

SHAYLA D. FAVOR

FRANKLIN COUNTY PROSECUTING ATTORNEY

INTRODUCTION

The Franklin County Prosecutor's Office acknowledges that it maintains many records that are used in the administration and operation of the Prosecutor's Office. The following Public Records Policy is adopted by the Franklin County Prosecuting Attorney in accordance with the applicable provisions of Ohio Revised Code Chapter 149, the Ohio Public Records Act, and other state and federal laws. This policy also reflects the duties imposed under the Rules of Professional Responsibility. This policy is not intended to be legal advice.

This Public Records Policy is intended to be utilized in conjunction with the Records Retention Schedule currently in effect for the Franklin County Prosecuting Attorney's Office, as supplemented by the Administrative Rules promulgated by the Franklin County Records Commission and approved by the Ohio Historical Society and the Ohio Auditor of State.

The Public Records Act imposes two primary obligations upon this office:

- Provide prompt inspection of public records; and
- Provide copies of public records within a reasonable period of time.

These obligations provide the public with two primary rights:

- The right to prompt inspection of public records; and
- The right to copies of public records within a reasonable period of time.

This Public Records Policy shall be effective January 6, 2025, and shall apply to all public records requests that are received by the Office of the Franklin County Prosecuting Attorney on or after January 6, 2025.

In accordance with Ohio law, this policy shall be distributed to the employees of the Franklin County Prosecutor who have custody of the records of the Franklin County Prosecutor. These employees shall acknowledge receipt of a copy of this public records policy. This policy shall also be included in the policies and procedures handbook of the Franklin County Prosecutor.

A record can be on paper or microfilm, electronic on your computer or in a database, accessed through a website, or on a handheld device such as a cell phone or tablet. Basically anything created, received, stored, or maintained on or in county-owned equipment or supplies can be considered a public record. Records include files, letters, reports and memos as well as e-mails, text messages, phone logs, and phone messages. Keep in mind that if you conduct County business on your personal phone or computer, those records could also be considered to be public. This is further explained in this policy.

Public records should be maintained in a manner that provides for prompt inspection and copying within a reasonable amount of time during the office's regular business hours. The Civil Division in the Franklin County Prosecutor's Office will advise you as to what records might be considered privileged, work product, or confidential. Additionally, no public records should ever be destroyed without following approved procedures, including completing the proper form documenting destruction of a public record. The Civil Division will be responsible for providing responses to all public records requests and conducting legal review of records responsive to requests. The Civil Division shall be responsible for issuing legal opinions regarding public records requests.

There are more than a few specific exceptions in the public records laws, and employees are not expected to know every exception to the definition of a public record. If you are presented with a public records request and are unsure how to proceed, refer the matter to the Civil Division in the Franklin County Prosecutor's Office.

These concepts are further explained in this policy.

Openness leads to a better informed citizenry, which leads to better government and better policy. It is the mission and intent of the Franklin County Prosecutor's Office to at all times fully comply with and abide by the Ohio Public Records Act. This is a means to provide trust between the public and the Prosecutor's Office.

The Franklin County Prosecutor reserves the right to revised this document at any time.

This document shall be reviewed each year by the Franklin County Prosecutor.

SECTION 1 | RECORDS DEFINED

“Public Records” are any records that are kept by this office at the time that a public records request is made, subject to applicable exemptions from disclosure under Ohio or federal law. All public records kept by this office must be organized and maintained in such a way that the records can be made available for inspection and copying.

“Records” include (1) any document, device, or item, regardless of physical form or characteristic, including notes, drafts, and an electronic record as defined in section 1306.01 of the Ohio Revised Code, (2) created or received by or coming under the jurisdiction or control of the Franklin County Prosecutor’s Office, and which (3) documents the organization, functions, policies, decisions, procedures, operations, or other activities of this office.

“Non-Records” are documents or other items that do not meet all three (3) parts of the definition of “records” above. Such documents or other items constitute non-records and are not subject to the Public Records Act or records retention requirements.

Section 1.1 | Electronic Records

Records in the form of e-mail, text messages, and instant messages, including those sent and received via a handheld communication device, are to be treated in the same manner as records in other formats.

The Franklin County Prosecutor’s Office must analyze an e-mail message as it would any other item to determine if it meets the definition of a record. An e-mail satisfies the first part of the definition, as it contains information stored on a fixed medium, but the e-mail’s status as a record depends on the content of its message: If the e-mail is received by, created by, or comes under the jurisdiction of this office, and if the message documents the organization, functions, policies, decisions, procedures, operations, or other activities of this office, it is a record.

Electronic communications of employees to or from private e-mail accounts that otherwise meet the definition of a record are subject to the Public Records Act. The location from which the item is sent does not change its status as a record.

Section 1.2 | Public Office Defined

“Public Office” includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of Ohio for the exercise of any governmental function. Under certain circumstances, the records maintained by a private entity or a quasi-public entity may be eligible for release as a public records.

SECTION 2 | REQUESTING PUBLIC RECORDS

Any person can make a request for public records by asking the public office or person responsible for its records for specific, existing records. A requester may make a request in any manner, including by telephone, in person, or by e-mail or letter. A public office cannot require a requester

to identify himself or indicate the reason for his request—unless a specific law permits or requires it. Discussion about the purpose or interest in the information requested, however, can aid the office in locating and producing the records more efficiently.

The proper subject for a public records request is limited to any record that exists at the time of the request.

A requester must identify the records he is seeking with reasonable clarity so that this office can identify responsive records based on the manner in which it ordinarily maintains and accesses its public records. The request must fairly and specifically describe what the requester is seeking. A requester need not invoke the Public Records Act or specifically state that he is requesting public records if the office is able to ascertain by the communication that the request is a public records request.

Section 2.1 | Ambiguous or Overly Broad Requests

An ambiguous request is one that lacks the clarity this office needs to ascertain what the requester is seeking and where to look for records that might be responsive, or the wording of the request is vague or subject to interpretation.

A request can be overly broad when it is so inclusive that the Franklin County Prosecutor’s Office is unable to identify the records sought based on the manner in which this office organizes and accesses its records. The Ohio Supreme Court has repeatedly stated that the burden is on the requester to identify the records sought “with reasonable clarity.”

SECTION 3 | PUBLIC RECORDS REQUESTS BY CERTAIN TYPES OF REQUESTERS

Section 3.1 | Incarcerated Individuals

Incarcerated persons may request public records, but they must follow a statutorily mandated process if requesting records concerning any criminal investigation or prosecution or juvenile matter which would otherwise be a criminal investigation or prosecution if the subject were an adult. Pursuant to R.C. 149.43(B)(8), an incarcerated person must first obtain a finding by the judge who imposed the sentence of incarceration (or that judge’s successor) that the information sought is necessary to support a justiciable claim by the inmate. This procedural requirement applies even to records of the incarcerated individual’s own criminal prosecution.

Section 3.2 | Crime Victims and Victims’ Representatives

Ohio law protects the name and other identifying information of crime victims and victims’ representatives from public disclosure. The Franklin County Prosecutor’s Office will work with victims and victims’ representatives to protect their rights under the law.

Victims and victims’ representatives are also entitled to request copies of their case documents from a public office without redactions to their names or identifying information. Disclosure of

such unredacted records to victims or victims' representatives does not constitute a waiver of any applicable exemption or exception under the Public Records Act.

SECTION 4 | EXEMPTIONS AND EXCEPTIONS

The Public Records Act along with various statutes throughout the Ohio Revised Code and federal law identify items and information that are either removed from the definition of public record or otherwise permitted to be withheld in response to a public records request.

SECTION 5 | RESPONDING TO PUBLIC RECORDS REQUESTS

Upon receiving a request for specific, existing public records, the Franklin County Prosecutor's Office must provide either prompt inspection at no cost during this office's regular business hours or copies at cost within a reasonable period of time. This office may require a legal review of the request and the records sought before their release. This office may withhold or redact records if the information therein is covered by an exception or exemption under the Public Records Act, but such withholding or redaction must be accompanied by an explanation which includes the legal authority for each denial.

The regular business hours for this office are from 8:00 AM to 5:00 PM, Monday through Friday, except holidays.

All requests made for public records will be acknowledged in writing and satisfied within a reasonable amount of time. Reasonable response times may vary due to the volume of records requested, the location of the records, the amount of redactions necessary, or conversion of the medium on which the records are stored. If a request requires legal review, the reasonable time period for a response will be extended. All responses will include the Franklin County Prosecutor's Office's Public Records Response Form (PR-1 Form).

SECTION 6 | WITHHOLDING OR REDACTING A PUBLIC RECORD

Section 6.1 | Redaction

Redaction means obscuring or deleting any information that is exempt from the public office's duty to permit public inspection or copying of items which otherwise meet the definition of a record. For paper records, redaction shall be achieved by blacking out or whiting out non-public information in an otherwise public document. A public office may redact audio, video, and other electronic records in appropriate ways that obscure or delete the specific content.

A public office shall make available all the information in a public record that is not exempt and shall only redact the parts of the record subject to an exception or exemption.

A public office may withhold an entire record when the exempted information is "inextricably intertwined" with the entire contents of the record such that redaction cannot effectively protect the exempted information or material from disclosure.

Section 6.2 | Denying Ambiguous or Overly Broad Requests

Section 149.43(B)(2) of the Ohio Revised Code permits a public office to deny any part of a public records request that is ambiguous or overly broad as defined in Section 2.1 above. The requester shall be given the opportunity to revise the denied request. The Franklin County Prosecutor's Office promotes cooperation with the requester in order for the requester to submit a successfully revised request.

Section 6.3 | Duty to Notify Redactions and Withholding of Records

The Franklin County Prosecutor's Office must either notify the requester of any redaction or make each redaction plainly visible. If this office denies a request in part or in whole, the office must provide the requester with an explanation, including the legal authority setting forth why the request was denied. All responses to public records requests should be made in writing.

SECTION 7 | RECORDS NOT MAINTAINED BY FRANKLIN COUNTY PROSECUTOR'S OFFICE

In response to a request for a record that this office does not maintain or that is no longer maintained, the requester shall be notified in writing that one of the following applies:

The request involves records that are not maintained by the Franklin County Prosecutor's Office. If possible, the office should direct the requester to the appropriate public office that may maintain the requested records.

The requested record is no longer retained by the Franklin County Prosecutor's Office and has been disposed of pursuant to the Records Retention Schedule.

SECTION 8 | REQUESTER TO CHOOSE MEDIA OF RECORDS

Requesters may specify whether they want to inspect the records or obtain copies. If seeking copies of records, they have the right to choose the medium provided: paper, film, electronic file, etc. A requester can choose to receive copies of the records (1) on paper, (2) in the same medium in which this office keeps them, or (3) in any medium upon which the office determines the records reasonably can be duplicated as part of the normal operations of the office.

SECTION 9 | REQUESTER TO CHOOSE DELIVERY METHOD

The requester may personally pick up the requested copies in person or send a designee. Upon request, this office must transmit copies of the public records via U.S. Mail or other means of delivery or transmission at the choice of the requester.

SECTION 10 | COSTS OF RECORDS

The Franklin County Prosecutor's Office may charge costs for copies and/or delivery or transmission, and may require payment of costs in advance. "At cost" includes the actual cost of making copies, packaging, postage, and other costs associated with the method of delivery or

transmission chosen by the requester. Further, Ohio law permits law enforcement agencies to charge up to \$75.00 per hour of video, not to exceed \$750.00 in total, for the actual cost of preparing video records for release. Except as otherwise provided by statute, the cost of employees' time generally cannot be included in the cost of copies or of delivery.

The Franklin County Prosecutor's Office may require prepayment of postage or actual delivery costs as well as the actual cost of supplies in mailing, delivery, or transmission.

Costs shall be charged according to the Franklin County Prosecutor's Office's Fee Schedule.

The Franklin County Prosecutor's Office may choose to employ the services of (and to charge the requester the actual cost for) a private contractor to copy, translate, transcribe, or otherwise prepare public records for release so long as the decision to do so is reasonable. Ohio law permits a public office to require payment from the requester for these expenses in advance of the release or preparation of any records.

AUTHORIZED BY:

Shayla Favor

Shayla D. Favor
Franklin County Prosecuting Attorney
Date 4/9/2025

Attachments:

Public Records Request Form
Public Records Request Response Form (PR-1)
Franklin County Prosecutor's Office Fee Schedule

[Public Records Request Form]



PRR-FINAL-.pdf

Public Records Request Response Form

(FORM PR-1)

Thank you for your recent public records request. The Office of the Franklin County Prosecuting Attorney will respond in accordance with the applicable provisions of the Public Records Act.

On _____, you requested the following records/information:

Defendant's Name:

The record / information requested:

Legal Authority Cited

Is not maintained by this office
(Office will attempt to direct requester to correct office.)

Is overly ambiguous *(despite efforts to clarify)*

Does not exist and/or no obligation to create

Concerns a criminal matter which has not yet been resolved

Has been disposed of pursuant to our Records Retention Schedule or a one-time disposal

Is not subject to release in its entirety

Is subject to release with the following redactions applied:

Redaction

Legal Authority Cited

Prepared by:

Date:

If applicable, legal review by:

Date:

[Fee Schedule]



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