

City of Portland

Freedom of Information Act Policy

PURPOSE: To establish guidelines for compliance with State law and to describe procedures for providing information requested under the Freedom of Information Act (FOIA or Act).

POLICY: The following guidelines must be used when requests for information are received by the City.

1. The City Manager is the designated “FOIA Coordinator” and is responsible for complying with State law in processing FOIA requests. The FOIA Coordinator may appoint one or more designees to assist in complying with this policy and may assign rights and duties under this policy to the designee.

Right to Inspect, Copy, or Receive Public Record

1. A person providing the FOIA Coordinator with a written request that sufficiently describes a public record has the right to:
 - a. Inspect, copy, or receive copies of the requested record.
 - b. Subscribe to future issuances of records regularly created.
2. A public employee who receives a request for a public record must promptly forward the request to the FOIA Coordinator.
3. The FOIA Coordinator must keep a file copy of all written requests for at least one year.
4. The City must make available:
 - a. Reasonable opportunity for inspection and examination of public records.
 - b. Facilities for making notes from public records during usual business hours.
5. The City may adopt reasonable rules to protect records and to prevent interference with the City’s functions.
6. The City must protect records from alteration, mutilation, and destruction.
7. The FOIA does not require the City to create a compilation, summary, or report of information.
8. The FOIA does not require the City to create a new record or create edited copies.
9. The record custodian must provide a certified copy of a public record if requested.

Fees, Waivers, Deposits, Calculations of Cost

1. Fees for record search, copying for inspection, or providing copying will be charged according to the following schedule:
 - a. Copies of documents: \$2.00 for the first page and 50 cents for each additional page, on 8½ x 11 paper.
 - b. Copies of in-car videotapes: \$11.00.
 - c. Photographs and other documents: the actual charges for copying.
 - d. Personnel time, including search, examination, review, and the separation of exempt from non-exempt information: the actual time spent calculated on the hourly wage of the lowest-paid City employee in the Department where the records are kept who is capable of retrieving the information necessary to comply with the request.

2. The FOIA Coordinator may require that all charges associated with the processing of a FOIA request be paid in full before releasing any public records.
3. Fees may be reduced or waived if the FOIA Coordinator determines that the waiver is in the public interest because the request will primarily benefit the general public.
4. The FOIA Coordinator may waive fees up to the first \$20.00 for each individual entitled, if the individual is on public assistance. Fees may be waived upon showing inability to pay. All requests for fee waivers must be in writing and must be sworn to by the person requesting the waiver.
5. If the authorized fee exceeds \$50.00, the FOIA Coordinator may require a good-faith deposit, not to exceed one-half of the total authorized fee, at the time of the request.

Response to Records Request

1. The FOIA Coordinator must respond within five business days of receiving requests for a public record unless the request does not contain sufficient information describing the public record. The FOIA Coordinator must respond within five business days of receiving the additional information.
2. Upon receiving a request, for information the FOIA Coordinator may:
 - a. Grant the request.
 - b. Provide written notice denying the request in whole.
 - c. Grant the request in part, and provide written notice of denial in part.
 - d. Issue written notice of a one-time, 10-business-day extension.
3. The person making the request may agree, in writing, to a response other than those listed in the previous section.

Appeals

If a request for a public record is denied in whole or in part, the person making the request may:

1. Submit a written appeal of the decision to the head of the public body; or
2. Seek judicial review of this denial in circuit court.

Appeal to the head of the public body: In response to an appeal of a FOIA request denial, the head of the public body must take one of the following actions within ten business days, absent compelling reasons for an extension of time:

1. Reverse the denial.
2. Issue a written notice to the requester affirming the disclosure denial.
3. Reverse the disclosure denial in part and issue a written notice to the requester affirming the denial in part.

Appeal to the circuit court: If successful in an appeal to the circuit court, the person whose request was denied will receive reasonable attorney's fees, costs, and disbursements. If the court determines that the denial was arbitrary and capricious, the court will also award punitive damages of \$500, as provided in Section 10 of the Act.

By Order of the City Council

Revised: 9/16/08

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Addendum A: Exempted Information

The term “privacy” refers to any kind of personal information; i.e., information that refers to an identifiable individual by use of name, number, or other characteristic.

The disclosure of unredacted information on reports constitutes an invasion of privacy. Therefore, no report may be released which includes any of the following information regarding the parties involved:

1. Personal addresses
2. Dates of birth
3. Names of deceased parties named in the report
4. Nature and extent of injuries
5. Medical information
6. Employment information
7. Any investigative record that would interfere with law-enforcement proceedings
8. Information that could deprive an individual of the right to a fair trial or impartial administrative adjudication
9. Information that would constitute an unwarranted invasion of privacy (e.g., domestic disputes or identity theft)
10. Information that discloses the identity of a confidential source or confidential information furnished only by a confidential source
11. Information that would disclose investigative techniques or procedures (e.g., surveillance methods, investigative techniques, undercover operations, and tracking devices)
12. Information that would endanger life or safety of law-enforcement personnel
13. Information that would prejudice the ability to maintain security of custodial or penal institutions
14. Information described and exempted from disclosure by statute (e.g., social security numbers, LEIN information, child abuse activities)
15. Trade secrets
16. Test questions and answers from examination instruments or data
17. Communications and notes of an advisory nature
18. Law-enforcement communication codes or plans for deployment
19. Public records of a law enforcement agency where disclosure would identify an undercover agent, or reveal the home address, telephone number of an officer or agent, or disclose personnel records of the law enforcement agency
20. Internal-affairs investigations
21. Applications for employment
22. VIN numbers
23. Driver’s license numbers

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Addendum B: News Media Release of Information

The following information may be released to the media with the FOIA Coordinator's approval:

1. Name
2. Residence location
3. Employment
4. Marital status
5. General background information
6. Criminal charges following arraignment
7. Length and scope of investigation
8. Weapons involved
9. Circumstances of arrest

The following information is private and privileged, and will not be released to the media:

1. Involved person's character
2. Involved person's reputation
3. Admissions made by suspects
4. Refusal to make a statement
5. Investigative procedures
6. Identity or credibility of witnesses
7. Reenactment of the crime
8. Evidence to be used at trial
9. Information that an arrest was derived from informant information
10. Opinions regarding guilt or plea bargains