

Judicial Authorization Registry in the Provincial Court of Manitoba

Preamble

This policy is an addition to the Manitoba Courts' *"Policy: Access to Court Records in Manitoba"*.

As a rule, courts must be open to the public. This has been described as the open court principle. The Court has the authority to supervise its own records to ensure that the open court principle does not subvert the ends of justice by inappropriate disclosure. Limitations on public access is only justified where there is a need to protect a social value of superordinate importance and to prevent the use of judicial documents for an improper purpose. (*R. v. Edmonton Journal v. Alberta (Attorney General)*, [1989] 2 SCR 1326; *Toronto Star Newspapers Ltd, v. Ontario*, 2005 SCC 41).

Section 487.3 of the Criminal Code identifies some values which outweigh the right to unrestricted access. These include where information might:

- 1.) compromise the identity of a confidential informant;
- 2.) compromise the nature and extent of an ongoing investigation;
- 3.) endanger a person engaged in particular-intelligence gathering techniques and thereby prejudice future investigations in which similar techniques would be used or
- 4.) prejudice the interests of an innocent person.

This policy applies to judicial authorization records kept and maintained by the Provincial Court of Manitoba.

Search Warrants and Judicial Authorizations where a Report to Justice is Filed

Members of the public, including the media, can inspect search warrants/judicial authorizations, and the information to obtain them, if all of the following conditions are met:

- The search warrant/judicial authorization has been executed;
- A report to justice is filed and confirms something has been seized;

- There are no sealing orders or other restrictions on public access in place.

The Judicial Authorization Registry

On April 16, 2018, the Provincial Court of Manitoba will have a registry of the judicial authorizations sought in Manitoba since November 1, 2017. The registry will be updated on a regular basis. The registry will be located at the Law Courts Complex, 408 York Avenue in Winnipeg. If an individual wishes to access this registry, they must send an email to the Search Warrant registry mailbox at SearchWarrantRegistry@gov.mb.ca. An appointment will be arranged and access will be provided to an electronic copy of the registry. The individual will be required to provide identification to view the registry. Photocopies or printouts of the judicial authorization registry will not be permitted.

There are a number of judicial authorizations that do not require law enforcement to file a report to justice (for example, production orders, transmission data warrants, data recorder warrants, and tracking warrants). If access is sought to the information to obtain a judicial authorization (where access is not otherwise prohibited) which does not require a report to justice, a written request must be submitted to the court. A copy of this Request for Documents is attached to this policy.

Notice of this Request for Documents will be provided to the Crown as it is well accepted that the Crown bears the onus of justifying any restriction on access. (*CBC and others v. HMQ* 2013 ONSC 6983 at para. 9) The Crown will have seven days to notify the court whether they would like to make any submissions regarding the request. The request will be considered by a judge in Chambers who will balance the open court principle and consider whether access should be restricted to protect serious risks to privacy and security rights or in the interests of the proper administration of justice. (*Dagenais v. CBC* 1994 CanLii 39 (SCC); *R. v. Mentuck* 2001 SCC 76 (CanLii)). In some circumstances, a Judge may require a hearing in open court, with notice to the party seeking access, to consider the Request for Documents.

PROVINCIAL COURT OF MANITOBA
Request for Access to a Judicial Authorization
or Information to Obtain a Judicial Authorization
where a Report to Justice not required

REQUEST FOR DOCUMENTS

Date: _____

Requested by: _____

Media / Law Firm / Agency: _____

Telephone Number: _____ **Email Address:** _____

Signature of Requestor: _____

Envelope Number: _____
as shown on the Judicial Authorization Registry

Name of Party/Address/Item: _____
as shown on the Judicial Authorization Registry

Description of intended use, including the reason for believing the Judicial Authorization has been executed:

Please submit your request to the attention of the Manager, Winnipeg Staff Justices of the Peace, Provincial Court Office, Main Floor, The Law Courts Complex, 408 York Ave. Winnipeg MB R3C 0P9.

If the judge determines that a hearing is required, you will be provided with information as to next steps from the Manager, Winnipeg Staff Justices of the Peace.

Photocopy fees and document retrieval fees will apply.

FOR OFFICE USE ONLY

The Crown must provide notice within seven days if it would like to make additional submissions to the Court as to why the Request for Documents should not be granted.

Notice provided to: ☐ Manitoba Prosecutions ☐ Public Prosecution Services of Canada

Judge: _____ **Date:** _____

Access Granted: ☐ **Access Denied:** ☐ **Hearing Required:** ☐

- ☐ Copies (4 pages or less) Minimum \$2.50 \$ _____
- ☐ Copies (5 pages or more) First page \$1.00 + Subsequent pages _____ x \$0.50/pg = \$ _____
- ☐ Document Retrieval: located in court office = \$5.00 \$ _____
- ☐ Document Retrieval: not located in court office = \$10.00 \$ _____

Date Fee Paid : _____ Amount Paid : _____ Receipt Number: _____