

POLICY NUMBER 101.11	POLICY TITLE: Responding to Public Records Requests	
 EFFECTIVE DATE: July 22, 2009 REVISION DATE (S): January 21, 2013	AMERICAN CORRECTIONAL ASSOCIATION (ACA) STANDARDS	
	<u>CENTRAL ADMINISTRATION: 1-CO-1A-26</u>	
	<u>CORRECTIONAL TRAINING ACADEMY: NONE</u>	
	<u>JUVENILE TRAINING SCHOOL: 3-JTS-1A-25; 4-JCF-6G-02, 4-JCF-6G-05</u>	
	<u>JUVENILE PAROLE & AFTERCARE: 2-7020</u>	
	<u>JUVENILE COMMUNITY RESIDENTIAL FACILITIES: 3-JCRF-1A-18</u>	
STANDARD OPERATING PROCEDURE	Prohibited	
LOCAL PROCEDURE	Prohibited	
 Harvey J. Reed, Director		

I. Policy Provisions

It is the policy of the Ohio Department of Youth Services to provide timely response to inquiries from the public and other agencies seeking the release of public information. [1-CO-1A-26]

II. Applicability

This policy applies to all ODYS employees.

III. Definitions

Prompt and/or Reasonable – For purposes of this policy, the terms prompt and/or reasonable take into account the volume of records requested; the form of the requested records; the proximity of the location where the records are stored; and the necessity for any pre-release review and redaction of the records requested.

Public Record – Any item (1) that is stored on a fixed medium (i.e. paper, computer, film); (2) that is created, received or sent by a public office; and (3) that documents the

organization, functions, policies, decisions, procedures, operations or other activities of ODYS.

IV. Procedures

A. Identification of Requested Records

1. When a request for a public record is made the requester shall identify the information requested with enough clarity to allow ODYS to identify, retrieve and review those records.
2. If the request is not clear, the Legal Services Division Administrative Assistant shall contact the requester for clarification and shall assist the requester in revising the request.

B. Form of Request

1. Requesters may be asked to make records requests in writing in order to allow records to be clearly identified, responses to be expeditious and accurate and to allow maintenance of a log of requests and responses. Staff may not require a requester to put the records request in writing.
2. The identification of the requester and the intended use of the records shall not be required. However, when necessary to identify responsive documents or respond to a record request, staff receiving a request may ask the requester to:
 - a. Put the request in writing
 - b. Provide a name and address
 - c. Explain the purpose of the request or the intended use provided that the requester is informed that this is not mandatory

The staff member shall inform the requester that he or she is not required to provide his or her name and address, put the record request in writing or explain the purpose of the request or the intended use of the documents.

3. Although a requester may choose to remain anonymous, he or she must provide a means for the Department to communicate with them about the request, and must provide a means by which responsive documents may be provided. This may consist of an e-mail address, mailing address, P.O. Box, or telephone number. For routine requests to view or inspect records, and for copies which can be provided without delay, the requester may choose not to provide the above information.

4. The Legal Services Division Administrative Assistant shall enter all requests for public records into a log to record the following:
 - a. Name (if provided)
 - b. Address (mail or e-mail) of requester
 - c. Date request received
 - d. Records requested
 - e. Redactions and/or exemptions asserted if any
 - f. Date of Response

C. Availability of Records

1. Public records shall be available for inspection Monday through Friday from 9:00 a.m. to 4:00 p.m. excluding holidays.
2. Public records shall be made available as stated in subsection D below.
3. Copies of public records shall be made available within a reasonable period of time.

D. Response within a Reasonable Time

1. Routine Requests

- a. Requests for materials that do not require an extensive search for responsive documents or detailed pre-release review which might include but are not limited to press releases, forms, applications, current policy, etc. shall be satisfied promptly.
- b. If more than fifty (50) pages of copies are requested it may be necessary for the designated staff member to schedule an appointment with the requester for hand delivery or to request an address where copies can be mailed or e-mailed.

2. Non-Routine Requests

- a. When a requester is seeking an excessive number of copies and/or fulfilling the request requires an extensive search for materials or pre-release review, the Legal Services Division Administrative Assistant shall promptly acknowledge receipt of the request in writing.

- b. The written acknowledgement shall include the following:
 - i. Request for clarification of the request, if necessary.
 - ii. A statement of the estimated cost to be borne by the requester if the request is fulfilled, if known, or an indication that costs shall be waived if the cost would be \$5.00 or less, or if the number of documents is not known at the time the acknowledgement of receipt is sent, a statement of the Department's costs as outlined in section E of this policy.
3. Review of All Requests
- a. Notice to Legal Services Division
 - i. All public records requests shall be referred to the ODYS Legal Services Division Administrative Assistant within three (3) working days of receipt of the request.
 - ii. The Legal Services Division Administrative Assistant shall coordinate the gathering of potentially responsive documents and respond to all public records requests. Each Division shall be responsible for locating all potentially responsive documents that were created by or are maintained by that division and producing them to the Legal Services Division Administrative Assistant in a timely manner.
 - b. Pre-release Review
 - i. ODYS has an affirmative duty to review any and all records deemed initially responsive to a public records request.
 - ii. Pre-release review is required to prevent disclosure of:
 - a) Personal information that may be protected by state and federal privacy laws, i.e. social security numbers, account numbers, employee home addresses and medical information
 - b) Confidential records that must not be disclosed under penalty of law to include certain investigatory, criminal, education, medical, mental health, and substance abuse records
 - c) Material protected by attorney-client privilege
 - d) Material requiring redaction to protect critical security and infrastructure records which may be exempt from public disclosure under the Ohio Public Records Act

- e) Information which identifies youth currently or formerly in the custody of or under the supervision of the Department.
- c. Waiver of Exemption
 - i. The Legal Services Division Administrative Assistant shall consult with the ODYS Chief Counsel or designee prior to denying any request or waiving any privilege or exemption.
 - ii. Waiver of any privilege and/or exemption when providing responsive materials to a public records request is on a case by case basis and does not waive any right to the future assertion of privilege and/or exemption.
- d. Denial of Public Records Request
 - i. Any denial of public records requested shall include an explanation which includes legal authority.
 - ii. If portions of a record are public and portions are exempt, the exempt portions shall be redacted and the remainder released.
 - iii. Redactions shall be accompanied by a written explanation which includes legal authority.

E. Calculation of Costs for Public Records

1. Actual Costs

Those seeking public records shall be charged only the actual cost of making copies, including charges for the following:

- a. The charge for paper copies is 5 cents (\$.05) per 8 ½” by 11” page. Two sided copies shall be charged at the rate of 10 cents (\$.10) per page.
- b. The charge for downloaded computer files to a disc is one dollar (\$1.00) per disc.
- c. There is no charge for documents e-mailed, except where third party software and/or services are required to e-mail large electronic files.
- d. Requesters may ask that documents be mailed to them. They may be charged the actual cost of the postage and mailing supplies.
- e. There is no charge if a requester elects to view the records during normal business hours. However, the requester shall be charged as stated above if he or she requests copies of any documents.

2. Pre-payment of Costs

Advance payment is required for all actual costs which are anticipated to exceed five dollars (\$5.00).

3. Waiver of Costs

- a. Costs for compliance with requests which total or are less than five dollars (\$5.00) shall be waived. Costs for compliance with requests in excess of five dollars (\$5.00) may be waived with prior approval from the Chief Legal Counsel or designee.
- b. A waiver of fees for a request shall not imply a waiver of fees for future requests.

D. Form 101.11.A Ohio Department of Youth Services Public Records Policy Summary shall be posted on the Department's website and in a conspicuous place at Central Office, Training Academy, State of Ohio Computer Center Office, and at the Department's institutions and regional offices. A copy of this policy shall also be posted on the Department's website.

V. Attachments

101.11.A ODYS Public Records Policy Summary

VI. Monitoring

This policy shall be reviewed annually by the Chief Counsel and updated as needed.

VII. References

Ohio Revised Code Section 149.43