

CITY OF DETROIT

PUBLIC SUMMARY OF FOIA PROCEDURES AND GUIDELINES

Under the Michigan Freedom of Information Act (the Act or FOIA), MCL 15.231 et seq., all persons, except those who are incarcerated, can submit a FOIA request to the City of Detroit FOIA Coordinator.

In accordance with Section 4(4) of the Act, MCL 15.234(4), the following is the Written Public Summary of City of Detroit's FOIA Procedures and Guidelines:

FOIA REQUEST

A FOIA request is a legal process, by which a person can submit a written request to the FOIA Coordinator to access, review, or obtain a copy of a public record.

1. Not every record request should be made into a FOIA request:

- If there is a pending lawsuit, the records can be obtained through a subpoena or through a discovery request in the underlying lawsuit.
- Certain records can be purchased over the counter at the respective City department or agency.
- Certain records are required to be purchased over the counter from the City department or agency.
- Certain records are available online from the City's website.

2. The following requests are NOT FOIA requests:

- Request to amend your police report or any other record is not a FOIA request.
- Request to draft or to create a document, where none exists, is not a FOIA request.
- Request to provide a narrative explanation for certain incident or situation is not a FOIA request.
- Request to answer question(s) is not a FOIA request.
- Request to complete a form or a survey is not a FOIA request.
- Request to preserve evidence is not a FOIA request.
- Request to expunge your criminal history is not a FOIA request.

PUBLIC RECORD

Section 2(e) of the Act, MCL 15.232(e), defines “**public record**” as “a writing prepared, owned, used, in the possession of, or retained by a **public body** in the performance of an official function, from the time it is created.”

Pursuant to the Act, the City of **Detroit is a public body**. Therefore, all records that are prepared, owned, used, in the possession of, or retained by the City in its official capacity are public records.

Does this mean that all records prepared, owned, used, in the possession of, or retained by the City must be disclosed or released to those who request such information or record under the Act?

No.

Although all public records of the City are subject to disclosure pursuant to the Act, certain information or record may be exempt from disclosure under the Act or by another state or federal statute.

- 1. Section 13 of the Act, MCL 15.243, provides a list of information and records that may be exempt from disclosure under the Act.**

Therefore, if any individual seeks information or records that fall under the category of one or more of the listed exemptions, the City may deny a portion of or the entire FOIA request. However, when doing so, the City must identify the exemption under the Act to the individual who is seeking that information/record; and provide a written explanation why the exemption applies in that particular instance.

- 2. In addition to the above-referenced exemptions under the Act, there are federal and state laws which preclude the City from disclosing specific information or records under those laws.**

For example, pursuant to Michigan Tax Code, income tax information collected and maintained by the City of Detroit is not subject to disclosure under FOIA. Likewise, there are many state and federal laws which precludes the City from disclosing certain information. Other examples include: Michigan Crime Victim’s Rights Act, Michigan Crime Stoppers Act, federal Privacy Act, HIPAA, laws pertaining to sexually motivated crimes and juvenile offenses, child protection, and public employee retirement system investment.

Therefore, under these laws, the release of certain information by a public body employee would result in the violation of the federal or state law. In some instances, the release or the disclosure of the lawfully precluded information or record can result in criminal misdemeanor to the public employee who releases the information/record; and the employee may be punishable by imprisonment or by payment of a fine.

CITY OF DETROIT FOIA COORDINATOR

The City of Detroit FOIA Coordinator is designated by the Corporation Counsel.

Due to the large volume of FOIA requests received by the City, majority of FOIA requests are assigned to City attorneys and legal assistants in the FOIA Section of the Law Department.

Because majority of FOIA requests seek matters concerning the police, and in order to provide a more efficient response to these requests, majority of police FOIA requests are directly handled by the City of Detroit Police Department (DPD) Law Unit.

POLICE RECORD REQUESTS

1. **Routine and simple FOIA requests** are directly handled by the DPD Law Unit with assistance from the Law Department FOIA Section.
 - **The following ARE routine and simple police FOIA requests:**
 - Certain or specific police report with the DPD report number; and/or
 - Non-critical or non-fatal motor vehicle accident reports;
2. **Non-routine or complex police FOIA requests** are handled by the attorneys and legal assistants who are assigned to the Law Department FOIA Section.
 - **The following ARE NOT routine or simple DPD FOIA requests:**
 - Records pertaining to fatal accident;
 - Video or audio recordings (other than 911 Audio Recordings and Police Dash-Cam Videos);
 - Records involving critical injury;
 - Records pertaining to homicide;
 - Records pertaining to matters involving shooting;
 - Records involving any type of death; or
 - Records pertaining to vice or narcotics.
3. In some instances, the FOIA Coordinator may directly handle the FOIA request.
4. When submitting a FOIA request concerning police matters, you must sufficiently describe a public record so as to enable DPD personnel to find it.
 - Therefore, your FOIA request **must contain** the following information:
 - A description of the incident ;
 - Names of individuals who were involved in the incident;

- Date of the incident;
 - Description of the record are you looking for; and
 - Location of the incident.
- If you know which DPD unit, division, precinct or officer has the request record, please identify them.
 - If you have the police report number, please identify the report number.
 - The more descriptive and specific your request is, the easier it would be for a DPD personnel to search and to retrieve the requested record(s).

5. Your request should include the word “FOIA” or “FOIA Request”.

Although no specific form is required to submit a FOIA request to the City of Detroit, the City has a DPD FOIA Request Form specifically for police records, for your use and convenience, on the City’s website at www.detroitmi.gov.

For convenience, you may also email the completed form or your written request, which provides sufficient information for DPD personnel to locate the requested record, to: **DPDFOIA@detroitmi.gov**.

NON-POLICE RECORDS REQUESTS

1. All FOIA requests concerning non-police records will be processed through an attorney or a legal assistant in City of Detroit Law Department under the direct supervision of the Supervising Assistant Corporation Counsel of the Governmental Affairs Section, unless the FOIA request is directly handled by the FOIA Coordinator.
2. When submitting a FOIA request concerning non-police matters, you must sufficiently describe a public record so as to enable personnel from that specific City department, agency, commission, or board to find the record(s).
 - Therefore, your FOIA request for non-police matters must contain the following information:
 - A comprehensive description of the document you are seeking; and
 - Time frame and/or date(s), if appropriate
 - If you know which City department, agency, commission, or board would have the requested record, please identify them.
 - Please try to avoid “any and all”. If your request is too broad, personnel from the City department, agency, commission, or board who will be searching and retrieving the record will most likely encounter difficulties in locating the record(s).

- If the scope of your request is too broad for a City personnel to locate the requested records, your request may be denied or you will be presented with a request for a deposit payment.
 - The more descriptive and specific your request is, the easier it would be for a City personnel to search and to retrieve the requested record(s).
3. Your request should include the word “FOIA” or “FOIA Request”.

Although no specific form is required to submit a FOIA request to the City of Detroit, the City has a FOIA Request Form for non-police records, for your use and convenience, on the City’s website at www.detroitmi.gov.

For convenience, you may also email the completed form or your written request, which provides sufficient information for personnel from a particular City department, agency, commission or agency to locate the requested record, to: **FOIA@detroitmi.gov**.

HOW YOUR FOIA REQUEST IS HANDLED BY THE CITY

Due to the sheer volume of incoming FOIA requests, a vast majority of the non-police FOIA and complex police FOIA requests will be assigned to either an attorney or a legal assistant in the City of Detroit Law Department FOIA Section, unless the FOIA Coordinator handles the request directly.

1. The assigned attorney or the legal assistant will handle the requests under the direct supervision of the Supervising Assistant Corporation Counsel for City of Detroit Law Department FOIA Section.
2. Unless the request specifically identifies the City department, agency, commission, or board, the assigned attorney or legal assistant will:
 - make a determination of what City department, agency, commission, or board would most likely be in the possession of the requested record; and
 - forward a copy of the FOIA request to the Record Liaison (RL) of that particular City department, agency, commission, or board.
3. The RL of the department, agency, commission, or board will then forward a copy of the request to the appropriate individual employees in the department, agency, commission, or board, who would most likely have or know the whereabouts of the requested record.
4. That employee will then exercise his/her due diligence in searching for the requested record(s) from all the reasonable places and will:

- inform the RL that the department, agency, commission or the board does not possess the requested record; or
 - provide a complete copy of the requested record(s) to the RL; and
 - if appropriate, the employee will either complete a FOIA labor costs form or provide the necessary information required to assess: an estimated labor costs; or the labor costs incurred by the department, agency, commission or the board under the Act.
5. The RL will then either forward the no record statement, labor cost estimate, or the requested record(s) and, if appropriate, information required to assess the labor costs for that particular FOIA request, to the assigned attorney or the legal assistant in the Law Department.
 6. The assigned attorney or the legal assistant will review the records:
 - to make a determination whether any applicable exemption under Section 13 of the Act, MCL 15.243; and/or
 - to make a determination whether there is any federal or state statute which would preclude the City from disclosing the requested record.
 7. If necessary, the attorney or the legal assistant will separate the exempt from the non-exempt information from the record, by either redacting the information or by withholding certain document(s).
 8. Where appropriate, the attorney or the legal assistant will: 1) keep track of the time spent in separating the exempt from the non-exempt information; and 2) charge the labor costs to the person who submitted the request in accordance with the Act.

RESPONSES TO YOUR FOIA REQUESTS

Within five (5) business days of the receipt of the FOIA request by the City's FOIA Coordinator, the City (through the City's FOIA Coordinator, the assigned attorney or the legal assistant), shall provide a written response to the person who submitted the FOIA request by:

1. Extending the City's time to respond to the request.

- If the request was received by facsimile or email, the request is deemed to have been received by the City's FOIA Coordinator on the next business day.
- Saturdays, Sundays and holidays are not considered business days.

- If the requested record is not readily accessible, the City may extend its time to respond by an additional ten (10) business days.

2. Requesting a deposit payment.

- If the cost of processing the request is expected to exceed \$50, or if you have not paid for a FOIA request which was previously submitted, the City will require a deposit payment before processing the FOIA request.
- The requested deposit payment will be 50% of the estimated cost provided by the City department, agency, commission or board to the Law Department. The estimated cost will consist of: 1) an estimated number of hours it will take City personnel to search and retrieve the requested records and, where appropriate, the number of hours it will take Law Department personnel to review and to separate the exempt from the non-exempt information; and 2) the hourly wage rate of the lowest paid department, agency, commission or board employee who is capable of performing the task as required under the Act.
- In accordance with the Act, the hourly labor rate will include the employee's base salary and fringe benefits.
- The City will inform the person who made the request of the right to appeal or file a lawsuit pertaining to the requested deposit payment.

3. Granting the request.

- Make the requested record available for review, pickup, or delivery via email or First Class Mail.
- If appropriate, the City may request payment for the records and/or the labor costs incurred by the City in accordance with the Act. The response letter will provide a page count or an estimated page count; itemize the time spent by the City department, agency, commission, or board that searched and retrieved the requested records; the hourly wage rate of the lowest paid employee of that department, agency, commission, or board who was capable of performing the task; itemize the time spent by Law Department personnel who reviewed the records for any applicable exemptions under the Act and any other federal or state law.
- If seeking labor costs, the City will inform the person who made the request of the right to appeal or file a lawsuit pertaining to the requested labor costs.

4. Granting in part and denying in part the request.

- Identify what part of the request is being granted and provide a page count.

- Identify what part of the request is being denied, identify all of the relevant exemptions, include a description of document(s) that being withheld from disclosure.
- If part of the denial is based on “no record”, the response letter will serve as a certificate of no record based on information provided by the personnel or the RL from that specific City department, agency, commission, or board.
- If appropriate, the City may request payment for the records and/or the labor costs incurred by the City in accordance with the Act. The response letter will provide a page count; itemize the time spent by the City department, agency, commission, or board that searched and retrieved the requested records; the hourly wage rate of the lowest paid employee of that department, agency, commission, or board who was capable of performing the task; itemize the time spent by Law Department personnel who reviewed the records for any applicable exemptions under the Act and any other federal or state law; and the time spent in separating the exempt from the non-exempt information.
- Inform the person who made the request of the right to appeal or file a lawsuit pertaining to the requested labor costs or the portion of the request which is denied.

5. Denying the request.

- Identify the reason for the denial in accordance with the Act.
- If the denial is based on “no record”, the response letter will serve as a certificate of no record which would verify that personnel or the RL from the specific City department, agency, commission, or board informed the City Attorney or the Legal Assistant that the department, agency, commission, or the board did not possess the requested record.
- Inform the person who made the request of the right to appeal or file a lawsuit pertaining to the denial of the request.

HOW TO SUBMIT A FOIA REQUEST

1. You can download the form pertaining to **police** records, complete the form, and submit the completed form to DPDFOIA@detroitmi.gov, via **email**.
2. You can download the form pertaining to **non-police** records, complete the form, and submit the completed form to FOIA@detroitmi.gov, via **email**.
3. Otherwise, you can **hand-deliver** or **mail** your written request or the completed City of Detroit FOIA request form to:

City of Detroit FOIA Coordinator
City of Detroit Law Department
2 Woodward Avenue, Suite 500
Detroit, Michigan 48226

4. Your written request or the completed form can also be **faxed** to:

City of Detroit FOIA Coordinator
(313) 224-5505

DEPOSIT PAYMENTS, CALCULATION OF FOIA LABOR COSTS AND/OR FEES

1. All deposit payment must be submitted in check or money order made payable to the "City of Detroit" in the specific amount requested in the response by the City, within the time frame requested by the City.
2. Unless otherwise directed under the Act, if the City receives a request from a person who has not paid the City for copies of records, which were made available for the person in his/her previously submitted FOIA request, the City may require a deposit of 100% of the estimated labor costs and duplication fees before the City begins processing the new FOIA request from that person.
3. All labor costs that are requested by the City must be submitted in check or money order made payable to the "City of Detroit" in the specific amount requested in the response by the City prior to making the records accessible to the person who submitted the FOIA request.
4. In accordance with the Act, a hard copy of the black and white 8.5" x 11" or 8.5" x 14" paper format, will be made available at \$0.10 per page.
5. Irregular-sized hard copy of the record can also be made available at cost.
6. A color copy of the record in 8.5" x 11" or 8.5" x 14" paper format, if available, can be made available at cost.
7. The City may charge the fees and labor costs where appropriate under the Act and in the manner required by the Act. The following may be included:
 - a) Labor costs associated with searching, locating and examining the requested record, when failure to do so will result in unreasonably high costs to the City.
 - b) Labor costs associated with reviewing the record to separate the exempt from the non-exempt information, when failure to do will

result in unreasonably high costs to the City. If labor costs is incurred by a contractor shall not exceed an amount equal to 6 times the State minimum hourly wage.

- c) The cost of computer discs, computer tapes, other digital or similar media when the request is for non-paper physical media.
- d) Labor costs associated with copying or duplication, which includes making paper copies, digital copies, or transferring digital records to non-paper physical media or through the Internet.
- e) For paper copies, the fee shall be the total incremental cost of necessary duplication. A page count will be provided.
- f) The cost of labor directly associated with duplication or publication, including making paper copies, digital copies, or transferring digital records on non-paper media or through the internet or other electronic means.

FOIA APPEAL or FOIA LAWSUIT BASED ON A DENIAL OR A PARTIAL DENIAL OF A FOIA REQUEST

If the City denies all or a portion of the FOIA request, the requesting person “may do 1 of the following”

1. Submit a written appeal to the head of the public body.

In the City of Detroit, FOIA appeals are handled directly by the Corporation Counsel or the Deputy Corporation Counsel. Therefore, should you choose to appeal the denial, your appeal must:

- a) be in writing;
- b) state the word “APPEAL” where it is clearly visible;
- c) identify the reason or reasons for reversal of the denial; and
- d) be directed to:

Corporation Counsel
or
Deputy Corporation Counsel
City of Detroit Law Department
2 Woodward Avenue, Suite 500
Detroit, Michigan 48226.

Within 10 business days after receiving a written appeal, the Corporation Counsel or the Deputy Corporation Counsel shall do 1 of the following:

- Reverse the denial;

- Issue a written notice/letter to the requesting person upholding the denial;
 - Reverse the denial in part and issue a written notice/letter to the requesting person upholding the partial denial;
 - Under unusual circumstances, issue a notice/letter extending the City’s time to respond not more than 10 business days. An extension letter for a FOIA appeal may be issued by an attorney in the Law Department.
2. Commence an action in the Wayne County Circuit Court within 180 days after the City’s denial.

FOIA APPEAL or FOIA LAWSUIT BASED ON A DISPUTE OVER FEES OR LABOR COSTS

If you are disputing the City’s request for fees or labor costs associated with your FOIA request, including the City’s request that you submit a deposit payment, you “may do 1 of the following”

1. Submit a written appeal to the head of the public body.
- A. In the City of Detroit, FOIA appeals are handled directly by the Corporation Counsel or the Deputy Corporation Counsel. Therefore, should you choose to appeal the fees or costs requested by the City, your appeal must:
- a) be in writing;
 - b) state the word “APPEAL” where it is clearly visible;
 - c) identify how the fee including the deposit payment, that is required by the City, exceeds the amount permitted under the Act; and
 - d) be directed to:

Corporation Counsel
or
Deputy Corporation Counsel
City of Detroit Law Department
2 Woodward Avenue, Suite 500
Detroit, Michigan 48226.

- B. Within 10 business days after receiving a written appeal, the Corporation Counsel or the Deputy Corporation Counsel shall do 1 of the following:
- a) Waive the fee;
 - b) Reduce the fee and provide a written determination supporting the reduction;
 - c) Uphold the fee and provide a written determination supporting its decision.
 - d) Issue a written notice/letter to the requesting person upholding the denial;
or
 - e) Issue a notice/letter extending the City’s time to respond not more than 10 business days with an explanation why an extension is needed.

2. You may commence a FOIA lawsuit against the City in Wayne County Circuit Court within 45 days after:
 - a) receiving the notice of the required fee;
 - b) receiving no response from the City on your fee/costs appeal; or
 - c) receiving a determination of your fee/costs appeal from the City.