

Request for a Copy of Audio Recording of Trial Court Proceeding By a Non-Party ([N.D. Sup. Ct. Admin. Rule 40](#))

[ND Legal Self Help Center](#) Staff and Court employees **can't** help you fill out forms. If you're unsure how to proceed, [consult a lawyer](#).

ND Legal Self Help Center forms **aren't** official court forms and courts **aren't** required to accept them. There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. Use at your own risk.

Don't include these instruction sheets when you file the completed forms.

Can a Non-Party Get a Copy of the Audio Recording of a Trial Court Proceeding?

Yes, [Rule 40, Section 2\(b\) of the North Dakota Supreme Court Administrative Rules](#) allows a non-party to get a copy of an audio recording of a trial court proceeding.

A non-party is someone who isn't a Plaintiff/Petitioner or Defendant/Respondent in the case.

Review [N.D. Supreme Court Administrative Rule 41, Section 3\(b\)\(6\)](#) if you plan to file a copy of an audio recording of a court proceeding as an exhibit in a court case. If the audio recording includes confidential information you **must** file the recording confidentially. For example, names of minors and the testimony of minor victims or witnesses are confidential information.

Are There Limits to Whether a Non-Party Can Get a Copy?

Yes, there are limits to non-parties getting copies of audio recordings of trial court proceedings.

No audio recording is provided to a non-party if:

- The court proceeding was closed or confidential.

The judge or judicial referee may restrict access to all or part of an audio recording if:

- The judge or judicial referee decides that providing an audio recording would materially interfere with a party's right to a fair trial;
- A witness or party objected and the judge or judicial referee decided there's good cause why a copy of an audio recording shouldn't be available to a non-party;

- The audio recording includes testimony of an adult victim or witness in a prosecution under [North Dakota Century Code Chapter 12.1-20](#), or for charges in which an offense under that chapter is an included offense or an essential element of the charge, and the non-party didn't get the consent of the victim(s) or the witness(es);
- The audio recording includes testimony of a juvenile victim or witness in a proceeding in which illegal sexual activity is an element of the evidence; or
- The audio recording includes testimony or other comment with information protected under [Rule 3.4\(a\) of the North Dakota Rules of Court](#).

The Non-Party Must Make a Written Request

Requests for copies of audio recordings of trial court proceedings must be made in writing.

This form set may be used by a non-party to make their written request:

1. Non-Party Request for a Copy of an Audio Recording
2. Victim or Witness Consent to Non-Party Request for a Copy of an Audio Recording
 - *(Necessary only in limited circumstances)*
3. Order on Non-Party Request for a Copy of an Audio Recording (Proposed)

1. Non-Party Request for a Copy of an Audio Recording

This form is the non-party's written request. To complete the form, you need the case number, the date and time of the court proceeding, and the name of the judge or judicial referee who presided over the court proceeding.

Use the District Court Case Search at ndcourts.gov/public-access to find the case number, the date and time of the court proceeding, and the name of the judge or judicial referee who presided over the court proceeding.

☐ **Fill in the Gray Box at the Top of the Form:**

You, the non-party, fill in your name, address, telephone number and email address.

☐ **Fill in the Caption Below the Gray Box:**

- Fill in the County, Judicial District, Plaintiff (or Petitioner) name(s), Defendant (or Respondent) name(s) and case number of the case for which you request a copy of an audio recording of a court proceeding in that case.

- ☐ **Paragraph 1:** Fill in your name.
- ☐ **Paragraph 2:** If this statement isn't true, you can't use this form.
- ☐ **Paragraph 3:** Fill in the date and time of the hearing or trial for which you request a copy of the audio recording.
- ☐ **Paragraph 4:** Fill in the name of the judge or judicial referee who presided over the hearing or trial you listed in Paragraph 3.
- ☐ **Paragraph 5:** Review – this paragraph states that you understand copies of audio recordings aren't available to non-parties when the court proceeding was closed or confidential.
- ☐ **Paragraph 6:** Review and checkmark ☒ one box.
 - If you checkmark the first box, the court proceeding you listed in Paragraph 3 **isn't related** to the prosecution of sex offenses in [N.D.C.C. Chapter 12.1-20](#), **and doesn't include** adult victim or witness testimony in the prosecution for sex offenses in N.D.C.C. Chapter 12.1-20.
 - If you checkmark the second box, the court proceeding you listed in Paragraph 3 **is related** to the prosecution of sex offenses in [N.D.C.C. Chapter 12.1-20](#), **and includes** adult victim or witness testimony in the prosecution for sex offenses in N.D.C.C. Chapter 12.1-20.
 - Before you file this request you need to get the consent of the adult victim(s) or witness(es) who gave testimony. See the "Victim or Witness Consent to Non-Party Request for a Copy of an Audio Recording" form in this set.
- ☐ **Paragraph 7:** Review – this paragraph states that you understand an audio recording isn't the official record of the court proceeding.
- ☐ **Paragraph 8:** Review – if your request is approved, there may be a fee for making a copy of the audio recording. This paragraph states that you agree to pay the fee.
- ☐ **Date and Signature:** You, the non-party:
 - Date the document.
 - Sign the signature line.
 - Print your name.
 - Fill in the address lines. (*If you have a physical address **and** a mailing address, type or write both addresses using the lines provided, and the space next to the address lines.*)
 - Fill in your telephone number **and** email address.

2. Victim or Witness Consent to Non-Party Request for a Copy of an Audio Recording

If you checkmarked the ☒ first option in Paragraph 6 of the “Non-Party Request for a Copy of an Audio Recording” form, go directly to “3. Order on Non-Party Request for a Copy of an Audio Recording (Proposed)”.

You need this form only if you checkmarked ☒ the second option in Paragraph 6 of the “Non-Party Request for a Copy of an Audio Recording” form.

The ND Legal Self Help Center and the Clerk of Court **can’t** give you victim or witness contact information. You may want to [consult a lawyer](#) for advice.

If the court proceeding for which you request a copy of the audio recording **is related** to the prosecution of sex offenses in [N.D.C.C. Chapter 12.1-20](#), **and includes** adult victim or witness testimony in the prosecution for sex offenses in N.D.C.C. Chapter 12.1-20, **you must get the consent of each adult victim or witness who gave testimony.**

You may give this form to each adult victim or witness who gave testimony. If they agree, they complete, date, and sign the form and give it back to you.

☐ **Fill in the Caption (Top of Form) and Paragraph 3:**

- You, the non-party, fill in the caption exactly the same as the caption of your completed “Non-Party Request for a Copy of an Audio Recording” form.
- You, the non-party, fill in the same date and time of the hearing or trial as you filled in Paragraph 3 of your completed and signed “Non-Party Request for a Copy of an Audio Recording” form.

☐ **Give the Form to the Adult Victim or Witness to Complete and Sign:**

☐ The victim/witness reviews and completes Paragraphs 1 and 2, and reviews Paragraph 4.

☐ **Date and Signature:**

- The victim/witness dates and signs the form, and prints their name.
- The victim/witness fills in the address lines. *(If they have a physical address **and** a mailing address, they type or write both addresses using the lines provided, and the space next to the address lines.)*
- The victim/witness fills in their telephone number **and** email address.

☐ **The Adult Victim or Witness Gives the Completed and Signed Form to You.**

3. Order on Non-Party Request for a Copy of an Audio Recording (Proposed)

This form is your proposed Order for the judge or judicial referee to sign. If the judge or judicial referee approves your request, they issue an Order. If the judge or judicial referee decides to use your proposed Order, they date and sign the Order.

Your request isn't approved until the judge or judicial referee dates and signs an Order stating you're approved to have a copy of an audio recording.

- ☐ **Fill in the Caption (Top of Form):** You, the non-party, fill in the caption exactly the same as the caption of your completed "Non-Party Request for a Copy of an Audio Recording" form.
- ☐ **Paragraph 1:** Fill in your name and the same date and time of the hearing or trial as you filled in Paragraph 3 of your completed and signed "Non-Party Request for a Copy of an Audio Recording" form.
- ☐ **Leave the Rest of the Form Blank.**

Make 1 Copy of Each Completed Form; File the Originals with the Clerk of Court

- ☐ Make one copy of the following completed forms:
 - Non-Party Request for a Copy of an Audio Recording;
 - Dated and signed by you, the non-party
 - Victim or Witness Consent to Non-Party Request for a Copy of an Audio Recording; and
 - A form for each victim or witness, dated and signed by the victim or witness
 - You may not need this form
 - Order on Non-Party Request for a Copy of an Audio Recording (Proposed).
 - Caption and Paragraph 1 filled out, the rest is blank

Keep the copy for your records.

- ☐ File the original, completed forms listed above with the Clerk of Court.

If the judge or judicial referee approves your request, you'll receive a copy of the requested audio recording.

<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Requesting Person's Name	
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Address	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> City, State, Zip Code
<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Telephone Number	<div style="border-bottom: 1px solid black; margin-bottom: 5px;"></div> Email Address

State Of North Dakota County Of _____	In District Court _____ Judicial District
<div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> Plaintiff/Petitioner, vs. <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> Defendant/Respondent.	Non-Party Request for a Copy of an Audio Recording Case No. _____

1. My name is _____.
2. I am not a party in this case.
3. Under Rule 40, Section 2(b) of the North Dakota Supreme Court Administrative Rules, I request a copy of the record of the court proceeding in the case, which was held on (*write or type the date and time of the hearing or trial*):
 _____ (*date*) at _____ (*time*).
4. The judge or judicial referee who presided over the court proceeding listed in Paragraph 3 is (*write or type name*) _____.
5. I understand that no recording will be provided to me if the proceeding was closed or confidential.

6. I understand that I must have the consent of the adult victim(s) or witness(es) if the court proceeding listed in Paragraph 3 includes testimony of an adult victim or witness in a prosecution for sex offenses under N.D.C.C. Chapter 12.1-20, or for charges in which a sex offense under Chapter 12.1-20 is an included offense or an essential element of the charge.

(Choose one):

- ☐ The court proceeding **does not** include testimony of adult victim(s) or witness(es) in a prosecution related to N.D.C.C. Chapter 12.1-20.
- ☐ The written consent is attached to my request of all adult victims or witnesses who provided testimony at the court proceeding in a prosecution related to N.D.C.C. Chapter 12.1-20.

7. I understand an audio recording of a court proceeding **is not** the official record of the proceeding.

8. I understand there is a fee for producing an audio recording of a court proceeding for a non-party. I agree to pay the fee if my request is approved.

Dated _____.

Signature of Requesting Person

Printed Name of Requesting Person

Address

City, State, Zip Code

Telephone Number

Email Address

*****If you file a copy of an audio recording of a court proceeding as an exhibit in a court case, the audio recording **must** be filed as a confidential case record if it includes confidential information. For example, names of minors and the testimony of minor victims or witnesses are confidential information. Review [N.D. Supreme Court Administrative Rule 41, Section 3\(b\)\(6\)](#) carefully!*****

State Of North Dakota

In District Court

County Of _____

_____ Judicial District

Plaintiff/Petitioner,

vs.

Defendant/Respondent.

**Victim or Witness Consent to Non-Party
Request for a Copy of an Audio Recording**

Case No. _____

1. My name is _____.

2. I am a (*choose one*) ☐ victim ☐ witness in this case, which involves the prosecution for sex offenses under N.D.C.C. Chapter 12.1-20, or for charges in which a sex offense under Chapter 12.1-20 is an included offense or an essential element of the charge.

3. I consent to the non-party request for a copy of the record of the court proceeding in the case, which was held on (*write or type the date and time of the hearing or trial*):

_____ (*date*) at _____ (*time*), and includes my testimony.

4. I understand an audio recording of a court proceeding **is not** the official record of the proceeding.

Dated _____.

Signature

Printed Name

Address

City, State, Zip Code

Telephone Number

Email Address

State Of North Dakota

In District Court

County Of _____

_____ Judicial District

Plaintiff/Petitioner,

vs.

Defendant/Respondent.

**Order on Non-Party Request for a Copy of
an Audio Recording**

Case No. _____

1. A non-party in the above-referenced case number, _____,
filed a request for a copy of an audio recording of the following the court proceeding in the
case: _____ (date) at _____ (time).

2. The request for a copy of the audio recording is:

☐ Granted without restrictions.

☐ Granted with the following restrictions:

☐ Denied because:

☐ In a previous Motion filed in this case the court decided that providing an audio
recording would materially interfere with a party's right to a fair trial.

☐ In a previous Motion filed in this case a witness or party objected and the court decided
they showed good cause why it should not be available to a non-party.

- ☐ It includes testimony of an adult victim or witness in a prosecution under North Dakota Century Code Chapter 12.1-20, or for charges in which an offense under that chapter is an included offense or an essential element of the charge, and the non-party did not obtain the consent of the victim(s) or the witness(es).
- ☐ It includes testimony of a juvenile victim or witness in a proceeding in which illegal sexual activity is an element of the evidence.
- ☐ It includes by testimony or other comment information protected under Rule 3.4 of the North Dakota Rules of Court.

3. If the request for a copy of the audio recording of the court proceeding is granted, the audio recording **is not** the official record of the proceeding.

By the Court:

(District Court Judge or Judicial Referee)