

**PUBLIC RECORDS POLICY
FOR THE
MARIETTA MUNICIPAL COURT
WASHINGTON COUNTY, OHIO**

MISSION STATEMENT

Transparency leads to a citizenry that is better informed about the operations of government, which contributes to better government and better public policy. Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is the mission and intent of Marietta Municipal Court to, at all times, comply with and abide by the spirit and the letter of Ohio's Public Records Act and the rules for public access set forth in the Rules of Superintendence for the Courts of Ohio released by the Ohio Supreme Court.

DEFINING PUBLIC RECORDS

All court records kept by Marietta Municipal Court are presumed to be public unless they are exempt under Ohio law or the Rules of Superintendence for the Courts of Ohio. All court records must be organized and maintained in such a way that they can be made available for inspection and copying.

A "court record" is defined as any case or administrative document filed or maintained by the Court.

"Case documents" include documents and information in documents submitted to Marietta Municipal Court or filed with the Clerk of Courts in a judicial action or proceeding and any document prepared by the Court or Clerk in a judicial action or proceeding. "Case documents" do not include documents exempt from disclosure under state, federal, or common law, any personal identifiers, information restricted by the Rules of Superintendence for the Courts of Ohio Section 45 (E), certain juvenile records, notes, drafts, recommendations, advice and research of judicial officers and staff, or information on or obtained from the Ohio Courts Network and related data feeds.

"Administrative documents" include a document and information in a document created, received, or maintained by Marietta Municipal Court that serves to record the administrative, fiscal, personnel, or management functions, policies, decisions, procedures, operations, organization, or other activities of Marietta Municipal Court. "Administrative documents" do not include those exempt under state, federal, or common law or the Rules for the Governance of the Bar, personal identifiers, security documents, court employment examination documents, computer programs and codes, or information contained on or obtained from Ohio Courts Network and related data feeds.

All court records, case and administrative, except those which are exempt as listed above, may be made available to the public either through paper copy or remote access, so long as the remote access copy is identical to the original paper copy.

RESTRICTING PUBLIC ACCESS

Public access to a case document or information in a case document may be restricted upon the motion of parties or nonparties in a legal proceeding or upon the Court's own motion. The Court will decide whether or not to restrict access based on clear or convincing evidence that the presumption of public access is outweighed by some other higher interest. The Court may consider any of the following in deciding the presence or absence of a higher interest: (1) whether public policy is served by restricting public access; (2) whether any state, federal, or common law exempts the document or information from public access; (3) whether factors that support restriction of public access exist, including risk of injury to persons, individual privacy rights and interests, proprietary business information, public safety, and fairness of the adjudicatory process.

When access is restricted, the court will utilize the least restrictive means possible in order to assure the maximum degree of transparency. Such measures may include, but are not limited to, redaction, restriction of remote access, time, generic titles in case management systems, or initials in place of parties' actual names.

Furthermore, a journal entry shall be prepared and made available to the public reflecting the Court's order that access to a record or case document has been restricted.

OBTAINING ACCESS TO A RESTRICTED DOCUMENT

Any person may make a written motion requesting access to a document restricted by the court. The court will make its decision regarding the granting or denial of access based upon clear and convincing evidence, or the lack thereof, that the presumption of public access outweighs the higher interest that originally caused the record to be sealed or that said higher interest is no longer valid.

BULK DISTRIBUTION

Any person may request a bulk distribution of information from court records and the Clerk may, by his or her own discretion, create a new compilation of those records for the convenience of the person making the request.

RESPONSE TIMEFRAME

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Court records must be made available for inspection promptly within a reasonable period of time. The terms "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 and/or redaction of the records requested.

It is the goal of Marietta Municipal Court that all requests for public records should be acknowledged in writing or, if possible, satisfied within five business days following the Court's receipt of the request. If a request is lengthy or will require research, the acknowledgement of the request must be provided in

writing and include an estimated number of business days to complete the request, an estimated cost if copies are requested, and any items within the request that may be exempt from disclosure.

HANDLING REQUESTS

No specific language is required to make a request for public records. However, the requester must at least identify the records requested with sufficient clarity to allow the Clerk or Deputy Clerks to identify, retrieve, and review the records. If it is not clear what records are being sought, the Clerk's office must contact the requester for clarification, and should assist the requester in revising the request by informing the requester of the manner in which court records are maintained.

The requester does not have to put a records request in writing, nor provide his or her identity or the intended use of the requested public record. It is Marietta Municipal Court's general policy that this information is not to be requested. However, the law does permit the court to ask for a written request, the requester's identity, and/or the intended use of the information requested, but only:

1. if the written request or disclosure of identity or intended use would benefit the requester by enhancing the Clerk or Deputy Clerk's ability to identify, locate, or deliver the court records that have been requested;
2. after telling the requester that a written request is not required and that the requester may decline to reveal his or her identity or the intended use of the records.

In processing the request, the Court does not have an obligation to create new records or perform new analysis of existing information. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, or querying. Although not required by law or the Rules of Superintendence for the Courts of Ohio, the Court may, at its own discretion, accommodate the requestor by generating new records when it makes sense and is practical under the circumstances.

In processing a request for the inspection of a public record, a court employee must accompany the requester during inspection to make certain original records are not taken or altered.

In addition, a copy of the Rules of Superintendence for the Courts of Ohio pertaining to the maintenance of court records is available on the website of the Supreme Court of Ohio (<http://www.supremecourt.ohio.gov/Boards/superintendence/PAR/>) for the purpose of keeping court employees and the public educated as to the court's obligation under Sup.R. 44-47.

ELECTRONIC RECORDS

Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device (such as a cell phone or BlackBerry) are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Court record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of the Court are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

DENIAL OR REDACTION OF RECORDS

If the requester makes an ambiguous or overly broad request or has difficulty in making a request for court records, the request may be denied, but the denial must provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the court.

Any denial of public records requested must include an explanation, including legal authority and/or a copy of the journal entry restricting access to the record. If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt or restricted, the exempt or restricted portions may be redacted and the rest released. When making public records available for public inspection or copying, the court shall notify the requester of any redaction or make the redaction plainly visible. If there are redactions, each redaction must be accompanied by a supporting explanation, include legal authority and /or a copy of the journal entry restricting access to the information or record.

COPYING AND MAILING COSTS

Those seeking public records may be charged only the actual cost of making copies, not labor. The charge for paper copies is \$0.05 per page. The charge for certified paper copies is \$0.25 per page. The charge for electronic files downloaded to a compact disc is \$5.00 per disc.

A requester may be required to pay in advance for costs involved in providing the copy. The requester may choose whether to have the record duplicated upon paper, upon the same medium in which the public record is kept, or upon any other medium on which the court determines that the record can be reasonably duplicated as a part of the court's normal operations.

If the requester asks that documents be mailed, he or she may be charged the actual cost of the postage and mailing supplies. There is no charge for documents e-mailed.

MANAGING RECORDS

Marietta Municipal Court records are subject to records retention schedules. Specifically, the Rules of Superintendence for the Courts of Ohio set forth the following retention schedules for municipal courts:

1. Auditor reports – permanently.
2. Monetary records – three years.
3. Rental and escrow account records – five years.
4. Yearly reports – permanently.
5. The docket, index, journal, and administrative journal – twenty-five years.

6. Civil case files –two years.
7. OVI case files – fifty years.
8. First through Fourth degree misdemeanor traffic files – five years (except in OVI cases).
9. First through Fourth degree misdemeanor criminal files – fifty years.
10. Parking ticket records – until the ticket is paid.
11. Search warrant records – five years.
12. Employment applications – 2 years
13. Employee benefit and leave records – 3 years
14. Employee history and disciplinary records – 10 years after the end of employment
15. Requests for proposals, bids, and resulting contracts – 3 years following expiration of contract
16. Communication records (including telephone records where official action will be recorded elsewhere), correspondence (including email), general office records, and drafts and informal notes may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

The above records schedules and the schedules for any other records not named above are in compliance with the standards set forth by Rules 26.01 and 26.05 of the Rules of Superintendence for the Courts of Ohio distributed by the Supreme Court of Ohio. The current court schedules and the text of the rules are available on the Supreme Court of Ohio's website at <http://www.supremecourt.ohio.gov/LegalResources/Rules/superintendence/Superintendence.pdf>. The public may access the rules and the schedules set forth there and adhered to by Marietta Municipal Court at that website.

Records beyond the schedule ranges above are occasionally still maintained by the court. If such records are present they will be made accessible to the public; however, the Court makes no guarantee that such records will be maintained.

REMEDY FOR DENIAL OF ACCESS TO PUBLIC RECORDS

The Court recognizes the legal and non-legal consequences of failure to properly respond to a court records request. A person who is aggrieved by the failure of Marietta Municipal Court to comply with the requirements of the Rules of Superintendence for the Courts of Ohio Rules 44 through 47 for public access to court records may pursue an action of mandamus compelling the court to disclose said records pursuant to Chapter 2731 of the Ohio Revised Code.