minister (that is, the Solicitor General of Canada).

Reference
Table 46

Criminal Records Act, [sections 5\(b\), 6](#).

[Accused](#) or [counsel](#) must apply in writing.

6.10 Mental Disorder

An [accused's](#) mental state may become an issue before or during the [trial](#). A court may direct an inquiry into the accused's fitness to stand trial. Even if an accused is fit to stand trial, he or she may be found to be not criminally responsible due to a mental disorder. If either condition is found, the accused will be [discharged](#) unless the court or review board finds that the accused is a serious threat to public safety.

Mental disorder means any illness or condition that impairs the mind, but it does not include:

- impairment caused by the accused's own choice to take drugs or alcohol, or
- temporary states such as hysteria or concussion.

Unfit to stand trial means that, because of a mental disorder, the accused cannot:

- understand the nature or purpose of the trial,
- understand the consequences of the trial, or
- give instructions to legal [counsel](#).

Not criminally responsible means that a mental disorder made the accused unable to:

- understand the physical consequences of the act, or
- know that it was morally and legally wrong.

Reference
Table 47

The court must keep a record of the proceeding and include the assessment report in it.

Criminal Code, [section 672.52\(1\)](#)

Immediately after a disposition, the court must send the following to the Review Board:

- a [transcript](#) of the hearing;
- all documents and information in the court’s possession; and
- the [exhibits](#) or copies of the exhibits.

Criminal Code, [section 672.52\(2\)](#)

The court must provide every party with a copy of the disposition and its reasons for making the disposition.

Criminal Code, [section 672.52\(3\)](#)

The court may order that a mental disorder disposition hearing be held in private. (That order would be discretionary. For more about discretionary orders, see [section 2.3](#) on page [9](#).) For information on access to files from private hearings, see page [11](#).

**Reference
Table 48**

Criminal Code, [section 672.5\(6\)](#).

For court staff procedure on private hearings, see “[Private Hearings](#)”, on page [11](#).

Court staff cannot disclose disposition information to the public, and there is a [publication ban](#) if:

- the information was withheld from the accused or another party, or
- the judge or the Review Board finds that the disclosure would be seriously prejudicial to the accused or another person.

**Reference
Table 49**

Criminal Code, [section 672.51\(7\)](#), [\(8\)](#).

Anyone from whom the disposition information was withheld must also be excluded from the proceedings where the disposition information is presented.

Criminal Code, [section 672.51\(6\)](#)

- Court staff must note orders withholding disposition information on the “Orders Restricting Access or Publication” form, as they result in a restriction on access. See “[Orders Restricting Access or Publication – Instructions](#)” in [Appendix A](#).

7. Restrictions on Access to Exhibits

[Exhibits](#) are documents or objects provided as evidence in court. Unlike records produced by the court or pleadings and affidavits filed by [parties](#), exhibits are the property of parties or non-parties, but the court maintains supervision over them. When considering a request for access to an exhibit, the court weighs factors such as the effect that access would have on privacy interests or on the right to a fair trial.

Reference
Table 50

Request for Exhibit: see Table 7 on page [12](#).

7.1 Exhibits in Civil Matters

In civil matters, most [exhibits](#) are documents or reports, and are sometimes retained on the file permanently. Anyone may ask to view or copy exhibits in civil matters. Court staff can provide a form for this purpose. Payment of the search and photocopy fees is required.

Reference
Table 51

Request for Exhibit: See Table 7 on page [12](#).

7.2 Exhibits in Family Matters

In family matters, most [exhibits](#) are documents or reports, and are sometimes retained on the file permanently. Anyone may ask to view or copy exhibits in family matters. Court staff can provide a form for this purpose. Payment of the search and photocopy fees is required.

Some family law files are confidential by law or court order. A court order is required to access documents and exhibits from confidential files.

Reference
Table 52

Request for Exhibit: See Table 7 on page [12](#).

7.3 Exhibits in Youth Criminal Matters

Members of the public and media cannot access [exhibits](#) in youth criminal matters, except with a judge's order.

7.4 Exhibits in Criminal Matters

Criminal files may contain reports that have been entered as [exhibits](#) and include sensitive information about people who may or may not have been involved in the court action. Examples include photographs, audiovisual recordings, [psychiatric assessments](#), pre-sentence reports, and victim impact statements.

Anyone may ask to view or copy exhibits in criminal law matters. Court staff can provide a form for this purpose. Payment of the search and photocopy fees is required.

Reference
Table 53

Request for Exhibit: See Table 7 on page [12](#).

7.5 Materials on Sentencing

Anyone may ask to view or copy sentencing materials that become [exhibits](#) or become part of the court file. Court staff can provide a form for exhibit requests. Payment of the search and photocopy fees is required.

Reference
Table 54

Request for Exhibit: See Table 7 on page [12](#).

A. Pre-sentence report

A judge may direct a probation officer to prepare and file a pre-sentence report. The report's purpose is to give the judge information about the accused to help the judge decide on the appropriate sentence for the [offence](#). Court staff can provide a form for exhibit requests.

Reference
Table 55

The pre-sentence report is filed by the probation officer when directed by the court.

Criminal Code, s. [721\(1\)](#)

The court clerk must provide copies of the pre-sentence report to the [offender](#) or the offender's [counsel](#), and the prosecutor.
Criminal Code, [s. 721\(5\)](#)

Request for Exhibit: See Table 7 on page [12](#).

B. Forensic Assessments

A [forensic](#) assessment is a psychiatric or psychological assessment of the [accused](#). Court staff can provide a form for exhibit requests.

Reference Table 56

Court staff will note when a matter is referred for forensic assessment on the [endorsements](#).

Request for Exhibit: See Table 7 on page [12](#).

C. Victim Impact Statements

A Victim Impact Statement is a written [statement](#) prepared by a person who was affected by a crime. Victim Impact Statements are filed with the court. Court staff can provide a form for exhibit requests.

Reference Table 57

Request for Exhibit: See Table 7 on page [12](#).

Before sentencing, Victim Impact Statements are sealed unless they become necessary for the disposition, except that court staff may open the sealed envelope to make required copies of the statement. Court staff must provide copies to the [offender](#) or the offender's [counsel](#), and the [prosecutor](#).

For sentencing, court staff must provide copies as soon as practicable after a finding of guilt.

Criminal Code, [section 722.1](#)

For mental disorder dispositions, court staff will provide copies as soon as practicable after a [verdict](#) of not criminally responsible on account of mental disorder.

Criminal Code, [section 672.51\(15\)](#)

8. Public Fatality Inquiries

Public fatality inquiries are governed by the [Fatality Inquiries Act](#). Members of the public can attend fatality inquiries. Information from fatality inquiries may be published, except for portions of the inquiries that are held in private. No one may disclose oral testimony or documentary evidence introduced or heard in private, unless it is in the findings of the judge or in the written report of the judge.

Reference
Table 58**Private hearings**

For court staff procedure on private hearings, see “[Private Hearings](#)”, on page [11](#). Testimony and evidence from private hearings in fatality inquiries are confidential.

Only the following persons can examine the evidence ([exhibits](#)) at fatality inquiries:

- the judge,
- the inquiry counsel,
- the next of kin, personal representative or insurance beneficiary of the deceased, and
- any person who is permitted to examine exhibits, by order of the presiding judge.

Members of the public and media may apply to the judge to be allowed to examine exhibits. A court order is required before exhibits can be viewed.

Glossary and Index

Absolute discharge

An offender who receives an absolute discharge is deemed not to have been convicted of the offence. **See also:** [conditional discharge](#). [31, 32](#)

Access

Access, in relation to court records, may include a search, viewing a file, and making a copy of all or part of a file. Not all types of access are always available. [3, throughout](#)

Accused

A person who is charged with a crime. **See also:** [Defendant](#) [8, 28, 29, 30, 33, 33, 36, 37, 40, 44](#)

Acquittal

The decision by a judge or jury that the accused is not guilty of the charge. [31](#)

Act

A law passed by Parliament or a Provincial legislature. Also called a statute. [13, throughout](#)

Affirmation

A legally binding promise that an affidavit is true or that the witness will tell the truth, made by someone who does not want to swear on a religious document. **See also:** [Oath](#)

Arrest

To deprive a person of liberty, through legal authority, by holding the person in custody. [36, 37](#)

Bail

An accused's release from custody before trial or an offender's release from custody before the hearing of an appeal against a conviction or sentence. Also, the money or other security used by the accused or by someone on the accused's behalf to insure the accused's appearance at trial. [40](#)

Child

Under the *Child, Youth and Family Enhancement Act*, a person under the age of 18 years.

Claimant

In a proceeding under the *Protection Against Family Violence Act*, "claimant" means a family member for whom a protection order is sought or granted. [26](#)

Clerk of the Court

An officer of the court who maintains court records, files documents, issues process, and swears in witnesses. [4, throughout](#)

Complainant

The person who states that a crime has been committed.

[39, 42, 44](#)

Conditional discharge

Similar to an [absolute discharge](#), except that the offender must comply with conditions set out in a probation order. If the offender violates these conditions, the discharge may be revoked. A conviction will then be entered, and an appropriate sentence imposed.

[31, 45](#)

Confession

A statement made by the accused admitting guilt. Confessions which have been made freely and voluntarily may be allowed in court as evidence.

[41](#)

Confidential

When a file or record is made confidential by law or by a judge's order, staff can access the file or record, but there is no public access without a judge's order.

Conviction

A judge's decision that the accused is guilty of the charge.

[45](#)

Court administration

The Court Services branch of Alberta Justice and Attorney General.

[3](#)

Court administration records

Personnel, finance and management records kept by court

administration; records other than court records, judicial records, and the personal notes and draft decisions of judges.

[3](#)

Court file

The hard copy documents relating to a court action.

[3, throughout](#)

Court Manager

The manager of a particular court location.

Court record

All documents filed in a court action, including documents created by parties; documents created by counsel, including pleadings; documents created by a judicial official, including entries by clerks, the decisions and orders of judges, the audio recording of the proceedings, the official transcript of the proceedings, and the docket information.

The court record does not include court administration records, judicial administration records, or any personal note, memorandum, draft, or similar document or information that is prepared and used by judges, court officials and other court personnel. **See also:** [Court file](#); [Docket Information](#); [Document](#); [Exhibit](#); [Transcript](#)

[3, 4, 9, 30, 41](#)

Crown counsel

The lawyer representing the Crown (the state); in criminal matters is sometimes called the prosecutor.

[50](#)

Custody

The care and control of a thing or person. In criminal matters, imprisonment or physical detention of a person. In family matters, the care and control of children. [18, 20, 34, 36](#)

Defence counsel

The lawyer representing the defendant or accused. [5, 28, 30, 33, 36, 46, 50, 50](#)

Defendant

The person against whom a claim is made in a civil or family law matter. **See also:** [Accused](#).

Direction

A judge's instruction. [4](#)

Discharge

After a preliminary inquiry, a judge's finding that there is not enough evidence against an accused to justify a trial. **See also:** [Ordered to stand trial](#); [Absolute discharge](#); [Conditional discharge](#). [40, 45, 46](#)

Docket

The list of matters to be heard in a courtroom on a certain day. [8, 30](#)

Docket information

The manual or computer index of the court record, sometimes also called the "registry system". It lists the events in the matter before the court including appearances in court and filed decisions, orders, and documents.

Document

Any medium on which is recorded anything that can be read or understood by a person or by a computer system or other device. [3, throughout](#)

Emergency Protection Order

An order under the *Protection Against Family Violence Act*. An Emergency Protection Order is an order made by a judge or a Justice of the Peace, to protect a victim of domestic violence where the situation is serious and urgent. **See also:** [Protection Order](#).

Empanel a jury

Select jurors and enter their names on the official list. [41](#)

Endorsement

An outcome of an event, as noted on the court file (usually referred to in a criminal proceeding) [5, 12, 30, 36, 50](#)

Exhibit

A document or object offered as evidence on the court record. [3, 11, 13, 47, 48, 48, 49, 51](#)

Extortion

Forcing a person to give up property in a thing through the use of violence, fear or under pretence of authority.

Forensic

Medical procedures and scientific testing done for use in court. [33, 50](#)

Guilty

The decision by the judge or jury that the accused committed the crime. The accused can admit that he or she committed the crime by pleading guilty. [31](#)

Hearing

The presentation of evidence or argument in court. For example, a preliminary inquiry, trial, sentence hearing, or appeal. [10](#)

Hearing Officer

See [Justice of the Peace](#). [37](#)

Indictable offence

The more serious criminal offences. These include crimes like murder and aggravated sexual assault. [31](#)

Indictment

The formal procedure used to deal with serious charges. Indictments are tried in the Court of Queen's Bench.

Information

The court document that starts the prosecution of an offence. [5, 30, 36, 37](#)

Judge

A person with authority to hear evidence and decide cases in court, including judges of the Provincial Court and justices of the Court of Queen's Bench and Court of Appeal. [3, throughout](#)

Judgment

The official decision of a judge.
See also: [Order](#). [21, 23, 30, 43, 45](#)

Judicial Interim Release

The legal procedure by which an accused in custody is released until trial. Also known as a bail hearing. [40](#)

Jury

A group of people chosen by the lawyers representing the parties, from a pool of ordinary citizens. The jury listens to the evidence and follows the judge's instructions on how to apply the law. The jury then decides, in a criminal matter, whether the accused is guilty or not guilty, or in a civil matter, gives judgment in favour of either the plaintiff or the defendant. [41](#)

Justice Communications

Alberta Justice and Attorney General, Communications Branch. [Error! Bookmark not de](#)

Justice of the Peace

An officer of the court who has some of the powers of a judge. [36](#)

Justice System Participant

In the *Criminal Code*, a member of the Senate, the House of Commons, a legislative assembly or a municipal council, or a person who plays a role in the administration of criminal justice. [42](#)

Media

The main means of mass communication, especially newspapers, radio, television, and Internet, and the reporters and journalists working for media organizations, whether based in Canada or elsewhere. [3, throughout](#)

Law

A rule set by a statute or the common law. [4, throughout](#)

Oath

A legally binding promise to tell the truth by swearing on the Bible or other religious document. A person who does not want to swear on a religious document makes an [affirmation](#). [37](#)

Offence

A crime or the contravention of a statute, bylaw or regulation. [29, 37, 46, 49](#)

Offender

A person who is convicted of a crime or of the contravention of a statute, bylaw or regulation. [28, 50, 50](#)

Order

A judge's formal written direction. [3, throughout](#)

Ordered to stand trial

After a preliminary inquiry, when a judge finds that there is enough evidence against an accused to justify a trial and orders the

accused to stand trial. **See also:** [Discharge](#). [40](#)

Parties

The parties to a proceeding or action their counsel, and other authorized agents. "Parties" includes the Crown in criminal matters. [5, 11, 19, 23, 48](#)

Personal Information Record

In the *Criminal Code*, any form of record that contains personal information for which there is a reasonable expectation of privacy, other than the records of an investigator or prosecutor. [39, 44](#)

Preliminary inquiry

A hearing to decide whether there is enough evidence against the accused to justify holding a trial. [41](#)

Presumptive Offence

Under the *Youth Criminal Justice Act*, murder, attempted murder, manslaughter, aggravated sexual assault, or another serious violent offence. [34](#)

Private hearing

A hearing in a courtroom closed to the public. Also called "closed courtroom" or "in camera". [11, 19, 22, 25, 34, 44](#)

Protection Order

An order made by a judge of the Court of Queen's Bench, under the *Protection Against Family Violence Act*. It is requested in a non-emergency situation, or in a review hearing relating to an emergency protection order. **See also:** [Emergency Protection Order](#). [26](#)

Provincial director

Under the *Youth Criminal Justice Act* (Canada) and the *Youth Justice Act* (Alberta), the provincial director for Alberta appointed or designated under the federal Act, including the provincial director's delegate. [29, 32](#)

Pseudonym

A false or fictitious name. [15, 38](#)

Psychiatric assessment

A description of the accused's state of mind, prepared by a mental health professional. The judge considers it when deciding if the accused can stand trial. **See also:** [Forensic](#) [49](#)

Public

Any person, or any member of a media organization, private organization or club, governmental department or agency for which access to court records is not defined by statute or other authority. "Public" does not include the judiciary, judicial officers, and staff directly related to the operation of the court. It

also does not include parties accessing the record in their own court actions. [3](#), throughout

Publication ban

A law or judge's order that prohibits publishing certain information. [15, 18, 20, 26, 28, 40, 42, 47](#)

Sealing order

A judge's order directing that a document, exhibit, or file be sealed in an envelope or in secure storage and made inaccessible to everyone, including court staff. A statute may also require a document, exhibit, or file to be sealed. [10, 13, 15, 38](#)

Search warrant

A court order that directs owners of private property to allow the police to enter and search for items named in the warrant. [37](#)

Show cause hearing

In criminal matters, a hearing in which the Crown counsel tries to convince the judge that the accused should be held in custody until the trial. **See also:** [Bail](#); [Hearing](#).

Also, in any matter, a proceeding requiring a party to convince the judge that he or she should not be held in contempt of court.

Statement

In criminal matters, a written description of events given to the police. It is signed by the person making the statement. [37, 50](#)

Summons

A document requiring a person to appear before a judge or a Justice of the Peace. [36, 37](#)

Transcript

An exact written record of what was said in a trial, hearing, or oral disposition. [3, 13, 47](#)

Trial

A hearing where both sides present evidence and the court makes a decision. [4, 10, 15, 40, 46](#)

Verdict

The decision of a judge or jury as to the guilt of the accused. [50](#)

Voir Dire

A part of a trial during which the counsel present arguments to the judge about whether certain evidence should be permitted to be presented during the trial itself. In jury trials, the jury is not in the courtroom during a voir dire.

Warrant

A court order that authorizes an action. See also: [Arrest](#); [Search warrant](#). [36](#)

Appendix A

Orders Restricting Access or Publication – Instructions

These instructions are intended to clarify the procedure for the form “Court-Ordered Restrictions on Publication”. The procedure is set out below. All Clerks and Judicial Assistants should be advised of the correct procedure for using the form.

A.1 All courts and all restricting orders

- Copies of the form must be available in **every courtroom**, because orders restricting access or publication may be made in any type of proceeding.
- The form must be used in **all courts** whenever a judge makes an order that restricts access to the court file or restricts publication of any information about the matter.
 - **Orders that restrict access include** sealing orders, confidentiality orders, and orders for an in camera (private or closed court) hearing.
 - **Orders that restrict publication include** a ban on identifying someone, or a ban on publishing information until the end of the trial.
 - **This is not a complete list.** Other types of orders are possible.
- The form must be used for such orders in **civil and family matters, as well as in criminal and youth matters.**

A.2 Reproducing the form

The form must be:

- Printed or downloaded for copying from the intranet Protocols page.
- Copied on Boise-Cascade “**Goldenrod**” paper. (Boise MP Colors, Item Number MP2201, Colour Code GD).
- Printed double-sided, with the second page “Statutory Restrictions” printed *upside-down* relative to the first page. This will ensure that the second side is readable when the form is fastened in a file. (This second side is meant for information purposes only, and does not require any input by a clerk or judge.)

A.3 Using the form

- When a judge makes an **order in court**, the clerk must immediately complete the form and give it to the judge to sign.
- When a judge makes an **order outside of court**, the Judicial Assistant will complete the form, obtain the judge's signature on it, and bring it to court administration for filing.
- To fill in the form, the Clerk or Judicial Assistant must:
 - **Complete the file information** at the top, including the name of the accused or parties, the docket number, and the name of the city or town where the order was made.
 - Put the name of the judge and the date in the space across from the order's description, leaving room for **the judge's signature**.
 - **Give it to the judge to sign.**
 - **For statutory orders**, the Clerk or Judicial Assistant can simply write the name of the statute and the section number. Some criminal and youth bans are listed on the form. **For common law orders**, it may be necessary to attach a note describing the order.

A.4 Record system

- The information must be **copied to the applicable computer docket system** as soon as possible after the order is made.
- The **completed form** must be kept at the **top of the court file or attached on the front of the Information**.
- Any later orders in the same matter must be **added to this same form**.
- If the matter is **transferred to another court**, the **original of the form** is also sent to that court. A photocopy of the form is kept on the first court's file.

ORDERS Restricting Access or Publication

TAKE NOTE: This is a record of only the court orders that restrict access or publication in this case. Statutes may impose other restrictions; some of these are listed on the reverse side of this form. *Everyone who publishes information relating to this case must comply with all relevant court orders and statutory restrictions on publication.*

| | |
|---|-----------------------------------|
| Accused/Parties: <i>Jane SMITH and Robert JONES</i> | PC Docket #: <i>FL 0303 99999</i> |
| Location: <i>Red Deer</i> | QB Docket #: _____ |
| | CA Docket #: _____ |

| | | | |
|--------------------|--|---|---|
| Ordered by: | Provincial Court Judge / Date / Clerk | Queen's Bench Justice / Date / Clerk | Court of Appeal Justice / Date / Clerk |
|--------------------|--|---|---|

Part I: Criminal Proceeding for Adult or Young Person

| | | |
|--|--|--|
| <input type="checkbox"/> Bail hearing – s. 517 ¹ | | |
| <input type="checkbox"/> Identity of complainant or witness (Initials: _____) <input type="checkbox"/> s. 486.4, listed offences <input type="checkbox"/> s. 486.5, other offences | | |
| <input checked="" type="checkbox"/> Preliminary hearing – s. 539 ¹ | | |
| <input type="checkbox"/> Identity of juror – s. 631(6) (Initials: _____) | | |

Part II: Young Persons

| | | |
|---|--|--|
| <input type="checkbox"/> Presumptive offence – Youth Criminal Justice Act, s. 75(3) | | |
| <input type="checkbox"/> Transfer hearing – Young Offenders Act, s. 17 ² | | |

Part III: Other Statutes — Civil or Criminal

| | | |
|--|--|--|
| <input checked="" type="checkbox"/> Statute name and section number: <i>Family Law Act, s. 99</i> | <i>Judge A.J. Simon</i> <i>Nov. 15, 2007</i> <i>A.J. Simon</i> | |
|--|--|--|

Part IV: Common Law — Civil or Criminal (attach note)

| | | |
|--|--|--|
| <input type="checkbox"/> BAN, describe: <input type="checkbox"/> SEAL, describe: <input type="checkbox"/> Portions sealed (specify): <input type="checkbox"/> File sealed until a date or event (specify): <input type="checkbox"/> File sealed permanently. | | |
|--|--|--|

¹ Continues until the accused is discharged after the preliminary hearing, or the end of the trial if the accused is committed to stand trial.
² Continues until an order for a transfer is refused or set aside on review, all review periods have expired and all review proceedings have been completed; or, if the case is transferred to adult court, the trial has ended.

STATUTORY Restrictions — OVER

STATUTORY Restrictions

TAKE NOTE: This is a list of *only* the most common statutory restrictions on access or publication that may apply to court records and court proceedings. *Other restrictions may apply.* In some circumstances, a restriction listed below may not apply or may be removed by the Court. This list is only intended to assist persons who propose to publish information regarding this case. It is not intended to be a comprehensive list of all statutory restrictions that may apply.

Any person who publishes any information relating to this case must comply with all court-ordered and statutory restrictions on publication.

Alberta Statutes

Business Corporations Act – Investigation – s. 231

Jury Act – Part of trial in absence of jury – s. 20⁴

Child and Family Matters – Information that could identify a child, parent or guardian who is subject to proceedings under these Acts:

Child, Youth and Family Enhancement Act
No identification – s. 126.2

Adoption records sealed – s. 74.1

Drug-endangered Children Act – s. 5

Protection of Children Abusing Drugs Act – s. 7

Protection of Sexually-Exploited Children Act – s. 6.3(1)

Youth Justice Act – Accused, convicted offender, complainant or witness under the age of 18 – s. 24

Social Assistance and Health

Information concerning individuals affected by these Acts:

Dependent Adults Act

Personal history or records – s. 68

Income and Employment Supports Act

Personal information – s. 49

Public Health Act

Health record of person with communicable disease – s. 53

Federal Statutes

Criminal Code of Canada

Application to intercept communications – s. 187

Prior sexual conduct of complainant – s. 276.3

Personal information record relating to complainant or witness – s. 278.9

Search warrant, unless charge laid – s. 487.2

Admission or confession in preliminary inquiry – s. 542³

Part of trial in absence of jury – s. 648(1)⁴

Mental disorder disposition hearing – s.

672.51(7)–(11)

Youth Criminal Justice Act

Identifying information regarding a person who is accused or convicted of an offence under the act – s. 110(1)

Identifying information regarding a child or young person who is a complainant or witness in a proceeding under the act – s. 111(1)

Young Offenders Act – offences before April 1, 2003

Identifying information regarding a person who is an accused, convicted offender, or a complainant or witness under the age of 18 in a proceeding under the Act – s. 38

³ Continues until the accused is discharged after the preliminary hearing, or the end of the trial if the accused is committed to stand trial.

⁴ Continues until jury retires to consider its verdict. If jury not yet selected, common law ban may be available; see Part IV of this form.

Appendix B

Request for Exhibit or Private Hearing Record

This is an example of the form. To complete the form, [download it](#) from the Alberta Courts [website](#) and complete it electronically.

- Court of Appeal
- Court of Queen's Bench
- Provincial Court

Request for Exhibit or Private Hearing Record

Staff: Use this form for all public and media requests for access (1) to exhibits and (2) to records and transcripts from private hearings.

Requestor Information

| | | | |
|------------------------------|-----------|--------------|------------|
| Date of Request (yyyy/mm/dd) | Full Name | Phone Number | Fax Number |
|------------------------------|-----------|--------------|------------|

Address _____

| | | |
|--|----------------------|---------------------|
| Representing Media Agency? <input type="checkbox"/> Yes <input type="checkbox"/> No | If yes, Agency name: | Agency Phone Number |
|--|----------------------|---------------------|

Record / Exhibit Information

| | |
|----------------|-------------------|
| Court Location | Court File Number |
|----------------|-------------------|

Name(s) of Accused / Party _____

Check all that apply

Exhibit
→ Exhibit Number _____

Record from Private Hearing
→ Description, Date of Private Hearing (yyyy/mm/dd) _____

Transcript from Private Hearing
→ Private Hearing Date (yyyy/mm/dd) _____ Please attach a copy of the Transcript Request form.

Level of Access Sought

View/Listen, Copy and Publish View/Listen and Copy View/Listen

Comments (further description of intended use)

Court's Decision on Access

| | |
|-------------------|-------------------------|
| Date (yyyy/mm/dd) | Name of Judge / Justice |
|-------------------|-------------------------|

Level of Access Permitted

View, Copy and Publish
 View and Copy
 View
 No Access

Conditions

Yes
 No

If Yes, the court permits access subject to the following conditions:

| | |
|----------------------------|-----------------------------|
| Signature of Judge/Justice | Print Name of Judge/Justice |
|----------------------------|-----------------------------|

Existing publication bans that affect the exhibit or record will continue to apply, except as noted in the Court's Decision on Access.

Charges

| | Qty. | Fee |
|-------------------------------|------|-----|
| Search Fee, \$10.00 each: | | |
| Photocopies, \$1.00 per page: | | |
| Total Charge: | | |

Additional fees may apply to transcripts. Please see *Transcript Request* form for information about charges for transcripts.