

GENERAL ORDER

86 Public Records			
NUMBER	SUBJECT		REVIEW DATE
86	Records Administration		5/1/25
APPROVAL DATE	ISSUE DATE	EFFECTIVE DATE	DISTRIBUTION
5/1/25	5/1/25	5/1/25	Agency Personnel
AMENDS:			
CANCELS:			
ISSUED BY: Sheriff			

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A. Public Records

The State of Ohio views public records as the people's records, and the Clermont County Sheriff's Office as the custodian of the people's records; records that rightfully belong to the citizens of this state, which they are entitled to access under Ohio's Public Records Act (Sunshine Laws). The Clermont County Sheriff's Office is committed to transparency, accountability, and fostering public trust by ensuring fair and timely access to public records. It is the mission and intent of the Clermont County Sheriff's office to at all-times fully comply with and abide by both the spirit and letter of Ohio's Public Records Act.

1. Definitions

- a. **Records**, as defined by Ohio Revised Code 149.011(G) includes any document, device, or item, regardless of physical form or characteristic, including an electronic record, **created or received by or coming under the jurisdiction of any public office** of the state or its political subdivisions, **which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office**
- b. A **public record** is a record that is being kept by this office at the time a public records request is made, subject to applicable exemptions from disclosure under Ohio, federal or other applicable law.

2. All records of the Clermont County Sheriff's Office that serve to document the organization, functions, policies, decisions, procedures, operations or other activities of the office are public records unless they are specifically exempt from disclosure under the State, Federal, or other applicable law. Any employee that has records in their possession or control shall maintain such records in accordance with the Clermont County Record Retention Schedule and this policy.
3. As required by Ohio law, public records must be organized and maintained in such a way that they can be readily available for inspection and copying.
4. The Ohio Sunshine Laws: An Open Government Resource Manual is an overview of statutes and case law prepared by the Attorney General's office that employees can use as a guide regarding the application of the public records law. Employees can access this manual on the Attorney General's website at <https://ohioattorneygeneral.gov/Yellowbook>. or by contacting the records custodian.

B. Records Custodian

1. The Sheriff's Records Section supervisor serves as the Sheriff's Office records custodian and is responsible for maintaining the security of agency files, ensuring compliance with Ohio's public records law, and disposing of documents in accordance with the Office's Schedule of Records Retention and Disposition.

C. E-mail as a Public Record

1. Documents in electronic mail format are records, as defined by the Ohio Revised Code, when their content documents the organization, functions, policies, procedures, operations, or other activities of the Sheriff's Office. Employees will

treat e-mail in the same fashion as records in other formats and should follow the same retention schedules.

D. Public Records Requests – General

1. No specific language is required to make a request for public records. A request for records can be made in any way – orally, by phone, email, or in writing. **Further, the requester is not required to provide any identifying information or the intended use of the request public record.**
2. Employees will permit a requester to choose to have a public record reproduced on paper, on the same medium in which it is kept, or on any other medium that they can reasonably duplicate.
3. According to Ohio law, the person seeking a copy of the public record has no right to make his own copies.
4. No employee shall copy, release and/or distribute public records without a valid request.
5. A public records request from a person who is incarcerated pursuant to a criminal conviction or juvenile adjudication may require permission from the judge or court who sentenced the requester before the employee is required to release the record per R.C. 149.43(B)(8).

E. Responding to Public Records Requests

1. In an effort to provide the requested record in a timely manner and in order to maintain a log of the record of requests and responses, as required by law, when an individual requests public records, employees will ask the requester to complete the Public Records Request Form. When asking the requester to complete the form, **the employees shall inform the requester that under Ohio law, they are not required to provide the request in writing, and they may decline to provide identifying information or the intended use.** Employees shall not limit or condition the availability of the public record by requiring disclosure of this information.
2. Although the Ohio Revised Code requires no specific language to make a request, the requester must at least identify the public records he is requesting with sufficient clarity to allow the employee to identify, retrieve, and review the records.
 - a. If it is not clear what records the requester is seeking, the employee must ask the requester for clarification and should assist in revising the request by informing the requestor of the manner in which the Sheriff's Office keeps its records.
 - b. Public Offices are not required to create a record in response to a public records request. However, an electronic record is deemed to exist so long as the computer is already programmed to produce the record through the office's standard use of sorting, filtering or querying features.
3. Applicable Timeframe to Respond.

Public records are to be available for inspection during regular business hours. Public records must be made available for inspection promptly.

Copies of public records must be made available within a reasonable period of time.

“Prompt” and “reasonable” take into account the volume of records requested; the proximity of the location where the records are stored; the necessity for any legal review and redaction; and other facts and circumstances of the records requested.

- a. Employees should evaluate each public records request to estimate the length of time required to gather the records.
 - b. If feasible to do so, employees should immediately satisfy “routine” or simple public records requests.
 - c. If employees deem a request significantly beyond routine, such as seeking a voluminous number of copies, or requiring extensive research and/or redaction, the employee shall acknowledge the request in writing. The acknowledgement must include the following:
 - Respond to the requester advising that the office is in receipt of their request and that they will receive a respond within a reasonable time frame per ORC 149.43
 - An estimated cost, if copies are requested.
4. Employees shall forward requests of a questionable nature to the Clermont County Prosecutors Office before making a determination on releasing the records.
 5. Denial and Redaction of Records
 - a. If portions of a record are public and portions are exempt, employees shall redact the exempt portions and release the rest. If there are redactions, employees must accompany each redaction with a supporting explanation, including legal authority. All exemptions to openness are to be construed in their narrowest sense.
 - b. Employees denying public records in response to a valid request will advise the requester why the request was denied citing legal authority.
 6. Employees responding to public records requests shall keep a log of each request received including when the request was received and fulfilled. Additionally, if the request does not qualify as a “routine” request, the employee shall log their time spent preparing the request including a brief description of each task and time spent on each task.

F. Failure to Respond to a Public Records Request

1. The Clermont County Sheriff's Office recognizes the legal and non-legal consequences of failure to respond properly to a public records request. In addition to the distrust in government that failure to comply may cause, failure to comply with a request may result in a court ordering the Sheriff's Office to comply with the law and to pay attorney's fees and damages to the requester.

G. Cost for Public Records - Other than Video Records

1. For records other than video records, as set forth below, the Sheriff's Office charges only 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. For records other than video records the Sheriff's Office does not charge for labor such as an employee's time in preparing the response to the public records request.
2. Fees for the reproduction of the public records request are set forth on the Public Records Costs sheet. Costs are reevaluated periodically to adjust for changes in actual costs for supplies used for the reproduction of non video records.
3. The Sheriff's Office may require payment in advance for the cost involved in providing the copy of the public record.
4. Requesters may ask that documents be sent to them by mail or by other means of delivery or transmission. Employees may require the requester to pay in advance for the cost of postage or other supplies used in the mailing, delivery, or transmission of the public record.

H. Costs for Video Records

This section of the Clermont County Public Records Policy addresses fees applicable to the response, or portion of a response, for public records that involves video records (e.g., body camera, jail surveillance, or other video footage) maintained by the Clermont County Sheriff's Office. The fees for video records as set forth in this section of the policy are authorized pursuant to R.C. 149.43(B)(1), as amended by House Bill 315.

1. For the purposes of this policy, reference to a "video record" means a video from one source from the beginning until the end of a distinct incident. For example, three officers responding to an incident will each have a "video record" of that incident from each of their respective body cameras.
2. Fees for video records
 - a. The Clermont County Sheriff's Office will charge all requesters the "actual cost" of preparing video records for production to offset the considerable time and expenses incurred in retrieving, downloading, reviewing, redacting, uploading, and producing such video records.
 - b. For purposes of video records, actual costs shall include all costs incurred by the Clermont County Sheriff's Office in retrieving, downloading, reviewing, blurring or otherwise obscuring, redacting, uploading, or producing the video records requested, including but not limited to the storage medium on which the record is produced, staff time, and any other relevant overhead necessary to comply with the request.
 - c. Computation of actual costs.
 - The actual costs for responding to a request for video records will be based on the hourly rate(s) of the employee(s) or contractor(s) involved in retrieving, downloading, reviewing, redacting, uploading, and producing

the video records requested.

- Additionally, as part of the necessary overhead charges authorized by statute, each request for video records will include an initial flat fee of \$10 per incident to partially cover costs such as redaction software, video storage, upload and transmission, and other necessary expenses.
 - Actual costs charged for video records shall not exceed \$75 per hour of footage from a particular video record. Further, the total amount charged for a response to a video records request, including the initial fee, will not exceed \$750 for that particular incident.
- d. Costs for video records are set forth on the Public Records Costs sheet. Costs for Video Records are reevaluated periodically to adjust for changes in actual costs for the reproduction of video records.
3. **Payment and Estimation of Costs**
- a. Within three business days of receiving a public records request for video records, the Clermont County Sheriff's Office will respond to the requester acknowledging the request and to provide an estimated time of production and the fee schedule.
 - b. Prior to production of the footage, the Clermont County Sheriff's Office will provide the requester with an estimated cost of fulfilling the request.
 - c. The estimated cost will include all applicable fees as outlined above including the initial \$10 fee and an estimate of the cost required for video redaction and production, not to exceed the \$750 per video record incident.
 - d. Except for media requests as set forth in section 5. a. below, the Clermont County Sheriff's Office will not begin preparing a video record for production until the requester pays in full the estimated cost.
4. **Cost Adjustment**
- a. Upon preparing the response to the request for video records, if it is determined that the actual cost will exceed the estimated cost, the requester will be notified immediately that the actual cost may be up to 20% above the estimated costs.
 - b. Upon completion of the video record request, if the requester was notified of the potential higher cost, the requester will be charged the difference between the estimated cost and the actual cost, however under no circumstances will the requester be required to pay more than 20% above the original estimated cost, regardless of how much the actual cost exceeds the estimate. Any additional cost beyond this 20% threshold will be borne by the Clermont County Sheriff's Office.
 - c. If the estimated amount exceeds the actual cost, the difference will be refunded to the requester in a reasonable amount of time.
5. **Exceptions to the Fee for video records**
- a. **Media Requests.** Recognizing the essential role of the media in a functioning democracy, and that traditional media outlets have caused improvement related to government accountability, members of the press shall not be charged for video records.

- b. Critical Incidents. For video records of critical incidents—defined as any instance where an officer from the Sheriff’s Office fires a deadly weapon at a person—the Clermont County Sheriff’s Office will redact and produce the video at no cost to the requester within a reasonable period of time as defined in R.C. 149.43(B)(1).
- c. Victims. For Victims of crime, or a victim representative acting on behalf of the victim, as those terms are defined in R.C. 2930.01, immediate family members of the victim of a crime requesting video on behalf of a victim or an attorney representing a victim the Clermont County Sheriff’s Office will redact and produce the video at no cost to the requester within a reasonable period of time as defined in R.C. 149.43(B)(1).
- d. This exception is intended to ensure transparency and public accountability in such incidents.
- e. Other than the initial \$10 fee, the following individuals, persons, or entities shall not be required to pay any additional cost for video records made pursuant to a public records request:
 - Any party that was involved in an incident or their representative requesting the video on their behalf; any family member of any individual that was involved in an incident
 - Any other party that demonstrates an articulable personal interest in an incident and intends to use the video record for their own personal, non-commercial purpose.

When a cost exemption is requested pursuant to this section, the Clermont County Sheriff’s Office shall be authorized to seek documentation from the requesting party in such form acceptable to the Sheriff’s Office providing evidence that the requester qualifies for the exemption as set forth above or that the fee should otherwise be waived.

I. Posting of "Public Records" Policy

- 1. The Clermont County Sheriff's Office Public Records policy is available to the public via the Clermont County Sheriff’s Office website as required by ORC 143.43.

J. Public Records Instruction

- 1. In order to enhance his knowledge of the duty to provide access to public records, the Sheriff or his designee will attend a minimum of three hours of public records training, as described in Ohio Revised Code § 109.43, for every term he is in office.

K. Records Retention and Disposition

- 1. Following Ohio Revised Code § 149.38, Clermont County has a county records commission. The Clermont County Sheriff’s Office follows the requirements of the

county records commission, which are listed in the Schedule of Records Retention and Disposition. No record may be retained, transferred, destroyed, or otherwise disposed of in violation of this schedule.

2. The records custodian ensures that all records are maintained for public access subject to the provisions of state law and agency policy for the period of time established by the Schedule of Records Retention and Disposition.
3. All records listed in the Schedule of Records Retention and Disposition should be destroyed after the prescribed period of retention. A Certificate of Records Disposal must then be filed with the Records Center & Archives. Records should not be destroyed, if in the opinion of the office, there is sufficient reason for retention.
4. Each component of the Sheriff's Office arranges for the disposal of records under their control through the records custodian.
5. Where the terms microfilm or microfiche are used, such files are prepared pursuant to Ohio Revised Code §9.01.
6. An itemized record retention schedule is in the county's Schedule of Record Retention and Disposition. The Sheriff's Records Section supervisor is the agency's liaison for record retention.
7. Annually, Division Commanders will review for accuracy the Schedule of Record Retention and Disposition applicable to his division and submit all requests for additions, deletions, or corrections to the schedule to the records custodian. The records custodian compiles all revision requests and submits them to the Sheriff for approval. Upon approval of the Sheriff, the records custodian forwards the revision requests to the Records Center & Archives to obtain final approval.