



# Overview of Florida's Public Records Requirements for County Commissions

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# Public Records Act

- Florida's Public Records Act is primarily contained in Ch. 119, F.S.
- Provides a right of access to regarding all state, county, and municipal records.
- "Providing access to public records is a duty of each agency." s. 119.01(1). F.S.
- A right of access to records is also recognized in Art. I, s. 24, Fla. Const.
- The only exceptions are those established by law or by the Constitution.

# Definition of “Agency”

Sec. 119.011(2), F.S., defines “agency” to include:

**any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.**

# What is a “Public Record”?

- Sec. 119.011(12), F.S., defines “public records” to include:

**All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.**

- Public records include “any material prepared in connection with official agency business which is intended to **perpetuate, communicate, or formalize knowledge** of some type.” *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980).

# What is a “Public Record”?

- Public records are not limited to traditional written documents.
- Public records law can apply to any “material, regardless of the physical form, characteristics, or means of transmission.”
- Also includes electronic communications such as text messages and emails.
- Public records may include draft or other non-final documents.

# Draft Documents

- Draft records, reports, policies, memos, ordinances, etc. are public records if used to perpetuate, communicate, or formalize knowledge.
- Does not matter that the draft document is not in final form or the ultimate product of the public official, public employee, or agency.
- Drafts that are circulated for review, edits, comments, or to perpetuate knowledge are public records.



# Are personal notes public records?

Personal notes, taken in the course of conducting official business by a public employee, **are not** public records “if the notes have not been transcribed or shown to others and were not intended to perpetuate, communicate, or formalize knowledge.” AGO 10-55

Public employee’s or official’s notes to themselves which are designed for their own personal use in remembering certain things **do not** fall within the definition of “public record.” *See Justice Coalition v. The First District Court of Appeal Judicial Nominating Commission*, 823 So. 2d 185, 192 (Fla. 1st DCA 2002).

# CASE STUDY

- Would the personal notes of a county employee created during a Commission meeting to remind him to open an investigation into a county-related issue that arose at the meeting, be a public record subject to public disclosure?
  - Likely not a public record.
- What if the employee placed his notes into the investigation file, once created?
  - Once placed in the shared investigative file, absent an exemption, the notes would be a public record subject to disclosure because they are being used "to perpetuate knowledge."



# Documents that are Not Public Records

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Personal records that are **unrelated** to public business are not public records.

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For example, emails, texts, or communications made regarding purely personal information and not involving public information or business.

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This is true even when maintained on a public device. For example, emails coordinating your son's school play sent from your public email and maintained on your public computer.

# Retention of Public Records Required

- Public records should be kept in buildings in which they are regularly used. *See* s. 119.021(1), F.S.; *See also* *The Basics of Records Management* handbook, [Records Management - Division of Library and Information Services - Florida Department of State](#)
- All public records must be retained in accordance with retention schedules approved by the Division of Library and Information Services of the Department of State. *See* s. 119.021(2), F.S.
- Even exempt records must be retained in accordance with retention schedules.
- Public records may only be disposed of in accordance with State retention requirements. s. 257.36(6), F.S.

# Who Can Request Public Records?

- **Anyone for any reason or no reason at all!**
- Sec. 119.01(1), F.S., provides “It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person.”
  - Sec. 1.01(3), F.S., defines “person” broadly to include “individuals, children, firms, associations, joint ventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations.”
  - Public employees. AGO 75-175.
  - A county has been determined to fall within the “any person” definition.
  - No distinction between Florida citizens and non-citizens.

# Public Records Requests

Public records requests may be made orally (either in person or over the phone) or in writing (via letter, email, etc.). *See e.g.,* AGO 80-57.

Agencies cannot require certain forms be used to make a public records request. AGOs 92-38 and 91-76.

Agencies cannot impose **unreasonable** restrictions upon access to public records.

# Public Records Requests

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The requestor of public records is **not** required to give a reason or purpose for requesting records.

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Disclosure of the requestor's identity or other background info **not** required, unless authorized by another statute.

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Agency must provide a copy of the record in the medium requested if the agency maintains the record in that medium. s. 119.01(2)(f), F.S.

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Records custodian cannot deny a public records request because it is overbroad or voluminous.

# Agencies Not Required to Create New Records or Answer Questions

- The Public Records Act provides for a right of public access to records but it does not require an agency to create new records responsive to requests. AGO 80-57 and AGO 08-29.
- For example, agencies not required to create new lists of information in response to requests. *Wootton v. Cook*, 590 So. 2d 1039 (Fla. 1st DCA 1991).
- Agencies not required to answer questions regarding public records that were produced. AGO 92-38.
- Agencies not required to comply with standing requests for future records. *See Inf. Op. Worch*, June 15, 1995.

# CASE STUDY

Sandra, the records custodian for Florida County receives a public records request asking that the responsive records be provided by email. Although the county maintains these records in an electronic format, Sandra would like to require the requestor to provide a physical address for mailing copies of the public records. Sandra also suspects that the records are being requested for commercial purposes and to advertise products to County Commission members and others. Thus, she would like to deny the public records request on this basis. What public records issues does this raise, if any?

# CASE STUDY ANALYZED

- *Inf. Op. to Cook*, May 27, 2011
  - Agencies cannot impose any additional burdens on those seeking to exercise their rights to obtain records under Ch. 119, F.S.
  - Sec. 119.01(2)(f), F.S., requires an agency to provide a copy of the record in the medium requested if the agency maintains the record in that medium.
  - Thus, the Attorney General advised that “if the requested record exists in an electronic format, they must be provided in that format if requested.”
  - The Public Records Act contains no requirement that a requestor reveal his purpose for requesting records or show a "special interest" as a condition of receiving access to the public records.



# Public Records Exemptions

Only the Legislature may exempt records from public disclosure.

Sec. 119.011(8), F.S., defines “exemption” to mean “a provision of general law which provides that a specified record or meeting, or portion thereof, is not subject to the access requirements of s. 119.07(1), s. 286.011, or s. 24, Art. I of the State Constitution.”

More than 1,000 Public Records Act exemptions exist in Florida Statutes. Many are contained in Ch. 119, F.S., but exemptions also found in additional statutes.

# Public Records Exemptions

## Many Exemptions Contained in Ch. 119, F.S.

- s. 119.071
- s. 119.0711
- s. 119.0712
- **s. 119.0713**
- s. 119.0714
- s. 119.0715
- s. 119.0725

## Many Exemptions Located Outside of Ch. 119, F.S.

- Intellectual property & trade secrets.  
s. 815.04 and 815.045
- s. 112.08(7) medical records  
county/municipal
- s. 112.324 ethics complaints/referrals
- s. 121.031 lists of retirees
- s. 281.301 security/fire system info.
- s. 255.065 public/private partnership proposals

# NEW Public Records Exemptions

- **Notable NEW 2025 Public Records Act exemption:**
  - 2025 NEW exemption—SB 268 – Public Records/Public Officers: Exempts from disclosure the **home addresses and telephone numbers** of congressional members and **public officers (including ALL city and county commissioners)** and their spouses and adult children
  - Effective July 1, 2025
- **Notable 2023 and 2024 Public Records Act exemptions:**
  - Governor's Transportation Records
  - Autopsy report of death of minor due to domestic violence
  - Amusement ride investigations
  - Elder abuse fatality review teams
  - Judicial assistants personal information

# Public Records Exemption Requests

Florida law allows certain persons to request that an agency not publicly disclose specific identification and/or location information contained in any of its agency records.

Sect. 119.071(4)(d) and (5)(i); 265.605; and 267.17, F.S., and other applicable statutes provide the specific scope of exempt information protected.

Exempt information may include home address, phone numbers, photos, name of spouse and/or children, and their place of employment, and/or school or daycare care facility, and date of birth.

# Examples of Persons Eligible to Request Exemption

## Current or Active:

- **County and City Commissioners (as of July 1, 2025)!**
- County Attorney, Assistant County Attorney, or Deputy County Attorney
- City Attorney, Assistant City Attorney, or Deputy City Attorney
- Judges/Special Magistrates/Administrative Law Judges, and NOW Judicial Assistants
- Circuit Court Clerk, Deputy Circuit Court Clerk, or Circuit Court Clerk Personnel
- And many more . . .

## Current or Former:

- Law enforcement personnel
- Local government personnel whose responsibilities include revenue collection or child support enforcement
- Public Defenders, Guardian ad litem, Code Enforcement Officers
- Firefighters, paramedics, EMTs
- And many more!

# Exemption Request Process

- If a person eligible to assert an exemption under s. 119.071(4)(d), F.S., is not a current employee of the agency, they must submit a written request for exemption to the agency possessing the records.
- The **request must be notarized** and state the statutory basis for the individual's exemption request and confirm the individual's status as a party eligible for exempt status. s. 119.071(4)(d)3., F.S.
- Some exemptions require additional information to be provided.

## Florida Commission on Ethics

### Public Records Exemption Request

Florida law provides that an agency shall treat social security numbers, bank account numbers, and debit, charge, and credit card numbers as automatically exempt from public disclosure. In addition, Florida law allows eligible persons to submit a written and notarized request that a non-employing agency maintain as exempt from public disclosure certain identification and/or location information contained in records within the agency's custody.

The person entitled to the additional exemptions must submit a written and notarized request directly to this agency to maintain the exemption to the records in our custody. § 119.071(4)(d)3., F.S. You are not required to use this form; however doing so will help us keep your information confidential. Please return this completed form or a written and notarized request to: Florida Commission on Ethics, P.O. Drawer 15709, Tallahassee, Florida 32317.

**If you or your spouse qualify; or if you are the child of someone who qualifies; you are eligible to receive additional public records exemptions. Please check the box for any of the following that apply:**

#### Active or Former:

- ☐ Sworn or civilian law enforcement personnel, including correctional and correctional probation officers.
- ☐ Department of Children and Families personnel whose duties include investigating criminal activities.
- ☐ Department of Health personnel whose duties are to support the investigation of child abuse or neglect.
- ☐ Department of Revenue or local government personnel whose responsibilities include revenue collection and enforcement or child support enforcement.

#### Current or Active:

- ☐ General magistrate, special magistrate, judge of compensation claims, administrative law judge of the Division of Administrative Hearings, or child support enforcement hearing officer.
- ☐ County Tax Collector.
- ☐ Child protection team members.

#### Current or Former:

- ☐ Department of Financial Services nonsworn investigative personnel whose duties include investigating criminal activities, workers' compensation coverage requirements and compliance, or state regulatory requirement violations.
- ☐ Supreme Court Justice, or judge of district court of appeal, circuit court, or county court.
- ☐ State attorney, assistant state attorney, statewide prosecutor, or assistant statewide prosecutor.
- ☐ Public defender, assistant public defender, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel.
- ☐ Human resource, labor relations, or employee relations director, assistant director, manager, or assistant manager of any local government agency or water management district whose duties include hiring/firing employees, labor contract negotiation, administration, or other personnel-related duties.
- ☐ Code Enforcement Officer.
- ☐ Guardian ad litem, as defined in s. 39.820, F.S.
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- ☐ Juvenile probation officer, juvenile probation supervisor, detention superintendent, assistant detention superintendent, juvenile justice detention officers I and II, juvenile justice detention officer supervisor, juvenile justice residential officer, juvenile justice

- residential officer supervisors I and II, juvenile justice counselor, juvenile justice counselor supervisor, human services counselor administrator, senior human services counselor administrator, rehabilitation therapist, or social services counselor of the Department of Juvenile Justice.
- ☐ Department of Business and Professional Regulation investigator or inspector.
- ☐ Department of Health personnel involved in determining or adjudicating eligibility for social security disability benefits, investigating or prosecuting complaints filed against health care practitioners, or inspecting health care practitioners or health care facilities licensed by the Department of Health.
- ☐ Impaired practitioner consultant retained by an agency, or employees of such a consultant.
- ☐ Certified emergency medical technician or paramedic.
- ☐ Personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating activities that could lead to criminal prosecution or administrative discipline.
- ☐ U.S. Attorney or Assistant U.S. Attorney, U.S. Courts of Appeal judge, U.S. district judge, or U.S. magistrate.\*
- ☐ Victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence (if applicable, must attach official verification that crime occurred; exemption applies only to individual victim of specified crime, not to the spouse or child of the victim).\*\*
- ☐ Certified firefighter.
- ☐ Nonsworn investigative personnel of the Office of Financial Regulation whose duties include investigating fraud, theft, criminal activities related to fraud or theft, and violations of state regulatory requirements.
- ☐ Child Advocacy Center Directors, managers, supervisors, and clinical employees.
- ☐ County addiction treatment facility directors, managers, supervisors, nurses, and clinical employees.
- ☐ Public guardians, and those employees of public guardians with fiduciary responsibilities.
- ☐ Staff and domestic violence advocates of domestic violence centers certified by the Department of Children and Families under Chapter 39, F.S.

☐ Yes, I qualify

☐ Yes, my spouse qualifies

☐ Yes, my parent qualifies

Printed Name: \_\_\_\_\_ Phone Number: \_\_\_\_\_

The residence address(es) you wish us to maintain as confidential \_\_\_\_\_

## OATH

I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.

\_\_\_\_\_  
SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE

#### STATE OF FLORIDA

#### COUNTY OF \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me by means of  
☐ physical presence or ☐ online notarization, this \_\_\_\_\_ day of

\_\_\_\_\_, 20\_\_ by \_\_\_\_\_

(Signature of Notary Public—State of Florida)

(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_

Type of Identification Produced \_\_\_\_\_

\*— if this category is selected, person also certifies, by signing this form, that he or she has made reasonable efforts to protect such information from being accessible through other means available to the public.

\*\*— Exemption valid for 5 years from date of request.

# Responding to Public Records Requests (PRRs): Process & Best Practices!





# Responding to PRRs: Timeliness of Responses

- Upon receipt of a public records request the records custodian must **promptly acknowledge the request and respond in good faith.** s. 119.07(1)(c), F.S.
- Written communications apprising requestor of receipt and status of the request throughout the process are critical!
- The Public Records Act does not contain a specific time limit for responses (such as 24 hours or 7 days).
- Requestor cannot set the time frame for response.
- Rather, prompt attention and reasonable response time under the circumstances required.

# Responding to PRRs: Communication Continues

- Agency personnel may need to communicate with other departments or divisions to facilitate responses.
- Staff may seek clarification of the PRR from the requestor—especially when it is broad or multi-faceted.
- If the PRR is modified by the requestor—encapsulate the change in writing to requestor.
- Apprise requestor, in writing, of any delays and advise regarding status of request response.

# Responding to PRRs: Fees for Copying

- Agencies may choose to provide easily accessible or readily available records at no cost.
- Public Records Act does permit records custodian to charge a fee, prescribed by law, for furnishing copies of records. s. 119.07(4), F.S.
- Fee of up to 15 cents per page.
- Additional 5 cents for each two-sided copy.
- A charge of up to \$1.00 per copy for certified copies.
- For all other copies, the actual cost of duplication of the public record.



# Responding to PRRs: Special Service Charge

- In addition to the cost of duplication fee agencies may impose a **special service charge** for PRR responses that require **extensive clerical or supervisory assistance** or extensive use of **information technology** resources—or both. s. 119.07(4)(d), F.S.
- Special service charge must be reasonable and based upon the actual labor or computer costs incurred in responding to request.
- Special service charge may be implicated regarding requests for inspection **and** copies of public records. *Board of County Commissioners of Highlands County v. Colby*, 976 So. 2d 31 (Fla. 2d DCA 2008).
- Often implicated with voluminous or very broad public records requests.

# Responding to PRRs: Advance Payment

- “The custodian of public records shall furnish a copy or a certified copy of the record **upon payment of the fee prescribed by law.**” s. 119.07(4), F.S.
- Agencies may adopt policies requiring payment of an **advance deposit** prior to the redaction and delivery of public records.
- Agencies may charge requestor for shortfall between the deposit estimate and the actual cost of copying the records. AGO 05-28
- Agencies may refuse to produce additional records when a fee for a previous request remains unpaid. *Lozman v. City of Riviera Beach*, 995 So. 2d 1027 (Fla. 4th DCA 2008).



# Responding to PRRs: Redaction

- Agencies must ensure that exempt or confidential information/documents are redacted or removed prior to records being provided.
- Sec. 119.011(13), F.S., defines “redact” to mean “to conceal from a copy of an original public record, or to conceal from an electronic image that is available for public viewing, that portion of the record containing exempt or confidential information.”
- Sec. 119.07(1)(d), F.S., provides that agencies “redact that portion of the record to which an exemption has been asserted and validly applies, and . . . shall produce the remainder of such record for inspection and copying.”

# Responding to PRRs: Redaction

- Redaction of exempt or confidential information may impact all or part of records.
- Agencies instructed to redact the exempt information and produce the remainder of the document which does not contain exempt information. AGO 84-81, AGO 95-42 and AGO 02-73.
- Records custodian must state the basis for exemption and cite to specific statute. s. 119.07(1)(e), F.S.
- Upon request, the custodian must provide written explanation of the reasons why the record is confidential or exempt. s. 119.07(1)(f), F.S.

## **Penalties for Noncompliance**

### **Criminal & Noncriminal Penalties**

- Sec. 119.10, F.S.

### **Civil Action**

- Attorneys Fees-Sec. 119.12, F.S.

### **Public Records Mediation Program**

- Sec. 16.60, F.S.



# Ethics, Public Records and Sunshine Laws

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COUNTIES  
*All About Florida*

# Thank You!



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