

## ***Ohio Attorney General Opinions Interpreting Ohio’s Public Records Act***

The following are summaries of selected Opinions of the Ohio Attorney General that have addressed or interpreted the Public Records Act. Be aware that the validity of any one opinion may have been affected by a subsequent court opinion or statutory change. The full text of these opinions can be found at <http://www.ohioattorneygeneral.gov/opinions>.<sup>i</sup>

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### ***2017-042***

Fingerprints or photographs of a child obtained or taken under R.C. 2151.313(A)(1) or (2), copies of fingerprints or photographs of that nature, or records of the arrest or custody that was the basis of the taking of fingerprints or photographs of that nature, are not “public records,” unless: (1) the originals and copies of fingerprints and photographs taken under R.C. 2151.313(A)(2) of a child described in R.C. 2151.313(B)(3), and any records of the arrest or custody that was the basis for the taking of the fingerprints or photographs, are transferred by a law enforcement agency pursuant to R.C. 2151.313(B)(3)(b)(ii) to files that are used for the retention of fingerprints and photographs taken of adults who are arrested for, otherwise taken into custody for, or under investigation for the commission of a criminal offense, and (2) the transferred records are not otherwise excluded from the definition of “public record” by any of the exceptions in R.C. 149.43(A)(1).

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### ***2014-030***

When a county law library resources board deems it necessary, and subject to the approval of the board of county commissioners, a county law library resources board may contract with and pay a vendor to digitize public records of the county recorder, and to post those records and the public records of the clerk of court on a third-party website. A county law library resources board may also purchase a public access computer for placement in the county law library.

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### ***2014-029***

Whether personal email addresses that are contained in a public record are themselves public records is a fact-specific inquiry that must be determined on a case-by-case basis. Personal email addresses that are contained in an email sent by a township fiscal officer that do not document the organization, functions, policies, decisions, procedures, operations or other activities of the township do not constitute “records,” as defined in R.C. 149.011(G), and are not required to be disclosed by R.C. 149.43.

To determine whether personal email addresses document the organization, functions, policies, decisions, procedures, operations, or other activities of the township, the township must determine whether disclosure of the email addresses would facilitate the public’s ability to monitor the functions of the township in performing its statutory duties, and whether the township actually used the email addresses in making decisions or in performing its functions.

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## 2014-021, n. 5

A law enforcement agency's access to information about a public assistance recipient that is found within the records of a county department of job and family services, including by public records request, is limited by the statutes controlling the release of such information.

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## 2014-009

For purposes of R.C. 149.43, a county auditor makes a public record available for inspection when he provides access to the public records online through the county's website. A county auditor may not charge and collect a fee for making public records available for inspection on a county website.

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## 2014-007

A social security number, driver's license number, name (first, middle, and last), street name, city and state received by the Secretary of State from the Bureau of Motor Vehicles are personal information as defined in 18 U.S.C. § 2725(3) and R.C. 4501.27(F)(3). Other information that the Bureau of Motor Vehicles provides to the Secretary of State is personal information for purposes of 18 U.S.C. § 2725(3) and R.C. 4501.27(F)(3) if the information identifies an individual. The Secretary of State is an authorized recipient of personal information under 18 U.S.C. § 2721(c) and R.C. 4501.27(C), and may disclose personal information for the permissible uses set forth in 18 U.S.C. § 2721(b)(1)-(10) and (13)-(14) and R.C. 4501.27(B)(2)(a)-(k) and (n)-(o).

The Secretary of State may disclose personal information to a member of the General Assembly pursuant to 18 U.S.C. § 2721(b)(1) and R.C. 4501.27(B)(2)(a), provided the information is sought for use in carrying out the functions of the General Assembly. The Secretary of State may disclose personal information to a journalist pursuant to 18 U.S.C. § 2721(b)(5) and R.C. 4501.27(B)(2)(f), provided the journalist intends to use the information for research activities and does not publish or re-disclose the information or use the information to contact the individuals to whom the information pertains.

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## 2013-006

The term "special taxing district," as used in R.C. 149.412, means a separate and distinct territorial division of government throughout which a tax may be levied to promote or achieve a public purpose. A county veterans service commission and a county board of developmental disabilities are subject to the jurisdiction of a county records commission under R.C. 149.38. The entities subject to the jurisdiction of a special taxing district records commission under R.C. 149.412 include, but are not limited to: (1) a county soil and water conservation district; (2) a single county alcohol, drug addiction, and mental health service district; (3) a general health district; and (4) a combined general health district.

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## 2012-036

Pursuant to R.C. 307.862(C), information in a competitive sealed proposal submitted to a county contracting authority pursuant to R.C. 307.862 becomes a public record that must be made available for public inspection and copying under R.C. 149.43 after the contract is awarded, unless the information falls within one of the exceptions to the definition of the term “public record” set forth in R.C. 149.43(A)(1) and is redacted from the proposal by the contracting authority.

Pursuant to R.C. 307.87 and R.C. 307.88, information in a competitive bid submitted to a county contracting authority under R.C. 307.86-.92 becomes a public record that must be made available for public inspection and copying under R.C. 149.43 after the bid is opened by the contracting authority, unless the information falls within one of the exceptions to the definition of the term “public record” set forth in R.C. 149.43(A)(1) and is redacted from the bid by the contracting authority.

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## 2012-032

The Ohio Vendors Representative Committee is a public office subject to the requirements of R.C. 149.43. The Committee is responsible for maintaining the public records of the Committee. The chairperson of the Committee is responsible for developing a records retention schedule for the Committee under R.C. 149.34.

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## 2012-028

Pursuant to R.C. 4141.22, information that is (1) maintained by the Ohio Department of Job and Family Services and provided to the Unemployment Compensation Review Commission by the Department and (2) placed in a director’s file, review file, or decision of the Commission is not a public record that must be made available for inspection and copying under R.C. 149.43. Information in a director’s file, review file, or decision of the Commission that is not subject to the confidentiality provision of R.C. 4141.22 is a public record for purposes of R.C. 149.43, unless the information is not a “record,” as defined in R.C. 149.011(G), or the information falls within one of the exceptions to the definition of the term “public record” set forth in R.C. 149.43(A)(1).

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## 2011-012

A provisional ballot envelope is subject to state elections laws mandating the seal and preservation of ballots until any possible recount or election contest is completed; state law, within the meaning of R.C. 149.43(A)(1)(v) and R.C. 3501.13(C), prohibits the release of provisional ballot envelopes during the time a board of elections is required to preserve ballots under seal. A provisional ballot envelope is a “public record” subject to release once the time has passed during which a board of elections is required to preserve ballots under seal. R.C. 3505.181(B)(5)(b) does not prohibit the release of provisional ballot envelopes. Rather, R.C. 3505.181(B)(5)(b) prohibits the release of particular voter information through the free access system to anyone other than the voter to whom that information pertains. The free

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access system established pursuant to R.C. 3505.181(B)(5)(b) may be used only by a voter to gain access to information about his individual provisional ballot.

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## **2010-029**

The Ohio Department of Job and Family Services, in support of civil or criminal prosecutions arising out of investigations by the Bureau of Workers' Compensation, may provide certified copies of employer payroll records to the Bureau or the appropriate prosecuting authority and may allow a Department representative to testify regarding those records at trial.

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## **2010-016**

R.C. 1347.15 requires every state agency to adopt rules under R.C. Chapter 119 regulating access to its confidential personal information systems, but exempts the courts, any "judicial agency," any state assisted institution of higher education, and any local agency from such requirements. A judicial agency is part of the judicial branch of government or renders judgments in quasi-judicial proceedings. The Board of Tax Appeals (BTA) renders judgments to resolve justiciable disputes arising under Ohio's tax laws and its proceedings are quasi-judicial in nature. The BTA is therefore not subject to the requirements of R.C. 1347.15.

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## **2008-019**

An audio tape recording of a meeting of a board of township trustees that is created by the township fiscal officer for the purpose of taking notes to create an accurate record of the meeting, as required by R.C. 507.04(A), is a public record for purposes of R.C. 149.43. The audio tape recording must be made available for public inspection and copying, and retained in accordance with the terms of the township records retention schedule for such a record.

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## **2008-003**

Depending on the manner in which it is formed and operated, a non-profit corporation formed under R.C. 183.061 might be subject to the public records law in R.C. 149.43, the open meetings law in R.C. 121.22, or particular contracting controls governing state agencies.

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## **2007-042**

A county coroner who performs an autopsy and forensic examination, pursuant to contract with the coroner who has jurisdiction over the case, is not required by R.C. 313.09 to keep the autopsy and examination reports he prepares, but he must keep copies of the reports in conformance with his office's records retention schedule, as filed and approved in accordance with R.C. 149.38.

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A county coroner who performs an autopsy and forensic examination, pursuant to contract with the coroner who has jurisdiction over the case, is required by R.C. 149.43 to make available to any person for inspection and copying the copies of the autopsy and forensic examination reports that he prepared for the jurisdictional coroner, unless a report is not a public record under a statutorily defined or constitutionally mandated exception.

A county corner who performs an autopsy and forensic examination, pursuant to contract with the coroner who has jurisdiction over the case, has no duty under R.C. 313.10(D) or (E), or R.C. 149.43, to make available to journalists or insurers copies of any records that his office has retained in connection with performance of the contract if the records are not public records.

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## 2007-039

In the context of R.C. 2923.129, which concerns the powers and duties of a county sheriff with respect to information kept pertaining to licenses to carry concealed handguns, a journalist is prohibited from making a reproduction by any means, other than through his own mental processes, of the information the journalist is permitted to view under the statute. A sheriff may exercise his discretion in determining a reasonable manner by which a journalist may view, but not copy, that information so long as the confidentiality of other information relative to licenses to carry concealed handguns is maintained. Any party subject to the journalist exception is prohibited from revealing, disclosing, or otherwise making known any of the information made confidential by the statute, is prohibited except as required by a court order, or unless a statute specifically authorizes or requires other uses of such information. R.C. 2923.129(B)(1) does not prohibit a newspaper from publishing information that a journalist has viewed in accordance with the statute.

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## 2007-034

A piece of physical evidence collected by law enforcement in connection with a criminal investigation and held by a county prosecuting attorney following conclusion of the trial, appeals, and post-conviction proceedings to which the evidence pertains is not a public records for purposes of R.C. 149.43.

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## 2007-026

Article II, Section 34a of the Ohio Constitution and Am.Sub. HB690, 126<sup>th</sup> Gen. A. (2006) (eff. April 4, 2007) do not render confidential information about a public employee's rate of pay, the number of hours worked by the employee, or the amount of compensation paid to the employee, nor do they otherwise exempt this information from inspection and copying under R.C. 149.43. Therefore, any person, including any co-worker of the public employee, has the right under R.C. 149.43 to inspect and copy information about a public employee's pay rate, hours worked, and amounts paid.

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## 2007-025

The “good cause” standard described in 1991 Ohio Op. Att’y Gen. No. 91-003, under which the executive director of a public children services agency (PCSA) determines whether to grant access to child abuse or neglect investigation records included as confidential records under R.C. 5153.17, is applicable to all PCSA records described in R.C. 5153.17, including records pertaining to matters other than child abuse or neglect investigations. (1991 Ohio Op. Att’y Gen. No. 91-003, approved and clarified).

A PCSA is responsible for keeping records described in R.C. 5153.17 confidential and may disclose them only as authorized by statute, in accordance with the “good cause” standard described in 1991 Ohio Op. Att’y Gen. No. 91-003. If, in conjunction with a criminal proceeding or investigation or a civil proceeding, a PCSA received a subpoena requesting the disclosure of information that is confidential under R.C. 5153.17, the PCSA, in order to preserve the confidentiality prescribed by statute, may file a motion to quash the subpoena, thereby seeking from the court an in camera review of the PCSA’s records and a determination as to whether and to what extent the information may be disclosed.

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## 2006-038

In the absence of a statute to the contrary, foreign individuals and entities domiciled in a foreign country are “persons” who are entitled to inspect and copy public records pursuant to R.C. 149.43.

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## 2006-037

Except as provided in R.C. 149.43 (A)(1)(a)-(y) and R.C. 1724.11, information kept in the records of a community improvement corporation designated as an agency of a county under R.C. 1724.10 is a public record for purposes of R.C. 149.43.

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## 2005-047

Because individuals possess a constitutionally protected privacy right in their social security numbers, such numbers when contained in a court’s civil case are not public records for purposes of R.C. 149.43. Prior to releasing information from a court’s civil case files, the clerk of court has a duty to redact social security numbers included in those files. An individual’s personal financial information contained in a court’s civil case files is a public record for purposes of R.C. 149.43 unless the information is not a “record” of the court or the information falls within one of the exceptions to the definition of the term “public record” set forth in R.C. 149.43(A)(1).

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## 2005-039

R.C. 3701.741(C)(1)(c) requires a health care provider or a medical records company to provide one free copy of an individual’s medical records only to the Ohio Department of Job and Family Services, not to the various county departments of job and family services. A *county* department of job and family

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services is not included within the language “[t]he department of job and family services, in accordance with [R.C. Chapter 5101] and the rules adopted under those chapters,” as used in R.C. 3701.741(C)(1)(c).

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## 2004-050

Under Ohio law, a board of elections has a duty to preserve ballots in sealed containers until any possible recount or election contest is completed. Ballots are therefore not “public records” for purposes of R.C. 149.43 while they remain under seal or where they are subject to a court order prohibiting their release. In addition, they are not subject to inspection under R.C. 3501.13 during such time.

However, once the time within which a possible recount or election contest may occur has passed, pursuant to R.C. 3501.13, such ballots are subject to public inspection “under such reasonable regulations as shall be established by the board.” Nonetheless, the board of elections remains under a duty to “carefully preserve” ballots used in an election for the remainder of the preservation period prescribed by R.C. 3505.31.

In addition, upon completion of the canvass of election returns under R.C. 3505.32, poll books used in an election are public records of a board of elections and are subject to public inspection in accordance with any reasonable regulations the custodian board of elections has established under R.C. 3501.13.

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## 2004-045

Information of a personal nature within a criminal case file is subject both to Ohio’s public records law and a constitutional right of access. Therefore, whether information within a criminal case file may be withheld depends on whether the information meets or is exempt from the definition of a “public record” under the Public Records Act, R.C. 149.43(A)(1), and whether the qualified constitutional right has been overridden.

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## 2004-033

A county recorder who makes available in her office a photocopying machine for use by the public may not charge the two-dollar per page fee set forth in R.C. 317.32(I) where the public without the assistance of the recorder or her staff operates the photocopier. The recorder is, instead, subject to R.C. 149.43(B), which requires a public office to provide copies of public records “at cost.”

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## 2004-011

A county recorder may not impose a fee upon a requester to inspect records or make copies using their own equipment. However, the county recorder may impose reasonable rules governing the use and operation of such equipment.

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## 2003-030

R.C. 2303.26 requires the clerk of courts to carry out her duties “under the direction of [her] court.” Once the judges of a court of common pleas have delegated to the judges of a division of that court authority to determine whether to make that division’s records available to the public through the Internet, and the judges of that division have ordered that its records are not to be accessible to the public through the Internet, the clerk of courts must obey that order, unless a court of competent jurisdiction reverses that order or prohibits its enforcement.

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## 2003-025

Pursuant to R.C. 2953.321, R.C. 2953.54, and R.C. 2151.358, a county sheriff may not disclose to the public information in an investigatory work product report that pertains to a case the records of which have been ordered sealed or expunged pursuant to R.C. 2953.31-.61 or R.C. 2151.358. But the sheriff must disclose information in the report that relates to a defendant, suspect, or juvenile offender who has not had this information ordered sealed or expunged, unless one of the exceptions set forth in R.C. 149.43(A) applies to the information.

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## 2002-040

Except as provided in R.C. 149.43(A)(1) and R.C. 2950.081(B), sex offender registration information submitted to a county sheriff by a sex offender who is required to register with the sheriff under R.C. Chapter 2950 may be made available to the general public on the Internet through the sheriff’s website, provided such access to the public records does not endanger the safety and integrity of the records or interfere with the discharge of the sheriff’s duties.

A county sheriff that provides sex offender registration information to the general public on the Internet through a website must provide a written notice containing the information set forth in R.C. 2950.11(B) to all the persons listed in R.C. 2950.11(A). Except for the persons listed in R.C. 2950.11(A)(1) and Ohio Admin. Code 109:5-2-03(A)(1)(c), a county sheriff may use email to electronically transmit the written notice required by R.C. 2950.11(A). The persons listed in R.C. 2950.11(A)(1) and Rule 109:5-2-03(A)(1)(c) must receive the written notice required by R.C. 2950.11(A) by regular mail or by personal delivery to their residences.

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## 2002-030

In the absence of facts indicating that the names and addresses of a county sewer district’s customers fall within one of the exceptions to the definition of “[p]ublic record” contained in R.C. 149.43(A)(1), such names and addresses are public records that are subject to disclosure by the sewer district in accordance with R.C. 149.43.

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## 2002-014

Transcripts prepared pursuant to R.C. 2301.23 by a court reporter of the court of common pleas are public records under R.C. 149.43, unless the transcripts include or comprise a record that is exempt from the definition of “public record” in R.C. 149.43(A)(1). (1989 Op. Att’y Gen. No. 89-073, syllabus, paragraph two, approved and followed.) A party in a trial of a civil action in the court of common pleas that requests a photocopy of a transcript previously prepared pursuant to R.C. 2301.23 in the action is required to pay the compensation fixed by the judges of the court of common pleas under R.C. 2301.24 in order to obtain the photocopy of the transcript from the court.

Each party in a trial of a civil or criminal action in the court of common pleas that requests a transcript pursuant to R.C. 2301.23 is required to pay the court reporter of the court of common pleas who prepares the transcript the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24.

Each time that a party in a trial of a civil or criminal action in the court of common pleas requests a transcript pursuant to R.C. 2301.23, the court reporter of the court of common pleas who prepares the transcript is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24, unless the party requests at the same time more than one transcript of the same testimony or proceeding. In such a situation, pursuant to R.C. 2301.25, the court reporter is entitled to the entire compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 for the first copy and to one-half the compensation allowed for the first copy for each additional copy.

A prosecuting attorney in a trial of a civil or criminal action in the court of common pleas or the court of appeals may not obtain a photocopy of a transcript previously prepared in the action from the court’s file without paying the court reporter of the court of common pleas or the court of appeals, respectively, the compensation fixed by the judges of the court of common pleas in accordance with R.C. 2301.24 or the judges of the court of appeals in accordance with R.C. 2501.17.

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## 2001-041

Information on a run sheet created and maintained by a county emergency medical services (EMS) organization that documents medication or other treatment administered to a patient by an EMS unit, diagnostic procedures performed by an EMS unit, or the vital signs and other indicia of the patient’s condition or diagnosis satisfied the “medical records” exception of R.C. 149.43(A)(1)(a), and thus, is not a “public record” that must be released to the public pursuant to R.C. 149.43(B). (1999 Op. Att’y Gen. No. 006, approved and followed.)

Information on a run sheet created and maintained by a county emergency medical services organization that documents medication or other treatment administered to a patient by an EMS unit, diagnostic procedures performed by an EMS unit, or the vital signs and other indicia of the patient’s condition or diagnosis, and is relied upon by a physician for diagnostic or treatment purposes, is a communication covered by the physician-patient testimonial privilege of R.C. 2317.02(B), and thus, is confidential information, the release of which is prohibited by law for purposes of R.C. 149.43(A)(1)(v).

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(1996 Op. Att’y Gen. No. 005 and 1999 Op. Att’y Gen. No. 006, approved and followed.) If a physician authorizes an emergency medical technician (EMT) to administer a drug or perform other emergency medical services, documentation of the physician’s authorization and administration of the treatment or procedure by the EMS unit may also fall within the physician-patient testimonial privilege.

A written protocol, developed pursuant to R.C. 4765.41, without reference to a particular patient, for use by emergency squad personnel in cases where communication with a physician is not possible and the patient’s life is in danger, does not establish, for purposes of R.C. 149.43(A)(1)(v), a physician-patient testimonial privilege between the physician who prepared the protocol and a patient who is treated by an EMS unit pursuant to that protocol, where there is no further communication by the EMS unit with the physician about the condition or treatment of the patient.

If an EMS unit administers a controlled substance to a patient, the patient’s name and address documented on the run sheet will, pursuant to Ohio Admin. Code 4729-9-14(A)(3) (Supp. 2000-2001), be deemed to meet a portion of the record keeping requirements of R.C. 3719.07, and thus, will be confidential under the terms of R.C. 3719.13, if the run sheet becomes a permanent part of the patient’s medical record. However, information on the run sheet that pertains to the administration of a drug that is not a controlled substance is not required by R.C. 3719.07 or other provision of R.C. Chapter 3719, and thus, does not fall within the confidentiality requirements of R.C. 3719.13.

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## 2001-012

Data, photographs, maps, and other information created, collected, prepared, maintained, and published pursuant to R.C. 1504.02(A)(6) by the Department of Natural Resources’ Division of Real Estate and Land Management are public records for purposes of R.C. 149.43. If the Department of Natural Resources stores, produces, organizes, or compiles public records in such a manner that enhances the value of data or information included therein, it may charge for copies an amount that includes the additional costs of copying the information in such enhanced or “value-added” format. R.C. 1501.01, which authorizes the director of the Department of Natural Resources to “publish and sell” data, reports and information, does not authorize the director to charge an amount in excess of its actual cost for providing copies of the records created and maintained pursuant to R.C. 1504.02(A)(6).

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## 2000-046

A county recorder may make indexed public records available through the Internet, provided this does not endanger the records or interfere with the recorder’s duties. A fee cannot be charged or collected to inspect or copy records from the Internet when a person does not use equipment maintained by the recorder. Internet access cannot be limited to real estate title companies.

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## 2000-036

Governor's Office of Veterans Affairs is prohibited by 32 C.F.R. § 45.3(e)(4) from releasing a copy of a Certificate of Release or Discharge from Active Duty (DD Form 214) without the written consent of the service member who is the subject of the DD Form 214.

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## 2000-021

R.C. 149.43, as amended by Am. Sub. S.B. 78, 123rd Gen. A. (1999) (eff. Dec. 16, 1999), imposes no duty upon any particular individual or office to notify public offices of a peace officer's residential and familial information or to update the database. For purposes of R.C. 149.43, a child of a peace officer includes a natural or adopted child, a stepchild, and a minor or adult child.

Under the definition in R.C. 149.43(A)(7), peace officer residential and familial information encompasses only records that both contain the information listed in the statute and disclose the relationship of the information to a peace officer or a spouse, former spouse, or child of the peace officer, and those are the only records that come within the statutory exception to mandatory disclosure provided by R.C. 149.43(A)(1)(p). The exception for peace officer residential and familial information applies only to information contained in a record that presents a reasonable expectation of privacy, and does not extend to records kept by a county recorder or other public official for general public access. The general provisions of R.C. 149.43 excluding peace officer residential and familial information from mandatory disclosure do not operate to impose requirements or limitations on systems of public records that have been designed and established for general public access, where there is no reasonable basis for asserting a privacy interest and no expectation that the information will be identifiable as peace officer residential and familial information.

R.C. 149.43 provides no liability for disclosing information that comes within an exception to the definition of "public record." Liability may result, however, from disclosing a record that is made confidential by a provision of law other than R.C. 149.43.

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## 1999-012

When county office chooses to create customized document from an existing public record it may only charge its actual cost, which does not include employee time or computer programming fees.

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## 1999-006

Information on a county EMS run sheet that does not satisfy either the medical records exception or the "catch-all" exception is a public record and must be disclosed pursuant to R.C. 149.43(B). HIV testing information contained in run sheets must not be disclosed.

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## *1997-038*

Information submitted to a county sheriff pursuant to R.C. Chapter 2950 by an individual who has been convicted of or pleaded guilty to a sexually oriented offense is a public record that must be made available for inspection to any person, except to the extent that such information comprises “records the release of which is prohibited by state or federal law.”

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## *1997-010*

Information within a workers’ compensation claim file that does not fall within one of the exceptions listed in R.C. 149.43(A)(1) is a public record which must be disclosed to the public pursuant to R.C. 149.43(B) when the Bureau of Workers’ Compensation, a member of the Industrial Commission, the claimant, or the employer has authorized the examination of the claim file as required by R.C. 4123.88. (1975 Op. Att’y Gen. No. 75-062 (syllabus, paragraph one), overruled.)

Information in a workers’ compensation claim file that indicates that an individual has been diagnosed as having AIDS or an AIDS-related condition is not a public record that the Bureau of Workers’ Compensation must disclose to the public.

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## *1996-034*

A county recorder is not required to remove or obliterate social security numbers from mortgages, mortgage releases, veterans discharges, and financing statements before recording those instruments.

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## *1996-005*

Records collected for trauma system registry or emergency medical services incidence reporting systems that constitute medical records or physician/patient privilege do not constitute public records. The State Board of Emergency Medical Services is not required to disclose such records, and the Board is required to maintain confidentiality of any patient identifying information contained therein.

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## *1995-001*

PASSPORT administrative agency operated by a private non-profit agency is a public office for purposes of Ohio Public Records Act and public body for purposes of Ohio Open Meetings Act.

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## *1994-089*

A clerk of court may not remove, from a court file, a pleading that is stricken from the record or an original pleading when a substitute pleading is filed in its place unless removal is permitted by law or by the appropriate records commission.

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## ***1994-084***

A county human services department may release the address of a current recipient of aid to dependent children, general assistance, or disability assistance to a law enforcement agency that has authority to apprehend an individual under an outstanding felony warrant.

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## ***1994-058***

A township clerk is authorized to have access to estate tax returns or other records or information made confidential by R.C. 5731.90 in connection with the duties and responsibilities of the clerk. A county treasurer who reports collection of estate tax to a township clerk is permitted to reveal the identity of taxpayer to the township clerk in the course of making the report.

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## ***1994-046***

All information pertaining to LEADS is not public record subject to disclosure.

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## ***1994-006***

If a person requesting copies of public records stored by the county recorder on microfiche or film presents a legitimate reason why paper copies are insufficient or impracticable and assumes the expense of making the copies in that medium, the county recorder is required to make available in the same medium a copy of the portions of the microfiche or film containing the public records.

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## ***1993-038***

When a court orders official records of a case sealed and such order does not require sealing of the pertinent official records of an administrative licensing agency, the agency is not required to seal its records. The agency may seal its records containing information prohibited from disclosure pursuant to R.C. 2953.35(A).

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## ***1993-033***

Pursuant to R.C. 5715.07, all documents relating to the assessment of real property that are in the office of a county board of revision or in the official custody or possession of the board of revision are required to be open to public inspection.

A member or an employee of a county board of revision who, pursuant to R.C. 5715.07, makes available for public inspection documents concerning the transactions, property, or business of any person, company, firm, corporation, association, or partnership that are in the office of the county auditor or county board of revision or in the official custody or possession of such officer or board, does not violate R.C. 5715.49 or R.C. 5715.50.

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## 1993-010

Blueprints submitted to a county building inspection department for approval under R.C. 3791.04 are public records while in possession of the department.

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## 1992-071

A county board of mental retardation and developmental disabilities may not disclose to a parent organization the names of the board's clients or the names, addresses, and phone numbers of the parents of the board's clients unless proper consent is obtained.

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## 1992-046

Reports and investigations pursuant to R.C. 2151.421 are confidential and dissemination of such information to an agency or organization is permitted only if the agency or organization has rules or policies governing the dissemination of confidential information consistent with Ohio Admin. Code 5101:2-34-38. Ohio Admin. Code 5101:2-34-38(F) permits disclosure of child abuse and neglect investigation information when the dissemination of information is believed to be in the best interest of an alleged child victim, his family, or caretaker, a child residing, or participating in an activity at an out-of-home care setting where alleged abuse or neglect has been reported, or a child who is an alleged perpetrator.

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## 1992-005

A copy of a federal income tax Form W-2 prepared and maintained by a township as an employer is subject to inspection as a public record.

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## 1991-053

Federal tax return information filed by an individual pursuant to R.C. 3113.215(B)(5) and a local rule of court is a public record. 26 U.S.C. § 6103, governing the confidentiality of federal income tax returns, is inapplicable to income tax returns submitted to a court of common pleas by a litigant in connection with a child support determination or modification proceeding in that court.

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## 1991-003

A county prosecuting attorney may release children services agency's child abuse or neglect investigation file only with the written permission of the agency executive secretary. The executive secretary may only grant permission for good cause. Child abuse or neglect investigation records maintained by public children services agencies are not public records. (Clarified by 2007-025.)

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## *1990-103*

Absent statutory authority, a county recorder is without authority to delete documents from the records of the county recorder.

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## *1990-102*

Ohio Public Records Act does not make confidential all records filed with Ohio taxation authorities. Specific Revised Code sections make particular information confidential.

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## *1990-101*

Records of juvenile offenders are not public records to the extent that a specific exception in R.C. 149.43 or an applicable provision of state or federal law prohibits their release. Sealed or expunged juvenile records are not public records. (Syllabus, paragraph 3, modified and clarified by 2017-042.)

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## *1990-099*

Public school officials may not release, without proper consent on behalf of the student, information concerning illegal drug or alcohol use by students to law enforcement agencies where such information is personally identifiable information, other than directory information concerning any student attending a public school.

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## *1990-057*

Subject to the provisions of R.C. 149.351(A), a county official may, pursuant to a valid contract, temporarily transfer physical custody of the records of his office to a private contractor to microfilm such records at the facilities of the contractor. A contract must incorporate sufficient safeguards to prevent loss, damage, mutilation, or destruction of the records.

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## *1990-050*

Names, addresses, and telephone numbers of employees of a public school district are public records open to inspection by any person. Motive is irrelevant even if for commercial purposes.

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## *1990-007*

Unless state or federal law prohibits disclosure to a person who is the subject of information kept by an Ohio public office, R.C. Chapter 1347 permits the person to inspect and copy such information. Chapter 1347 is not a provision of state law prohibiting the release of information under R. C. 149.43.

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## *1989-084*

Records that do not constitute “personal information systems” as used in R.C. Chapter 1347 are not subject to the disclosure provision of Chapter 1347. Child abuse and neglect investigatory records maintained by public children services agency constitute “investigatory material compiled for law enforcement purposes” within the meaning of R.C. 1347(A)(1)(e).

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## *1989-073*

Shorthand notes taken pursuant to R.C. 2301.20 and transcripts prepared pursuant to R.C. 2301.23 are public records unless they include or comprise a record excepted from the definition of public record.

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## *1989-055*

A judicial determination that a particular entity is a public office under R.C. 149.011(A) is not determinative of the question whether that entity is a public office under R.C. 117.01(D) for purposes of audit and regulation by the Auditor of State.

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## *1989-042*

Providing that properly approved record retention schedules under R.C. 149.333 permit disposal of paper or other original documents after recording by optical disk process, original documents may be destroyed and the recorded information stored on optical disks becomes the original of the public record.

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## *1988-103*

An application to the County Veterans Service Commission for assistance under R.C. Chapter 5901 is a public record (now exempt from disclosure). (Overruled in part by 1998-029.)

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## *1987-024*

A community improvement corporation organized pursuant to R.C. Chapter 1724 is not a “political subdivision” as that term is defined in R.C. 2744.01(F).

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## *1987-010*

A public school may not forward personal information regarding the first-time use of drugs or alcohol by a student on school property to local law enforcement agencies without the consent of the student's parent or guardian, or the student, where appropriate. (Clarified by 1990-099.)

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## *1986-096*

Disclosure of the number of persons employed by an applicant at the time of application for a loan is prohibited where such information is submitted to the Director of Development, the Controlling Board, or the Minority Development Financing Commission in connection with a loan application.

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## *1986-089*

A personnel file maintained by an exempted village school district is a public record except to the extent such file may include records that are exempt from the definition of the term public record.

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## *1986-069*

A letter requesting an advisory opinion from the Ohio Ethics Commission under R.C. 102.08 and the documents held by the commission concerning such advisory opinion are public records.

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## *1986-033*

The Unemployment Compensation Board of Review may, in accordance with the specific terms of the schedule of retention pertaining thereto and approved by the State Records Commission, destroy or dispose of its hearing records six months after a decision by the Board of Review becomes final. The hearing records shall be destroyed or disposed of within 60 days after the expiration of the six-month retention period, unless, in the opinion of the Board of Review, they pertain to any pending case, claim or action.

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## *1985-087*

Appraisal cards that are kept by the office of the county auditor and that contain information used in the valuation and assessment of real property for purposes of taxation are subject to public inspection, and disclosure of such documents does not violate either R.C. 5715.49 or R.C. 5715.50.

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## ***1984-084***

Client records held by the Rehabilitation Services Commission in connection with the state vocational rehabilitation services program are not public records and cannot be disclosed without the consent of the person to whom the records relate.

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## ***1984-079***

Grand jury subpoenas while in possession of the clerk of courts prior to issuance in accordance with R.C. 2939.12 are not public records.

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## ***1984-077***

Under R.C. 1347.08, a juvenile court must permit a juvenile or a duly-authorized attorney who represents the juvenile to inspect court records pertaining to the juvenile unless the records are exempted under R.C. 1347.04(A)(1)(e), 1347.08(C) or (E)(2). Under Juv. R. 37(B), the records may not be put to any public use except in the course of an appeal or as authorized by order of the court.

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## ***1984-015***

The director of the Ohio Department of Mental Retardation and Developmental Disabilities may make available to persons approved by the director the medical, psychological, social, and educational records of persons who have been nominated for protective services pursuant to R.C. 5123.58.

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## ***1983-100***

The Ohio State Board of Psychology does not have the authority to expunge or actually destroy its official records except as provided by law or pursuant to its records retention schedule. When a court orders that the criminal conviction of an individual who is a licensee of the Ohio State Board of Psychology be sealed, pursuant to R.C. 2953.32(C), the Board is not required to seal any of its official records unless an order sealing the same specifically directs the Board to do so by the court. The Board may seal information or data contained in its official records that are not public records within the meaning of R.C. 149.43(A)(1).

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## ***1983-099***

Since the examinations administered by the State Board of Examiners of Architects are records under R.C. 149.40 and there is no law prohibiting the destruction of such examinations or requiring the retention of such examinations for a specified period of time, such examinations may be disposed of in

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accordance with a schedule of records retention or an application for records disposal approved by the State Records Commission pursuant to R.C. 149.32.

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## **1983-071**

A county department of welfare is prohibited from disclosing to law enforcement personnel personal information about applicants for or recipients of aid to Families with Dependent Children or poor relief unless such law enforcement personnel are prosecuting public fraud or seeking child support and are directly connected with the enforcement of the Food Stamp Act or regulations, other federal assistance programs or general relief programs, or the applicant or recipient has consented in writing.

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## **1983-003**

Materials of all varieties (including but not limited to, correspondence, memorandums, notes, reports, audio and video recordings, motion picture films, and photographs) that are received by public officials and employees, or created and maintained by them at public expense, are considered records if they serve to document the organization, functions, policies, decisions, procedures, operations, or other activities of the public office.

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### Notes:

<sup>1</sup> When searching the full text of these opinions on the Attorney General's website, use the numbers found in bold above each body of text. If using another search method (such as LexisNexis or Westlaw), the citation format will be different. For example, to locate the first opinion listed on this page, the format would be: 2014 Ohio Op. Att'y Gen. No. 2014-030.