

POLICY NO. 2018-1

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MISSOULA COUNTY

PUBLIC INFORMATION AND RECORD REQUEST POLICY

It is the policy of Missoula County to operate in accordance with Montana law regarding public information, public record requests and the public's right to know. Missoula County acknowledges that the constitutional right to privacy requires balancing of the public's right to know with the right to privacy, and that such balancing is an integral and necessary part of responding to requests for public records and public information.

1. Definitions

- a. "Public information" means information prepared, owned, used or retained by any department of Missoula County relating to the transaction of official business, regardless of form, except for confidential information that must be protected against public disclosure under applicable law.
- b. "Public record" means public information that is:
 - i. fixed in any medium and is retrievable in usable form for future reference; and
 - ii. designated for retention by state records committee, judicial branch, legislative branch or the local government records committee.
- c. "Confidential information" means information that is accorded confidential status or is prohibited from disclosure as provided by applicable law. The term includes information that is:
 - i. constitutionally protected from disclosure because an individual privacy interest clearly exceeds the merits of public disclosure;
 - ii. related to judicial deliberations in adversarial proceedings;
 - iii. necessary to maintain the security and integrity of secure facilities or information systems owned by or serving the state; and
 - iv. designated as confidential by statute or through judicial decisions, findings or orders.

2. Process for Citizens to Request Public Records

Citizens requesting public records and information should use the NextRequest online portal at <https://missoulacountymt.nextrequest.com/>. If staff receive requests for information via email, phone or other means, they should direct the requester to this portal. If the requester is unable to fill out the form themselves, staff can fill it out for them. Members of the public can call 406-258-3161 if they need assistance with submitting a request. This ensures all requests are routed to the correct department; prevents requesters from making the same request to multiple departments, resulting in

duplicative staff spent on the same request; and provides a consistent method for tracking requests.

a. Requests for certain types of records, such as birth and death certificates, marriage licenses, deeds and property records, wills, law enforcement investigative materials and court records, can be submitted directly to the department that maintains them and do not need to be routed through NextRequest.

3. Designation of Individual Responsible for Coordinating Responses to Public Information Requests

Missoula County designates the Communications Manager as Missoula County's public information request liaison ("Designated Individual"). All public information requests submitted through the NextRequest online portal are routed first to this individual and then to the department with the information requested.

4. Process for Responding to Public Information Requests

Upon receipt of a request for public information, the Designated Individual shall respond in a timely manner via the online portal by:

- (a) directing the requester to existing resources where the information may be obtained. Missoula County maintains robust public systems that allow the public to access existing records; this is the first source for most information requested
- (b) making the public information Missoula County maintains available to the requesting person for inspection and copying, if it can be readily identified, or
- (c) providing the requesting person with an estimate of the time it will take to fulfill the request if the public information cannot be readily identified and gathered and any fees that may be charged for fulfilling a public information request. This estimate may include department-specific staff needed to fulfill the request.

Missoula County is not required to alter or customize public information to provide it in a form specified to meet the needs of the requesting person. If Missoula County agrees to a request to customize a records request response, the costs of the customization should be included in the fees Missoula County charges.

5. Fee

Per MCA § 2-6-1006, Missoula County may charge a fee for fulfilling a public information request. Except where otherwise provided for in law, the fee may not exceed the actual costs directly incident to fulfilling the request in the most cost-efficient and timely manner possible.

When assigned a request, staff should determine if locating and uploading the records or information would take no more than one hour. If so, staff should upload responsive

records to the request, and the Designated Individual will provide it to the requester and close the request.

If the records or information requested is not readily identifiable, the Designated Individual will work with staff to determine how much staff time it will take to fulfill the request and prepare an estimate of the total cost. Staff should calculate the fee based on the hourly rate for all staff responsible for identifying and gathering records and information responsive to the request. Requesters will not be charged for the first hour of staff time, and the fee for any additional staff time required to fulfill the request must not exceed \$25 per hour, regardless of the hourly rate for staff. The fee must be documented.

Multiple requests for records from the same party may be aggregated into one, and staff should calculate the fee based on the estimated time it will take to fulfill the requests in their entirety.

The Designated Individual should prepare an estimated fee for the requester and require payment prior to staff beginning work to fulfill the request.

Staff should send the estimated fee to the requester using the Invoice function in NextRequest and indicate to the requester that staff will resume work on their request once payment is received. Once payment is received, staff must track the time spent identifying and gathering records and information responsive to the request using the "add staff time" function in NextRequest.

If the time to identify and gather records and information responsive to the request does not take as long as anticipated, the requester is entitled to a refund of the balance. If identifying and gathering records and information takes longer than estimated, staff can require the requester to pay the additional fee before releasing the requested records.

6. Confidential Information and Information Relating to Individual or Public Safety

Pursuant to Mont. Code Ann. 2-6-1002 and 2-6-1003, Missoula County is required to withhold from public scrutiny confidential information and information relating to individual or public safety or the security of county facilities, including public schools, jails and detention facilities, if release of the information jeopardizes the safety of facility personnel, the public, students in a public school or inmates of a facility. Missoula County may not withhold from public scrutiny any more information than is required to protect individual or public safety or the security of public facilities.

7. Legal Review

Upon receipt of a request for public information, the Designated Individual shall work with staff to gather and review the information requested. The Designated Individual shall provide any records containing the following to the County Attorney's Office for legal review:

- Employee information other than position, length of employment and salary
- Disciplinary actions taken or considered against employees
- Grievances filed by or against employees
- Correspondence involving attorneys that may be privileged attorney-client communications
- Documents created by attorneys that may be privileged work product
- Information relating to county detention or school facilities
- Information relating to physical security of county property or technology systems
- Information relating to judicial deliberations in adversarial proceedings
- Information relating to students in public schools
- Information relating to inmates in detention facilities
- Records relating to an individual's health, including but not limited to diagnoses, treatment, providers, testing, substance abuse or any other information related to the medical or mental health of an individual
- Records containing potential Confidential Criminal Justice Information (CCJI), dissemination of which is limited by [MCA §44-5-303](#)
- Records that could be used to compile a distribution list, which MCA 2-6-1017 prohibits
- Any other information where the demands of privacy clearly outweigh the merits of public disclosure

8. Time to Fulfill Requests

Missoula County shall make every reasonable effort to fulfill public information requests within two weeks. For large or complicated requests, the initial response should occur within two weeks, and staff may provide an update on the steps taken to date regarding the request, and the estimated fee for processing the request, if known at that time.

9. Reason for Withholding

If Missoula County denies a request for public information or records, Missoula County shall provide a written explanation for the denial.