

9.2.7 Public Records

The State of Ohio views public records as the people's records, and the Montgomery 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). For this reason, it is the policy of the Montgomery County Sheriff's Office to strictly adhere to the state's Public Records Act.

A. Public Records**CALEA 82.1.1
PSCAP 1.2.2**

1. *Ohio Revised Code* § 149.43 defines a public record as a "record" kept by any public office. A "record" is any item that:
 - a. Contains information stored on a fixed medium – paper, electronic (including, but not limited to, e-mail), or other format;
 - and**
 - b. Is created or received by, or comes under the jurisdiction of a public office;
 - and**
 - c. Documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.
2. All records of the Montgomery County Sheriff's Office are public, unless they are specifically exempt from disclosure under the *Ohio Revised Code* or a specific provision of either state or federal law prohibits their release.
3. As required by Ohio law, employees must organize and maintain records, including e-mail records, so they are 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 or by contacting the records custodian.

B. Records Custodian**CALEA 82.1.1
PSCAP 1.2.2**

1. The Support Services Division administrative sergeant 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 *Schedule of Records Retention and Disposition*.

C. E-mail as a Public Record

**CALEA 82.1.1
PSCAP 1.2.2**

1. Documents in electronic mail format are records, as defined by the *Ohio Revised Code*, when their content relates to the business 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. 9-1-1 Tapes

**CALEA 82.1.1
PSCAP 6.7.1**

1. Pursuant to case law, 9-1-1 tapes are subject to immediate release, upon request, and employees may not redact the tapes for any reason. However, *Ohio Revised Code* § 4931.49 prohibits the disclosure of information concerning telephone numbers, addresses, or names obtained from the 9-1-1 system.

E. Court Record Personal Identifiers

CALEA N/A

1. Because court records are open to public access, the *Rules of Superintendence for the Courts of Ohio* require employees to omit or redact personal identifiers when filing affidavits, complaints, or traffic citations with the court. "Personal identifiers" means any of the following:
 - Social security numbers, except for the last four digits.
 - Financial account numbers including, but not limited to, debit card, charge card, and credit card numbers.
 - Employer and employee identification numbers.
 - Names of juveniles in abuse, neglect, or dependency cases, except for the initials or generic abbreviations (such as CV for child victim) used to identify these juveniles.
2. When an employee omits or redacts personal identifiers from an affidavit, complaint, or traffic citation, he attaches a LEADS (Law Enforcement Automated Data System) printout and, if necessary, a separate sheet of paper that shows the omitted or redacted identifiers.

F. Public Records Requests**CALEA 82.1.1
PSCAP 1.2.2**

1. Employees will ask the requester to complete a *Public Records Request* (Form RC100) in an effort to provide the record in a timely fashion. The requester does not have to complete the *Public Records Request* (Form RC100), provide his identity, or advise of the intended use of the requested public record. Employees will 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.
3. Employees should evaluate each public records request to estimate the length of time required to gather the records.
 - a. If feasible to do so, employees should immediately satisfy routine public records requests. Routine requests include, but are not limited to, records maintained in the Sheriff's Records Section.
 - b. If employees deem a request significantly beyond routine, such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:
 - An estimated number of business days it will take to satisfy the request.
 - An estimated cost, if copies are requested.
 - Any items within the request that may be exempt from disclosure.
4. Employees forward requests beyond the scope of the Sheriff's Records Section to the records custodian. The records custodian sends the request to the appropriate Division Commander for preparation by a confidential secretary.
5. Employees forward requests of a questionable nature to the records custodian. The records custodian seeks an opinion from the Prosecutor's Office before making a determination on releasing the records.
6. A public records request from a person who is incarcerated pursuant to a criminal conviction or juvenile adjudication normally requires permission from

the judge or court who sentenced the requester before the employee can release the record.

7. Public records are available for inspection during regular business hours, with the exception of published holidays, and are available for prompt inspection.
8. Employees will make available, within a reasonable period of time, copies of public records.
9. "Prompt" and "reasonable" take into account the volume of records requested, the proximity of the location where the records are stored, and the necessity for any legal review of the records requested.
10. 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 he can reasonably duplicate.
11. If portions of a record are public and portions are exempt, employees will 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.
12. According to Ohio law, the person seeking a copy of the public record has no right to make his own copies.
13. Employees denying public records in response to a valid request must complete a *Completed Public Records* (Form RC101) setting forth why the Sheriff's Office is denying the request and provide a copy of the completed form to the requester.

G. Failure to Respond to a Public Records Request

**CALEA 82.1.1
PSCAP 1.2.2**

1. The Montgomery 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.

H. Costs for Public Records

**CALEA 82.1.1
PSCAP 1.2.2**

1. The Sheriff's Office charges those seeking public records with only the actual cost of duplicating the public record, including the actual cost the Sheriff's Office pays to private contractors for duplicating or mailing services, if required.
2. The Sheriff's Office may require payment in advance for the cost involved in providing the copy of the public record.
3. 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.

I. Posting of "Public Records" Policy**CALEA N/A**

1. The "Public Records" chapter of the *General Orders Manual* is conspicuously posted in a public area at each of the following Sheriff's Office locations:
 - The Road Patrol Headquarters Building
 - The Harrison Township Substation
 - The Washington Township Substation
 - The Sheriff's Records Section
 - The Training Center
 - The Communication Systems Department
 - The Lobby of the Montgomery County Jail

J. Receipt and Instruction**CALEA N/A**

1. The Sheriff's Office distributes its "Public Records" policy through a written directive system. Each supervisor is responsible for reviewing the material with his subordinates and providing them with any necessary instruction. Subordinates acknowledge receipt of the written directive by signing a Receipt of Written Directives form. The recruitment detective must ensure all new employees receive a copy of the "Public Records" policy during orientation.
2. In order to enhance his knowledge of the duty to provide access to public records, the Sheriff or his designee will attend 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**CALEA 82.1.3
PSCAP 6.7.2**

1. Following *Ohio Revised Code* § 149.38, Montgomery County has a county records commission. The Montgomery 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 Support Services Division administrative sergeant is the agency's liaison for record retention.
7. Annually, in September, each Division Commander reviews for accuracy the *Schedule of Record Retention and Disposition* applicable to his division and submits 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.