|  |  |
| --- | --- |
|  | *Federal Court (Criminal Proceedings) Rules 2016* – Rule 1.20(2) |
| **REQUEST BY NON-PARTY FOR ACCESS TO COURT DOCUMENTS IN A CRIMINAL PROCEEDING** |
| **NOTICE TO NON-PARTY ACCESS APPLICANTYOU MUST READ THIS BEFORE REQUESTING ACCESS TO COURT DOCUMENTS IN A CRIMINAL PROCEEDING** |
| ‘**Unrestricted**’ documents in a criminal proceeding are those documents that fall within the categories set out in sub-rule 1.20(2) of the *Federal Court (Criminal Proceedings) Rules 2016* (**Federal Court (Criminal Proceedings) Rules**) such as an indictment, an interlocutory application, specified notices and reasons for judgment. A non-party access applicant may apply, under rule 1.20(2) of the Federal Court (Criminal Proceedings) Rules, to inspect ‘unrestricted’ document(s) in a criminal proceeding, subject to any order or direction of the Court and certain exceptions (regarding confidentiality and restriction from publication).**‘Restricted’** documents in a criminal proceeding are those documents that fall outside the categories set out in sub-rule 1.20(2) of the Federal Court (Criminal Proceedings) Rules. Examples of restricted documents include written submissions, a notice of prosecution case and a response to the notice of prosecution case. A non-party may apply to the Court for leave (permission), pursuant to sub-rule 1.20(4) of the Federal Court (Criminal Proceedings) Rules, to inspect ‘restricted’ documents.Prior to making any request for access to documents, the Court expects that a non-party access applicant will have given careful consideration to:* the relevant Rules (attached)
* the [Access to Documents Practice Note (GPN-ACCS)](https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-accs)
* whether the request is the most efficient method possible to obtain the documents (e.g. certain types of documents are available to be accessed by parties and non-parties, without a fee, through the [Commonwealth Courts Portal](https://www.comcourts.gov.au/public/esearch))
* ensuring the request is clear, concise, accurate and specific about the document(s) being requested, and
* whether they anticipate a likelihood for controversy to arise due to the request (e.g. if the material sought is commercially sensitive, confidential or intended to be used in another proceeding).

In the Federal Court of Australia fees are payable and copying charges may also apply. The [current fee](https://www.fedcourt.gov.au/forms-and-fees/court-fees/fees) is published on the Court’s website (refer to item 123).A [step-by-step guide](https://www.fedcourt.gov.au/services/access-to-files-and-transcripts/court-documents/how-to-apply) on how to make an Access Request to inspect Court documents is available on the Court’s website. |
| **NOTE:** ALL questions in **PARTS 1-6** of this form must be completed. **Page 5** will be completed by the Court. The completed form may be lodged via email to FederalCourtCrime@fedcourt.gov.au |
| **WARNING****UNDER THE *CRIMINAL CODE 1995* (CTH) ANY PERSON WHO KNOWINGLY MAKES AN UNTRUE REPRESENTATION OR STATEMENT TO OBTAIN A BENEFIT OR ADVANTAGE FROM THE COMMONWEALTH IS GUILTY OF AN OFFENCE AND, IF FOUND GUILTY, CAN BE FINED OR IMPRISONED.** |

|  |
| --- |
| **REQUEST BY NON-PARTY FOR ACCESS TO COURT DOCUMENTS IN A CRIMINAL PROCEEDING***Federal Court (Criminal Proceedings) Rules 2016* – Rule 1.20 |
| PART 1 – ACKNOWLEDGMENT |
| I acknowledge that I have given careful consideration to the matters set out in:* the ‘Notice to non-party access applicant’ (page 1)
* the [Access to Documents Practice Note (GPN-ACCS)](https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-accs), and
* Rule 1.20 of the *Federal Court (Criminal Proceedings) Rules* 2016 (page 4)and declare that the contents of this request are true and correct.
 |
| Full name |       |
| Signature |       |
| Date |       |
| PART 2 – DETAILS OF THE PROCEEDING |
| Title of proceeding |       |
| Proceeding number (if known) |       |
| Judge / Registrar (if known) |       |
| PART 3 – DETAILS OF THE NON-PARTY ACCESS APPLICANT  |
| Media representative | [ ]  No[ ]  Yes:      Details of media entity |
| Legal representative | [ ]  No[ ]  Yes:      Details of legal firm |
| Researcher | [ ]  No[ ]  Yes:      Details of organisation |
| Other |       |
| PART 4 – CONTACT DETAILS FOR NON-PARTY ACCESS APPLICANT |
| Postal address |       |
| Email address |       |
| Telephone number (mobile preferred) |       |
| PART 5 – UNRESTRICTED DOCUMENTS |
| Do you wish to inspect unrestricted document(s) on the court file? | [ ]  Yes - complete 5.2[ ]  No - complete Part 6 if you are requesting restricted documents |
| **Clearly list** the unrestricted document(s) you wish to inspect.**NOTE:** Sub-rule 1.20(2) of the *Federal Court (Criminal Proceedings) Rules 2016* sets out the unrestricted documents that can be inspected. |       |
| Unclear requests for unrestricted documents may result in your request being refused. |
| If your request to inspect the unrestricted document(s) nominated in 5.2 is approved, do you wish to be given a copy of these document(s)?**NOTE:** Transcript is an excluded document. | [ ]  Yes[ ]  No |
| PART 6 – RESTRICTED DOCUMENTS |
| Do you wish to inspect restricted document(s) on the court file? | [ ]  Yes - complete 6.2[ ]  No |
| **Clearly list** the restricted document(s) you wish to inspect.**NOTE:** Restricted document(s) are all court documents that are not included in sub-rule 1.20(2) of the *Federal Court* (*Criminal Proceedings Rules*) 2016*.* |       |
| Unclear requests for restricted documents may result in your request being refused. |
| Pursuant to Rule 1.20(4) of the *Federal Court (Criminal Proceedings) Rules 2016* you must seek the Court’s leave to inspect restricted document(s).Please provide written reasons to assist the judicial officer to determine your request (e.g. media public interest story, research or accessing document(s) for potential use in future litigation etc.).More information is available via [Access to Documents Practice Note (GPN-ACCS)](https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-accs). |       |
| If there is insufficient space, please attach your additional reasons as a separate page. |
| If your request to inspect the restricted document(s) nominated in 6.2 is approved, do you wish to be given a copy of these document(s)?**NOTE:** Transcript is an excluded document | [ ]  Yes[ ]  No |

|  |
| --- |
| **RELEVANT INFORMATION** |
| The following links provide quick access to relevant information and services for this application: |
| [Access to Documents and Transcripts Practice Note](https://www.fedcourt.gov.au/law-and-practice/practice-documents/practice-notes/gpn-accs) |  | [A step-by-step guide on how to make an Access Request to inspect Court documents](https://www.fedcourt.gov.au/services/access-to-files-and-transcripts/court-documents/how-to-apply) |  |
| [Federal Court of Australia current fees](https://www.fedcourt.gov.au/forms-and-fees/court-fees/fees) |  | [Commonwealth Courts Portal](https://www.comcourts.gov.au/public/esearch) |  |
| [*Federal Court (Criminal Proceedings) Rules 2016*](https://www.legislation.gov.au/F2016L01726/latest/text) |  |  |  |
| ***Federal Court (Criminal Proceedings) Rules 2016 –* Rule 1.20 Inspection of documents**(1) A party to criminal proceedings may inspect any document in the proceedings except: (a) a document for which a claim of privilege has been made but not decided by the Court; or (b) a document that the Court has decided is privileged; or (c) a document for which a claim of public interest immunity has been made but not decided by the Court; or (d) a document that the Court has decided is immune on the grounds of public interest; or (e) a document affected by the operation of the *National Security Information (Criminal and Civil Proceedings) Act 2004*; or (f) a document that the Court has ordered be confidential.(2) A person who is not a party to criminal proceedings may inspect any of the following documents in the proceedings in the proper Registry: (a) an indictment or information; (b) a notice of address for service; (c) a notice of change of address for service; (d) an interlocutory application; (e) an order of the Court; (f) a notice of appeal; (g) a notice of change of lawyer; (h) a notice of ceasing to act; (i) reasons for judgment; (j) a transcript of a hearing heard in open Court.(3) However, a person who is not a party to criminal proceedings is not entitled to inspect a document that the Court has ordered: (a) be confidential; or (b) is forbidden from, or restricted from publication to, the person or a class of persons of which the person is a member.Note: For the prohibition of the publication of evidence or of the name of a party or witness, see sections 37AF and 37AI of the Act.(4) A person may apply to the Court for leave to inspect a document, or class of documents, that the person is not otherwise entitled to inspect.(5) A person may be given a copy of a document, except a copy of the transcript in criminal proceedings, if the person: (a) is entitled to inspect the document; and (b) has paid the fee (if any) payable in accordance with the *Federal Court and Federal Circuit Court Regulation 2012*.Note: If there is no order that a transcript be confidential, a person may, on payment of the applicable charge, obtain a copy of the transcript of criminal proceedings from the Court’s transcript provider.­­ |

|  |
| --- |
| **COURT USE ONLY (applicant not to complete)****DECISION IN RELATION TO REQUEST BY NON-PARTY FOR ACCESS TO COURT DOCUMENT(S)** |
|  |
| **Request for ‘unrestricted’ document(s)** |  | **Request for ‘restricted’ document(s) or requests requiring leave** |
| [ ]  | Pursuant to Rule 1.20(2) of the *Federal Court (Criminal Proceedings) Rules 2016*, the non-party may inspect the requested unrestricted document(s).  |  | [ ]  | I **grant leave**, pursuant to Rule 1.20(4) of the *Federal Court (Criminal Proceedings) Rules 2016*, to the non-party to inspect the requested restricted document(s).**NOTE**: The ACCESS TO DOCUMENTS AND TRANSCRIPTS PRACTICE NOTE (GPN-ACCS) provides, at paragraph 4.3, that access to a restricted document will generally be given where the document has been read in open Court. |
| **OR** |
| [ ]  | Pursuant to Rule 1.20(2) of the *Federal Court (Criminal Proceedings) Rules 2016*, the non-party may inspect the unrestricted document(s) subject to the following conditions: |
|       |
| **OR** |  | **OR** |
| [ ]  | Pursuant to Rule 1.20(3) of the *Federal Court (Criminal Proceedings) Rules 2016*, the non-party is not entitled to inspect the requested unrestricted document(s) for the following reasons:**NOTE**: A non-party is not entitled to inspect a document that the Court has ordered be confidential; or is forbidden from, or restricted from publication to, the person or a class of persons of which the person is a member. For the prohibition of the publication of evidence or of the name of a party or witness, see sections 37AF and 37AI of the Act. |  | [ ]  | I **do not grant leave**, pursuant to Rule 1.20(4) of the *Federal Court (Criminal Proceedings) Rules 2016*, to the non-party to inspect the requested restricted document(s) for the following reasons:**NOTE**: A non-party is not entitled to inspect a document that the Court has ordered be confidential; or is forbidden from, or restricted from publication to, the person or a class of persons of which the person is a member. For the prohibition of the publication of evidence or of the name of a party or witness, see sections 37AF and 37AI of the Act. |
|       |  |       |
|  |
|  |
|  |
|  |
|  |
|  |  |  |
|  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **FEE PAID:** | **$**  | **RECEIPT NO.** |       |
|  |  |
| **Judge / Registrar** | **Date:**  |       |