

STATE OF MINNESOTA  
IN SUPREME COURT

C4-85-1848

ORDER PROMULGATING INTERIM  
RULES ON ACCESS TO PUBLIC RECORDS

WHEREAS, the Minnesota Supreme Court has the inherent power and statutory authority pursuant to Laws 1985, Chapter 298, to promulgate rules governing access to public records maintained by the judicial branch of the State of Minnesota;

NOW, THEREFORE, IT IS HEREBY ORDERED that the attached Interim Rules on Access to Public Records be, and the same hereby are, adopted for the regulation of access to data maintained by the judicial branch of the State of Minnesota, effective November 1, 1985.

IT IS HEREBY FURTHER ORDERED that there is established an Advisory Committee on Rules on Access to Public Records, to be appointed by this Court, to study the operation of the interim rules and to make recommendations to this Court concerning the need for their revision.

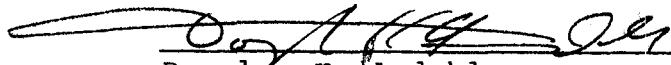
Dated: October 2, 1985

BY THE COURT

OFFICE OF  
APPELLATE COURTS  
FILED

OCT - 2 1985

WAYNE TSCHIMPERLE  
CLERK

  
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Douglas K. Amdahl  
Chief Justice  
Minnesota Supreme Court

## INTERIM RULES ON ACCESS TO PUBLIC RECORDS

### Rule 1. Scope of Rules.

These rules govern public access to public records maintained by the judicial branch of the State of Minnesota.

### Rule 2. Policy.

All public records within the judicial branch shall be open to inspection by any member of the public at all times during the regular office hours maintained by the custodian of those records.

### Rule 3. Definitions.

**Subdivision 1.** When used in these rules, the words listed below have the meanings given them.

**Subd. 2.** "Public records" mean any recorded information, regardless of its physical form, storage media or conditions of use, that is collected, created, received, maintained, or disseminated by any component of the judicial branch, **except:**

- (a) records maintained by a court administrator pursuant to the domestic abuse act, Minnesota Statutes, Section 518B.01, until a temporary court order made pursuant to subdivision 5 or 7 of Section 518B.01 is executed or served upon the record subject who is the respondent to the action;
- (b) records on individuals maintained by a judicial branch court services department or probation authority, that are:
  - (i) gathered at the request of a municipal, district, or county court to determine the need for any treatment, rehabilitation, counseling, or any other need of a

defendant, parolee, probationer, or participant in a diversion program, and used by the court to assist in assigning an appropriate sentence or other disposition in a case; or

- (ii) gathered at the request of a family court for purposes of, but not limited to, individual, family, marriage, chemical dependency and marriage dissolution adjustment counseling, including recommendations to the court as to the custody of minor children in marriage dissolution cases; or
- (iii) gathered by psychologists in the course of providing the court or its staff with psychological evaluations or in the course of counseling individual clients referred by the court for the purpose of assisting them with personal conflicts or difficulties;

Provided, however, that the following information on adult individuals is public: name, age, sex, occupation, and the fact that an individual is a parolee, probationer, or participant in a diversion program, and if so, at what location; the offense for which the individual was placed under supervision; the dates supervision began and ended and the duration of supervision; information which was public in a court or other agency which originated the data; arrest and detention orders; orders for parole, probation or participation and the extent to which those conditions have been or are being met; identifiers of agencies, units within agencies and individuals providing supervision; and the legal basis for

any change in supervision and the date, time and locations associated with the change.

- (c) records on individuals collected because the individual is or was an employee of, performs services on a voluntary basis for, or acts as an independent contractor with the judicial branch, provided, however, that the following information is public: name; actual gross salary; salary range; contract fees; actual gross pension; the value and nature of employer paid fringe benefits; the basis for and the amount of any added remuneration, including expense reimbursement, in addition to salary; job title; job description; education and training background; previous work experience; date of first and last employment; the status of any complaints or charges against the employee, whether or not the complaint or charge resulted in a disciplinary action; the final disposition of any disciplinary action and supporting documentation; work location; a work telephone number; honors and awards received; payroll time sheets or other comparable data, that are only used to account for employee's work time for payroll purposes, to the extent that they do not reveal the employee's reasons for the use of sick or other medical leave or other information that is not public;
- (d) records on individuals collected because the individual is or was an applicant for employment with the judicial branch, provided, however, that the following information is public: veteran status; relevant test scores; rank on eligible list; job history; education and training; work availability; and,

- after the applicant has been certified by the appointing authority to be a finalist for a position in public employment, the name of the applicant;
- (e) correspondence between individuals and justices or judges;
  - (f) memoranda, notes, or preliminary drafts prepared by or under the direction of any justice, judge, referee, judicial officer, board member, or commissioner within the judicial branch that relate to the adjudication, resolution, or disposition of any past, present, or future case, controversy, or legal issue;
  - (g) the work product of any attorney or law clerk employed by or representing the judicial branch that is produced in the regular course of business or representation of the judicial branch;
  - (h) information collected by the judicial branch as part of an active investigation undertaken for the purpose of the commencement or defense of a pending civil legal action, or which is retained in anticipation of a pending civil legal action;
  - (i) schedules and related records, other than court orders regarding assignments of justices, judges, referees and judicial officers, the public disclosure of which would affect the orderly and effective administration of justice;
  - (j) records that have not been filed with the court administrator, admitted into evidence, or otherwise made a part of a civil or criminal case, the disclosure of which would be

likely to substantially jeopardize the security of information, possessions, individuals, or property against theft, tampering, improper use, illegal disclosure, trespass, or physical injury;

- (k) records, including a formula, pattern, compilation, program, device, method, technique or process that was supplied by the judicial branch, that is the subject of efforts by the judicial branch that are reasonable under the circumstances to maintain its secrecy, and that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use;
- (l) computer programs and related components of a program for which the judicial branch has acquired a patent or copyright;
- (m) records maintained by the State Judicial Information System and the Trial Court Information System for purposes of compliance with Minnesota Statutes, Section 546.27;
- (n) records maintained by a library operated by the judicial branch, which links a patron's name with materials requested or borrowed by the patron or which links a patron's name with a specific subject about which the patron has requested information or materials;
- (o) all records of the office of the Board of Law Examiners except the names of applicants admitted to practice and information ordered to be released by the Supreme Court pursuant to the Rules for Admission to the Bar, or by other order;

- (p) information reported by lawyers to the Supreme Court or the Lawyers Trust Account Board for purposes of compliance with Rule 1.15 of the Minnesota Rules of Professional Conduct;
- (q) passport applications and accompanying documents received by court administrators, and lists of applications that have been transmitted to the United States Passport Office;
- (r) matters that are made inaccessible to the public pursuant to:
  - (i) state statute, other than Minnesota Statutes, Chapter 13; or
  - (ii) federal law; or
  - (iii) rules promulgated by the Minnesota Supreme Court regarding judicial or administrative proceedings, including but not limited to, rules governing the Lawyers Professional Responsibility Board, the Board on Judicial Standards, and the Board of Continuing Legal Education;
- (s) any other records determined by order of the Supreme Court to be inaccessible to the public;

If a request is made for information which is not maintained in tangible form by the judicial branch in the regular course of business, the request shall be considered a request for information rather than a request to inspect a public record, and is not subject to the provisions of these rules.

**Subd. 3.** "Court administrator" means the court administrator pursuant to Laws 1985, Chapter 273, or the clerk of the appellate courts pursuant to Rule 101.02, subdivision 5 of the Minnesota Rules of Civil Appellate Procedure.

**Subd. 4.** "Judicial district administrator" means the district administrator pursuant to Minnesota Statutes, Section 484.68.

**Subd. 5.** "State court administrator" means the court administrator pursuant to Minnesota Statutes, Section 480.13.

**Rule 4. Manner of Making Request.**

**Subdivision 1. Custodian of Records.** A request to inspect or to obtain copies of public records shall be made to the custodian of those records. The court administrator is the custodian of records of judicial proceedings within the court where the records are located, vital statistics records, and drivers license and permit application records. The judicial district administrator is the custodian of administrative records for the judicial district in which the records are located. The state court administrator is the custodian of records relating to overall administration of the courts of the State of Minnesota. The state law librarian is the custodian of the records of the State Law Library. The custodian of the records maintained by any board, commission, or committee shall be the individual designated by the board, commission, or committee. The custodian of the records of any other office shall be the individual designated by the appointing authority or, if the office is an elective office, the individual occupying the office.

**Subd. 2. Designee.** The custodian may appoint one or more designees to respond to inspection and copy requests.

**Subd. 3. Form of Request.**

- (a) A request to inspect or obtain copies of public records shall be made in writing to the custodian of the records unless otherwise allowed by the custodian.



- (b) A written request to inspect or obtain copies of administrative records shall include:
  - (i) the name, mailing address, and telephone number of the requesting person;
  - (ii) the specific documents which the person wishes to inspect or to have copied;
- (c) A request to inspect or obtain copies of records other than administrative records shall be made in the manner designated by the custodian of the records.

**Rule 5. Response.**

**Subdivision 1.** The custodian shall acknowledge the request orally or in writing no later than five working days after the request is made. The response shall indicate whether the records are public, and if so, when and where inspection may take place or copies may be obtained. The custodian must inform the requestor that the records will be available for inspection in no fewer than five working days.

**Subd. 2.** If the custodian determines the records can be made available for inspection or can be copied without unreasonable disruption to ongoing court or administrative activities, inspection or copying shall take place within five working days after the custodian receives the request.

**Subd. 3.** If the custodian determines the records cannot be made available for inspection or cannot be copied within five days after the custodian receives the request, the custodian shall notify the requestor of when and where inspection may take place or when and where copies will be provided, and shall inform the requestor of the reasons for the delay. Inspection must be permitted or copies provided within a reasonable time from the date of the request.

Subd. 4. If the records do not exist, the response shall so indicate.

Subd. 5. If the request does not provide sufficient information to locate the records, the request shall be returned, and the requestor notified.

Subd. 6. If access to the records is not permitted under these Rules, the response shall indicate the statute, federal law, or court or administrative rule that is the basis for denial of the inspection request.

Subd. 7. If either the court administrator or judicial district administrator, as custodian, cannot determine whether access to records of judicial proceedings or administrative records is permitted, the response shall state that the inspection request has been referred to the office of the state court administrator for determination. A response from the state court administrator shall be forwarded to the custodian or the person making the request no later than five working days after the state court administrator receives the referral.

Subd. 8. If the custodian determines that the number of records requested is so great that inspection or reproduction would create an unreasonable disruption to ongoing court or administrative activities, the custodian may require that the request be limited, or the custodian may limit the request.

Subd. 9. If the person making the request does not inspect or obtain the copies of the records during the time period permitted by the custodian, the request shall be deemed withdrawn, but may be renewed.

**Rule 6. Inspection and Photocopying.**

**Subdivision 1. Priority of Ongoing Court or Administrative Activities.** Inspection and copying shall be conducted in a manner

which will not disrupt ongoing court or administrative activities.

**Subd. 2. Access to Original Records.** The requesting person shall be allowed to inspect or to obtain copies of original versions of public records in the place where such records are normally kept, during regular working hours. However, if access to the original records would result in disclosure of information to which access is not permitted, jeopardize the security of the records, or prove otherwise impractical, copies, edited copies, reasonable facsimilies or other appropriate formats may be produced for inspection. Unless expressly allowed by the custodian, records shall not be removed from the area where they are normally kept.

**Subd. 3. Fees.** Before providing copies, the custodian may require payment of the copying fee established by law or court rule. When a request involves any person's receipt of public information that has commercial value and is an entire formula, pattern, compilation, program, device, method, technique, process, data base, or system developed with a significant expenditure of public funds by the judicial branch, the custodian may charge a reasonable fee for the information in addition to costs of making, certifying, and compiling the copies. The custodian may grant a person's request to permit the person to make copies, and may specify the condition under which this copying will be permitted.

**Rule 7. Appeal to State Court Administrator in Certain Cases.** A denial of or limitation upon a request to inspect public administrative records or public records of judicial proceedings may be appealed in writing to the state court administrator, and a written response will be sent to the requesting person no later than five working days after the state court administrator receives the appeal.