

RESPONDING TO PUBLIC RECORDS REQUESTS

Upon request, the Prosecuting Attorney of Butler County, Ohio (“**Prosecutor**”) is required, by R.C. §149.43(B)(1), to make copies of public records available, at cost, within a reasonable period of time. R.C. §149.43(E)(1) further requires that the Prosecutor adopt a public records policy for responding to public records requests; this document shall constitute such public records policy. To meet this duty, the following policies shall apply to each such response:

1. The Prosecutor’s Administrative Director is designated to be the records manager for the Prosecutor.
2. Pursuant to R.C. §149.43(E)(2), a copy of this policy shall be distributed to the Prosecutor’s Administrative Director, and the Administrative Director shall acknowledge, in writing, receipt of this policy.
3. The Prosecutor’s Administrative Director shall create a poster which describes the Prosecutor’s policy for responding to public records requests and shall post the poster in a conspicuous place in the Prosecutor’s Office and in a conspicuous place at each of the Prosecutor’s facilities. A copy of the Prosecutor’s policy for responding to public records requests shall also be posted on the Prosecutor’s website, and shall be incorporated into any manual or handbook of its general policies and procedures which is made available to all employees of the Prosecutor.
4. All requests to inspect, and/or receive copies of, the Prosecutor’s public records shall be referred to the Prosecutor’s Administrative Director, or in the event of his/her unavailability, to the Prosecuting Attorney.
5. A response to a request for inspection or copies of public records shall be provided within a reasonable time.
6. The Prosecutor is only required to provide copies of records that it actually maintains. The Prosecutor is **not** required to produce special reports, or data compilations, in a form that is not regularly maintained by the Prosecutor. However, if requested information may be extracted from a database, or other records storage system, through the use of an available, or readily structured, query, it must be produced in the format requested.
7. If the Administrative Director, upon receiving the request is unclear as to the scope of the request, he/she may ask the requester to further explain what type of information the requester is seeking to assist the Prosecutor in determining what records would be responsive to the request. A requester’s decision to refuse to further explain the request shall not, in and of itself, be a reason to refuse to comply with the request.
8. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that Prosecutor cannot reasonably identify what public records are being requested, the Prosecutor may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the Prosecutor and accessed in the ordinary course of the Prosecutor’s duties.
9. Unless specifically required or authorized by state or federal law, the Prosecutor may NOT limit or condition the availability of public records by requiring disclosure of the requester’s identity or the intended use of the requested public record. Any requirement that the requester disclose the requester’s identity or the intended use of the requested public record constitutes a denial of the request.
 - a. The Prosecutor may ask a requester to make the request in writing, may ask for the requester’s identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester’s identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the Prosecutor to identify, locate, or deliver the public records sought by the requester.
 - b. The Prosecutor should ask that the requester provide a mailing address, or an email address, only if the requester desires that copies of records be delivered by mail, or by electronic transmission.
 - c. If the requester declines to make a written request, the Prosecutor’s Administrative Director, or an employee receiving the oral request shall create a written record of his/her understanding of the scope of the request; such record should, at a minimum, describe the record(s) requested and the time period covered by the request. A copy of the written record of the Prosecutor’s understanding of the request should be immediately provided to the requester.

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10. Some records kept by the Prosecutor may be outside of the statutory definition of public records. Examples include:

- a. Social security numbers, tax identification numbers, addresses, dates of birth or other personal information, contained in records relating to Prosecutor employees, contractors, vendors or customers.
- b. Personal financial information (such as credit card, and bank account, information) contained in records relating to Prosecutor employees, contractors, vendors or customers.
- c. Personally identifiable health information contained in records relating to Prosecutor employees.
- d. Material contained in case files which may be within the definition of a trial preparation record.
- e. Records containing information relating to security procedures for the Prosecutor's facilities.
- f. Records protected by attorney-client privilege.

Prior to releasing any information from case files, the Administrative Director shall consult with the Assistant Prosecuting who is responsible for the case to determine the status of the case, and shall consult with the Chief of the Civil Division to determine whether information contained in the case file is within the definition of a public record. Some of the above described types of information may be contained within a record that is, itself, a public record. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the Prosecutor is required to make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, the Administrative Director shall notify the requester of any redaction or make the redaction plainly visible. A redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redaction.

11. In the event the Administrative Director upon receiving a public records request is unsure whether information should be made available to the requester, the employee should request that the Chief of the Civil Division review the request; however, the review process should not usually delay the response to the request by more than three

(3) business days. If a request is ultimately denied, in part or in whole, the Administrative Director shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing.

12. The person making a public records request has the right to choose to have the public record duplicated upon paper, upon the same medium upon which the Prosecutor keeps it, or upon any other medium upon which the Administrative Director determines that the record reasonably can be duplicated as an integral part of the normal operations of the Prosecutor's office. Although copies of most Prosecutor records can be provided on paper, copies of records maintained in an electronic format may also be provided on either a compact disc (CD) or a floppy disk, or as an e-mail attachment; however, a requester should be cautioned that some of these records might not be readable in such electronic format without special software.

13. Copies of public records shall be provided upon request at the Prosecutor's actual cost. For purposes of this policy, "actual cost" includes the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services. The time spent by the Administrative Director, or the Prosecutor's employees, in assembling the copies shall not be included in the cost of providing the copies.

- a. Paper photocopies of public records will be provided at a cost of 5¢ per page.
- b. Copies provided on an electronic media will be provided at the Prosecutor's media cost.