



PUBLIC RECORDS POLICY

CUYAHOGA COUNTY MEDICAL EXAMINER'S OFFICE

Introduction:

It is the policy of the Cuyahoga County Government that openness leads to a better-informed citizenry, which leads to better government and better public policy. It is the policy of the County Government to strictly adhere to its obligations under the state's Public Records Law. It is also the policy of the County Government that exemptions from disclosure established by federal or state law must be applied, particularly where the laws are intended to protect the rights of third parties.

So to, is it the policy of the Cuyahoga County Medical Examiner's Office (CCMEO). However, it must be noted that open records laws (ORC 149.43) do not pertain to all records of the Cuyahoga County Medical Examiner's Office. For routine, general office requests, the following policy holds, as it does for the entire government of Cuyahoga County.

For records specific to the work output of the Cuyahoga County Medical Examiner's Office (i.e. autopsy reports and cause of death investigations), there are different sections of the Ohio Revised Code which govern and override general public records law (ORC 313.09, 313.10). These differences will be illustrated and highlighted throughout the text of this policy.

Section 1. Public Records This office, in accordance with the Ohio Revised Code, defines records as including the following: Any document - paper, electronic (including, but not limited to, e-mail), or other format - that is created or received by, or CCMEOs under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the County Government meeting this definition are public unless they are specifically exempt from disclosure under Ohio law or federal law.

Section 1.1 It is the policy of the County Government that, as required by Ohio law, records will be organized and maintained so that they are available for inspection and copying in accordance with the Ohio Public Records Law. Record retention schedules shall also be made readily available to the public. Each Agency and Department of the County Government shall designate a public records manager to whom requests for public records should be directed. The identity of the Agency's or Department's public records manager(s) shall be publicized, including being posted on the Agency's or Department's webpage. **All records shall be kept in the Cuyahoga County Medical Examiner's Office.**

Section 1.1.1 Records specific to the Cuyahoga County Medical Examiner's Office

The Medical Examiner shall keep a complete record of and shall fill in the cause of death on the death certificate, in all cases coming under his or her jurisdiction. Such records shall be properly indexed, and shall state the name, if known, of every deceased person as described in section 313.12 of the Revised Code, the place where the body was found, date of death, cause of death, and all other available information. The report of the Medical Examiner and the detailed findings of the autopsy shall be attached to the report of each case.

The records of the Medical Examiner, who has jurisdiction over the case, including, but not limited to, the detailed descriptions of the observations written during the progress of an autopsy and the conclusions drawn from those observations filed in the office of the coroner under division (A) of section 313.13 of the Revised Code, made personally by the Medical Examiner or by anyone acting under the Medical Examiner direction or supervision, are public records. The Cuyahoga County Medical Examiner's Office (or coroner in the case of other Ohio counties) of the county where the death was pronounced shall be responsible for the release of all public records relating to that death.

Section 1.1.2 Records specific – not a public record

Except as otherwise provided in Section, the following records in the Cuyahoga County Medical Examiner's Office ARE NOT public records:

- Preliminary autopsy and investigative notes and findings made by the Medical Examiner or by anyone acting under the Medical Examiner's direction or supervision;
- Photographs of a decedent made by the Medical Examiner or by anyone acting under the direction or supervision of the Medical Examiner;
- Suicide notes;
- Medical and psychiatric records provided to the Medical Examiner, a deputy Medical Examiner, or a representative of the Medical Examiner or a deputy Medical Examiner under section 313.091 of the Revised Code;
- Records of a deceased individual that are confidential law enforcement investigatory records as defined in section 149.43 of the Revised Code;
- Laboratory reports generated from the analysis of physical evidence by the Medical Examiner's laboratory that is discoverable under Criminal Rule 16.

Section 1.1.2 CCMEO and County Prosecutor / Law Enforcement / Courts

The Medical Examiner shall promptly deliver, to the prosecuting attorney of the county in which such death occurred, copies of all necessary records relating to every death in which, in the judgment of the coroner or prosecuting attorney, further investigation is advisable. The prosecuting attorney may obtain copies of records and such other information as is necessary from the office of the coroner.

The sheriff of the county, the police of the city, the constable of the township, or marshal of the village in which the death occurred may be requested to furnish more information or make further investigation when requested by the coroner or his deputy.

All records of the Medical Examiner are the property of the county. Those records, or transcripts or photostatic copies of them, certified by the Medical Examiner shall be received as evidence in any criminal or civil action or proceeding in a court in this state, as to the facts contained in those records.

Section 2. Record Requests

Each request for public records should be evaluated for a response using the following guidelines:

Section 2.1 Although no specific language is required to make a request for general records of the Cuyahoga County Medical Examiner's Office, the requestor must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requestor for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 2.2 For general office records, the requestor does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this office's general policy that this information is only to be requested if the written request or disclosure of identity of the requestor or the intended use of the record would benefit the requestor by enhancing the ability of the County Government to identify, locate or deliver the requested public records, and if the requestor is informed that the written request or disclosure of identity of the requestor or intended use of the record is not mandatory.

Section 2.2.1 For records specific to the duties of the Cuyahoga County Medical Examiner's Office, as described above in Section 1.1.1, requests shall be in writing and be specific as follows (**NOTE:** The Medical Examiner may contact the decedent's next of kin to inform the next of kin that a journalist or an insurer has submitted a written request pursuant to sections 2.2.1.2 and 2.2.1.3 and whether the Medical Examiner has granted the journalist's or the insurer's request):

Section 2.2.1.1 Next of Kin

The Medical Examiner shall provide a copy of the full and complete records of the Cuyahoga County Medical Examiner's Office with respect to a decedent to a person who makes a written request as the next of kin of the decedent. The following persons may make a request pursuant to this section as the next of kin of a decedent:

- The surviving spouse of the decedent;
- If there is no surviving spouse, or if the surviving spouse has died without having made a request pursuant to this section, any child of the decedent over eighteen years of age, with each child over eighteen years of age having an independent right to make a request pursuant to this section;
- If there is no surviving spouse or child over eighteen years of age, or if the surviving spouse and all children over eighteen years of age have died without having made a request pursuant to this section, the parents of the decedent, with each parent having an independent right to make a request pursuant to this section;
- If there is no surviving spouse, child over eighteen years of age, or parents of the decedent, or if all have died without having made a request pursuant to this division, the brothers and sisters of the decedent, whether of the whole or the half blood, with each having an independent right to make a request pursuant to this section.
- If there is no surviving person who may make a written request as next of kin for a copy of the full and complete records of the coroner pursuant to this section, or if all next of kin of the decedent have died without having made a request pursuant to this section, the coroner shall provide a copy of the full and complete records of the coroner with respect to a decedent to the representative of the estate of the decedent who is the subject of the records upon written request made by the representative.

Section 2.2.1.2 Insurers

An insurer may submit to the Medical Examiner a written request to obtain a copy of the full and complete records of the Cuyahoga County Medical Examiner's Office with respect to a deceased person. The request SHALL INCLUDE the name of the deceased person, the type of policy to which the written request relates, and the name and address of the insurer. If an insurer submits a written request to the Medical Examiner to obtain a copy of records pursuant to this section, the Medical Examiner shall grant that request.

Upon the granting of a written request to obtain a copy of records by the CCMEO, the insurer may utilize the records for the following purposes:

- To investigate any first party claim or third party claim asserted under a policy of insurance issued by the insurer that arises from the death of the deceased person;
- To determine coverage for any first party claim or third party claim asserted under a policy of insurance issued by the insurer that arises from the death of the deceased person;
- To determine the insurer's liability for any first party claim or third party claim asserted under a policy of insurance issued by the insurer that arises from the death of the deceased person.

Section 2.2.1.3 Journalists

A journalist may submit to the coroner a written request to view preliminary autopsy and investigative notes and findings, suicide notes, or photographs of the decedent made by the coroner or by anyone acting under the coroner's discretion or supervision. **At no time shall this include records of a deceased individual that are confidential law enforcement investigatory records as defined in section 149.43 of the Revised Code.** The request shall include the journalist's name and title and the name and address of the journalist's employer and state that the granting of the request would be in the best interest of the public. If a journalist submits a written request to the CCMEO to view the records described in this section, the Medical Examiner shall grant the journalist's request. The journalist **SHALL NOT** copy the preliminary autopsy and investigative notes and findings, suicide notes, or photographs of the decedent.

Section 2.3 Public records are to be available for inspection during regular business hours. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "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.

All records in the Cuyahoga County Medical Examiner's Office that are public records are open to inspection by the public, and any person may receive a copy of any such record or part of it upon demand in writing, accompanied by payment of the record retrieval and copying fee.

Section 2.4 Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include meeting minutes, budgets, salary information, forms and applications, and such other records requests that the County Government determine are "routine". If any of these records contain exempt material such as social security numbers or other confidential information, they cannot be handled as "routine" requests. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as practicable, taking into account the time required for legal review or redaction of the records requested, when applicable. The County Government will strive to acknowledge all requests for public records and provide an estimate of the number of business days it will take to satisfy the request within three business days following the records custodian's receipt of the request.

Section 2.5 Any denial of records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority. If the initial request was in writing, the explanation shall also be provided in writing.

Section 3. Costs for Public Records

Those seeking public records will be charged only the actual cost of making copies.

Section 3.1 The charge for paper copies is three cents (\$.03) per page for general office records.

For records specific to the CCMEO (see Section 1.1.1), the record retrieval and copying fee at the rate of twenty-five cents per page or a minimum fee of one dollar.

Section 3.2 The charge for downloaded computer files to a compact disc is the actual cost, not to exceed \$1.26 per disc.

Section 3.3 There is no charge for documents e-mailed, if files are already stored in an electronic format.

Please note that many of the records specific in Section 1.1.1 may not be in a format for e-mail and require reproduced copies.

Section 3.4 Requestors may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

Section 3.5 The Cuyahoga County Medical Examiner's Office requires the requestor to pay in advance the actual cost involved in providing the copies, including postage. Such costs shall be enumerated and communicated to the requestor prior to printing and delivery of requested records.

Section 4. E-mail All e-mail sent or received through the Cuyahoga County Information Services Center is the property of Cuyahoga County.

All e-mail sent or received through the Cuyahoga County Information Services Center will be available on the user's desktop computer until the user deletes it or until the automatic system delete occurs after 90 days from being sent or received, unless archived by the user.

All e-mail, whether or not archived by the user within the first 90 days, will be saved offsite for 365 days from the date of creation or receipt. After 365 days, the e-mail will be permanently purged from the Cuyahoga County Information Services Center's system. If a user wishes to retain a copy of any e-mail beyond 365 days, the e-mail must be archived by the user.

Such e-mails that pertain to records specific to Section 1.1.1 above, shall be subject to the same provisions, protections and prohibitions as listed throughout this policy.

Section 4.1 Employees who use private e-mail accounts to conduct public business create records that may be subject to disclosure in accordance with the Ohio Public Records Law. All employees or representatives of this office shall be instructed to comply with this office's records retention policy with regard to all e-mails in private accounts that document the organization, functions, policies, decisions, procedures, operations, or other activities of the office, and to make them available to the office's records custodian in a timely manner.

Section 4.2 The records custodian shall be instructed to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Ohio Public Records Law.

Section 5. Failure to Respond to a Public Records Request

The County Government recognize that the consequences of failing to properly respond to a public records request in accordance with the law may result in a court ordering the County Government to comply with the law and to pay the requestor attorney's fees and statutory damages.