

RE: OPEN RECORDS	
POLICY # 152	EFFECTIVE DATE: 10-06-03
SUPERSEDES:	NEXT ANNUAL REVIEW DUE: 08-2020
DISTRIBUTION: ALL PERSONNEL	REVISED: 12-18-06, 09-12-07, 05-15-09, 10-11-13, 12-10-14, 10-27-15, 06-30-17, 10-31-19
REFERENCES:	
ACA: 4-ALDF- 7F-01	
	Cross Reference: <u>Public Records Commission</u> TCA G 10-7-501 et seq.

152.00 PURPOSE AND POLICY

The Shelby County Sheriff's Office (SCSO) believes that as a government entity, it exists in order to serve the people. Accordingly, it is the policy of the SCSO to grant the public access to public information regarding its records, affairs and transactions in accordance with the Tennessee open records laws. This policy sets forth the appropriate procedure for responding to requests for information made under the Tennessee Open Records Act ("Act").

Pursuant to Tennessee Code Annotated (TCA) § 10-7-503(g), the following Public Records Policy is hereby adopted by the SCSO to provide economical and efficient access to public records as provided under the Tennessee Public Records Act (TPRA) in TCA § 10-7-503, et seq. All public records requests shall go through the SCSO Public Records Request Coordinator (PRRC).

The TPRA provides that all state, county and municipal records shall, at all times during business hours, be open for personal inspection by any citizen of this state, and those in charge of the records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law. Accordingly, the public records of the SCSO are presumed to be open for inspection unless otherwise provided by state law.

Personnel of the SCSO shall timely and efficiently provide access and assistance to persons requesting to view or receive copies of public records. No provisions of this policy shall be used to hinder access to open public records. However, the integrity and organization of public records, as well as the efficient and safe operation of the SCSO, shall be protected as provided by current law. Concerns about this policy should be addressed to the SCSO PRRC or to the Tennessee Office of Open Records Counsel (OORC).

This policy is available for inspection and duplication in the office of the PRRC during regular business hours and online at www.shelby-sheriff.org.

152.01 APPLICABILITY

- A. All employees of the SCSO. This policy shall be applied consistently throughout the various offices, departments, and/or divisions of the SCSO.

- B. This policy will be reviewed annually and updated as needed.

152.02 DISTRIBUTION

This policy will be maintained on the Power DMS System for access by all employees.

152.03 DEFINITION

A. Public Records: All documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency. ***This does not include the device or equipment that may have been used to create or store the record. However, no record of the SCSO related to a criminal case shall be considered a public record unless one (1) year has passed from the final judgment in the case, there are no pending post-conviction proceedings and/or other collateral attacks in either State or Federal court(s), and one (1) year has passed since any such post-conviction or collateral attack has been concluded.***

B. Public Records Request Coordinator: The individual, or individuals, designated in Section III, A.3 of this Policy, who has, or have, the responsibility to ensure public record requests are routed to the appropriate records custodian and are fulfilled in accordance with the TPRA.

C. Records Custodian: The office, official, or employee lawfully responsible for the direct custody and care of a public record. The records custodian is not necessarily the original preparer or receiver of the record.

D. Requestor: A person seeking access to a public record, whether it is for inspection or duplication.

152.04 REQUESTING ACCESS TO PUBLIC RECORDS

A. Public record requests shall be made to the PRRC or his/her designee in order to ensure public record requests are routed to the appropriate records custodian and fulfilled in a timely manner.

B. Requests for inspection only ***will not*** be required to be made in writing. The PRRC ***may*** request a mailing or email address from the requestor for providing any written communication required under the TPRA.

C. Requests for inspection may be made orally, in writing, or by phone at 901-222-5656, ***or at publicrecords@shelby-sheriff.org.***

D. Requests for copies, or requests for inspection and copies, ***must*** be made in writing to: Public Records Request Coordinator, Office of the Shelby County Sheriff, 201

Poplar Ave., Room 9-15, Memphis, TN 38103-1947, via fax at (901) 222-5657, or at publicrecords@shelby-sheriff.org.

- E. Proof of Tennessee citizenship by presentation of a ***valid state-issued form of identification*** is required as a condition to inspect or receive copies of public records.
- F. All requests must be specific as to the record(s) desired by name, serialization, or other unique characteristic of the case(s) or record(s). The SCSO does not provide generalized research, analytical, statistical, or other measured data compiled as a result of a review of cases, files or other records. The SCSO will not create or re-create records that do not exist at the time of the request.
- G. No records related to pending or contemplated criminal cases may be requested. Records related to criminal cases are not considered a public record unless one (1) year has passed from the final judgment in the case, there are no pending post-conviction proceedings and/or other collateral attacks in either State or Federal court(s), and one (1) year has passed since any such post-conviction or collateral attack has been concluded.
- H. No records related to pending internal investigations may be requested.

152.05 RESPONDING TO PUBLIC RECORDS REQUESTS

A. Public Record Request Coordinator

- 1. The PRRC shall review public record requests and make an initial determination of the following:
 - a. If the requestor provided evidence of Tennessee citizenship;
 - b. If the records requested are described with sufficient specificity to identify them; and
 - c. If the SCSO is the custodian of the records.
- 2. The PRRC shall acknowledge receipt of the request within 10 working days and take any of the following appropriate action(s):
 - a. Advise the requestor of this policy and the elections made regarding:
 - i. Proof of Tennessee citizenship;
 - ii. Form(s) required for copies;
 - iii. Fees, ***including labor and redaction costs***;
 - iv. Aggregation of multiple or frequent requests.
 - b. If appropriate, deny the request in writing, providing the appropriate basis for denial such as one of the following:
 - i. The requestor is not, or has not presented evidence of being, a

- Tennessee citizen.
 - ii. The request lacks specificity. The SCSO will attempt to assist in clarifying the request.
 - iii. An exemption makes the record not subject to disclosure under the TPRA. Such exemption will be provided in a written denial.
 - iv. The SCSO is not the custodian of the requested records.
 - v. The records do not exist.
- c. If appropriate, contact the requestor to see if the request can be narrowed.
- d. Where applicable, may forward the records request to the appropriate records custodian in another office.
- e. If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC, if known.
- 3. The SCSO Public Records Request Coordinator may be contacted at 201 Poplar Ave., Room 9-15, Memphis, TN 38103-1947, 901-222-5656 (Office) 901-222-5657 (fax), publicrecords@shelby-sheriff.org

B. Records Custodian

- 1. Upon receiving a public records request, a records custodian shall promptly make requested public records available. If the records custodian is uncertain that an applicable exemption applies, the custodian may consult with the PRRC, other counsel, or the OORC.
- 2. If not practicable to promptly provide requested records because additional time is necessary to determine whether the requested records exist; to search for, retrieve, or otherwise gain access to records; to determine whether the records are open; to redact records; or for other similar reasons, then a records custodian shall, within seven (7) business days from the records custodian's receipt of the request, send the requestor a completed Public Records Request Response Form or other suitable correspondence.
- 3. If a records custodian denies a public record request, he or she shall deny the request in writing.
- 4. If a records custodian reasonably determines production of records should be segmented because the records request is for a large volume of records, or additional time is necessary to prepare the records for access, the records custodian shall use the Public Records Request Response Form to notify the requestor that production of the records will be in segments and that a records production schedule will be provided as expeditiously as practicable. If

appropriate, the records custodian will contact the requestor to see if the request can be narrowed.

5. If a records custodian discovers records responsive to a records request were omitted, the records custodian may contact the requestor concerning the omission and produce the records as quickly as practicable.

C. Redaction

1. If a record contains confidential information or information that is not open for public inspection, the records custodian shall prepare a redacted copy prior to providing access. ***No record may be copied or inspected without first determining whether any confidential material within the record exists and must be redacted.*** If questions arise concerning redaction, the records custodian should coordinate with counsel, the PRRC, or other appropriate parties regarding review and redaction of records. The records custodian and the PRRC may also consult with the OORC or with the Office of Attorney General and Reporter.
2. Whenever a redacted record is provided, a records custodian will provide the requestor with the basis for redaction. The basis given for redaction shall be general in nature and not disclose confidential information.

152.06 **INSPECTION OF RECORDS**

- A. There shall be no charge for inspection of public records or, if applicable, for the presence of the PRRC or staff member.
- B. The location for inspection of records within the SCSO shall be determined by either the PRRC or the records custodian.
- C. The PRRC or a records custodian may require an appointment for inspection or may require inspection of records at an alternate location. The PRRC may also require that the inspection be conducted in the presence of the PRRC or other staff.

152.07 **COPIES OF RECORDS**

- A. A records custodian shall promptly respond to a public record request for copies in the most economic and efficient manner practicable.
- B. Copies will be available for pickup at a location specified by the records custodian or the PRRC.
- C. Upon payment for postage or shipping, copies will be delivered at the requestor's designated address by the United States Postal Service or other

delivery service. Records may also be delivered by electronic means where appropriate.

- D. A requestor will *not* be allowed to copy, reproduce or transmit records with personal equipment.

CHARGES FOR INFORMATION PROVIDED

Charges for providing public information including special service charges should be assessed as approved by the Shelby County Public Records Commission.

COPY CHARGE

<u>Service Rendered</u>		<u>Charge</u>	
(1)	Standard-size (8 ½ x 11 or 8 ½ x 14)		
	(B&W)	\$.15	per page
	(COLOR)	\$.50	per page
(2)	Nonstandard-size paper copy		
	(A) Diskette	5.00	each
	(B) Magnetic tape	10.00	each
	(C) Disc, Flash drive	15.00	each
	(D) Paper copy larger than standard	1.00	each
	(E) Other Actual Cost		per page Actual cost
(3)	Personnel charge including remote document retrieved, research and copying. (No charge if less than 15 minutes. Thereafter, \$4.50 each quarter hour, including first quarter hour.)	18.00	per hour
(4)	Photographs (3"by 5")	5.00	per copy
	Photographs (8"by 10")	10.00	per copy

(5)	Programming time charge A charge for programming time is made if the request requires a programmer to enter data in order to execute an existing program	40.00	per hour
(6)	Miscellaneous supplies Actual costs of supplies – labels, boxes, etc. necessary to produce the requested information and all postal and shipping charges necessary to transmit the information.		Actual Cost
(7)	Postage and shipping charge		Actual Cost
(8)	Fax Charge		
	(A) Local	.25	per page
	(B) Long Distance	1.00	per page
(9)	Other Costs		Actual Cost

(R & I) SPECIAL SERVICE FEES

	<u>Service Rendered</u>	<u>Charge</u>
(1)	Certified jail release verification	20.00
(2)	Processing fingerprinting (1 card)	15.00
(3)	Fingerprinting (additional card) (same set of prints)	5.00
(4)	Certified arrest ticket	15.00
(5)	Other certified copies –	5.00
(6)	Certified Expungement Order	15.00
152.08	<u>FEES AND CHARGES AND PROCEDURES FOR BILLING AND PAYMENT</u>	

A. Fees and charges for copies of public records shall not be used to hinder

access to public records.

B. The PRRC or records custodian shall provide requestors with an itemized estimate of the charges prior to producing copies of records and may require pre-payment of such charges before producing requested record.

C. Requests for waivers for fees above \$15 must be presented to the PRRC who is authorized to determine if such waiver is in the best interest of the SCSO and for the public good. Fees associated with aggregated records requests will not be waived. When fees for copies and labor do not exceed \$15, the fees may be waived.

D. Fees shall be based on the following schedule:

1. \$18 retrieval fee
2. If physical paper copies are produced - \$0.15 per page for letter- and legal-size black and white copies; \$0.50 per page for letter- and legal-size color copies.
3. \$15 per disc, flash-drive or other similar device used to convey the record
4. Labor when production time exceeds 1 hour. This rate may vary and will be determined based on the hourly rate of pay the lowest-paid employee engaged in the particular task of each step of the production process; i.e. a lower-paid employee may be assigned to complete a task of producing copies while a higher-paid employee may be tasked to perform any redactions. The time necessary to copy will be charged at the lower rate of pay; the time necessary to complete the redactions will be charged at the higher rate of pay.
5. If an outside vendor is used, the actual costs assessed by the vendor.

E. Payment is to be made by check or money order payable to the Office of the Shelby County Sheriff and presented to the PRRC. Such payment shall be deposited by the Office within 7 working days.

F. Payment in advance is required before copies of records are provided.

G. Aggregation of Frequent or Multiple Requests. The SCSO may aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the OORC when more than *three (3) requests are received within a calendar month, either from a single individual or a group of individuals deemed working in concert*. The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC. Routinely released and readily accessible records may be excluded from aggregation.

Authority of



Floyd Bonner Jr., Sheriff