

CLALLAM COUNTY SUPERIOR COURT
Policies & Procedures
No. 27

Subject: Public Access to Administrative Court Records (GR 31.1)

Scope: Superior Court, Juvenile Services, Drug Court Programs (adult and juvenile), Family Therapeutic Court, and Court Facilitator.

Date: January 27, 2016

A. PURPOSE

The purpose of these policies and procedures is to:

1. Promote compliance with the provisions of General Rules (GR) 31.1 promulgated by the Washington Supreme Court and subsequent case law related to the disclosure of administrative court records.
2. Provide procedures to ensure that requests to inspect and/or copy court administrative records are processed consistently, fully, and in a timely manner.

B. POLICY

Consistent with the open administration of justice as provided in article I, section 10 of the Washington State Constitution, it is the policy of the Clallam County Superior Court (including their associated judicial agencies/programs) to facilitate access to administrative records.

However, access to administrative records is not absolute and shall be consistent with exemptions for personal privacy, restrictions authorized by statutes / court rules, and as required to preserve the integrity of judicial decision-making. Moreover, access to administrative court records should not unduly burden the business of the judiciary.

These policies and procedures apply to all administrative court records, regardless of the physical form of the record, the method of recording the record, or the method of storage of the record.

C. ENTITIES SUBJECT TO RULE

This rule only applies to the Clallam County Superior Court, not judicial officers.

Attorneys, or entities appointed to provide legal representation to litigants in a judicial or administrative proceeding, do not become a judicial agency by virtue of that appointment.

Any department or agency, public or private, (*e.g.* Clallam County Auditor, Clallam County Information and Technology, etc.) that may hold copies of the Superior Court’s physical and/or electronic records are bailees of said records, not the owners. As such, the bailees shall forward requests for court administrative records to the Superior Court’s Public Record Officer for processing. The bailees shall not process the request for court administrative records within their possession under chapter 42.56 RCW.

D. CATEGORIES OF JUDICIAL RECORDS

There are three categories of judicial records:

1. Administrative Records

Administrative Records are records that relate to the management, supervision, or administration of a court or any of its judicial agencies/programs.

- a. This category of records is presumptively open to public access, unless access is restricted under GR 31.1 or some other court rule, court order, statute, and/or case law.
- b. It is this category of records that is the subject of these policies and procedures.

2. Case Records

Case records are records that relate to in-court proceedings, including case files, dockets, calendars, and the like.

- a. Public access to these records is governed by GR 31, not GR 31.1, and are presumptively open to public access, subject to authorized exceptions.
- b. This category of records are the subject of another set of policies and procedures.

3. Chambers Records

Chamber records are records that are controlled and maintained by a judge’s chambers. This category of records is not open to public access and is categorically exempt from disclosure.

E. DEFINITIONS

1. “Access” means the ability to view or obtain a copy of an administrative record.
2. “Administrative Record” means a public record created by or maintained by a court or judicial agency and related to the management, supervision, or administration of the court or judicial agency. Such records may exist in a variety of forms such as: a written

document, audio/video recording, a picture, electronic disk, magnetic tape, email message.

- a. It does not include any of the following: (1) court records as defined in GR 31; (2) chamber records as defined in GR 31.1(m)(1); or (3) an attorney's client files that would otherwise be covered by the attorney-client privilege or the attorney work product doctrine.
3. "Chambers record" means any writing that is created by or maintained by any judicial officer or chambers staff, and is maintained under chambers control, whether directly related to an official judicial proceeding, the management of the court, or other chambers activity.
4. "Chambers staff" means a judicial officer's law clerk, a judicial officer's administrative staff, and any other staff, when providing support directly to the judicial officer at chambers.
 - a. Some judicial employees may split their time between performing chamber duties and performing other court duties. An employee may be "chambers staff" as to certain functions, but not as to others. Whether certain records are subject to disclosure may depend on whether the employee was acting in a chambers staff function or an administrative staff function with respect to the specific record.
5. "Court record" includes, but is not limited to: (i) any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. Court records do not include data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers; or information gathered, maintained or stored by a government agency or other entity to which the court has access but which is not entered into the record.
6. "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).
7. "Public record" includes any writing, except chambers records and court records, containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any court or judicial agency regardless of physical form or characteristics. Public records also include metadata for electronic administrative records. *See also O'Neil v. City of Shoreline*, 170 Wn.2d 138, 240 P.3d 1149 (2010) (defining "metadata").
8. "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof,

and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated. Emails and telephonic records are covered in this broad definition of writing.

F. REQUESTING RECORDS

1. Public Records Officer.

The Public Records Officer (PRO) for the Clallam County Superior Court and its associated judicial agencies and programs will be the following individuals:

Clallam County Superior Court	<p>Melinda Clevenger – Court Administrator</p> <p>Clallam County Superior Court 223 E. 4th Street, Suite 8 Port Angeles, WA 98362</p> <p>Phone: (360) 417-2386 Fax: (360) 417-2581</p> <p>MClevenger@co.clallam.wa.us</p>
Clallam County Family Therapeutic Court	<p>Kirsten Poole – Court Coordinator</p> <p>Clallam County Family Therapeutic Court 223 E. 4th Street, Suite Port Angeles, WA 98362</p> <p>Phone: (360) 565-2721 Fax: (360) 417-2204</p> <p>KPoole@co.clallam.wa.us</p>
Clallam County Juvenile Services	<p>Pete Peterson – Director; or Jody Jacobsen – Deputy Director</p> <p>Clallam County Juvenile Services 1912 W. 18th Street Port Angeles, WA 98363</p> <p>Phone: (360) 565-2628 Fax: (360) 457 – 4875</p> <p>PPeterson@co.clallam.wa.us JJacobsen@co.clallam.wa.us</p>

The PRO identified above is responsible for processing requests for administrative court records that are directed to his/her department.

The PRO shall report to the presiding judge for his/her court, or the presiding judge's designee. If the PRO is unavailable and unable to perform his/her duties, the presiding judge shall identify a backup that will be responsible for processing all administrative records request for the court and its judicial agencies/programs in the PRO's absence.

2. Requests to be submitted to Public Records Officers.

Any request for court administrative records shall be submitted to the appropriate PRO.

If the receiving PRO has knowledge that the requested records exist in another court (*e.g.* District Court), the requesting party should be so advised and the requesting party shall submit the request to the appropriate court for processing.

On occasion, a requestor may direct a request for identifiable documents to a specific employee, court, or judicial agency. In the event a court employee, other than the PRO, receives a public records request, the employee shall indicate to the requestor that they are not the designated person to receive public records requests. Employees should direct requesting parties to submit their request to the designated PRO, provide the necessary contact information for the appropriate PRO to the requester, and alert the PRO to expect a records request.

3. Form of Request.

All public records request shall be in writing. The PROs will not process a request that is not first reduced to a written from by the requesting party.

Requesting parties shall use the forms prescribed by the PRO and shall identify the administrative records sought for inspection and/or copy with as much specificity as possible. Request not submitted on the appropriate form may not be processed.

A written request form may be obtained through the following hyperlink: [Written Request Form](#).

G. PROCESSING REQUESTS

1. Timely Initial Response Required.

The PRO shall respond to a written request for administrative records within five (5) working days of its receipt.

2. Distributing the Request

The PRO will determine, as soon as possible, which court employees and/or locations may have records responsive to the request and email the text of the request, or a summary, to the appropriate court staff. The PRO shall set a time for a response and ensure that any records potentially responsive to the request will not be destroyed pending the processing of the request.

3. Searching for Records

- a. Each court employee contacted shall:
 - i. Indicate that he or she has no responsive documents;
 - ii. Indicate that he or she has responsive documents and provide them;
 - iii. Specify a reasonable time within which he or she can search for the records and provide a more thorough response; or
 - iv. Describe how the request should be clarified.
- b. If the employee has responsive documents, then he or she should promptly provide them to the PRO; and, if documents are exempt/redacted, then provide a summary of why the documents are exempt, with specific reference to the legal citation that is the basis for the exemption.
 - i. The summary provided, at a minimum, should identify the type of record, its creation date, the number of pages, the author and recipient (unless otherwise protected). *See P.A.W.S. v. University of Washington*, 125 Wn.2d 243, 884 P.2d 592 (1994).
 - ii. Where the use of any identifying features would reveal protected content, the records may be designated by a numerical reference.
- c. In the event it is difficult to produce copies of the responsive documents, either because of their size, format, or volume of the request, the employee should contact the PRO to determine whether there are other options to producing copies.
- d. The staff shall assemble the individual responses and provide a consolidated response to the PRO. If applicable, the PRO shall also ensure that records of former staff members were searched for the requested information.
- e. The PRO should maintain a record of all the employees contacted, along with any correspondence sent/received, with respect to a specific request.

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4. Electronic Records

- a. The PRO shall familiarize himself or herself with the requirements of the Clallam County Information and Technology (IT) Department to perform an effective and efficient search for electronic records (*e.g.* email servers, computer hard drives).
- b. If records are requested with metadata intact, the PRO will work with the IT to provide records in native format to the extent possible.
- c. If the request is for records that can best be provided through customized access to electronic records, the PRO shall work with the necessary staff that have responsive documents to determine the appropriate means of response.
- d. The PRO will work with the requestor to determine the appropriate format for providing responsive records.

5. Appropriate Responses

The PRO receiving a request to inspect and/or copy administrative court records, shall within five (5) working days:

- a. Provide the requested administrative record(s).
- b. In writing, acknowledge receipt of the request and include a good-faith estimate of the time needed to respond to the request.
 - i. A reasonable estimate of time may be based on, but is not limited to, the need to locate/assemble responsive records, notify third parties that may be affected by the request, determine whether any of the information contained in the records is exempt from disclosure, or personnel constraints.

The estimate may be subsequently revised, if necessary, in accordance with these policies and procedures.

- c. In writing, acknowledge receipt of the request and advise the requesting party that the court (or its judicial agencies / programs) does not possess the records requested. If the PRO has knowledge that the requested record exists within another court, the requester shall be advised of the same; and the requesting party shall submit the request to the appropriate PRO.
- d. Deny the request. If the request is denied, in any part (including redactions), then the PRO must include a written summary of the procedures through which the party may seek review.

For purposes of these policies and procedures, “working days” means days that the court or judicial agency is actually open. Legal holidays are prescribed in [RCW 1.16.050](#). The

Superior Court will compute any period of time prescribed by GR 31.1 and these policies and procedures consistent with [Civil Rules \(CR\) 6\(a\)](#).

6. Requests for Clarification.

The PRO should communicate with the requester as necessary to clarify the records being requested. The PRO may also communicate with the requester in an effort to determine if the requester's need would be better served with a response other than the one actually requested. Any communication that clarifies and facilitates the processing of a request shall be reduced to writing and mailed to the requesting party.

If, after appropriate notice by the PRO, the requester fails to clarify the request within fourteen (14) days of the date the notice was mailed, then the PRO may deem the request abandoned and take no further action with respect to the initial request submitted.

7. Third Party Notifications.

Unless otherwise required or prohibited by law, the PRO may notify a person named in a record or to whom a record specifically pertains, that access to the record has been requested.

A person who is named in a record, or to whom a record specifically pertains, may present information opposing the disclosure to the applicable decision maker. If the PRO mails a third party notification, the third party shall submit any opposition to the PRO, or a reviewing judge under GR 31.1(d), within 14 days of the date of mailing.

If a court or judicial agency decides to allow access to a requested record, a person who is named in that record, or to whom the record specifically pertains, has a right to initiate review or to participate as a party to any review initiated by a requester. *See* Section I. The PRO shall provide notice to the third party, advising him/her of the decision to release records and the court's review procedures.

If either the third party or the record requester objects to informal review pursuant to GR 31.1(d)(4)(ii), such alternative shall not be available. The deadlines that apply to a requester apply as well to the third party.

8. Protective Orders

If any requester, third party, or employee becomes aware of a court order that limits the disclosure, nondisclosure, or preservation of any administrative records, he or she should communicate the substance of such order, and provide a copy of the order to the PRO.

Likewise, if the PRO is aware of any court order requiring the disclosure, nondisclosure, or preservation of any administrative records the PRO will notify the staff in possession of the requested information.

9. Extraordinary Requests and Resource Constraints

If a particular request is of a magnitude that the court cannot fully process within a reasonable time due to constraints on the court's time, resources, and personnel, the court shall communicate this information to the requesting party.

The PRO must attempt to reach agreement with the requesting party as to narrowing the request to a more manageable scope and as to a timeframe for the court's or judicial agency's response, which may include a schedule of installment responses.

If the court or judicial agency and requester are unable to reach agreement, then the court shall respond to the extent practicable and inform the requester when the court has completed its response.

10. Creating Records

The PRO is not required to create documents in order to comply with a request for specific information. Rather, the PRO must locate, assemble, and produce existing records for review and/or copying. Also, the PRO is not obligated to compile information from various records so that information is in a form that is more useful to the requesting party.

GR 31.1 does not require PRO's to manipulate electronic files, create new reports, or compile information from various documents. Requests for such data are considered "custom records request" and are not deemed by the courts to be requests for administrative court records. The courts may respond to custom records requests at their own discretion.

11. Substantive Response

The PRO must respond to the substance of the records request within the timeframe specified in the court's initial response to the request. If the PRO is unable to fully process a request for administrative records within the timeframe previously provided to the requesting party consistent with Section G(5)(b), then the PRO should comply to the extent practicable and provide a new good faith estimate for responding to the remainder of the request.

a. Written Notification

A substantive response includes written notification that the requested records have been assembled and are ready for inspection and/or copy. The PRO should apprise the requesting party of the cost to purchase complete copies of any records assembled and any fees for research and preparation services.

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b. Redaction/Exemption Logs

If any records have been redacted in whole or in part, or have been withheld in their entirety, then the PRO shall include a redaction/exemption log with the records produced for inspection and or copy.

c. Review Procedures

The PRO shall include notice of review procedures with any substantive response, which includes a denial of the request (in whole or part) or any redacted/exempt documents.

d. Installments Allowed

The courts reserve the right to employ an installment methodology when processing requests for administrative records, especially when processing requests that seek a large volume of records. The Court will attempt to reach agreement with the requesting party to narrow the scope of the request to a more manageable level and to a timeframe for the Court's response. If an agreement cannot be reached, then the Court shall respond to the extent practicable and inform the requesting party when the Court has completed its response.

If the PRO processes a request through installments, then the written notification should appraise the requesting party of which installment is ready for inspection and/or copy: *e.g.* first, second, third, etc.

If multiple installments are required, once the requesting party has viewed an installment, the PRO shall provide, within five (5) days, a reasonable estimate as to when the next installment in the series shall be available for inspection and/or copy.

If any installment of records is not claimed or reviewed within 30 days, the court or judicial agency is not obligated to fulfill the balance of the request. The PRO should inform the requesting party that the request has been abandoned and closed.

e. Record of Documents Produced

The PROs are encouraged to maintain electronic copies of all records assembled and made available to a requesting party's specific request. The copy will then be available where there is great public interest, potential litigation, disputes, etc.

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f. Pagination

The PROs are encouraged to affix page numbers on the bottom of any copies of records that are assembled and produced when processing a request for administrative records. Example: YEAR / ARR No. – XX. Numbering shall be sequential and shall continue into any installments.

12. Denial of Request and Redacted Documents

If the PRO denies any portion of the request submitted, then a written statement shall be provided to the requesting party that identifies the legal justification supporting the denial.

Any denial pursuant to an authorized exemption shall include a redaction log, identifying to the greatest extent possible:

- a. The type of record that was redacted or withheld (without disclosing protected content).
- b. The number of pages comprising the record,
- c. The date the record was created,
- d. The author and recipient of the record,
- e. The legal basis for the redaction/exemption, and
- f. A brief explanation as to how the authorized redaction/exemption applies to the document.

When the use of any identifying features would reveal protected content, the records may be identified by a numbered sequence.

13. Improper Requests

The PRO may deny a record request if it determines that: the request was made to harass or intimidate the court or its employees; fulfilling the request would likely threaten the security of the court; fulfilling the request would likely threaten the safety or security of judicial officers, staff, family members of judicial officers or staff, or any other person; or fulfilling the request may assist criminal activity.

14. Maintaining Records of Requests for Public Records

Written requests and any correspondence relating thereto must be maintained by the court receiving the request per the Washington State Retention Schedule. The PRO is

encouraged to keep a log of public records request, which may include the following information:

- a. Assigned serial number. Example: [YEAR / ARR No.]
- b. Date request was received.
- c. Requesting Party.
- d. Nature of Request.
- e. When request was closed.
- f. Whether records were produced.
- g. Number of hours spent processing the request.
- h. If the request was forwarded to another PRO.

H. VIEWING RECORDS

1. Assistance

If a request is granted, the requesting party shall be provided with all practicable assistance when inspecting records. Copying of records shall be done by the PRO. Fees for photocopying shall be charged in compliance with applicable law.

2. Security

It is the responsibility of the PRO to ensure security of court records during inspection. The PRO should not allow removal of original records from the court, especially in circumstances where records could be taken or altered. The requesting party may be accompanied by the PRO, or his/her designee, while viewing to ensure the integrity of the records.

3. Inspections

Records assembled shall be available for inspection and copying during normal courthouse business hours.

Public records will be inspected in the offices in which they are maintained. Inspection shall be at a convenient time for the PRO, or other designated court staff, to assist and supervise the inspection so that essential functions of the office are not disrupted. No records shall be removed from a file except by authorized personnel. The staff member supervising the inspection will be assigned based on the work schedule at the time.

Inspection shall be denied and the records withdrawn if the individual inspecting the records is doing so in a manner to damage, alter, or substantially disorganize them; or if the individual inspecting the records attempts to remove them from the prescribed location or is excessively interfering with other essential functions of the court personnel.

4. Photocopying

The PRO is encouraged to provide electronic copies of requested records whenever possible. Preexisting electronic copies should be produced free of any copying charges. For security purposes and to ensure uncorrupted copying, electronic data shall be copied on media recommended and specified by the court at its discretion.

Fees for copying shall be \$0.15 per page per side.

When requested records include information that must be exempt/redacted from disclosure, then the PRO must copy and redact the information prior to any inspection.

I. REVIEW OF DECISIONS

1. Review Procedures

A request for review may be obtained through the following hyperlink: [Notice of Review](#).

2. Time for Review

A record requester's petition for internal review of a PRO decision must be submitted within 90 days of the PRO's decision. A request for external review must be submitted within 30 days of the Court's final decision following internal review.

3. Types of Review

There are two types of reviews available to requesting parties:

a. Internal Review:

- i. The Court's presiding judge, or designee, will preside over the review proceeding, which is informal and summary. The review proceeding shall be held within five working days of a timely filed notice of review. If that is not reasonably possible, then within five working days the review shall be scheduled for the earliest practical date.
- ii. Note: internal review is unavailable if a third party is involved in the processing of a public record request consistent with Section G(7), and either

the requesting party or the third party objects to an internal review. *See* GR 31.1(f)(3).

b. External Review:

Upon the exhaustion of the internal review process, a requesting party aggrieved by a court or agency decision may obtain further review by choosing between two alternatives:

i. Informal Review by Visiting Judge or Other Outside Decision Maker:

The requesting party may seek informal review by a person outside the court. If the requesting person seeks review of a decision made by a court, the outside review shall be by a visiting judicial officer. The review proceeding shall be informal and summary. The decision resulting from the informal review proceeding may be further reviewed in superior court pursuant to a writ of mandamus, prohibition, or certiorari. Decisions made by a judge under this section are part of the judicial function.

ii. Review via civil action in court:

The requesting party may use a judicial writ of mandamus, prohibition, or certiorari to file a civil action in superior court challenging the records decision.

4. Monetary Awards Not Allowed.

Attorney fees, costs, civil penalties, or fines may not be awarded to any prevailing party.

5. Orders on Review

A copy of any decision/order issued in response to Notice for Review will be maintained in the appropriate file specific to the request at issue.

The PRO will comply immediately with any directives issued by the reviewing judge.

J. EXEMPTIONS

1. General Right of Access

Court administrative records are open to public access unless access is exempt or prohibited under GR 31.1, other court rules, federal statutes, state statutes, court orders, or case law.

Public records exempt from public disclosure pursuant to a recognized exemption shall not be available for public inspection and/or copying. However, when exempt portions of

public records can be redacted (exempt portions deleted), the remainder thereof shall be open to public inspection and/or copying.

For purposes of this policy, “exempt” means that a law allows or requires the withholding or redacting of a record, or a portion thereof, from disclosure.

2. GR 31.1 - Categorical Exemptions

- a. Requests for judicial ethics opinions.
- b. Minutes of meetings held exclusively among judges, along with any judicial staff.
 - i. Note: meeting minutes do not always contain information that needs to be withheld from public access. The Court may, but is not required to, release meeting minutes if the document does not contain information of a confidential, sensitive, or protected nature.
- c. Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this rule, except that a specific record is not exempt when publicly cited by a court or agency in connection with any court or agency action.
 - i. This exemption applies to a record only while a final decision is pending on the issue that is being addressed in that record; once the final decision has been made, the record is no longer covered by this exemption. For purposes of documents related to budget negotiations with a budgetary authority, the “final decision” is the decision by the budgetary authority to adopt the budget for that year or biennium.
- d. Evaluations and recommendations concerning candidates seeking appointment or employment within a court or judicial agency.
- e. Personal Identifying information, including individuals’ home contact information, Social Security numbers, date of birth, driver’s license numbers, and identification/security photographs.
- f. Defense Expert/Investigator Requests: Documents relating to an attorney’s request for a trial or appellate court defense expert, investigator, or other services, any report or findings submitted to the attorney or court or judicial agency by the expert, investigator, or other service provider, and the involving of the expert, investigator or other service provider during the pendency of the case in any court.
 - i. Payment records are not exempt, provided that they do not include medical records, attorney work product, information protected by

attorney-client privilege, information sealed by a court, or otherwise exempt information.

- g. Employee Complaints: Documents, records, files, investigative notes and reports, including the complaint and the identity of the complainant, associated with a court's or judicial agency's internal investigation of a complaint against the court or judicial agency or its contractors during the course of the investigation.
 - i. The outcome of the court's or judicial agency's investigation is not exempt.
 - h. Family court mediation files.
 - i. Juvenile court probation social files. A "social file" is the juvenile court file that contains the records and reports of a probation counselor. *See* RCW 13.50.010(1)(d).
 - j. Security Documents: Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans, the disclosure of which would have a substantial likelihood of threatening the security of a judicial facility or any individual's safety.
3. Public Records Act

The Public Records Act, chapter 42.56 RCW, does not apply to judicial records, but it may be used for non-binding guidance.

To the extent that records access would be exempt or prohibited if the Public Records Act applied to the judiciary's administrative records, access is also exempt or prohibited under GR 31.1.

To the extent that an ambiguity exists as to whether records access would be exempt or prohibited under this rule or other enumerated sources, responders and reviewing authorities shall be guided by the Public Records Act, chapter 42.56 RCW, in making interpretations under these policies and procedures.

In addition, to the extent required to prevent a significant risk to individual privacy or safety interests, a court or judicial agency shall delete identifying details in a manner consistent with GR 31.1 when it makes available or publishes any public record. However, in each instance, the justification for the deletion shall be explained in writing.

To see exemptions commonly asserted under the Public Records Act, please visit the following link: [Public Records Act Authorized Exemptions](#).

K. CHAMBER RECORDS

1. Chamber records are not administrative records and are not subject to disclosure.

- a. Justification: The exception for chambers records recognizes the reality that many of the records held in chambers are subject to confidentiality or privilege. Requiring judicial officers and chambers staff to search, review, and redact their records would be extremely burdensome and would seriously interfere with their primary responsibility of hearing and deciding cases. Imposing this burden, with its negative impact on the judicial function, would not measurably add to the public's knowledge of the judicial process, especially in light of the fact that the public already has access to judicial proceedings in open court and to the public court file. *See* GR 31.1(m) – comment.
- b. Test: A writing is under chambers control if (1) the writing is created by/or maintained by a judicial officer or the judicial officer's staff and is in the physical custody of a judicial officer or chambers staff whether directly related to an official judicial proceeding, the management of the Court, or other chamber activities, (2) the writing is under the controlling authority of a judicial officer or chambers staff, or (3) use of the writing is limited to a judicial officer or chambers staff.
 - i. Examples are (1) paper files stored in offices, desks, and filing cabinets controlled by a judicial officer or chambers staff; (2) electronic documents, files or folders used by a judicial officer or chambers staff to create or maintain electronic records; and (3) electronic mailboxes of a judicial officer or chambers staff.
 - ii. Electronic records should be considered “under chambers control” if one of the three tests in (b) is met, even if it could be centrally searched through electronic means by court administrative or information technology staff.
 - iii. Records may remain under chambers control even though they are stored elsewhere. For example, records relating to chambers activities that are stored on personally owned or workplace-assigned computer, laptop computer, cell phone, and similar electronic devices in the possession of a judicial officer or a chambers staff person would still be chambers records. Ref. GR 31.1(m)(1).
 - iv. A “chambers record” is not a “chambers record” if it is in the possession of court personnel, other than a judicial officer or chambers staff. While judicial officers and chambers staff are not required to respond to an administrative records request, other court personnel must respond to a request and provide to the court's public records officer any responsive record, including any record received from a judicial officer or chambers

staff. The public records officer will determine if GR 31.1 or other law provides an exemption to producing the record or requires the record to be redacted before being produced. For example, if a judge sends a draft of a budget request to his or her judicial assistant who works in the judge's chambers to review, the budget request is a chambers record and not subject to GR 31.1. However, if the judge or judicial assistant sends the budget request to another court employee outside of chambers, the copy of the budget request in the possession of the court employee is no longer a chambers record and the employee who received it must provide it to the public records officer in response to a records request.

2. Chambers Staff

Some judicial employees split their time between performing chambers duties and performing other court duties. An employee may be "chambers staff" as to certain functions, but not as to others. Whether certain records are subject to disclosure may depend on whether the employee was acting in a chambers staff function or an administrative staff function with respect to the specific record.

3. Location Not Determinative

Records may remain under chambers control even though they are stored elsewhere. For example, records relating to chambers activities that are stored on a judge's personally owned or workplace-assigned computer, laptop computer, cell phone, and similar electronic devices would still be chambers records. As a further example, records that are stored for a judicial chambers on external servers would still be under chambers control to the same extent as if the records were stored directly within the chambers. However, records that are otherwise subject to disclosure should not be allowed to be moved into chambers control as a means of avoiding disclosure.

Court records and administrative records do not become chambers records merely because they are in the possession or custody of a judicial officer or chambers staff.

Chambers records do not change in character by virtue of being accessible to another chambers. For example, a data base that is shared by multiple judges and their chambers staff is a "chambers record" as long as the data base is only being used by judges and their chambers staff.

L. FEES

It is the policy of the Clallam County Superior Court to recover the costs incurred by the courts for assembling and copying administrative records sought under GR 31.1. However, the PRO may waive any costs at their discretion if they determine such action is in the best interest of the judiciary.

1. Inspection

A fee may not be charged to view administrative records, except the requester may be charged for research required to locate, obtain, or prepare the records at the rate determined below.

2. Research and Preparation Services

A fee of \$30 per hour shall be charged for research and preparation services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

3. Copying

A fee may be charged for the photocopying or scanning of administrative records. If another court rule or statute specifies the amount of the fee for a particular type of record, that rule or statute shall control.

Otherwise, the amount of the fee may not exceed the amount that is authorized in the Public Records Act, chapter 42.56 RCW.

a. Paper:

Unless otherwise authorized by RCW for copying of specific records, the courts adhere to RCW 42.56.120 for the copying of public records. Fees are listed in the consolidated fee schedule in the Clallam county code. The price per copy (per side) is \$0.15. Research and preparation fees still apply.

b. Electronic:

Preexisting electronic copies of documents are to be provided free of charge, unless the requesting party needs the documents on a compact disc. In such cases, the courts will charge a fee to cover costs of the disc or other storage medium. Research and preparation fees are still applicable.

c. Miscellaneous:

Certain public records are of a size or nature that cannot be copied using standard equipment and must be copied commercially. In such cases, the County will recover the full cost of copying including staff time for transport of the records.

4. Postage

The courts will recover the cost for mailing any responsive records to the requesting party. The PRO will utilize the least expensive service available through the U.S. Postal Service. However, if the requesting party prefers an expedited delivery then he/she shall

inform the PRO of such request in writing and assume the cost for any expedited shipment.

5. Deposits

The court may require a deposit in an amount not to exceed the estimated cost of providing copies for a request. If a court makes a request available on a partial or installment basis, the court may charge for each part of the request as it is provided.

6. Prepayment of Fees

The court may require prepayment of fees.

7. Invoices Required

If fees are charged/recovered, then the PRO shall provide the requesting party with a receipt itemizing the various fees and the total amount due. A copy of this invoice will be kept in the file specific to each individual request.

8. Untimely Payments

If fees are not timely paid, further records requests will not be honored until the requesting party's account is brought current.

Furthermore, any future request shall be prepaid before any copies are provided or any research and assembly beyond one (1) hour is performed.

M. SUMMARY OF RESPONSIBILITIES

1. All courts and judicial agencies must make every effort to comply with the letter and spirit of GR 31.1 and respond by the due date as provide by the PRO.
2. The PRO shall coordinate the overall public records process, work with requestors to clarify request, forward requests to judicial officers, judicial staff, or judicial agency employees, provide timely responses to requestors, and track all requests, exemptions, and responses. The PROs are responsible for measuring and evaluating the effectiveness of the current policies and procedures to ensure that records requests are responded to in an accurate and timely manner, providing assistance to verify court/judicial branch agency objectives and court rule requirements are being carefully followed. Develop policies and procedures for public disclosure, the PRO sis to ensure implementation of all public disclosure program requirements.
3. Court or judicial branch staff shall promptly forward administrative records requests received from the PRO 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 PRO.

4. IT staff shall work with the PRO in responding to requests for electronic records and assist in providing customized access to electronic records where appropriate.

N. HELPFUL LINKS

The courts provide the following links so that court personnel and requesting parties may better understand the principles that support public disclosure laws in Washington State.

It is important to recognize that disclosure of administrative court records is governed by GR 31.1, not the Public Records Act (chapter 42.56 RCW). However, the Public Records Act does provide a helpful method to understand and approach request for administrative court records.

1. [Administrative Office of the Courts](#)
2. Washington State Court Rule – [GR 31.1](#)
3. Washington State Court Rule – [GR 15](#).
4. Washington State Court Rule – [GR 22](#).
5. Washington State Court Rule – [GR 31](#)
6. Public Records Act – [Chapter 42.56 RCW](#)
7. Model Rules for the Public Records Act – [Chapter 44-14 WAC](#)
8. [Washington State Attorney General's Office](#)
9. Public Records Act Common Exemptions: *See* [MRSC Publication – Public Records Act](#)