

PUBLIC RECORDS POLICY
for
CITY OF TROTWOOD
MONTGOMERY COUNTY, OHIO

Resolution No. R24-95~~25-66~~

I. Purpose

The City of Trotwood acknowledges that it maintains many records that are used in the administration and operation of the City. In accordance with State law and the City's Records Commission, the City has adopted Records Retention Schedules (RC-2). These schedules identify records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the City and document the organization, functions, policies, decisions, procedures, operations, or other activities of the City. **The Records Retention Schedules also indicate how long various types of records of the City are required to be maintained.** The records maintained by the City and the ability to access them are means to provide trust between the public and the City.

II. Scope

The Clerk of Council is the official Public Records Custodian of all records which are centrally maintained by the City. Department heads are the official custodians of all records maintained within their departments. However, with the exception of the Fire Department, the Police Department, and the Human Resources Department, all public records requests must be directed to the Public Records Custodian. Requests for records from the Fire Department, the Police Department, and the Human Resources Department may be made directly to the department's records custodian. **The Public Records Custodian, the City Manager, the Fire Chief, the Police Chief, or the Human Resources Department may, at their discretion, direct the City's Law Director to review and respond to any public records request on the City's behalf.**

Public records requests will be accommodated during regular business hours between 8:00 a.m. and 4:30 p.m. on regular business days. Public records requests will not be processed on weekends or holidays.

III. Inspection

All public records maintained by the City shall be promptly prepared and made available for inspection to any person during regular business hours. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review. The time for compliance with a request for public records will depend upon the availability of records, ~~and~~ the volume of records requested, **and the nature of the records requested.**

A public records request may be made in writing or verbally. The Public Records Custodian may ask the requester to put a verbal request in writing, may ask for the requester to give identifying information, or may inquire about the intended use of the information; but a written request is not mandatory, identifying information is not required, and the intended use does not

have to be disclosed. However, such information would benefit the requester by enhancing the ability of the appropriate records custodian to identify, locate, and deliver the public records requested.

Public records can be accessed by one of the following methods: a request to view public records in person; a request for copies of public records that the requester will personally pick up; or, a request for copies of public records that the requester wants to have mailed or otherwise delivered to the requester.

Request to view public records. The requester may make a request to view public records to the appropriate records custodian, who shall prepare the public records for inspection “promptly,” as required by the Ohio Revised Code. The actual time required to comply with the request may depend on the circumstances, such as the location of the records, ~~or~~ the volume of records being requested, **or the nature of the records requested.**

Copies of public records. The requester may make a request to the appropriate records custodian to have copies of public records made.

Transmitting copies of public records. A requester may request that copies of public records be transmitted to him or her by U.S. Mail or by any other means of transmission that is available and is conducive to transmitting the public records (FedEx, UPS, fax, e-mail). The cost of transmitting must be paid by the requester before the public records ~~will be~~ **are** transmitted. While the City is under no obligation to provide records in electronic format, it is the policy of the City to provide information to the public in the most convenient way that is practical **and economical**, considering all of the circumstances. Therefore, if the City receives a request for information to be made available in an electronic format, such request will be forwarded to the appropriate records custodian for a determination as to whether such information will be generated and released in an electronic format.

IV. Fees and Payment

Those seeking public records will be charged only the actual cost of making copies or reproducing the records. Payment for public records requests must be made prior to the actual copying of the records, **except as otherwise provided herein or by Ohio Rev. Code §149.43.**

Copies made on letter or legal-size paper are \$0.10 per page. If fewer than 50 pages of copies are requested, no fee will be charged. If the request is for 50 pages or more, the fee will be \$0.10 per page for all pages copied.

If the Public Records Custodian uses an outside copying service to make the copies, the requester ~~will~~ **may** be required to pay the cost of the entire copying job, as billed by the copying service. Copies that are requested in some format other than normal letter or legal-size paper may be “at cost,” without taking into account employee time spent preparing the copies. For example, public records in electronic format placed on a CD will be assessed the cost of the CD, ~~plus the cost, if any, of creating the electronic copies.~~

Public records will only be copied by the appropriate records custodian or other authorized officers, employees or representatives. Records custodians may use an outside copying service

to make the copies, at the records custodian's discretion. Under no circumstances will the requester be permitted to make the copies themselves. The manner of the making of copies is at the discretion of the Public Records Custodian. Requests to copy a certain number of public records on a given page, by "reducing" copy size or otherwise, may be met at the discretion of the Public Records Custodian.

V. Fees for Video Records

This section applies to all public record requests seeking video records maintained by the Trotwood Police Department (the "Department") pursuant to Ohio Rev. Code §149.43.

For purposes of this policy, the term "Video Record" means a video from one source for one start and stop recording (essentially the beginning and end of a distinct incident). For example, three (3) officers responding to an incident will each have a "Video Record" of that incident from each of their respective body cameras. This example will result in an actual cost charge for each Video Record, or three (3) Video Records. If three (3) officers responding to an incident had body camera and dashboard video recordings of the incident, this would result in six (6) Video Records.

- A. Fees for Video Records. The Department may charge for the "Actual Cost" of preparing a Video Record for production or inspection. Actual Cost includes the cost to retrieve, review, blur or otherwise obscure, redact, download, upload, or produce a Video Record. Actual Cost may also include the cost of the storage medium the Department uses to produce a Video Record, staff time, fees for legal advice, and any additional overhead necessary to comply with a request. In no event shall the Actual Cost for each Video Record exceed \$75.00 per hour of video produced, or a maximum total of \$750.00 for a particular Video Record.**
- B. Prepayment and Cost Adjustment. The Department may require a requestor to prepay the estimated Actual Cost of preparing a Video Record for production. If prepayment is required, the Department will provide an estimate of the Actual Cost within five (5) business days of receiving the request.**
 - 1. The estimated Actual Cost will include all applicable fees and an estimate of the Actual Cost of preparing a Video Record as outlined in Section V.A.**
 - 2. If the Actual Cost exceeds the estimated Actual Cost by no more than 20%, the requestor may be required to pay the difference before the Video Record is released, so long as the Department notifies the requestor in advance that the Actual Cost may be up to 20% higher than the estimated Actual Cost.**
 - 3. The Department shall not charge a requestor for a difference that exceeds 20% of the estimated Actual Cost. The amount beyond 20% of the estimated Actual Cost will be borne by the Department.**
 - 4. If the estimated Actual Cost exceeds the Actual Cost, the difference will be refunded to the requestor in a reasonable amount of time.**

C. Waiver of Costs. The Department shall not charge fees as provided in Section V.B. under the following circumstances:

1. The request is made by the victim, a parent or legal guardian of a minor child victim, an attorney representing the victim, or a person having power of attorney on behalf of a victim of a crime where a police report has been filed.
2. The request is made by any federal, state or local government or agency or any federal, state or local law enforcement agency.
3. The request is made by any public or private school.
4. The Video Record is proactively made publicly available the Department, which may include but is not limited to law enforcement Video Records that are of great public interest.
5. Video Records of critical incidents – defined as any instance where an officer from the Police Department fires a deadly weapon at a person – the Police Department will redact and produce the video at no cost to the requester within a reasonable period of time as defined in Ohio Rev. Code §149.43.

D. Compliance Timeline.

1. The Department's obligation to produce a Video Record, or make it available for inspection, starts when the requestor pays the estimated Actual Cost in full, if the Department timely requested prepayment of the estimated Actual Cost. The Department is not required to start preparing a Video Record for production until the requestor pays the estimated Actual Cost in full, if the Department timely requested prepayment of the Actual Cost.
2. Pursuant to Ohio Rev. Code §149.43(B)(1), the time required for retrieving, downloading, reviewing, redacting, uploading, and producing, and seeking legal advice, will be considered in determining what is a "reasonable period of time" for production of the Video Record.

VI. Denial of a Public Records Request

Under certain circumstances, some records, including Video Records, are not considered "public records" under Ohio law. In these situations, the public records request will be denied on that basis. ~~The Ohio Revised Code requires that any denial be supported by legal authority.~~ A denial that is responding to a written public records request will also be given in writing. ~~Written reasons for denial will not be required for non-written public records requests.~~ Any denial of public records requested, whether the request was made orally or in writing, must include an explanation of the denial with supporting legal authority. If portions of a record are public records and other portions of the record are not public records and exempt from production pursuant to Ohio Rev. Code §149.43, the exempt portions are to will be redacted, and the rest remainder released. If there are redactions, each redaction must be accompanied by a supporting explanation, with applicable legal authority, ~~unless federal or state law authorized or requires the redaction.~~

The Ohio Revised Code regards certain actions as being “denials” of public record requests. Denials are handled as follows:

Redaction. The Ohio Revised Code Section 149.43 defines a “redaction” as “obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a ‘record’ in section 149.011 of the Revised Code.” Examples of redaction are “blacking out” or “whiting out” or “cutting out” portions of a document. When a public record contains information that is not within the definition of a “public record” as defined by law, the Public Records Custodian, or the City’s Law Director, will make available that portion of the public record that does meet the definition of a “public record.” ~~The Public Records Custodian shall make a copy of the public record, perform the redaction, then make a copy of that sheet and make the second copy available to the requester. The requester will not be charged for the first copy made. The first copy will be retained by the Public Records Custodian.~~

Requests that are ambiguous, overly broad, or are difficult to identify the public records requested. At times, a requester may make a public records request from which the Public Records Custodian cannot determine what public records the requester is seeking. In such circumstances, the Public Records Custodian, or the City’s Law Director, will inform the requester that the public records request is denied but will give the requester an opportunity to more accurately describe the public records sought. ~~If the requester is seeking public records organized in a certain way, but the public records are not organized in that way, the Public Records Custodian will inform the requester of the manner that the public records of the office under discussion are maintained and accessed. The requester may then submit a public records request that more accurately reflects the organization of the public records and the actual public records sought by the requester.~~

VII. Compliance

With any public records request, records custodians ~~reserve~~ have the right to consult with legal counsel the City’s Law Director prior to the release of such public records. This is to allow the City to comply with laws prohibiting the release of certain records. **If any provision of this Public Records Policy is in conflict with Ohio Rev. Code §149.43, the Ohio Revised Code provisions shall govern.**

~~VIII. Failure to respond to a public records request~~

~~The City recognizes the legal and non legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the City's failure to comply with a request may result in a court ordering the City to comply with the law and to pay the requester's attorney's fees and possible statutory damages.~~

City Manager

Date

Clerk of Council

Date

2024-11-04 Adopted
2025-10-06 Revised