



Berrien County Trial Court

Thomas E. Nelson, Chief Judge - Brian E. Ray, Administrator

Courthouse - 811 Port Street - St. Joseph, MI 49085

(269) 983-7111, Ext. 8453 - FAX (269) 982-8634

www.berriencounty.org

Administrative Order 2014-08

ACCESS, INSPECTION, REPRODUCTION, AND CREATION OF COURT RECORDS

IT IS ORDERED:

This administrative order replaces and rescinds prior Berrien County Trial Court Administrative Order 2013-04 and is issued in accordance with Michigan Court Rules 8.119(H) and 8.110(C)(7). The purpose of this order is to regulate requests for inspection and reproduction of court records and to allow flexibility in providing approved forms or creating new records. Effective October 30, 2014.

The clerk may not permit any case record to be taken from the court without the order of the court. The court may provide access to the public information in a register of actions through a publicly accessible website; however, all other public information in its case records may be provided through electronic means only upon request.

1. Records kept by the Clerk of the Court. This includes case files, registers of action, numerical and alphabetical indexes, and calendars. MCR 8.119(D).
2. Court Recordings, Log Notes, Jury Seating Charts, and Other Media. This includes video/audio/digital court recordings, notes, tapes, logs, backup tapes, discs, and any other medium used or created in the making of a record of proceedings and kept pursuant to MCR 8.108. MCR 8.119(F).
3. Procedures for inspection and reproduction of nonpublic information and records are set forth in Component 19 of the Michigan Trial Court Case File Management Standards, chart of Nonpublic and Limited Access Court Records, Local Administrative Order 1 (friend of the court records), and Michigan Supreme Court Administrative Order 2006-2, Privacy Policy and Access to Records.
4. A list of court records, including those defined in MCR 8.119(E), that are not subject to public inspection is contained within the Nonpublic and Limited Access Records Chart:

http://courts.michigan.gov/scao/resources/standards/cf_chart.pdf
5. Court records are not subject to Freedom of Information Act requests. MCL 15.232(d)(v) specifically exempts the judiciary from the Freedom of Information Act.

6. In accordance with MCR 8.110(C)(7), the court shall provide litigants with forms approved by the state court administrator at the cost of \$1.00 per form.
 - (a) Parties will be limited to a maximum of five (5) copies per each type of form requested.
 - (b) There will be no charge for forms requested by court-appointed attorneys on cases to which they have been appointed or for indigent parties.
 - (c) There will be no charge for forms prepared by the court.
 - (d) The circuit court or clerk of the court may not charge a fee for pro se forms for personal protection proceedings or motion forms for criminal post appeal relief. MCL 600.2950, 600.2950a, MCR 6.502(C)(15).

7. Any person may access and inspect, at no charge, any case record or information contained in those records, regardless of means of access and record format, unless access is restricted by statute, court rule, or a court order entered pursuant to MCR 8.119(I) and may also obtain copies subject to the following regulations established in accordance with MCR 8.119(J).
 - (a) General
 - (i) All requests to access and inspect case records identified in this administrative order and/or for copies of those records must be made on a "record/copy request form" and must specify a complete case number or party names, except as provided under item (b)(iv). See Attachment A.
 - (ii) Persons who do not have a complete case number or party names may review available case indexes to identify and select specific cases for inspection.
 - (iii) Court records shall be reviewed at the public counter unless, in the discretion of court supervisory personnel, approval is granted to review records in the clerk's office based on available space, the type and number of records to be reviewed, and the length of time necessary to review them.
 - (iv) Ensuring the right of immediate access to and public inspection of court records shall be a top priority, but may be limited by the availability of court staff to supervise the inspection.
 - (b) Access
 - (i) Except for online public case indexes and registers of case action, requests for access to no more than five (5) specific case files will be accommodated within three (3) days unless the files are not in the active file area. Requests for specific court records in storage will be accommodated within five (5) working days.

- (ii) Requests for access and inspection to more than five (5) specific case files will be accommodated within a reasonable amount of time, depending on the total number of case files requested and the availability of court staff.
- (iii) Access to review audio and video recordings of court proceedings pursuant to MCR 8.108 is permitted in accordance with this order by appointment and subject to the availability of viewing equipment.
 1. Courtroom proceedings recorded using **audio cassette tapes** may be reviewed at the St. Joseph Courthouse (during normal business hours), usually within three (3) days of the request as those cases are maintained in long term storage pursuant to SCAO Schedule 16 – Record Retention and Disposal Schedule. No copies are available for purchase; however, written transcripts can be produced for purchase.
 2. Courtroom proceedings recorded using **analog video tapes** may be reviewed at the St. Joseph Courthouse (during normal business hours), usually within three (3) days of the request as those cases are maintained in long term storage pursuant to SCAO Schedule 16 – Record Retention and Disposal Schedule. Copies of video are available for purchase pursuant to Section 5d below, and written transcripts can be produced for purchase.
 3. Courtroom proceedings recorded using **digital audio or video recording equipment** may be reviewed at the St. Joseph Courthouse (during normal business hours), usually within one (1) day of the request, unless the recording is in long term storage, which may take approximately three (3) days to retrieve. Copies are available for purchase pursuant to Section 5d below, and written transcripts can be produced for purchase.
 4. Open and closed cases are available for review; however, once a trial begins, only attorneys of record or named parties to a case may arrange to review an audio or video recording, or purchase a copy of the recording pursuant to Section 5d below. Once the trial concludes, the normal review process resumes.
- (iv) Case information requests from other courts that lack specific case numbers or party names shall be researched by this court. Requested information will be provided at no charge and will not require a "copy request" form.
- (v) Public requests to perform general traffic or criminal record checks that do not have specific case numbers or party names will not be researched by the court. They will be referred to the appropriate state agencies to obtain this information or to the available indexes referred to under subsection 7(a)(ii). See Attachment B.
- (vi) Requests for the wholesale review of particular types of court records will only be considered if, in the court's discretion, the request will not unreasonably interfere with the discharge of court functions. The court is not required to develop special procedures for the convenience or cost/benefit of persons requesting access and may specify the date, time, and manner in which access is to be granted. It will be the responsibility of those persons requesting access to make prior, acceptable

arrangements with the court.

- (c) Media requests for the recording or broadcasting of court proceedings shall follow Michigan Supreme Court Administrative Order 1989-1, "Film or Electronic Media Coverage of Court Proceedings:"

<http://courts.michigan.gov/Courts/MichiganSupremeCourt/CurrentCourtRules/3AdministrativeOrders.pdf>

Note: Any media requests outside of those allowed by Michigan Supreme Court Administrative Order 1989-1 are subject to the provisions of this Order.

- (d) Copies

- (i) The court will provide a limited number of copies of case file documents (fewer than twenty-five (25) total pages) at a cost of \$1.00 per page within one (1) hour of the request for copies, except that copies of transcripts filed with the court shall not exceed \$.30 per page pursuant to MCL 600.2543; unless the request involves a file that is stored off site.
- (ii) Requests for more than twenty-five (25) total copies of case file documents will be accommodated within a reasonable amount of time as determined by the (1) total number of pages to be copied; (2) availability of court staff and photocopying equipment; and (3) nature of the request, on-site or off-site storage location, and the degree to which court staff is required to identify, select, and review documents to be copied, at a cost of \$1.00 per page.
- (iii) Copies of analog video, digital audio or digital video recordings of court proceedings are only available for purchase by attorneys of record or named parties to a case.

1. When approved for release by the Court pursuant to this section, copies of analog video and digital audio/video recordings are available at a cost of:
- \$20 for digital recordings on a per case and per day basis
 - \$20 for an analog video tape recording on a per case and per day basis (Video Tapes are saved on CD/DVD)
 - Audio cassette recordings are only available via written transcript request and can be produced for purchase

Requests to purchase copies by parties or attorneys of record

Upon written request (see attached request form), copies of analog or digital audio/video recordings of court proceedings pursuant to MCR 8.108 shall be provided only to **parties and attorneys of record** within three (3) days for digital recordings and seven (7) days for analog video tape recordings (additional time may be required if the recordings are in storage), with the following prohibitions:

Without prior approval of the Court, it is expressly prohibited for any person to do any of the following:

1. Reproduce or distribute any video recording, in whole or in part, (or audio from that recording) obtained from the court.
 2. Alter, distort, or change in any way a video recording (or audio from that recording) obtained from the court.
 3. Publish or post on the internet any video recording, in whole or in part, (or audio from that recording) obtained from the court, including, but not limited to, posting on any form of social network media (i.e. Facebook, etc.), blogs, print media, digital media, broadcast media, etc.
 4. Any violation of this provision shall be treated as contempt of court and may subject the violator to contempt of court sanctions.
- (iv) In order to preserve and maintain the integrity of court records and to prevent unreasonable interference with the discharge of court functions, persons will not be permitted to copy or otherwise duplicate court records using their own equipment.
- (e) New Record Creation
- (i) Requests for creation of a new record, as defined in MCR 8.119(J)(4), will be granted only if creating the new record will not unreasonably interfere with the discharge of court functions. If granted, the request will be accommodated within a reasonable amount of time dependent upon the availability of sufficient public data within the body of case records (including related databases), and the ease in which those records can be identified and compiled.
 - (ii) Costs to provide a new record may not exceed the actual cost of labor and supplies and the use of the system to develop, generate, and validate the accuracy of the record.

Effective Date: November 10, 2014

Dated

11/10/14


Thomas E. Nelson, Trial Court Chief Judge

Berrien County Trial Court Copy Request and Agreement for Limited Use

1. Date of Request: _____
2. Requested by: _____

Complete name, address and telephone number where you can be reached

3. Specify the complete case number and/or party name(s):

Case Number: _____

Party Name(s): _____

List date of hearing(s), type of hearing, and location of hearing for all requests (if known): _____

Name of Judicial Officer who presided over the requested hearing (if known): _____

4. Nature of Request: - List date of hearing(s), type of hearing, and location of hearing below for all requests:

- Review court file
- Obtain copies from court file
- Listen to recorded proceedings
- Obtain a transcript

5. If copies are requested, list type of record(s) to be copied on the line below:

- Complete or portion of court file (except for any nonpublic court records).
- CD/DVD Copy of court hearing - \$20 each (**must be viewed with a computer**)

COMPLETE THIS PORTION ONLY IF REQUESTING A CD or DVD COPY

1. I agree that the use of this CD or DVD is solely to assist me in the preparation of my case.
2. I will not make a copy of this CD or DVD.
3. I will not release this CD or DVD or any portion of this CD or DVD to anyone.
4. I will not publicize or broadcast any portion of this CD or DVD in any public medium.
5. In signing this agreement, I acknowledge that any violation of this agreement may result in the issuance of an order to show cause why I should not be held in contempt of court.

NOTE: I understand that any video recording obtained pursuant to this request may not be reproduced, altered, disseminated, published, or posted pursuant to the Berrien County Trial Court Administrative Order 2014-08, without prior approval of the Court and that any violation of the Administrative Order may be treated as contempt of court.

Dated _____ Signature of Party _____

FOR COURT USE ONLY

_____ copies x per record/page: \$ _____
_____ copies of CD or DVD (\$20 each) \$ _____

Total charged: \$ _____

Processed by: _____ Date _____
Administrative Assistant/Court Clerk

Make checks payable to the Berrien County Trial Court

Attachment A

INSTRUCTIONS AND GENERAL INFORMATION

All courtrooms, including Niles, are equipped with a digital court recording system. As a result, a CD/DVD record of all court proceedings is available for review, unless the record is nonpublic or recorded prior to CD/DVD equipment installation.

COPIES OF CD/DVD: *PARTIES OF THE CASE OR ATTORNEY OF RECORD ONLY* may make a written request for a copy of a CD/DVD. Copies of the CD/DVD **MAY NOT** be given to the media. Specific restrictions are contained in the Berrien County Trial Court Local Administrative Order. A copy of the order may be found on the Berrien County website at www.berriencounty.org.

MAY I PROVIDE MY OWN CD/DVD?

No.

MAY I VIEW A CD/DVD?

Yes. Fill out your request on the other side of this form and then contact the Judicial Administrative Assistant for the Judge who heard your case. After talking to the Administrative Assistant, obtaining the necessary information and completing this form, contact the Self-Help Legal Resource Center at (269) 983-7111 Ext. 8742 to make an appointment to view the video recording or listen to an audio recording. Please allow 48-72 hours to complete this request.

PAYMENT FOR CD/DVD: All copies are \$20 each. Payment must be made before your request is processed. In St. Joseph, payment may be made in the Trial Court Financial Office located on the 1st floor of the courthouse (269) 983-7111, Ext. 8820. In Niles, payment may be made at the Trial Court Check-in desk located on the 1st floor of the courthouse (269) 983-7111, Ext. 6260. Attach a copy of your receipt to this request form as proof of payment. Copies may take up to 5 business days. NOTE: The Judicial Administrative Assistant must sign this form or the Financial Office will not accept payment for the CD/DVD and your request will not be processed.)

HOW DO I REQUEST A TRANSCRIPT?

Complete the necessary information on the reverse side. Contact the Judicial Administrative Assistant for the Judge who heard your case. The Judicial Administrative Assistant will find a transcriptionist for you; a transcriptionist will contact you in a few days to discuss payment, deadlines and delivery. An additional fee will be assessed for expedited transcripts. You will be paying the transcriptionist directly. Transcripts may take 30 to 90 days depending on the type of proceeding requested.

For information required to fill out the case information on this form or to obtain copies from a court file contact:

Civil cases: Civil File Room, third floor, (269) 983-7111, Ext. 8683

Felony criminal cases, first floor: County Clerk's Office 269-983-7111, Ext. 8368

Misdemeanor criminal and traffic cases, first floor: 269-983-7111, Ext. 8682

Family/Probate cases: contact the Judicial Administrative Assistant for the Judge assigned to your case

Niles cases: 269-983-7111, Ext. 6260, or 269-684-5274, Ext. 6260

Memorandum - Berrien County Trial Court

To: Persons Requesting General Record Checks

From: Trial Court Administrator

The Berrien County Trial Court regrets that it cannot reasonably accommodate your request at this time as, per Court Administrative Order 2014-08, a specific case number or the party names are required in order to provide the information you have requested.

If you do not have a specific case number or case name, the following options are available:

1. You may review available case indexes at the Berrien County Trial Court to identify and select specific cases for inspection. Please note that this review may only provide information on current or recent court cases from this court.
2. A more complete record check may be requested by writing the appropriate state agency. Both the Michigan State Police and Department of State maintain computer information expressly for this purpose.
 - (a) To obtain a Criminal Record Check either contact the Michigan State Police Central Records Division at 517-241-0606 or go to the Michigan State Police Website at: www.michigan.gov/ichat to obtain information on how to use the Internet Criminal History Access Tool (ICHAT).
 - (b) To obtain a Driving (Traffic) Record contact the:

Michigan Department of State
Commercial Look-up Unit
7064 Crouner Drive
Lansing, Michigan 48918
Telephone: 517-322-1624

Once you receive complete record checks, you will be able to contact the appropriate police agency or court listed on the records to obtain case specific information.

If you have any additional questions, please contact the court at 269-983-7111, Ext. 8745

Attachment B