

OFFICE OF THE STATE ATTORNEY
PUBLIC RECORDS DIVISION
POLICIES AND PROCEDURES



**GENERAL PUBLIC
RECORDS REQUESTS**

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PURPOSE

The State Attorney's Office, Fourth Judicial Circuit, ("Office" or "SAO") is committed to following the law of the State and to transparency and open government. Statutorily protected records and data will be processed with utmost care prior to providing requested records. Our Office commits that access to public records will not be denied without legal justification. This Office's commitment will often include requests for complex, historical, and/or voluminous records, reports, and/or data that must be protected pursuant to the law without overly restricting the requestor's access to such records. Providing access to public records within the custody and control of the SAO is a legal duty which the Office will address efficiently and responsibly.

These Policies and Procedures have been developed in order to allow our Office to meet its commitment to provide access to public records consistent with the Florida Constitution and statutory provisions relating to the inspection and copying of public records.

PUBLIC RECORDS

The Florida Constitution, Article I, Section 24 provides:

[e]very person has the right to inspect or copy any public record made or received in connection with the official business of any public body, office or employee of the state, or persons acting on behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and constitutional officer, board, and commission, or entity created pursuant to law of this Constitution.

Public records are "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency" §119.011(12), Fla. Stat.

The Florida Supreme Court has interpreted this definition to include all materials made or received by an agency in connection with official business which are used to perpetuate, communicate, or formalize knowledge. *Shevin v. Byron, Harless, Schaffer, Reid & Assocs., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

POLICIES & PROCEDURES

The State Attorney's Office Will:

- Assist the public in its right to inspect and obtain copies of agency records pursuant to the Public Records Act, Chapter 119, Florida Statutes, permitting any public record to be inspected and copied by any person desiring to do so, at a reasonable time, under reasonable conditions, and with the supervision of the custodian of records or designee;
- Promptly and in good faith acknowledge receipt of requests for public records and fulfill or otherwise respond to requests within a reasonable period of time;
- Provide a copy of a requested record, in the medium requested, if the Office maintains the record in that medium;
- Ensure that exempt or confidential records are not disclosed, except as permitted by law;
- Charge and collect a fee consistent with applicable statutory provisions;
- Comply with the Division of Library and Information Services of the Department of State, General Records Schedules GS10SL and GS9, in the handling and disposition of its records;
- Designate and assign an Administrator, Director, or Assistant State Attorney to the Public Records Division to act as the Custodian of Records and disclose to individuals requesting to inspect or copy public records, the name of such designee;
- Make a form available to requestors of public records to aid in addressing their public records request. The form is *not* required, however, it will be offered to all requestors of public records to properly identify, clarify, and reference the record(s) being requested. Completion of the form will greatly assist the Public Records Division with processing public records requests;
- Accept a public records request in person, via telephone, U.S. Mail, courier service, website request form, or electronic mail (e-mail);
- Accept a public records request from individuals who wish to remain anonymous:
 - a. An individual requesting a public record who prefers to withhold his/her name and/or identification may use the telephone designated for public records requests located at the SAO public entrance vestibule;
 - b. *Where no contact information has been provided by a requestor, it will be the requestor's responsibility to follow-up with the Public Records Division within thirty (30) days of the submitted request to determine what is required for the request to be completed. An anonymous request submitted without any contact information that remains dormant for thirty (30) days will be closed without prejudice.*

The State Attorney's Office *Will Not*:

- Require an individual to provide his/her name **or** reason **or** motive for requesting to review or copy a public record;
- Waive fees for indigent, or any other non-qualified requestors without the approval of the Custodian of Records;
- Dispose of any record determined to be exempt from public inspection and copying for a minimum of 30 days after notice has been provided to the requestor;
- Create records or reports that do not currently exist to respond to a public records request;
- Accept any 'standing'¹ public records requests.

OPERATING PROCEDURES

Initial Request, §119.07(1), Fla. Stat.:

When a public records request is received, personnel within the Public Records Division will:

- Provide acknowledgement to the requestor using the contact information provided, if any, advising him/her that the Office has received the request and referencing what is being requested by the requestor as understood by the Public Records Division, and provide notice of the Office's Public Decency Policy.
- Determine if there is sufficient information in the request to identify the record(s) requested and respond:
 - a. If a request is unclear or there is insufficient information to determine what is being requested by the requestor, a notification will be sent to the requestor using the contact information provided, if any. The Public Records Division will request clarification or further identification of what record(s) is being requested. If no response is received within thirty (30) days, the request will be closed without prejudice;
- Determine if the Office has custody or control of the requested record:
 - a. If it is determined that a request has been made for records or reports that do not exist or are not within the custody or control of the Office, a response will be sent to the requestor using the contact information provided, if any, notifying the requestor that the record(s) or report(s) do not exist or are not within the custody or control of the Office and the request will be closed.
- *Where no contact information has been provided by a requestor, it will be the requestor's responsibility to follow-up with the Public Records Division within thirty (30) days of the submitted request to determine what is required for the request to be completed. An anonymous request submitted without any contact information that remains dormant for thirty (30) days will be closed without prejudice.*

¹ Any request for public records that the Office may or will receive in the future, but is not yet in the custody or control of the Office.

Review:

All exemptions from the inspection or copying of public records set forth within §119.071, Fla. Stat., and other applicable statutory provisions, or controlled by court order, will be adhered to by the Public Records Division. Therefore, all requests for public records will be reviewed to ensure that exempt and/or confidential data is removed or redacted prior to delivery of the records to a requestor.

- All reviews of requested public records will be conducted in either two or three stages, dependent upon the time required and complexity of the request:
 - a. If the initial review will take less than thirty (30) minutes and involves the review of non-complex records or other material, the review will be conducted in two stages;
 - b. If the initial review will take more than thirty (30) minutes and/or involves the review of complex records or other material, the review may be conducted in three stages;
 - c. The designated Administrator, Director, or Assistant State Attorney assigned to the Public Records Division is responsible for conducting final reviews on all public records requests;
- The Public Records Division will redact the portion of the record(s) to which an exemption applies and produce the remainder of the requested record(s);
- The Public Records Division will provide the basis and statutory reference for any exemptions asserted upon completion and delivery of the requested record(s).

Fees and Costs, §119.071(4), Fla. Stat:

No costs or fees will be assessed for requests requiring less than (15) minutes to complete *and* provide to the requestor by e-mail or Egnyte.

- A request that will require more than fifteen (15) minutes to locate or determine the existence of the requested records, to copy/scan, review for confidential and/or exempt information, and refile, will be assessed the material, labor, and postage costs associated with the preparation and delivery of the requested record(s);
- A special service charge based on the cost incurred for extensive use of information technology resources or the labor cost of the personnel providing additional assistance may be assessed;
- Any request that is expected by initial review to take more than (15) minutes to complete will require the requestor to remit a deposit equal to one-half of the total estimated charges prior to any additional review being conducted. Failure to remit the deposit within twenty (20) days will result in the request being closed without prejudice to be resubmitted.
- Upon receipt of the deposit, Public Records Division will begin processing the request. Should the request exceed the initial estimate by \$100, the Public Records Division will contact the requestor to provide an updated estimate. Additional payment may be required for extensive requests prior to completion of the request.

- All fees imposed for duplication of public records will comply with the Florida Statutes in effect at the time of the request. Unless a statutory provision specifically provides a fee, the following fees will apply to copying of public records:

Single sided paper copies	\$0.15 per page
Data CD	Actual cost to the SAO
Audio CD	Actual cost to the SAO
Personnel time to locate, review the file for requested records, copy/scan the requested records, review for confidential and exempt information, redact confidential and exempt information, and re-file the requested material.	Standard rates per hour: Clerical \$15.00 Specialist \$20.00 Administrator \$25.00 ASA rate determined by assigned reviewer

The Public Records Division will accept cashier's checks, money orders, business checks, and cash for payment associated with the deposit or final invoice on a public records request. A receipt will be prepared for any payments remitted to the Office for all public records requests.

Delivery:

The Public Records Division will deliver the requested records to a requestor by e-mail or Egnyte (or other internet file sharing program), where possible. Other delivery methods are by hand, if picked up from the Office by the requestor, or U.S. Mail (costs may be associated with U.S. Mail delivery).

EXEMPT AND CONFIDENTIAL INFORMATION

The law establishes certain records or data as "confidential" and/or "exempt" from public disclosure. Confidential and/or exempt records and/or data are not subject to public inspection and are released only to those authorized by statute, court order, or by specific authorization. The Florida Statutes provide the guidelines for what records and/or data fall under the confidential/exempt category. Some common exempt data elements are:

- Social Security Numbers
- Bank Account, Debit, Credit Card Numbers
- Psychological/Medical Records and Personal Health Information (PHI)
- Certain Agency Personnel Information
- Biometric Identification Information

For more information on Florida's public records laws, please review the Florida Statutes, or visit <http://www.myfloridalegal.com/sun.nsf/sunmanual>.

INTERESTS OF PUBLIC DECENCY

In the case of *State of Florida v. Danny Rolling*, 1994 WL 722891 (Fla. 8th Cir. Ct. 1994), the Court recognized both the existence of a privacy interest and the risk for potential substantial injury to the intimate relatives of victims, when materials that are embarrassing and trauma producing are provided to the public.

The records contained within the files of the SAO often contain sensitive material which can reasonably be expected to cause extreme emotional distress to a victim or the intimate relatives of a victim if released into the public domain. In recognition of this concern, and after review of historical requests processed by the Public Records Division and the feedback received, it is clear that the majority of requestors do not expect nor desire to receive certain sensitive material. This Office feels it is necessary to address the issue as a matter of policy. Therefore, in the interest of public decency, unless specifically requested, a public records request that includes photographs, video, or audio recordings of the killing of any person, or are graphic in nature, will be redacted where possible, or otherwise removed from the public records response.

All public records requestors will receive notice of this Public Decency Policy at the time the receipt of their request is acknowledged. Once a request has been reviewed and it is determined that the requested records do contain documents referenced in this Policy, the requestor will be notified at the time the production estimate is provided and will provide the requestor the opportunity to notify the Office that they would a) like all records requested, or b) do not wish to receive any documents that fall under the Policy.

Documents or data that may fall under this Policy:

- Names of minors associated with any case regardless of case type, or whether the minor is a victim or witness (this does not apply to juvenile records or cases where a juvenile is being charged with a crime in adult court);
- Any photographs, video, or audio recordings that are particularly graphic in nature, either by virtue or manner of death or exposure of sexual organs;
- Any photographs, video, or audio recordings that depict the killing of any person.