

Public Records Requests, Forms, & Information

Mississippi Department of Corrections: Public Records Procedures and Policies

The Mississippi Department of Corrections (MDOC) has a process to respond to requests for the disclosure of public records and this ensures that the release of records is consistent with state and federal law. This policy does not apply to discovery requests made in conjunction with litigation, subpoenas, or other legal pleadings, or offender requests for photocopies of documents already in their possession. It is our general policy to neither confirm nor deny any ongoing investigation of the Mississippi Department of Corrections.

Public Records Policy

The public records policy of the Mississippi Department of Corrections has been adopted in accordance with the Mississippi Public Records Act of 1983, Section 25-61-1, et seq, Miss. Code Ann. (1972). All records and portions of records not exempt from disclosure will be made available in accordance with the procedures outlined below.

Public Records Officer

The Mississippi Department of Corrections is a law enforcement agency that enhances public safety by providing secure facilities and effective post-release supervision for offenders and ensures a safe and professional work environment for staff while bringing accountability, innovation, and fiscal responsibility to the citizens of Mississippi. The Mississippi Department of Correction's central office is located at 633 North State Street, Jackson, Mississippi, 39202.

Any person wishing to request access to public records of the Mississippi Department of Corrections, or seeking assistance in making such a request should contact the public records officer of the Mississippi Department of Corrections:

Public Records Officer: Legal Division
Current Officer: Andrea Barnes
Mississippi Department of Corrections
633 North State Street, Jackson, MS, 39202
Telephone: (601)-359-5655
Email: barnes@mdoc.state.ms.us

Information is also available at the Mississippi Department of Corrections web site at www.mdoc.ms.gov

The public records officer will oversee compliance with the act but another Mississippi Department of Corrections officer may process the request. Therefore, these policies will refer to the public records officer "or designee." The public records officer or designee and the Mississippi Department of Corrections will provide the "fullest assistance" to requestors; ensure that public records are protected from damage or disorganization;

and prevent fulfilling public record requests from causing excessive interference with essential functions of the Mississippi Department of Corrections

Definitions

The following terms have been defined for purposes of this policy:

Public Record A public record shall mean any book, record, paper, account, letter, map, photograph, film, card, tape, recording or reproduction thereof, and any other documentary material, regardless of physical form or characteristic, having been used, being in use or prepared, possessed or retained for use in the conduct, transaction or performance of any business, transaction work, duty or function of the Office, or required to be maintained by the Mississippi Department of Corrections. MDOC does not create records that do not already exist and does not format information.

Non-exempt Record A non-exempt record is that part of a public record which does not fall under one of the exceptions to or exemptions from disclosure in the Public Records Act.

Identifiable Record A record is identifiable if a reasonably specific description of the record has been given, such as the date of the record, the subject matter, division or person involved, etc. which will permit location or retrieval of the record at the time of the request.

Working Day A working day is any day other than a weekend, state holiday, or other day on which by executive order the Mississippi Department of Corrections is authorized to be closed or all the employees of the Office are authorized to be absent.

Incident Report means a narrative description, if such narrative description exists and if such narrative description does not contain investigative information, of an alleged offense, and at a minimum shall include the name and identification of each person charged with and arrested for the alleged offense, the time, date and location of the alleged offense, and the property involved, to the extent this information is known.

Investigative report means records of a law enforcement agency containing information beyond the scope of the matters contained in an incident report, and generally will include, but not be limited to, the following matters if beyond the scope of the matters contained in an incident report:

- (i) Records that are compiled in the process of detecting and investigating any unlawful activity or alleged unlawful activity, the disclosure of which would harm the investigation which may include crime scene reports and demonstrative evidence;
- (ii) Records that would reveal the identity of informants and/or witnesses;
- (iii) Records that would prematurely release information that would impede the public body's enforcement, investigative or detection efforts;

- (iv) Records that would disclose investigatory techniques and/or results of investigative techniques;
- (v) Records that would deprive a person of a right to a fair trial or an impartial adjudication;
- (vi) Records that would endanger the life or safety of a public official or law enforcement personnel, or confidential informants or witnesses;
- (vii) Records pertaining to quality control or PEER review activities; or
- (viii) Records that would impede or jeopardize a prosecutor's ability to prosecute the alleged offense.

Availability of Records

Access to all non-exempt records of the Office that have been properly requested, deemed subject to disclosure under the Public Records Act, and for which applicable cost payment has been made will be allowed at a scheduled time during regular business hours (8:00 to 5:00 on working days). These records will be made available for inspection and/or copying. If any public record which is held to be exempt from disclosure, as designated below, contains material which is not exempt, the Office shall separate the exempt material and make the non-exempt material available for examination and/or copying. The Mississippi Department of Corrections Public Records Officer or his designee has the authority to specify the mode, manner, time and place of access.

Procedures for Handling Public Record Requests

All requests to examine, copy or obtain public records, shall be in writing. The request must identify the records with sufficient detail, give the name, address and telephone number of the requesting agency or individual, and must be signed by the requesting party. This requirement may be waived on a case by case basis by the Public Records Officer or his designee to facilitate the orderly and timely release of the information.

The Office shall respond to the request in writing within 7 working days from the date the request is received by the Mississippi Department of Corrections. Denials shall contain the specific reasons for the denial. Copies of all denials shall be maintained on file by the Office for not less than three years from the date denial is made. If the request is unclear or does not sufficiently identify the requested records, MDOC may request clarification from the requestor. Such clarification must be provided by telephone or written correspondence if necessary.

If the records will be disclosed, the Office will give an estimate of the total cost, if any, for compliance with the request. The Office will produce the records requested no later than 14 working days from the date the request and payment are received, unless more time is needed to fulfill the request. Payments must be made by cash, check, money order, or cashier's check.

Records furnished to the Office by third parties, which may contain trade secrets or confidential commercial or financial information, will not be released until reasonable notice to the third parties has been given. For the purpose of providing advance notice to submitter's of trade secret or confidential commercial or financial information, twenty-one days from the date the third parties are given notice shall be deemed a reasonable time for the disclosure of the requested records in the absence of a court order to the contrary.

Exempt Records

Any record expressly exempt from the Public Records Act or any record specifically declared to be exempt, confidential, or privileged by any other Mississippi statute, constitutional provision, or judicial order or directive, shall not be subject to inspection and copying. Those records which are specifically exempt by law and which fall within the jurisdiction of the Mississippi Department of Corrections include, **but are not limited to**, the following:

- Personnel records and applications for employment, except those which may be released to the person who made the application or with the prior written consent of the person who made the application. Employee consent shall be recorded on the Authority to Release Information Form, a copy of which is provided as Section 2.1.1. This shall not be construed to prohibit the disclosure of the following information about employees: name, address, date of employment, length of employment, qualifications, and salary;
- Test questions and answers which are to be used in employment examinations;
- Letters of recommendation respecting any application for employment;
- Records which represent and constitute the work product of any attorney and which are related to litigation initiated by or against the Mississippi Department of Corrections or in anticipation of prospective litigation, including all communications between such attorney made in the course of an attorney/client relationship;
- Appraisal information which concerns the sale or purchase of real or personal property for public purposes prior to public announcement of the purchase or sale, where the release of such records would have a detrimental effect on such sale or purchase;
- Trade secrets, confidential, and commercial or financial information obtained from outside government to the extent that disclosure would result in substantial harm to the competitive position of the person from whom or about whom the information was obtained;
- Investigative records
- Execution Drug Supplier and Identification Information

- Victim Information
- Sensitive, Personal, and Private Information of Employees
- Constitutional Law, State or Federal Statutory Law, Mississippi State Court Decision, United States Court Decision that declares a public record confidential, privileged or exempt.
- Academic Records
- Documents Subject to a Protective Order
- No Cost Contracts
- Records that do not exist
- Bank Account Information
- Certain prison records under *Tarlton v. United States*, 430 F.2d 1351 (5th Cir. 1970)
- Any and all records of a parole/probation field officer

Fees

Any person desiring copies of public records who does not officially represent a public body, as defined in the Public Records Act, shall be entitled to obtain mechanically reproduced copies at a charge of fifteen cents (\$.15) per page, which represents the actual cost of such reproduction. Official representatives of public bodies, as defined in the Public Records Act, shall be entitled to reasonable copies of such records with no charge.

If the searching, researching, reviewing, duplicating, redacting or separating of non-exempt material from documents, etc., containing exempt material requires more than one hour of work, then any requesting party may be charged for the work time above an hour in addition to a mechanical reproduction charge of fifteen cents (\$.15) per page. The charge for the hours shall be based upon the hourly salary of the lowest paid employee of the Office qualified and available to do the job. Any request requiring ITS support may be charged at the contractual rate of the third-party vendor. MDOC reserves the right to charge a reasonable fee up-front to cover the anticipated costs of research to discover the amount and type of information responsive to the public records request. MDOC will pay any fee or charge associated with the denial of a request, unless the response is considered to be outside the scope of employment.

Mailing costs calculated at the applicable United States Postal Service rates shall be charged where appropriate. The cost of mailing a notice to third parties via certified mail, return receipt requested, shall be charged to persons requesting the public records and may not be marked out by the requestor. This section does not represent an exhaustive list of the types of actual cost charges that MDOC may incur in responding to a Public Records Request.

