

# CLERK OF THE CIRCUIT COURT OF COOK COUNTY PUBLIC ACCESS TO COURT RECORDS

## Policy and Procedure

### **OPEN RECORDS POLICY**

The Clerk of the Circuit Court of Cook County supports open government and an informed citizenry. Therefore, the official court records held by the Clerk are presumed to be open to any member of the public for inspection or to obtain copies at all times during regular hours of operation at the office having custody of the records to the extent allowed by applicable statute, court rule or court order. In view of the possible countervailing interests of confidentiality, privacy or the best interests of the state, public access to some records may be restricted or expanded in accordance with the provisions of this policy, court rules, court orders, other provisions of law or subsequently decided case law. All decisions on the dissemination of information will be subject to all privacy protections accorded by this policy, statute, court rule and court order, including but not limited to the Illinois Compiled Statutes, the Illinois Code of Civil Procedure, the Illinois Code of Criminal Procedure, the Illinois Supreme Court Rules, and all Special Orders and General Orders of the Circuit Court of Cook County.<sup>1</sup>

#### **Scope**

This Policy and Procedure covers the official court records maintained in hard copy paper format by the Clerk of the Circuit Court. Generally, the court records of files consist of some or all of the following: petitions, pleadings, motions and memoranda, discovery documents, transcripts, victim impact statements, process, service of process, orders, evidentiary materials, writs and docket entries reflecting hearings held and judgments and decrees entered by the court.

#### **Criteria for Inspection and Review**

It is recognized that the primary missions of the Clerk of the Circuit Court and the court system are the orderly administration of justice, adjudication of disputes and the maintenance of records memorializing the resolution of those disputes. All resources will be first applied to the successful completion of these missions. To this end, all access to information is subject to the following criteria: availability of the data; specificity of the request; potential for infringement of personal privacy created by the release of the information requested; and potential disruption of or burden on the internal ongoing business of the Clerk's Office and the court system.

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<sup>1</sup> Please note that records held and maintained by the Clerk of the Circuit Court are not within the scope of the Freedom of Information Act.

## **Applicable Limitations**

All official court records are open to the public on a case-by-case basis as fully as they are available in the Official Court Record, except as may be ordered by the court or as provided by statute, court rule or court order, including but not limited to the Illinois Compiled Statutes, the Illinois Code of Civil Procedure, the Illinois Code of Criminal Procedure, the Illinois Supreme Court Rules, and all Special Orders and General Orders of the Circuit Court of Cook County.

## **Procedure for Requesting Records**

### **(1) Overview**

Pursuant to this policy, all record requests must be approved by the Clerk of the Circuit Court prior to the release of any records. The policy is designed to maintain free and open access to records held by the Clerk in the courthouses to the extent allowed by applicable statute, court rule and court order. To ensure the protection of individual privacy rights, the approval request procedure is more stringent when applied to requests for access to records other than in person at the courthouse.

### **(2) Submitting a Request**

- A request to inspect or obtain copies of records that are open to the public shall be made in writing on the form printed by the Clerk of the Circuit Court and entitled *File Request Form* (a copy of which is attached). All divisions and districts will utilize the attached standard file request form for all file requests, including bulk and warehouse files.
- The completed request form must be submitted in person or via facsimile transmission.
- A requestor must submit a valid photograph identification card to retrieve each file requested. Acceptable identification includes: Attorney Identification Card, Driver's License, State Identification Card, etc. The photograph on the card must be the requestor's. The requestor is required to submit a valid identification card before receiving a file.

All requests for copies must include sufficient information to reasonably identify the documentation sought. Requests to view the Official Court Record shall be submitted over the counter or via facsimile transmission at the Clerk of the Circuit Court's Office location.

## **Timely Response**

### *(1) In-Person Requests*

Upon receiving a request to inspect or obtain copies of records, the Clerk of the Circuit Court's employee shall promptly respond regarding the availability of the records, and provide the records in a reasonable time based upon the following factors:

- (A) Immediate availability of the requested records;
- (B) Specificity of the request and need for clarification; and
- (C) Whether the requested records are located at the courthouse or in offsite storage.

If the records are available, they will be presented to the requestor for inspection and copying in the area designated for such activity by the Clerk of the Circuit Court. If the requested records are unavailable, the requestor shall be informed of such unavailability and the date and time of anticipated delivery. The requestor shall also receive a telephone number to call to determine the availability of the requested records.

### *(2) Facsimile Transmission Requests*

Upon receiving a facsimile transmission request to inspect or obtain copies of records, the Clerk of the Circuit Court's employee shall promptly check the availability of the records, and have the records available in a reasonable time based upon the following factors:

- (A) Immediate availability of the requested records;
- (B) Specificity of the request and need for clarification; and
- (C) Whether the requested records are located at the courthouse or in offsite storage.

It is the duty of the requestor to confirm receipt of his or her facsimile transmission request and to verify record availability. If the records are available, they will be tagged on the shelf, but will only be pulled and made available to the requestor when he or she appears in person, unless the record has been requested and pulled for someone else prior to the requestor's arrival. If that occurs, the file will be provided as soon as it is available. If the requested records are unavailable, the requestor shall be informed of such unavailability and the date and time of anticipated delivery. The requestor shall also receive a telephone number to call to determine the availability of the requested records.

### **Requestor's Refusal to Submit an Identification Card**

All file requestors must utilize the File Request Form. If a requestor refuses to submit an identification card, an employee of the Clerk of the Circuit Court will present this matter to the manager of the file review area. The manager will advise the requestor that it will be necessary for him or her to complete a File Request Form and schedule an appointment to examine the file in a designated file review area under the supervision of a Clerk's Office employee.

### **Requestor's Care and Handling of Records**

The requestor shall exercise the highest standard of care while in possession of court records. The requestor shall keep such records in his or her immediate possession and control until returning them to the Clerk of the Circuit Court's employee. At no time shall the requestor remove the court file or any contents thereof from the area designated by the Clerk's Office for record inspection. Moreover, the requestor shall not write on, mutilate, deface or otherwise alter the records. 720 ILCS 5/32-8. The requestor is solely responsible for returning the court file and its contents in the same condition as when he or she received it. As a result of any violation of this section, the Clerk of the Circuit Court may take action against the requestor as provided for by law or equity.

### **Returning Records**

The requestor shall return the court files and records at the counter where he or she first received the court files and records. The Clerk of the Circuit Court reserves the right to fully inspect the returned court files and records to ensure that they are in good and proper condition prior to returning the requestor's photographic identification card. However, return of the identification card does not constitute a waiver of any right to recourse for mutilating, defacing or altering the file or record. The Clerk's Office shall keep the file request forms for a period of at least six months.