

BENTON & FRANKLIN COUNTIES SUPERIOR COURT
JUDICIAL RESOLUTION NO. 16-005
ACCESS TO JUDICIAL ADMINISTRATIVE RECORDS

PURSUANT TO GR 31.1, the Benton & Franklin Counties Superior Courts hereby adopts the following as its Judicial Administrative Public Records Requests Policy and Procedures:

I. POLICY STATEMENT:

The Court shall respond promptly to all administrative records requests. This shall be done in accordance with both the letter and the spirit of the General Rule 31.1 (GR 31.1 Access to Administrative Records) and case law related to the disclosure of administrative judicial records.

A. Overview

This policy sets forth the process by which the judicial branch handles administrative records requests. Information for members of the public interested in filing a request for administrative records is contained in GR 31.1 and the public policy contained at <http://www.benton-franklinsuperiorcourt.com/administration/judicial-records-request>.

B. Staffing of Administrative Records Requests

The court has designated a public records officer and, if possible, one backup that is responsible for processing all administrative record requests for the court or judicial agency. A court's public records officer shall report to the Presiding Judge or the Presiding Judge's designate.

C. Processing of Records Requests

1. Distribution of Requests and Preservation of Records

The public records officer will determine which employees may have records responsive to the request and email the text of the request, or a summary, to the appropriate staff, setting a time for response and ensure that any records potentially responsive to the request will not be destroyed pending the processing of the request.

2. Searching for Responsive Documents

Each employee contacted shall either (1) indicate that he or she has no responsive documents; (2) indicate that he or she has responsive documents and provide them; (3) specify a reasonable time within which he or she can search for the records and provide a more thorough response; or (4) describe how the request should be clarified. If the employee has responsive documents, he or she should provide them to the public records officer, and, if documents are exempt (or may be exempt) from public disclosure, provide a summary of why the documents are or may be exempt, with specific reference to the provision of GR 31.1, state or federal law that is the basis for the exemption. In the event it is difficult to produce copies of the responsive documents, either because of their size or format or because they are numerous, the employee should contact the public records officer to determine whether there are options to producing copies. The public records officer shall ensure that records of former staff members also are searched for requested information.

The staff shall assemble the individual responses and provide a consolidated response to the public records officer. If applicable, the public records officer shall also ensure that records of former staff members were searched for the requested information.

3. Providing Response to the Requestor

The public records officer shall respond to the requestor within five business days after receiving the request by: (1) providing non-exempt responsive documents along with a statement of why any documents are exempt from disclosure; (2) providing a date by which responsive documents will be provided; or (3) requesting clarification of the request. The public records officer will make every effort to work with the requestor to clarify the request and to provide responsive documents. Upon request, the public records officer will provide a copy of any public records responses to the organizational unit that participated in providing documents, noting if a protective order precludes disclosure of any documents.

4. Protective Orders

If any employee becomes aware of a court order that limits the disclosure of any administrative records, he or she should communicate the substance of such order, and provide a copy of the order to the public records officer. Likewise, if the public records officer is aware of any court order requiring the disclosure, nondisclosure, or preservation of any administrative records the public records officer will notify the staff in possession of the requested information.

5. Requests Received by Employees Other Than Public Records Officer

On occasion a requestor may direct a request for identifiable documents to a specific employee, or the court. In the event that an employee receives a public records request, the employee shall forward the request to the public records officer.

6. Electronic Records

The public records officer will work with the requestor to determine the appropriate format for providing responsive records. If records are requested with metadata intact, the public records officer will work with the appropriate Information Technology Department (IT) to provide records in native format to the extent possible. If the request is for records that can best be provided through customized access to electronic records, the public records officer shall work with the necessary staff that have responsive documents to determine the appropriate means of response.

7. Tracking Public Records Requests

The public records officer shall track public records requests and their related communications with requestors by logging all requests, responses, exemptions, and other communication regarding the requests. All administrative record requests received will be listed on a tracking document and is available upon request.

8. Requests for Applications for Search Warrants

Prior to responding to any request for the application for a search warrant, the public records officer shall confer with the prosecuting attorney to determine whether or not there is an order sealing such warrant application.

9. Third Party Notification

Third party notification to person(s) who are subjects of record requests is at the discretion of Presiding Judge. If such discretion is exercised, the named person(s) can request an internal or external review under section 12. If either the records subject or records requestor objects to the internal review option, an external review process will be initiated.

10. Closing Abandoned Requests

Closing abandoned requests: when the requestor fails to fulfill his or her obligations to inspect records or pay the invoice for the records installments within thirty days of notification from the public records officer, the request will be closed.

11. Effective Date

Effective for all records created on or after January 1, 2016. Access to records created prior to effective date are subject to the applicable court rules, statutes and the "common law balancing test" of the Public Records Act RCW 42.56 does not apply to judicial records.

12. Denial of Requests and Review Process

- a. If attempts with requestor to limit or narrow the initial request have failed, the following requests will be denied and closed in accordance with GR 31.1:
 - i. Requests deemed to be of a magnitude that full compliance within a reasonable time is not feasible due to time and resource constraints;
 - ii. Requests that are deemed to be of a harassing or threatening nature.

Responses to a denied request will include a justification for denial and procedures to request an internal review, consistent with below.

- b. Appeals of decisions made by the records officer of the Benton Franklin Counties Superior Court will first be reviewed by the Administrative Presiding Judge or designee. Appeals must be in writing and must be received by the Benton Franklin Counties Superior Court Administrator no more than 90 calendar days after the date of the decision. The form for initiating an appeal can be found on the court's website, or can be obtained from Court Administration. Review proceedings will be informal and summary. The Administrative Presiding Judge or designee will complete the review within five business days of the date the request for review was received, and provide a response as soon as reasonably practicable.
- c. If the determination of the internal review is unsatisfactory to the requestor, an external review process is available and consists of two alternative remedies:
 - i. An informal review by a visiting judge, delegated by the Presiding Judge, or;
 - ii. Pursue civil action in superior court challenging the records decision.

13. Copying Costs and Research Fees

- a. There is no cost to view administrative records responsive to a request. Viewing appointments can be arranged with the public records officer. There is no cost for email delivery of records that exist in electronic format.

- b. The charge for scanning records for electronic delivery is 15 cents per page. If the records are too large to send by email, the cost for producing electronic records on a compact disc is \$1.00 per disc. Discs can be picked up in person, or postage and mailing costs will be assessed for records on disc delivered by mail.
- c. The charge for black and white photocopies of records is 15 cents per side. Paper copies can be picked up in person or postage and mailing costs will be assessed for paper copies delivered by mail.
- d. For records requests that require over one hour to process, the fee for research and preparation is \$30.00 per hour, billed in 5 minute increments. Assessed fees will not exceed the actual costs of processing. An invoice with detailed billing information will be included in the public records officer's response.
- e. For all requests that have associated costs, payment is due prior to the release of the records. If records are provided on installment basis, work on the next installment will not begin until payment has been received for the preceding installment. If payment is not received within 30 days from the notification by the public records officer, the request will be closed.

II. RESPONSIBILITIES:

- A. The court shall make every effort to comply with the letter and spirit of GR 31.1 and respond by the due date as provided by the public records officer.
- B. The public records officer shall coordinate the overall public records process, work with requestors to clarify requests, forward requests to judicial officers and judicial staff, provide timely responses to requestors, and track all requests, exemptions, and responses.
- C. Court or judicial staff shall promptly forward administrative records requests received from the public records officer to appropriate staff members, ensure that those staff members make a diligent search for responsive records in a timely manner, ensure that requested records are not destroyed pending any request for them, and timely provide division responses to the public records officer.
- D. The Information Services Department (IT) shall, as directed by the court, work with the public records officer in responding to requests for electronic records and assist in providing customized access to electronic records where appropriate.


 ROBERT G. SWISHER,
 PRESIDING JUDGE
 Dated: July 14 2016


 VIC L. VANDERSCHOOR
 ASSISTANT PRESIDING JUDGE
 Dated: 6/3/16

Carrie Runge
CARRIE L. RUNGE
Dated: 6/6/16

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