

Records Maintenance and Release

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Issuing Authority:	Sheriff Charmaine McGuffey

807.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of Sheriff's Office records. Protected information is separately covered in the Protected Information Policy.

807.1.1 DEFINITIONS

Public Record - The term "records" includes "any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in [R.C. 1306.01], 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 (ORC § 1306.01).

807.2 POLICY

The Hamilton County Sheriff's Office is committed to providing public access to records in a manner that is consistent with the Ohio Public Records Act (ORC § 149.43).

807.3 CUSTODIAN OF RECORDS

The Sheriff shall name a "designee" to manage the Sheriff's Office records retention schedule(s). Each division commander shall designate an employee as the Records Management Coordinator who will confer with the designee regarding the maintaining and disposing of records for their division/section in accordance with the appropriate records retention schedule.

The responsibilities of the Custodian of Records include but are not limited to (ORC § 149.43):

- (a) Managing the records management system for the Sheriff's Office, including the retention, archiving, release, and destruction of Sheriff's Office public records.
- (b) Maintaining the Sheriff's Office records retention schedule.
- (c) Establishing rules regarding the inspection and copying of Sheriff's Office public records as reasonably necessary for the protection of such records.
 - (a) The designee may limit the number of records requested by a person that the Sheriff's Office will physically deliver via mail or by another delivery service to 10 records per month unless the requester certifies in writing that they do not intend to use or forward the requested records, or information contained in the records, for commercial purposes.

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- (b) Records in digital format that are publicly available on the internet may be limited as set forth in ORC § 149.43.
- (d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- (e) Establishing rules regarding the processing of subpoenas for the production of records.
- (f) Ensuring the availability of a current schedule of fees for public records as allowed by law.
- (g) Preparing a notice that incorporates this policy and ensuring that it is displayed in conspicuous places in all locations where Sheriff's Office records are available to the public.
- (h) Maintaining current information on the Sheriff's Office website that relates to public records release.
- (i) Ensuring that records are organized and maintained in such a manner as to make them available for inspection or copying.
- (j) Selecting appropriate public records, if any, to publish on the Sheriff's Office website.
- (k) May attend the Hamilton County Records Commission meetings held twice a year.

807.4 PUBLIC RECORDS POLICY POSTING

The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. (ORC § 149.43)

807.5 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any Sheriff's Office member who receives a request for any record shall route the request to the designee or appropriate Records Management Coordinator.

807.5.1 REQUESTS FOR RECORDS

.The processing of requests for any record is subject to the following (ORC § 149.43):

- (a) The Sheriff's Office is not required to create records that do not exist. State ex rel. White v. Goldsberry, 85 Ohio St.3d 153, 154, 1999-Ohio-447, 707 N.E.2d 496.
- (b) All public records responsive to the request shall be promptly prepared and made available for inspection to the requester at all reasonable times during regular business hours. Upon request by any person, the designee or appropriate Records Management Coordinator shall make copies of the requested public record available to the requester at cost and within a reasonable period of time.
 - 1. The cost for copies of public records includes, but is not limited to, the following:
 - (a) Copies - \$0.10 per page.
 - (b) Digital photographs - \$2.00 per page.

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- (c) Media devices (CD's, cassettes) - \$1.00.
- 2. Charges for video records include the actual cost for processing each video record and shall not exceed \$75 per hour of video produced, nor \$750 total.
 - (a) "Video record" means, security video, body camera video, drone video, or any other recorded video record maintained by the HCSO.
- 3. The designee or appropriate Records Management Coordinator shall provide the requester with the estimated actual cost within five business days of receipt of the public records request and notify the requestor that the actual cost may be up to 20% higher than the estimated actual cost.
 - (a) The "actual cost" with respect to video records only, means all costs incurred in reviewing, blurring or otherwise obscuring, redacting, uploading, or producing the video records, including but not limited to staff time, the storage medium on which the record is produced, and any other relevant overhead necessary to comply with the request.
- 4. Sheriff's Office personnel shall begin processing requested video record(s) for inspection or production once the estimated actual cost is paid in full. If the actual cost exceeds the estimated actual cost, the Sheriff's Office may charge the requester for the difference upon fulfilling the request for video records.
- 5. If the estimated actual cost exceeds the actual cost by more than 20%, the difference shall be refunded to the requester within a reasonable period of time.
- (c) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.
 - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/video release should be maintained in the Sheriff's Office-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
 - 2. The requester shall be notified of any redaction in the public record if the redaction is not plainly visible.
- (d) If a request is ambiguous or overly broad, or if the designee cannot reasonably identify what public records are being requested, the request may be denied.
 - 1. The requester shall be provided with an opportunity to revise the request and shall be informed by the designee of the manner in which records are maintained by the Sheriff's Office and how the records are accessed in the ordinary course of business.
- (e) A person requesting records may be asked to make a request for records in writing to expedite processing of the request and may be asked for his/her identity. Prior to such a request, the person shall be told that:
 - (a) There is no requirement to provide a written request.

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- (b) There is no requirement to provide his/her identity.
- (c) There is no requirement to disclose the intended use of the records.
- (d) The purpose of the written request or disclosure of the person's identity or intended use would benefit the person making the request by enhancing the ability of the designee to identify, locate or deliver the records requested.
- (f) If a request is denied, either in whole or in part, the designee shall provide the requester with an explanation setting forth the reason(s) for the denial, including the legal authority relied upon in making the determination. If the initial request was in writing, the explanation shall also be provided in writing.

807.6 RELEASE RESTRICTIONS

Examples of release restrictions include:

- (a) Social security numbers - Federal Privacy Act (5 U.S.C. Section 552(a) and State ex rel. Beacon Journal v. Akron (1994), 70 Ohio St.3d 605 and Lambert v. Hartman (2008), 517 F.3d 433.
- (b) Victim information that may be protected by statutes, including (ORC § 2930.04):
 - 1. Photographs or images of victims as prohibited by ORC § 149.43 (ORC § 2907.11).
 - 2. Identifying information of victims as provided in ORC § 2930.04 and ORC § 2930.07.
 - 3. Victim's Rights Request Forms.
- (c) Juvenile-related information that may be protected by statutes (ORC § 149.435).
- (d) Confidential investigatory records of the Sheriff's Office that pertain to a law enforcement matter of criminal, quasi-criminal, civil, or administrative nature if release would create a high probability of disclosure of any of the following (ORC § 149.43):
 - 1. Identity of a suspect not yet charged with an offense to which the record pertains
 - 2. Identity of an information source or witness to whom confidentiality has been reasonably assured. This also includes information provided by an information source or witness if the release would tend to disclose the person's identity.
 - 3. Confidential investigatory techniques, procedures, or specific investigatory work product
 - 4. Information that would endanger the life or physical safety of a member, crime victim, witness, or confidential information source
- (e) Certain types of reports involving but not limited to child abuse and molestation (ORC § 2151.421) and adult abuse (ORC § 5101.61).
- (f) Records pertaining to the residential or family information of a Designated Public Service Worker (ORC § 149.43).
- (g) Restricted portions of recordings made by a dashcam or a member's body-worn camera as provided in ORC § 149.43(A)(1). Certain recordings may be disclosed with

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the consent of the subject of the recording or the subject's representative pursuant to the requirements of ORC §149.43 (H)(1).

- (h) Telephone numbers for a person involved in a motor vehicle accident or a witness of a crime as provided in ORC § 149.43.
- (i) Any other information that may be appropriately denied by ORC §149.43(A)(1).

807.6.1 ENHANCED RECORDS ACCESS BY JOURNALISTS

- (a) Journalists, as defined in ORC § 149.43, are entitled to enhanced access to certain records not available to the general public provided:
 - 1. The request is in writing.
 - 2. Journalists identify themselves by name, title, and employer's name and address.
 - 3. Journalists establish and sign a request that the information sought is in the public interest.
- (b) Records available to journalists but not the general public include, but are not limited to:
 - 1. Personal residential addresses of a Designated Public Service Worker (ORC § 149.43).
 - 2. The business name and address of a spouse, former spouse, or child of a Designated Public Service Worker, only if employed by a public office (ORC § 149.43).
 - 3. The name, county of residence, and date of birth of a person for whom the sheriff issued, suspended, or revoked a permit for a concealed weapon (ORC § 2923.129).
 - 4. The names, addresses, and telephone numbers of workers' compensation claimants subject to the requirements and restrictions in ORC § 4123.88(D).
 - 5. Limited information about minors involved in a school vehicle accident (ORC § 149.43).

807.7 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and/or the designee for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) may be referred to the designee who may confer with the County Prosecutor.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to the designee or legal counsel for the Sheriff's Office so that a timely response can be prepared.

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807.8 SECURITY BREACHES

Members who become aware that any Hamilton County Sheriff's Office system containing personal information may have been breached should immediately notify the Chief Deputy through the chain of command. The Chief Deputy shall ensure the required notice is given to any resident of this state whose unsecured personal information is reasonably believed to have been acquired by an unauthorized person (ORC § 1347.12).

Notice shall be given in the most expedient time possible but not later than 45 days following its discovery or notice of the breach consistent with any measures necessary to determine the scope of the breach, including which residents' personal information was accessed and acquired and to restore the reasonable integrity of the data system. Notice may be delayed if notification will impede a criminal investigation or jeopardize homeland or national security but notice shall be made once it is determined that disclosure or notification will not compromise the investigation or jeopardize homeland or national security (ORC § 1347.12).

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with any one or more of the following (ORC § 1347.12):

- (a) Social Security number
- (b) Driver's license number or Ohio identification card number
- (c) Full account number, credit or debit card number, in combination with and linked to any required security code, access code, or password that would permit access to an individual's financial account

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Chief Deputy should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

807.9 SEALED RECORDS OR EXPUNGEMENT

Expungement orders or an order to seal records received by the Sheriff's Office shall be reviewed for appropriate action by the appropriate Records Management Coordinator. The appropriate Records Management Coordinator shall expunge or seal such records as ordered by the court. Records may include but are not limited to a record of arrest, investigation, detention, or conviction. Once expunged or sealed, members shall respond to any inquiry as though the record did not exist.

807.10 RECORDS RETENTION

The Sheriff's Office shall follow the Hamilton County Retention Schedule, adopted by the Hamilton County Records Commission, as well as any Records Retention Schedules specific to the Sheriff's Office and each division within the Sheriff's Office.

[See Procedure Manual: 807.3.1 Records Disposal](#)

[See Procedure Manual: 807.3.2 Circumstances For Records Disposal](#)

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807.11 TRAINING

The designee and any members who may be responsible for access or release of public records shall attend training approved by the Ohio Attorney General, such as that provided by the Ohio Association of Chiefs of Police (OACP).

The designee and all Sheriff's Office members shall acknowledge and sign that they have read and received a copy of this policy (ORC § 149.43).

The Sheriff's Office shall provide annual training on this policy to each Sheriff's Office division commander and division representative responsible for records management within their department, i.e. Records Management Coordinators.