



COURT OF KING'S BENCH FOR
SASKATCHEWAN

CRIMINAL PRACTICE DIRECTIVE #12

ACCESS TO CRIMINAL COURT RECORDS AND CRIMINAL PROCEEDING EXHIBITS

REFERENCE: CRIM-PD #12

Effective: February 1, 2024

PURPOSE

1. Access to criminal court records and Court of King's Bench criminal proceeding exhibits is governed by the open courts principle and related jurisprudence. The Court has a supervisory and protective power respecting the court record and the responsibility to ensure that access respects applicable laws and takes into consideration the constitutional rights and other rights and interests involved.
2. This practice directive is not intended to restrict access, but instead sets out the proper process for obtaining access and/or permission to copy. To ensure proper application of the law compliance with this practice directive, including Schedule 1 which sets out the accessibility guidelines respecting specific criminal court records, is required.

DEFINITIONS

3. **Access:** For the purpose of this practice directive, "access" to criminal court records and/or Court of King's Bench criminal proceeding exhibits means the ability to "see", to "listen" or to "observe" a criminal court record or Court of King's Bench criminal proceeding exhibit. To be granted access to a criminal court record and/or Court of King's Bench criminal proceeding exhibit does not presumptively include the right to copy, make notes, reproduce, or disseminate the specific criminal court record or Court of King's Bench criminal proceeding exhibit. This does not include access to persons observing matters in open court.
4. **Copy:** For the purpose of this practice directive, "copy" includes photocopying, capturing an image by camera or other imaging device, replicating the data, or otherwise reproducing a criminal court record or a Court of King's Bench criminal proceeding exhibit.

5. **Criminal Court Record:** For the purpose of this practice directive “criminal court record” means the documents found on the court file, as well as any other information about the court proceedings, that are maintained by the Court of King’s Bench including audio recordings and exhibits filed at a preliminary inquiry.
6. **Exhibit:** For the purpose of this practice directive “exhibit” means any evidence filed in a criminal proceeding and marked as an exhibit during a criminal proceeding before the Court of King’s Bench for Saskatchewan. It does not include preliminary inquiry exhibits that were introduced as evidence during a preliminary inquiry at the Provincial Court of Saskatchewan and subsequently filed with the Court of King’s Bench.

AUTHORIZATION TO ACCESS CRIMINAL COURT RECORDS

7. Schedule 1 sets out the accessibility guidelines respecting specific criminal court records.
8. Where authorization of a judge of the Court is required to obtain access to a criminal court record pursuant to Schedule 1 and no other application form has been prescribed in criminal legislation, another practice directive, or an order of a judge, the application for access shall be made by application without notice in the attached Form A “Application to Access and/or Copy Criminal Court Record(s)”.

AUTHORIZATION TO COPY CRIMINAL COURT RECORDS

9. A person may only copy or obtain a copy of a criminal court record in accordance with this practice directive or by an order of a judge.
10. Authorization to copy a criminal court record includes the right to publish the criminal court record subject to any publication ban, court order, restriction against publication described in this practice directive, any other practice directive, or a specific undertaking.
11. Where the authorization of a judge of the Court is required to copy a criminal court record, and no other application form has been prescribed in criminal legislation, in another practice directive or in an order of a judge, the application shall be made by application without notice in the attached Form A “Application to Access and/or Copy Criminal Court Record(s)”.

AUTHORIZATION TO ACCESS COURT OF KING'S BENCH CRIMINAL PROCEEDING EXHIBITS

12. When any person, other than counsel for the Crown, counsel for the accused, or a self-represented accused in the criminal proceeding seeks access to an exhibit, the application shall be made by application in the attached Form B "Application to Access and/or Copy Criminal Proceeding Exhibit(s)". The application shall be directed to the judge presiding over the criminal proceeding or the judge who had presided over the criminal proceeding. If the judge who presided over the criminal proceeding is not available, the Chief Justice or his designate may designate a judge to determine the application.
13. Once the application has been completed and signed by the applicant, the local/deputy registrar shall determine from Crown counsel and counsel for the accused or a self-represented accused in a criminal proceeding whether they object to the application. The local/deputy registrar will have counsel endorse their consent or objection on Form B, or alternatively, will record their consent or objection.
14. Counsel for the Crown, counsel for the accused, or a self-represented accused in the criminal proceeding will be granted access to exhibits without judicial authorization; however, the local registrar or designate shall regulate the manner of access to ensure the integrity of the exhibits.

AUTHORIZATION TO COPY COURT OF KING'S BENCH CRIMINAL PROCEEDING EXHIBITS

15. When any person seeks to copy an exhibit in a criminal proceeding, the application shall be made in the attached Form B "Application to Access and/or Copy Criminal Proceeding Exhibit(s)". The application shall be directed to the judge presiding over the criminal proceeding or the judge who had presided over the criminal proceeding. If the judge who presided over the criminal proceeding is not available, the Chief Justice or his designate may designate a judge to determine the application.
16. Once the application has been completed and signed by the applicant, the local/deputy registrar will determine from Crown counsel and counsel for the accused or a self-represented accused in a criminal proceeding whether they object to the application. The local/deputy registrar will have counsel and/or self-represented accused endorse their consent or objection on Form B, or alternatively, will record their consent or objection.

17. Authorization to copy a criminal proceeding exhibit includes the right to publish the exhibit, subject to any publication ban, court order, restriction against publication described in this practice directive, any other practice directive, or a specific undertaking.

EXEMPTION FROM PRACTICE DIRECTIVE

18. This practice directive does not apply to any third party justice agencies which require documentation in the course of the administration of justice and who have pre-existing protocols and/or understandings in place with the Court of King's Bench for Saskatchewan.

DUTY TO ABIDE BY COURT ORDERS

19. Any person granted access to and/or authorization to copy a criminal court record and/or criminal proceeding exhibit, either by a local registrar or a judge of the Court, is responsible for informing themselves and complying with any publication ban, either discretionary or mandatory, and/or any sealing order.

Chief Justice M.D. Popescul
Court of King's Bench for Saskatchewan

Attachments:
Schedule 1
Form A
Form B

SCHEDULE 1

1 It is the legal responsibility of all persons who are permitted access to criminal court records and/or criminal exhibits to determine if a criminal court record and/or criminal exhibit is subject to a publication ban and to comply with such ban. This includes both mandatory and discretionary publication bans ordered by a court. The principle of open access is subject to any such publication bans and/or sealing orders.

2 The principle of open access applies and the following criminal court records are accessible and may be copied, subject to any publication ban, without authorization of a judge:

Informations, including all Provincial Court for Saskatchewan endorsement sheets; Indictments, Direct Indictments and Preferred Indictments, including all endorsement sheets; written decisions, and/or judgments; Release Orders; Warrants for Committal; Remand Warrants; Bench Warrants; Summonses; Appearance Notices; Undertakings; Recognizances; Records of Conviction (Form 35 of the *Criminal Code*, RSC 1985, c C-46 [*Criminal Code*]); Orders Against an Offender (Form 36 *Criminal Code*); Orders Acquitting an Accused (Form 37 *Criminal Code*), Prohibition Orders (s. 109); Sex Offender Information Registration Act Orders (Form 52 *Criminal Code*); DNA Orders; Victim Surcharge Orders; Forfeiture Orders; Restitution Orders; Probation Orders; and Conditional Sentence Orders.

Any publication ban shall be clearly marked on any criminal court record provided pursuant to this paragraph.

3 The principle of open access applies and the following criminal court records and/or exhibits shall be accessible upon authorization of a judge and upon such conditions as the judge imposes, and may be copied if authorized by a judge upon such conditions as the judge imposes:

Criminal court record

Comments

Preliminary inquiry exhibits	These are accessible and may be copied upon authorization of a judge.
All applications, supporting materials, including affidavits, and briefs of law, except for those applications specifically dealt with in paragraph 4.	These are accessible and may be copied by counsel on the file and the self-represented accused on the file. These are accessible and may be copied by other persons upon authorization of a judge.
Exhibit lists and exhibits filed in all Court of King's Bench criminal proceedings	These are accessible to counsel on the file and the self-represented accused on the file. These are accessible to other persons upon authorization of a judge. All persons must apply to copy Court of King's Bench criminal proceeding exhibits.

Transcripts	<p>These are accessible to and may be copied by counsel on the file and the self-represented accused on the file.</p> <p>These are accessible and may be copied by other persons upon authorization of a judge.</p>
USBs, tape recordings, CDs	These are accessible upon authorization of a judge.
Audio recordings of court proceedings	Applications for an audio recording of a court proceeding shall be made pursuant to Criminal Practice Directive #7.
Production orders, pre-sentence reports, judicial interim release reports, medical reports, psychiatric and psychological reports, <i>Gladue</i> reports, or any assessment made or written material filed under s. 672.11, s. 672.2, or s. 752.1(1) <i>Criminal Code</i>	<p>These are accessible to and may be copied by counsel on the file and the self-represented accused on the file.</p> <p>These are accessible and may be copied by other persons upon authorization of a judge.</p>
Criminal history/criminal record of a person	<p>These are accessible to and may be copied by counsel on the file and the self-represented accused on the file.</p> <p>These are accessible and may be copied by other persons upon authorization of a judge.</p>
Victim impact statements	<p>These are accessible to and may be copied by counsel on the file and the self-represented accused on the file.</p> <p>These are accessible and may be copied by other persons upon authorization of a judge.</p>
Letters of support filed in support of an accused	<p>These are accessible to and may be copied by counsel on the file and the self-represented accused on the file.</p> <p>These are accessible and may be copied by other persons upon authorization of a judge.</p>
Pre-trial conference forms	These are only accessible to counsel for the Crown, counsel for the accused and a self-represented accused on the file. (Criminal Practice Directive #1)
Jury lists and juror information	These are accessible upon compliance with Criminal Practice Directive #2.
Other criminal court records not specifically referred to in paragraphs 2, 3 and 4.	These are accessible and may be copied upon authorization of a judge.

4 Legislation and/or court orders may limit or prohibit access to certain criminal records and/or criminal exhibits. Accordingly, the following are only accessible upon authorization of a judge, unless otherwise specified:

Criminal court record	Comments
Preliminary inquiry transcripts, CDs or recordings	<p>These are accessible to and may be copied by counsel on the file and the self-represented accused on the file.</p> <p>These are accessible and may be copied by other persons upon authorization of a judge.</p>
Judicial interim release hearings, show cause hearings, bail hearings, bail reviews and/or detention review hearings	<p>These are accessible to and may be copied by counsel on the file and the self-represented accused on the file.</p> <p>These are accessible and may be copied by other persons upon authorization of a judge.</p>
Defence applications, supporting material, including affidavits pursuant to <i>Criminal Code</i> s. 276 (complainant's sexual history evidence), s. 278 (records relating to a complainant) and/or all other defence applications for third party records.	<p>These are accessible to counsel on the file and the self-represented accused on the file.</p> <p>Access is prohibited to other persons without an order of a judge (ss. 276 and 278 <i>Criminal Code</i>).</p>
All material, affidavits and records filed in response to a defence application pursuant to <i>Criminal Code</i> s. 276, s. 278 and/or all other defence applications for third party records.	Access is prohibited without an order of a judge.
Applications, supporting material, including affidavits and all records relating to proceedings held in a closed courtroom/ <i>in camera</i> .	<p>These are accessible to counsel on the file and the self-represented accused on the file upon authorization of a judge.</p> <p>Access is prohibited to other persons without an order of a judge.</p>

Criminal record to which a pardon or record suspension applies	<p>Access is prohibited to court records relating to record suspensions (formerly known as pardons), nor can the existence of such records be disclosed to any person. (<i>Criminal Records Act</i>, RSC 1985, c C-47)</p> <p>There is an exception. The subject of the record suspension (pardon) may be provided a copy of any court record that still exists, with the order of a judge, if they, or a party acting on their behalf with their authorization, requests access. Such a request should be made in writing and should specify the purpose for which the request is being made.</p>
Criminal record containing an absolute or conditional discharge	<p>Access is prohibited to court records relating to absolute discharges and conditional discharges in accordance with the <i>Criminal Records Act</i>, RSC 1985, c C-47, nor can the existence of such records be disclosed to any person.</p> <p>There is an exception. The subject of the absolute or conditional discharge may apply for access in accordance with the procedure set out in the <i>Criminal Records Act</i>.</p>
All materials related to search warrants	Access is prohibited without an order of a judge.
Sealed files, court records and/or sealed documents.	Access is prohibited without an order of a judge.
All materials relating to Part VI and Part XV of the <i>Criminal Code</i> , including wiretaps, surveillance orders, assistance orders, tracking warrants, search warrants, etc.	Access is prohibited without an order of a judge, nor can the existence of any such applications, supporting materials or record be disclosed to any person without an order of a judge.
All materials – <i>Youth Criminal Justice Act</i> , SC 2002, c 1	<p>These are accessible to counsel for the accused young person, the self-represented accused young person and counsel for the Crown on the file (s. 119 <i>YCJA</i>).</p> <p>Access to other persons is prohibited without an order of a judge.</p>
All materials – <i>The Missing Persons and Presumption of Death Act</i> , SS 2009, c M-20.01	Access is prohibited without an order of a judge in accordance with the legislation.
All materials – <i>The Mandatory Testing and Disclosure (Bodily Substances) Act</i> , SS 2005, c M-2.1	Access is prohibited without an order of a judge in accordance with the legislation.

All materials – <i>The Protection from Human Trafficking Act</i> , SS 2021, c 23	Access is prohibited without an order of a judge in accordance with the legislation.
All materials – <i>The Public Health Act, 1994</i> , SS 1994, c P-37.1	Access is prohibited without an order of a judge in accordance with the legislation.
All materials – <i>The Police Act, 1990</i> , SS 1990-91, c P-15.01	Access is prohibited without an order of a judge in accordance with the legislation.
Other criminal court records and/or criminal exhibits where access is restricted pursuant to legislation not specifically mentioned in paragraph 4	Access is prohibited without an order of a judge.
Scheduling documents, clerk's log notes, and any other internal court documents	Access is prohibited without an order of a judge.

FORM A

COURT FILE NUMBER _____

COURT OF KING'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE _____

IN THE MATTER OF HIS MAJESTY THE KING v _____

APPLICATION TO ACCESS AND/OR COPY CRIMINAL COURT RECORD(S)

REQUEST MADE BY THE APPLICANT:

Name: _____ Address: _____

Phone: _____ Email: _____

Occupation: _____

_____ to access _____ to copy

CRIMINAL COURT RECORD(S) REQUESTED: *Set out a detailed description of the criminal court record(s) being requested.*

REASONS FOR SEEKING ACCESS TO OR COPY OF CRIMINAL COURT RECORD(S): *Set out the reasons for seeking access to the record(s) or reasons for copying the criminal court record(s) and use to be made of the criminal court record(s).*

Signed by Applicant: _____

Date: _____

ORDER – FORM A

COURT FILE NUMBER: _____

ORDER MADE BY: _____ DATE: _____

ACCESS TO THE FOLLOWING CRIMINAL COURT RECORD(S):

/ OR AUTHORIZATION TO COPY THE FOLLOWING CRIMINAL COURT RECORD(S):

(A) Is denied:

- For the reason no such criminal court record exists or may be acknowledged to exist
- For the following reasons:

(B) Is authorized without condition upon the payment of applicable court fees

(C) Is authorized upon the following conditions:

J.
King's Bench Judge

FORM B

COURT FILE NUMBER _____

COURT OF KING'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE _____

IN THE MATTER OF HIS MAJESTY THE KING v _____

APPLICATION TO ACCESS AND/OR COPY CRIMINAL PROCEEDING EXHIBIT(S)

REQUEST MADE BY THE APPLICANT:

Name: _____ Address: _____

Phone: _____ Email: _____

Occupation: _____

_____ to access _____ to copy

CRIMINAL EXHIBIT(S) REQUESTED:

Exhibit # Description of Exhibit

REASONS FOR SEEKING ACCESS TO OR AUTHORIZATION TO COPY CRIMINAL EXHIBIT(S):
Set out the reasons for seeking access to the exhibit(s) or the reasons for copying the criminal exhibit(s) and use to be made of the exhibit(s).

Signed by Applicant: _____ Date: _____

[Once signed, this Application to Access and/or Copy Criminal Proceeding Exhibit(s) form is to be provided to the local/deputy registrar who will then determine from counsel whether they object to the exhibit(s) being provided.]

Counsel for the Crown: Consent Object

signature

Counsel for the Defence: Consent Object

signature

ORDER – FORM B

COURT FILE NUMBER: _____

ORDER MADE BY: _____ DATE: _____

ACCESS TO OR TO COPY THE FOLLOWING CRIMINAL PROCEEDING EXHIBIT(S):

(A) Is denied:

For the reason no such criminal exhibit exists or may be acknowledged to exist

For the following reasons:

(B) Is authorized without condition upon the payment of applicable court fees

(C) Is authorized upon the following conditions:

J.
King's Bench Judge