

Guidance on Chambers Records

Pursuant to General Court Rule 31.1

What is a chambers record?

A “chambers record” is defined as any writing that is created by or maintained by any judicial officer or chambers staff, and is maintained under chambers control, whether directly related to an official judicial proceeding, the management of the court, or other chambers activities.

“Chambers records” are not administrative records and therefore are not subject to GR 31.1. A chambers record is not an “exemption” under GR 31.1; rather, it is an exception to GR 31.1.

Who are chambers staff?

“Chambers staff” means a judicial officer’s bailiff, law clerk(s), judicial interns and any other staff when providing support directly to the judicial officer at chambers. A member of the “chambers staff” does not mean the person’s workstation is located within the judge’s chambers, rather the test is whether the person is providing direct support to the judicial officer. Also, see *Practice Tip* below for those employees who serve multiple roles.

Practice Tip: The public records officer should maintain a list of those court personnel designated as judicial officers or chambers staff. Because in some courts an employee may serve dual roles, the court should define for the public records officer what aspects of that employee’s position are excluded from GR 31.1. See *Comment to GR 31.1(m)(1)*.

What does “maintained under chambers control” mean?

A record is maintained under chambers control if (1) the record is created and maintained by the judicial officer or the judicial officer’s staff and is in the physical custody of a judicial officer or chambers staff, (2) the record is under the controlling authority of a judicial officer or chambers staff, or (3) use of the record is limited to a judicial officer or chambers staff. Examples are (1) paper files stored in offices, desks, and filing cabinets controlled by a judicial officer or chambers staff; (2) electronic documents, files or folders used by a judicial officer or chambers staff to create or maintain electronic records; and (3) electronic mailboxes of a judicial officer or chambers staff.

Practice Tips: An electronic record should be considered “under chambers control,” if one of the three tests is met, even if it could be centrally searched through electronic means by court administrative or information technology staff. Also, records may remain under chambers control even though they are stored elsewhere. For example, records relating to chambers activities that are stored on personally owned or workplace-assigned computer, laptop computer, cell phone, and similar electronic devices in the possession of a judicial officer or a chambers staff person would still be chambers records. See *Comment to GR 31.1(m)(1)*.

Why are chambers records not included in GR 31.1?

The exception for chambers records recognizes the reality that many of the records held in chambers are subject to confidentiality or privilege. Requiring judicial officers and chambers staff to search, review, and redact their records would be extremely burdensome and would seriously interfere with their primary responsibility of hearing and deciding cases. Imposing this burden, with its negative impact on the judicial function, would not measurably add to the public's knowledge of the judicial process, especially in light of the fact that the public already has access to judicial proceedings in open court and to the public court file. See *Comment to GR 31.1(m)*.

Should chambers records be searched before responding to a records request?

No. Judicial officers or chambers staff should never be asked to search for records in order to respond to an administrative records request. In addition, chambers records should not be searched by other court personnel in order to respond to an administrative records request. Chambers records are not subject to GR 31.1 and therefore are not subject to public disclosure.

Practice Tip: Administrative records subject to GR 31.1 should never be placed under chambers control for the purpose of avoiding public disclosure. See *Comment to GR 31.1(m)(1)*.

How should a court respond to a request for chambers records?

If a request for records is made to a judicial officer or chambers staff or if a request to the court's public records officer asks for chambers records, expressly or by description, the request may be denied as not a proper request under GR 31.1. The denial letter should explain that chambers records are not administrative records and are not subject to GR 31.1.

If other personnel are in possession of a "chambers record", what happens?

A "chambers record" is not a "chambers record" if it is in the possession of court personnel, other than a judicial officer or chambers staff. While judicial officers and chambers staff are not required to respond to an administrative records request, other court personnel must respond to a request and provide to the court's public records officer any responsive record, including any record received from a judicial officer or chambers staff. The public records officer will determine if GR 31.1 or other law provides an exemption from producing the record to the requester or requires the record to be redacted before being produced.

For example, if a judge sends a draft of a budget request to his or her judicial assistant who works in the judge's chambers to review, the budget request is a chambers record and not subject to GR 31.1. However, if the judge or judicial assistant sends the budget request to another court employee outside of chambers, the copy of the budget request in the possession of the court employee is no longer a chambers record and the employee who received it must provide it to the public records officer in response to a records request.

Practice Tip: Judicial officers and chambers staff participate in administrative activities and on administrative court committees. It is encouraged to have another court employee maintain an official central file for this work that can be easily identified and provided to the public records officer in response to a request. This will make responding to the request more efficient and instill confidence in the public of the court's commitment to disclose administrative records.