ARKANSAS JUDICIARY
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Order 19. Access to Court Records

Go here for bulk and compiled data forms [1]

Section I. Authority, Scope, and Purpose.

A. Pursuant to Ark. Const. Amend. 80 §§ 1, 3, 4; Ark. Code Ann. §§ 16-10-101 (Repl. 1999), 25-19-105(b)(8) (Supp. 2003), and this Court's inherent rule-making authority, the Court adopts and publishes Administrative Order Number 19: Access to Court Records. This order governs access to, and confidentiality of, court records. Except as otherwise provided by this order, access to court records shall be governed by the Arkansas Freedom of Information Act (Ark. Code Ann. §§ 25-19-101, et seq.).

B. The purposes of this order are to:

(1) promote accessibility to court records;
(2) support the role of the judiciary;
(3) promote governmental accountability;
(4) contribute to public safety;
(5) reduce the risk of injury to individuals;
(6) protect individual privacy rights and interests;
(7) protect proprietary business information;
(8) minimize reluctance to use the court system;
(9) encourage the most effective use of court and clerk of court staff;
(10) provide excellent customer service; and
(11) avoid unduly burdening the ongoing business of the judiciary.

C. This order applies only to court records as defined in this order and does not authorize or prohibit access to information gathered, maintained, or stored by a non-judicial governmental agency or other entity.

D. Disputes arising under this order shall be determined in accordance with this order and, to the extent not inconsistent with this order, by all other rules and orders adopted by this Court.

E. This order applies to all court records; however clerks and courts may, but are not required to, redact or restrict information that was otherwise public in case records and administrative records created before January 1, 2009. However, confidential information shall be redacted from pre-January 2009 case records and administrative records before remote access is available to such records.

Section II. Who Has Access Under This Order.

Rules text

A. All persons have access to court records as provided in this order, except as provided in section II(B) of this order.

B. The following persons, in accordance with their functions within the judicial system, may have greater access to court records:

(1) employees of the court, court agency, or clerk of court;

(2) private or governmental persons or entities who assist a court in providing court services;

(3) public agencies whose access to court records is defined by other statutes, rules, orders or policies; and

(4) the parties to a case or their lawyers with respect to their own case.

Section III. Definitions.

A. For purpose of this order:

(1) "Court Record" means both case records and administrative records, but does not include information gathered, maintained or stored by a non-court agency or other entity even though the court may have access to the information, unless it is adopted by the court as part of the court record.

(2) "Case Record" means any document, information, data, or other item created, collected, received, or maintained by a court, court agency or clerk of court in connection with a judicial proceeding.

(3) "Administrative Record" means any document, information, data, or other item created, collected, received, or maintained by a court, court agency, or clerk of court pertaining to the administration of the judicial branch of government.

(4) "Court" means the Arkansas Supreme Court, Arkansas Court of Appeals, and all Circuit, District, or City Courts.

(5) "Clerk of Court" means the Clerk of the Arkansas Supreme Court, the Arkansas Court of Appeals, and the Clerk of a Circuit, District, or City Court including staff. "Clerk of Court" also means the County Clerk, when acting as the Ex-Officio Circuit Clerk for the Probate Division of Circuit Court.

(6) "Public access" means that any person may inspect and obtain a copy of the information.

(7) "Remote access" means the ability to electronically search, inspect, or copy information in a court record without the need to physically visit the court facility where the court record is maintained.

(8) "In electronic form" means information that exists as electronic representations of text or graphic documents; an electronic image, including a video image of a document, exhibit or other thing; data in the fields or files of an electronic database; or an audio or video recording (analog or digital) of an event or notes in an electronic file from which a transcript of an event can be prepared.

(9) "Bulk Distribution" means the distribution of all, or a significant subset of, the information in court records, as is, and without modification or compilation.

(10) "Compiled Information" means information that is derived from the selection, aggregation or reformulation of information from more than one court record.

(11) "Confidential" means that the contents of a court record may not be disclosed unless otherwise permitted by this order, or by law. When and to the extent provided by this order or by law, "confidential" shall mean also that the existence of a court record may not be disclosed.

(12) "Sealed" means that the contents of a court record may not be disclosed unless otherwise permitted by this order, or by law. When and to the extent provided by this order or by law, "sealed" shall mean also that the existence of a court record may not be disclosed.

(13) "Protective order" means that as defined by the Arkansas Rules of Civil Procedure.

(14) "Expunged" means that the record or records in question shall be sequestered, sealed, and treated as confidential, and neither the contents, nor the existence of, the court record may be disclosed unless otherwise permitted by this order, or by law. Unless otherwise provided by this order or by law, "expunged" shall not mean the physical destruction of any records.

(15) "Court Agency" means the Administrative Office of the Courts, the Office of Professional Programs, the Office of the Arkansas Supreme Court Committee on Professional Conduct, the Judicial Discipline and Disability Commission, and any other office or agency now in existence or hereinafter created, which is under the authority and control of the Arkansas Supreme Court.

(16) "Custodian" with respect to any court record, means the person having administrative control of that record and does not mean a person who holds court records solely for the purposes of storage,

safekeeping, or data processing for others.

Section IV. General Access Rule.

Rules text
A. Public access shall be granted to court records subject to the limitations of sections V through X of this order.

B. This order applies to all court records, regardless of the manner of creation, method of collection, form of storage, or the form in which the records are maintained.

C. If a court record, or part thereof, is rendered confidential by protective order, by this order, or otherwise by law, the confidential content shall be redacted, but there shall be a publicly accessible indication of the fact of redaction. This subsection (C) does not apply to court records that are rendered confidential by expungement or other legal authority that expressly prohibits disclosure of the existence of a record.

Section V. Remote Access.

A. Courts should endeavor to make at least the following information, when available in electronic form, remotely accessible to the public:

(1) litigant/party/attorney indexes to cases filed with the court;
(2) listings of case filings, including the names of the parties;
(3) the register of actions or docket sheets;
(4) calendars or dockets of court proceedings, including case numbers and captions, date and time of hearings, and location of hearings;
(5) judgments, orders, or decrees.

B. Remote access to information beyond this list is left to the discretion of the court as follows:

(1) In the district courts, the district judges(s) shall decide whether to allow public remote access;

(2) In the circuit courts, the Administrative Judge of the Judicial Circuit, with input from the Clerk, and, if applicable, the Ex Officio Circuit Clerk for the Probate Division, of the counties within the circuit, shall decide whether to allow public remote access;

(3) In the appellate courts, the Supreme Court shall decide whether to allow public remote access.

C. Public remote access shall be permitted only upon compliance with sections (I)(E) and (VII), and the implementation of appropriate security measures to prevent indexing by Internet search engines.

Section VI. Bulk Distribution and Compiled Information.

A. Requests for bulk distribution or compiled information stored on computers maintained by the Administrative Office of the Courts (AOC) shall be made in writing on the form provided to the Director of the AOC or other designee of the Arkansas Supreme Court. Requests for bulk distribution or compiled information that is not stored on computers maintained by the AOC shall be made in writing on the form provided to the court or court agency having jurisdiction over the records. The AOC shall maintain on the Arkansas Judiciary website a current description of the records available on AOC computers. Requests will be acted upon or responded to within a reasonable period of time.

B. Compiled information shall be provided according to the terms of this section (VI)(B).

(1) Requests for compiled records shall identify the requested information and the desired format of the compilation.

(2) The grant of a request under this section (VI)(B) may be made contingent upon the

requester paying the actual costs of reproduction, including personnel time, the costs of the of the medium reproduction, supplies, equipment, and maintenance, and including the actual costs of mailing or transmitting the records by facsimile or other electronic means.

(a) The requester may be charged for personnel time exceeding one (1) hour associated with the tasks, in addition to the actual costs of reproduction.

(b) If the estimated costs exceed twenty-five dollars ($25.00), an estimate will be required and the requester may be required to pay that fee in advance.

(c) Information may be furnished without charge or at a reduced charge if it is determined that a waiver or reduction of the fee is in the public interest.

(d) The requester is entitled to an itemized breakdown of charges under this section (VI)(B)(2).

(e) Costs for compiled records requested from a court or court agency having jurisdiction over the records shall be as otherwise permitted by state law or county or city ordinance.

(3) When the request includes cases or information excluded from public access
under section (VII), or the identification of specific individuals is not essential to the purpose of the inquiry, then the requested records may be provided; however, names, addresses (except zip code), month and day of birth shall be redacted from the information.

(4) When the request includes release of social security numbers, driver?s license or equivalent state identification card numbers, the information provided shall include only the last four digits of social security numbers, only the last four digits of driver?s license or equivalent state identification card numbers. Account numbers and personal identification numbers (PINs) of specific assets, liabilities, accounts, and credit cards may not be released.

(5) When the identification of specific individuals is essential to the purpose of the request, then the request must include an executed copy of the Compiled Records License Agreement and the requester must declare under penalty of perjury that the request is made for a scholarly, journalistic, political, governmental, research, evaluation, or statistical purpose, and that the identification of specific individuals is essential to the purpose of the inquiry. This license agreement requirement may be waived for information furnished to an agency of the State of Arkansas. Denial of all or part of a compiled records request shall be reviewable by the Supreme Court Committee on Automation by the requestor filing a written request for review within 20 days of the denial. At its next regularly scheduled meeting the Committee shall review the request and make a determination whether the request should be granted. The determination shall be made by a majority of those members of the Committee present and voting. The Chair of the Committee shall communicate its decision to the Director of the Administrative Office of the courts or the court or court agency having jurisdiction over the records. The Committee?s decision shall be final.

C. Bulk distribution shall be provided according to the terms of this section (VI)(C).

(1) The Administrative Office of the Courts is authorized to develop a license agreement for bulk records consistent with this rule.

(a) The license agreement shall provide the terms and conditions for receipt and update of the bulk data.

(b) The license agreement shall provide for a startup fee not to exceed $1,000 and a monthly subscription fee not to exceed $200 for access to the bulk data.

(c) The license agreement shall provide that recipients of the bulk data shall purge from their databases any records that become confidential or sealed within 24 hours of notice of the records being expunged or sealed.

(d) The license agreement shall provide that recipients of the bulk data shall replace their data within 24 hours of the availability of a monthly extract or
transactional update of the databases.

(e) Costs for bulk records requested from a court or court agency having jurisdiction over the records shall be as otherwise permitted by state law or county or city ordinance.

(f) The license agreement requirement may be waived for information provided to an agency of the State of Arkansas. However, agencies of the State of Arkansas shall not be required to post a surety bond.

(2) The Administrative Office of the Courts shall establish a secure server from which the databases of case information may be downloaded by licensed users.

(a) The secure server shall include a monthly extract of all public case data.

(b) The secure server shall include transactional updates that will be periodically extracted from the case management databases no less frequently than once every 24 hours.

(3) The request for bulk distribution must:

(a) include an executed copy of the Bulk Records License Agreement or a request for waiver of the Bulk Records License Agreement if the requester is an agency of the State of Arkansas;

(b) Include a cashier?s check or money order as indicated in the license agreement to set up a bulk distribution account.

(4) The monthly extract and transactional updates shall include only the last four digits of social security numbers, only the last four digits of driver's license or equivalent state identification card numbers. Account numbers and personal identification numbers (PINs) of specific assets, liabilities, accounts, and credit cards may not be released.

(5) The bulk data will not include cases or records excluded from public access under section (VII).

Go here for bulk and compiled data forms [1]

Section VII. Court Records Excluded From Public Access.

A. **Case records.** The following information in case records is excluded from public access and is confidential absent a court order to the contrary; however, if the information is disclosed in open court and is part of a verbatim transcript of court proceedings or included in trial transcript source materials, the information is not excluded from public access:

(1) information that is excluded from public access pursuant to federal law;
(2) information that is excluded from public access pursuant to the Arkansas Code Annotated;
(3) information that is excluded from public access by order or rule of court;
(4) Social Security numbers;
(5) account numbers of specific assets, liabilities, accounts, credit cards, and personal identification numbers (PINs);
(6) information about cases expunged or sealed pursuant to Ark. Code Ann. §§ 16-90-901, et seq.;
(7) notes, communications, and deliberative materials regarding decisions of judges, jurors, court staff, and judicial agencies;

(8) all home and business addresses of petitioners who request anonymity when seeking a domestic order of protection.

B. **Administrative Records.** The following information in administrative records is excluded from public access and is confidential absent a court order to the contrary:

(1) information that is excluded from public access pursuant to Arkansas Code Annotated or other court rule;

(2) information protected from disclosure by order or rule of court;

(3) security and emergency preparedness plans. Security and emergency preparedness plans shall not be open to the public under this order or the Arkansas Freedom of Information Act, Ark. Code Ann. §§ 25-19-101 et seq., to the extent they contain information that if disclosed might jeopardize or compromise efforts to secure and protect individuals, the courthouse, or court facility. This exclusion from public access shall include: (A) Risk and vulnerability assessments; (B) Plans and proposals for preventing and mitigating security risks; (C) Emergency response and recovery records; (D) Security plans and procedures; and (E) Any other records containing information that if disclosed might jeopardize or compromise efforts to secure and protect individuals, the courthouse, or court facility.

Explanatory Note: Before the amendment, this part of the Administrative Order made the address and phone number of all litigants confidential. That rule would have been both too broad and unworkable. Litigants? addresses are needed for, among other things, summonses and judgments. The revised provision is limited to the situation where current substantive law makes a litigant?s addresses confidential for an obvious and compelling reason. Ark. Code Ann. § 9-15-203 (Repl. 2008).

Section VIII. Obtaining Access to Information Excluded from Public Access.

A. Any requestor may make a verified written request to obtain access to information in a case or administrative record to which public access is prohibited under this order to the court having jurisdiction over the record. The request shall demonstrate that:

(1) reasonable circumstances exist that require deviation from the general provisions of this order;

(2) the public interest in disclosure outweighs the harm in disclosure; or

(3) the information should not be excluded from public access under section (VII) of this order.

The person seeking access has the burden of providing notice to the parties and such other persons as the court may direct, providing proof of notice to the court or the reason why notice could not or should not be given, demonstrating to the court the requestor?s reasons for prohibiting access to the information.

B. The court shall hold a hearing on the request, unless waived, within a reasonable time, not to exceed thirty (30) days of receipt of the request. The court shall grant a request to allow access following a hearing if the requestor demonstrates by a preponderance of the evidence that any one or more of the requirements of (VIII)(A)(1) through (VIII)(A)(3) have been satisfied.

C. A court shall consider the public access and the privacy interests served by this order and the grounds demonstrated by the requestor. In its order, the court shall state its reasons for granting or denying the request. When a request is made for access to information excluded from public access, the information will remain confidential while the court rules on the request.

D. A court may place restrictions on the use or dissemination of the information to preserve confidentiality.

Section IX. When Court Records May Be Accessed.

A. Court records that are publicly accessible will be available for public access in the courthouse during regular business hours established by the court; however, public access to trial exhibits and trial transcript source materials shall be granted at the discretion of the court. Court records in electronic form to which the court allows remote access under this policy will be available for access during hours established by the court, subject to unexpected technical failures or normal system maintenance announced in advance.

B. Upon receiving a request pursuant to section (VI) or (VIII) of this order, a court will respondwithin a reasonable period of time.

Section X. Contracts With Vendors Providing Information Technology Services Regarding Court Records.

A. If a court, court agency, or other private or governmental entity contracts with a vendor to provide information technology support to gather, store, or make accessible court records, the contract will require the vendor to comply with the intent and provisions of this access policy. For purposes of this section, the term 'vendor' also includes a non-judicial branch state, county or local governmental agency that provides information technology services to a court.

B. Each contract shall require the vendor to assist the court in its role of educating litigants and the public about this order. The vendor shall also be responsible for training its employees and subcontractors about the provisions of this order.

C. Each contract shall prohibit vendors from disseminating bulk or compiled information, without first obtaining approval as required by this order.

D. Each contract shall require the vendor to acknowledge that court records remain the property of the court and are subject to the directions and orders of the court with respect to the handling and access to the court records, as well as the provisions of this order.

E. These requirements are in addition to those otherwise imposed by law.

Section XI. Violation of Order Not Basis for Liability.

Violation of this order by the disclosure of confidential or erroneous court records by a court, court agency, or clerk of court employee, official, or an employee or officer of a contractor or subcontractor of a court, court agency, or clerk of court shall not be the basis for establishing civil or criminal liability for violation of this order. This does not preclude a court from using its inherent contempt powers to enforce this order.

History Text:

History: Sections (VI), (VII), and (VIII) and the corresponding commentary amended and effective by per curiam order May 24, 2012 [2].

History. Amended October 23, 2008, effective January 1, 2009; sections (I) and (V) amended by per curiam order June 20, 2013, and effective September 1, 2013.

Associated Court Rules:
Administrative Orders

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