

	<b>INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL</b>	
	<b>Chapter 18: Confidentiality and Security</b>	<b>Effective Date: 04/15/2020</b>
	<b>Section 9: Confidentiality of Court Files</b>	<b>Version: 2.1 Revision Date: 04/07/2020</b>

**BACKGROUND**

N/A

**POLICY**

The general rule is that all persons have access to court records.<sup>1</sup> If any part of a court record is excluded from public access or redacted, there shall be a publicly accessible indication of the fact of the exclusion or redaction but not the content of the exclusion.<sup>2</sup> The parties to a case or their attorneys may have greater access to the court records with respect to their own case.<sup>3</sup> Additionally, a party’s prospective attorney and the attorney’s agent may have greater access to the party’s juvenile paternity case upon the attorney’s filing with the court an Assurance of Confidentiality form.<sup>4</sup>

The following individual items within court records shall be excluded or redacted from public access:

1. Complete Social Security numbers of living persons;<sup>5</sup> and
2. Complete account numbers of specific assets, loans, bank accounts, credit cards, and personal identification numbers.<sup>6</sup>

Additionally, the following individual items within court records shall be excluded or redacted from public access and shall be filed along with an Access to Court Records (ACR) Form identifying the information excluded and grounds for exclusion:

1. Mailing addresses, email addresses, telephone numbers, and dates of birth that identify witnesses or victims in criminal, juvenile, or civil protection order proceeding;<sup>7</sup> and
2. Juvenile witnesses in cases involving sex offenses may only be identified by initials.<sup>8</sup>

**REFERENCES**

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<sup>1</sup> Ind. Access to Court Records Rule 2(A); Ind. Access to Court Records Rule 4(A); Ind. Trial Rule 5(G)(1)  
<sup>2</sup> Ind. Access to Court Records Rule 4(C); Ind. Access to Court Records Rule 7(A)  
<sup>3</sup> Ind. Access to Court Records Rule 2(B)(4)  
<sup>4</sup> Ind. Access to Court Records Rule 2(B)(5)  
<sup>5</sup> Ind. Access to Court Records Rule 5(C)(1)(a); Revised Guidance on Prosecutor’s Duty to Maintain Confidentiality of Certain Information in Title IV-D Court Filings and Proceedings  
<sup>6</sup> Ind. Access to Court Records Rule 5(C)(1)(b); Revised Guidance on Prosecutor’s Duty to Maintain Confidentiality of Certain Information in Title IV-D Court Filings and Proceedings  
<sup>7</sup> Ind. Access to Court Records Rule 5(C)(3); Revised Guidance on Prosecutor’s Duty to Maintain Confidentiality of Certain Information in Title IV-D Court Filings and Proceedings  
<sup>8</sup> Ind. Access to Court Records Rule 5(C)(2); Revised Guidance on Prosecutor’s Duty to Maintain Confidentiality of Certain Information in Title IV-D Court Filings and Proceedings

- [IC 31-39-1-1](#): Application of chapter
- [IC 31-39-1-2](#): Confidentiality and access to juvenile court records
- [Ind. Access to Court Records Rule 2](#): Who Has Access Under This Rule
- [Ind. Access to Court Records Rule 4](#): General Access Rule
- [Ind. Access to Court Records Rule 5](#): Records Excluded From Public Access
- [Ind. Access to Court Records Rule 7](#): Procedures for Excluding Exhibits and Testimony From Public Access
- [Ind. Access to Court Records Rule 8](#): Consent to Release, Failure to Exclude, Improper Exclusion, and Sanctions
- [Ind. Trial Rule 5\(G\)](#): Service and Filing of Pleading and Other Papers
- [Ind. Trial Rule 86\(M\)](#): Certain Court Records Excluded From Public Access

## PROCEDURE

When a portion of an individual item in a court record has been excluded from public access, the following requirements apply:

1. The public access version of the record shall be filed on white paper and any information to be excluded from public access shall be redacted or omitted with an indication that information has been redacted or omitted.<sup>9</sup>
2. If the redacted or omitted information is material to the case, the green paper requirements apply.<sup>10</sup> The green paper requirements mean that the excluded information is filed separately on green paper and marked “Not for Public Access” or “Confidential”.<sup>11</sup>
3. An ACR Form identifying the information excluded and grounds for exclusion shall also be filed.<sup>12</sup>

When the case is filed electronically, the green paper requirements do not apply.<sup>13</sup> Portions of the case may still be excluded from public access and the following requirements apply:

1. Notice to Maintain Exclusion from Public Access<sup>14</sup>
  - a. If the court record is excluded from public access, the ACR Form shall be filed identifying the information excluded and the specific grounds for exclusion.
  - b. If all court records are excluded from public access notice of exclusion is not required.
2. Public Access and Non-Public Access Versions  
Where only a portion of the court record is excluded from public access, the following requirements apply:<sup>15</sup>
  - a. Public Access Version<sup>16</sup>
    - i. The confidential court record shall be omitted or redacted from this version.
    - ii. The omission or redaction shall be indicated at the place where it occurs in the public access version. If multiple pages are omitted, a separate

<sup>9</sup> Ind. Access to Court Records Rule 5(B)

<sup>10</sup> Ind. Access to Court Records Rule 5(C)

<sup>11</sup> Ind. Access to Court Records Rule 5(C)

<sup>12</sup> Ind. Access to Court Records Rule 5(B); Ind. Access to Court Records Rule 5(C)

<sup>13</sup> Ind. Trial Rule 86(M)(1)(b)(ii)(b)(3)

<sup>14</sup> Ind. Trial Rule 86(M)(1)(a)

<sup>15</sup> Ind. Trial Rule 86(M)(1)(b)

<sup>16</sup> Ind. Trial Rule 86(M)(1)(b)(i)

place keeper insert must be included for each omitted page to keep PDF page numbering consistent throughout.

- iii. If the entire document is excluded from public access the ACR Form filed with the document will serve as the public access version.
- b. Non-Public Access Version<sup>17</sup>
  - i. If the omitted or redacted court record is not necessary to the disposition of the case, its filing in any form is not required. The ACR Form shall indicate this fact.
  - ii. If the omitted or redacted court record is necessary to the disposition of the case, the excluded record must be filed separately or the following requirements apply:
    1. The first page of the non-public access version shall be marked “Not for Public Access” or “Confidential” with the caption and number of the case clearly designated.
    2. The separately filed non-public access version shall consist of a complete, consecutively-paginated replication including both the public access material and the non-public access material.
    3. In the non-public access version, court records excluded from public access shall be labeled “Confidential Per Rules on Access to Court Records” or “Excluded from Public Access Per Rules on Access to Court Records”.

Evidence introduced in open court is not confidential unless a request to keep the information confidential was made at the time the exhibit was introduced.<sup>18</sup> The court may allow a witness to waive confidentiality.<sup>19</sup>

## FORMS AND TOOLS

1. [Guide to E-filing Confidential Information in the Trial and Appellate Courts](#)
2. [Revised Guidance on Prosecutor’s Duty to Maintain Confidentiality of Certain Information in Title IV-D Court Filings and Proceedings](#)

## FREQUENTLY ASKED QUESTIONS

N/A

## RELATED INFORMATION

In 2014, the statute which made juvenile paternity (JP) cases confidential was amended and resulted in JP cases filed on or after July 1, 2014, being open to the public.<sup>20</sup> Additionally, in juvenile paternity cases opened prior to July 1, 2014, any documents filed on or after July 1, 2014, are open to the public although records filed prior to July 1, 2014, retain their confidentiality.

<sup>17</sup> Ind. Trial Rule 86(M)(1)(b)(ii)

<sup>18</sup> Ind. Access to Court Records Rule 7(A)

<sup>19</sup> Ind. Access to Court Records Rule 8(A)

<sup>20</sup> IC 31-39-1-1; IC 31-39-1-2; Ind. Access to Court Records Rule 5(A)(6)

For guidance on court file maintenance, see the [Indiana Trial Court Administration Manual for Judges and Clerks](#).

Prior to January 1, 2020, the Indiana Administrative Rule 9 was the primary source for rules on the confidentiality of court filings. On January 1, 2020, Rule 9 was repealed and replaced with Rules on Access to Court Records. While the references in this Section have been updated with the new Rule citations, guidance documents listed in this Section and issued prior to January 1, 2020, may still contain references to Administrative Rule 9. Appendix 2 of the Rules on Access to Court Records is a Conversion Table which matches previous Administrative Rule 9 sections to the new Rules.

<b>REVISION HISTORY</b>
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<b>Version</b>	<b>Date</b>	<b>Description of Revision</b>
Version 1	05/19/2020	Final Approved Version
Version 2	03/18/2020	Updated Section due to Administrative Rule 9 being repealed and replaced with Rules on Access to Court Records on January 1, 2020.
Version 2.1	04/15/2020	Added references to ACR Form.