

# County of Monroe

## The Florida Keys



### BOARD OF COUNTY COMMISSIONERS

Mayor Sylvia J. Murphy, District 5  
Mayor Pro Tem, Danny L. Kolhage, District 1  
George Neugent, District 2  
Heather Carruthers, District 3  
David Rice, District 4

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### OFFICE OF THE COUNTY ADMINISTRATOR Key West, Florida

#### MONROE COUNTY ADMINISTRATION INSTRUCTION 4903.5

Date: April 29, 2014


Subject: Responsibilities pertaining to the request and disclosure of public records

Reference: (1) Florida Statute Chapter 119 and 257  
(2) Personnel Policies and Procedures Manual

Enclosures: (1) Public Records Policies and Procedures (7 pages)  
(2) Public Records Invoice

Effective Date: Immediately

- (1) Background: County offices shall comply with requests for public records and appropriately disclose information contained in the records in accordance with Florida Statutes. The County's policy was adopted by the BOCC on July 19, 2006.
- (2) Purpose: The purpose of this instruction is to promulgate the guidelines, procedures and standards to be adhered to by Monroe County employees with regard to the release of public records.
- (3) Cancellation: This instruction is to remain continuously in effect unless specifically revised or canceled.
- (4) Instructions: Division Directors, Department Heads and supervisory personnel are personally responsible for and insuring that employees under their direction are also knowledgeable of and strictly adhere to the requirements as set forth by the state of Florida regarding the release of the County's public records.



Debbie Frederick  
Deputy County Administrator

Distribution: List VI  
Originator: DAS  
Review: April 29, 2017

Enclosure (1)

## **MONROE COUNTY, FLORIDA PUBLIC RECORDS POLICIES AND PROCEDURES**

Basic Premise: Unless specifically exempted by law, all records or documents in the custody of a local government of the State of Florida deemed public records.

Basic Exemptions: Records exempt from disclosure include:

- Social Security numbers.
- Lists of retirees' names with their addresses (DROP participants are retirees).
- All personal identifying information regarding a participant in the Public Employee Optional Retirement Program (also known as the FRS Investment Plan).
- All personal identifying information (home addresses, telephone numbers, social security numbers and photographs, and school or day care information regarding their children) regarding active or former law enforcement officers, former or current state and assistant state attorneys, former or current code enforcement officers, former or current US and Assistant US Attorneys, former or current judges, former or current guardians ad litem, and their spouses or children.
- All personal identifying information regarding former or current personnel of local governments whose responsibilities include revenue collection ' and enforcement or child support enforcement, and their spouses or children.
- All personal identifying information regarding former or current firefighters and their spouses or children.
- All personal identifying information regarding former or current personnel of local governments whose responsibilities include human resources, labor relations, or employee relations, and their spouses or children.
- All personal identifying information regarding, and their spouses or children.
- Health information.
- Certain exam results.
- Other exemptions exist. If the recipient of a request is unsure as to the permissibility of providing the requestor with a view or copy of the requested record, contact the County Attorney's Office and **ask**.

The following policies and procedures apply to the County of Monroe, Florida:

### **POLICY**

1. All public records should be kept in the buildings in which they are ordinarily used. At such time as records are no longer needed for operation of County government, the records may be stored off-site or disposed pursuant to the records retention policies and procedures.

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2. When complying with a request, the county will not create a document or generate information that does not already exist in the county's records. Consequently, the county would not provide a list of current contracts unless a list has already been compiled and exists.
- 3 Each Division shall have a records custodian designated to respond to public records requests for that Division.
4. All requests for view or copies of public records shall be treated in a uniform and timely manner.

### **DEFINITIONS**

**Active Records** - files and records that have not been stored or archived.

**Actual Cost of Duplication** - the cost of the material and supplies used to duplicate the record. It does not include the labor cost or overhead cost associated with such duplication.

**Division Record** - records in the Division's or its contract provider's custody.

**Duplication Fee** - the fee which may be charged for the duplication of the records. The fee shall be 15 cents per copy for duplicated copies no larger than 14 inches by 8 1/2 inches. For copies larger than 14 inches by 8 1/2 inches, the fee shall be the actual cost of duplicating the requested material. If applicable, this fee shall also include the cost of mailing or shipping the requested material.

**Exempt Record** - a record in the custody of an agency or its contract provider which is exempt from public inspection and examination pursuant to Florida Statutes.

**Exemption** - the statutory basis by which the agency or its designees claims that a record or information contained in that record is exempt from public inspection and examination.

**Fee Guidelines** - the guidelines that apply to fees charged for records other than the .15¢ per copy of one-sided copies up to 8 1/2" x 14" and the additional .05¢ per double-sided copy for duplicates up to 8 1/2" x 14". These guidelines include the following:

- a. The hourly salary rate of the employees who copy and review information pursuant to requests for records shall be determined, and the cost charged to the requester. The employee's benefit costs shall be included in calculation.
- b. Mailing costs, if the documents are mailed to the respective party, will be assessed, and this cost will be charged to the requestor.
- c. Employees requesting copies for personal use will be charged for all copy service rendered.
- d. Entities currently under contract to BOCC to provide services will be provided, free of charge, one complete copy of any administrative publication(s) addressing those services or addressing the provider's contractual obligations.
- e. City, county, state or federal government agencies and elected or appointed government officials will be provided, free of charge, one complete copy of any Division record. Copies of confidential records will be provided only to those individuals or agencies as specified by law.

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- f. Any employee, attorney or representative of an employee who requests copies of public records that are needed in order to prepare a case (i.e. Career Service Grievance, Collective Bargaining Grievance, Career Service Appeal, etc.) will be charged for all copying and redaction services rendered.

**Inactive Records** - files and records that have been stored or archived.

**Information Technology Resources** - data processing hardware, software and services, communications, supplies, personnel, facility resources, maintenance, and training.

**Payment of Fees** - monies that must be collected prior to the search for and duplication of the requested material. Fees must be paid by cashier's check, money order, or personal check and made payable to Monroe County.

In the event that payment for a previous public record request was not required to be paid before the records were copied, whether or not the copies were delivered to the requester, or payment was not made for subsequent billing which was required because the prior records request was more costly than estimated, payment in full shall be received by the county for the prior request as well as payment for the estimated cost of the current request before staff will begin to retrieve, review and redact if necessary, and copy records in response to a current request.

**Public Record** - 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.

**Record Custodian** - the Divisional employee who has supervision and control over a document or record or has legal responsibility for its care, keeping or guardianship.

**Records Custodian Liaison** - the Division staff assigned by each office to coordinate the processing of records requests.

**Records Management Administrator** - County Administrator, who shall approve all disposal requests prior to destruction of public records in compliance with the State laws governing disposal of public records.

**Records Management Liaison Officer** - the County Administrator's designee who serves as the point of contact between the divisions and Administrator's office, and is responsible for developing and revising Division retention schedules and for conducting records management training.

**Redaction** - the process by which information that is confidential and exempt from public disclosure is edited from Division records.

**Requestor** - any person making a request to view or to obtain copies of public records.

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**Social Security Number (SSN)** - the identification number assigned to an individual by the United States Government.

**Subpoena duce tecum** - a court process, initiated by a party in litigation, compelling production of certain specific documents and other items in a person's possession.

**Special service charge** - a charge that may be added to the fee for duplicating the requested material. A special service charge for "extensive assistance by BOCC staff" may not be assessed unless BOCC staff spent at least 15 minutes in retrieving, copying and re-filing the requested

material or reviewing the material for the purpose of removing confidential or exempt information. The hourly rate will be calculated to the nearest quarter of an hour. The office assessing the special service charge will provide the BOCC invoice (Enclosure 2) which provides documentation supporting the assessment. The fee for providing information which is already contained in a computer-generated report will be based upon the actual cost to BOCC for providing the record. The fee for providing existing records which requires the use of the computer to generate the requested information will be based on the hourly salary rate of the technical services employees to generate the requested information.

**View** - to view, or the viewing of, the documents for which a public records request is

made. **RESPONSIBILITIES:**

A. Original recipient of request:

1. Logs in or records receipt requests for division records, maintains records of how the request was processed, including date and to whom the request was directed for response.
2. If necessary, forwards requests to the Records Management Liaison Officer for processing.

B. Human Resources

1. Processes requests for employment information.
2. Reviews all requests of County divisions for disposal prior to destruction.

C. All Divisions:

1. Division director appoints a member of staff to be the divisional Records Custodian.
2. Any recipient of a public records request shall notify the divisional Records Custodian of the request, and, if that recipient knows, shall inform the Requestor of an estimated time for fulfillment of the request. The recipient shall inform the Records Custodian as to information provided to the requestor regarding fulfillment of the request.

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3. The Records Custodian shall notify the requestor of any additional information necessary to fulfill the request, including times and location available for view, estimated cost of copies and that the estimated cost must be paid prior to copies being made.

D. Office of the County Attorney

1. Reviews and processes all public records requests that involve current litigation matters.
2. Reviews and assists Division employees in answering subpoenas duce tecum.
3. Advises, upon request, Division offices on legal issues presented in a public records request.

**STANDARDS/PROCEDURES**

A. Request to view Division Records: Any person may request to view public records of the Division.

Upon receipt of a public records view request, the Records Custodian:

1. Must make the records available for viewing at a reasonable time and place under his/her supervision.
2. Shall, prior to allowing the Public to view the Division records, review the records to determine that the record to be viewed does not contain any confidential information. If confidential information such as social security numbers are contained in the record, copies of the pages containing information excepted from the public records law shall be made, the excepted information redacted and the redacted pages with a notation as to the type of redacted info (SS#, address, etc) shall be substituted in the record to be viewed.
3. The view shall be made in a manner that allows County personnel to keep the viewing requestor under surveillance to assure the integrity of the files.

B. Request for copies of Division Records other than Employee Records:

Requests for copying of any records open to the public shall be directed to any office of the Division where such records are kept for processing unless it involves current litigation.

1. The Records Custodian shall forward to the Records Management Liaison *Officer* for processing any request for records not in the custody of that division.

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2. If the request is known to involve records related to litigation, the Records Custodian shall forward the request to the County Attorney's Office.

3. If the request is for records of the division receiving the request, the Records Custodian shall notify the requestor of the estimated cost of duplication and estimated service charges pursuant to fee guidelines.

4. The Records Custodian shall:

a. Collects and processes all fees associated with duplication prior to documents being provided. A money order or check is preferred, but a receipt for any monies received shall be issued to the Requestor.

b. Upon receipt of payment for estimated cost of duplication and service charges, reviews records and redacts information exempt from public inspection and examination pursuant to ss. 119.07 and 985.04, Florida Statutes, or requests assistance with same from the Office of the County Attorney.

c. Forwards payments for duplication of records and service charges to Finance.

d. Notify requestor of any difference in estimated and actual cost and make arrangements with Requestor for pick-up or delivery by prepaid mail within 5 -10 days of receipt of payment.

e. Upon request, provides, in writing, a statement of the statutory basis for redacting or not providing requested information.

f. Maintains files on all Division records requests submitted and processed.

5. The County Attorney or designee shall:

a. Upon receipt of records request that involves current litigation matters, notifies the Records Custodian or Records Management Liaison Officer of the estimated cost of duplication and estimated service charges.

b. Upon receipt of payment for estimated cost of duplication and service charges, reviews records and redacts information exempt from public inspection and examination pursuant to ss. 119.07 and 985.04, Florida Statutes.

c. Reviews subpoenas duces tecum and advises appropriate division staff regarding response.

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d. Advises, upon request, Division offices or officials on legal issues presented in a public records request.

e. Maintains files on all public records requests submitted and processed.

6. A County Contract Provider, upon receipt of a request for public records, shall comply therewith or forwards the request to the Records Management Liaison Officer for response for records not in the custody of the contractor.

#### C. Request for Copies of Employee Records:

##### Human Resources

1. Upon receipt of a request for a copy of an employee's personnel file, the Human Resources Office will process the request or, if appropriate, forward to the Contract Provider for processing.
2. Redacts the social security number of the employee prior to the release of the file. If a home address, telephone number, social security number, or photograph is exempt pursuant to s. 119.071, Florida Statutes, Human Resources redacts the confidential information.
3. Upon receipt of a request, reviews the employee's file and determines if the employee has filed a written request for confidentiality under s. 119.07(4)(a)2, F.S. If there is a written request in the personnel file, provides in writing an explanation as to statutory basis for the exemption claimed and denies the request.
4. If a request complies with the requirements of s. 119.071, F.S., the designated staff in the County Attorney's Office shall inform the Records Custodian that the otherwise exempt information may be released.
5. If the written request does not comply with the requirements of s. 119.071(4), F.S., the designated staff in the Office of County Attorney informs HR or Records Custodian that the records may **not** be released.

##### Contract Provider

1. Upon receipt of a request for employee records or social security numbers, coordinates with the Records Custodian Liaison in processing the request.



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**Methods and Procedures Table:**

<b>Step</b>	<b>Owner</b>	<b>Action</b>
1	Employee	Receives request for public records information and notifies his /her supervisor of the request. The Employee provides all details of the public records request.  NOTE: This must be completed within one business day from the receipt of the request
2	Supervisor	Provides his or her Division Director with the details of the request  NOTE: This must be completed within one business day from the receipt of the request
3	Division Director	Provides the County Attorney's Office with the details of the public records request
4	County Attorney	Acts upon the public records request in accordance with the provisions of Chapter 119, Florida Statutes and this policy.

Enclosure (2)

**MONROE COUNTY  
PUBLIC RECORDS INVOICE  
(DATE)**

**TO:**

**IN RE PUBLIC RECORDS REQUEST,**

**Dated:** \_\_\_\_\_

**For:** \_\_\_\_\_ (describe request)

**The following charges are expected to be incurred:**

\_\_\_ pages (One-sided up to 8½ x 14 @ 15¢ per copy) \$ \_\_\_\_\_

\_\_\_ pages (Additional .05¢ per double-sided copy up to 8½ x 14) \$ \_\_\_\_\_

\_\_\_ estimated hours of employee time to be spent locating  
and/or reviewing for redaction of exempt material  
at \$ \_\_\_\_\_ per hour. \$ \_\_\_\_\_

**Please remit a check made payable to Monroe County in the total amount shown. Upon receipt of the check, we will commence collecting, reviewing and copying the records for you. Should the actual costs incurred total more than the estimated costs, an additional deposit will be required before the work will be completed.**

**It has been noted that you made a previous public records request, for which you were not required to pay before the records were copied, and that you have not made payment in the amount of \$ \_\_\_\_\_ for that request. The County will not honor any new requests for records unless such payment is received for your previous public records request.**

**The check should be delivered to:**

\_\_\_\_\_  
**(Name)**

\_\_\_\_\_  
**(Address)**



**BOARD OF COUNTY COMMISSIONERS**

Mayor George Neugent, District 2  
Mayor Pro Tem David Rice, District 4  
Danny Kollhage, District 1  
Heather Carruthers, District 3  
Sylvia J. Murphy, District 5

**OFFICE OF THE COUNTY ADMINISTRATOR**  
Key West, Florida

**MONROE COUNTY ADMINISTRATIVE INSTRUCTION 7100**

**Date:** August 28, 2017

**Subject:** Responsibilities Pertaining to Public Records

**References:** (1) State of Florida, Division of Library and Information Services, Bureau of Archives and Records Management:

- (A) Basics of Records Management Handbook.
- (B) Records Management Self-Evaluation Guide.
- (C) Electronic Records and Records Management Practices.
- (D) Files Management Handbook.
- (E) Micrographics Handbook.
- (F) Public Records Center Facilities Guidelines.
- (G) Vital Records Protection Handbook.
- (H) General Records Schedules:  
GS1-SL, GS8, GS4, GS15
- (I) Electronic Recordkeeping Strategic Plan.
- (J) Legislative Records: Guide to Preparation and Transfer.

- (2) Florida Statute Chapters 119 and 257.
- (3) Florida Administrative Code Chapter IB-24.
- (4) Personnel Policies and Procedures Manual.
- (5) Administrative Instruction 4903.5 — Responsibilities pertaining to the request and disclosure of public records.

**Enclosures:** (1) Records Disposition Document.  
(2) Request for Records Retention Schedule Form.  
(3) Request for Monroe County Files/Records Form.  
(4) Records Storage Box Labels.  
(5) Records Shredding Request Form.

**Effective Date:** Immediately

(1) **Background:** All departments shall efficiently retain, preserve and dispose of public records in accordance with the strict requirements governed by the State of Florida. In addition, departments shall ensure the security of the records in their possession and establish safeguards against unauthorized use, removal or loss of records.

(2) Purpose: The purpose of this administrative instruction is to promulgate the guidelines, procedures and authority to be adhered to by Monroe County employees with regard to retaining, preserving and disposing of public records. The instruction shall also inform employees of the appropriate procedures to follow in releasing any information contained in or as part of any records in their personal and/or department's possession.

(3) Cancellation: This instruction supersedes Administrative Instruction 4900.4 and is to remain continuously in effect unless specifically revised or cancelled.

(4) Instructions: Assistant County Administrators, Department Heads and supervisory personnel are personally responsible for and insuring that employees under their direction are also knowledgeable of and strictly adhere to the requirements as set forth by the State of Florida regarding the retention, release and destruction of the County's public records.

(5) Action: Public Records includes 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 County business. Each department shall identify what records they possess and establish departmental procedures for the retention of the records in accordance with the Bureau of Archives and Records Management Handbooks as noted in Reference (1) (A — J).

## DISPOSAL

A. In order to have an efficient records system, departments should dispose of records on a periodic basis in accordance with the appropriate General Records Schedule (Reference (1) (H)). Disposing of records provides benefits such as space savings, reduced expenses for storage equipment, and contributes to the efficient retrieval of the records when needed.

B. Before disposing of a record, a Records Disposition Document (Enclosure (1)) must be completed by the department and sent to Brian Bradley in the County Attorney's Office for approval. Brian Bradley in the County Attorney's Office is the official Records Management Liaison Officer (RMLO) of the County. In addition to approving requests to properly dispose of records, the RMLO is required to complete a Compliance Form on an annual basis which insures that guidelines are being followed. NO RECORD SHALL BE DISPOSED OF UNTIL PRIOR AUTHORIZATION IS OBTAINED FROM THE RMLO.

C. Once the Records Disposition Document is approved, it will be sent by the RMLO back to the department authorizing the disposal of the records. The Department is required to complete box no. 7 on the form (Disposal Certificate) to verify that the records have been disposed of in the appropriate manner and shall retain the original Records Disposition Document indefinitely.

D. Records that are lost or unsalvageable due to the effects of hurricanes, storm damage, or other disasters or events must be documented. Record the series title, inclusive date range, retention schedule number (provided in GS1-SL) and quantity of each series lost or disposed of, and indicate clearly that the records were lost or destroyed due to the effects of hurricanes, storm damage, or other disasters or events. Retain this document for your records. It is also recommended, if possible, that you take pictures,

video and obtain written statements from those who were responsible for storage of the records or any of the process from witnessing the damage up to the removal of the damaged records. For more information on public records disaster recovery procedures, please telephone the Florida Records Storage Center at 850-245-6750 and contact the County RMLO.

E. Destruction of records shall be conducted in a manner that safeguards the interests of the State and the safety, security, and privacy of individuals.

(a) For paper records containing information that is confidential or exempt from disclosure, complete a Records Shredding Request Form (Enclosure (5)) and contact the Facilities Maintenance Department to make arrangements for pick up and shredding of the documents.

(b) For electronic records containing information that is confidential or exempt from disclosure, appropriate destruction methods include physical destruction of storage media such as by shredding or crushing; high-level overwriting that renders the data unrecoverable; or degaussing/demagnetizing.

(c) For other non-paper media containing information that is confidential or exempt from disclosure, such as audio tape, video tape, microforms, photographic films, etc., appropriate destruction methods include pulverizing, shredding, and chemical decomposition/recycling.

F. In general, scanned images of public records can be designated as the record (master). Copies of the records, and the original hard copy can be designated as duplicates and disposed of when no longer needed, provided that the electronic records are in compliance with Rule 1B-26.003, *Florida Administrative Code*, and the completeness and accuracy of the scanned copies have been verified. The electronic version can then be designated the record (master) copy and as such must be retained for the length stated in the applicable retention schedule and in accordance with Rule 1B-26.003, *Florida Administrative Code*. The paper original can then be designated as a duplicate and disposed of at any time.

Although there are rare exceptions, the County Attorney's office should be consulted if there is a question if the record must be maintained in paper form.

## RETENTION

G. If the department possesses a record that is not referenced in the appropriate Records Schedule (Reference (H)) and is unique to the department, a Records Retention Schedule Form (Enclosure (2)) shall be completed and forwarded to the County Attorney's Office for processing. Instructions on how to complete the form are addressed in the Basics of Records Management Handbook (Reference (A)). The County Attorney's Office will assign the proper tracking number, obtain the RMLO's signature and forward the form to the Bureau of Archives and Records Management so that a retention period may be established for the record.

H. Once the form is reviewed by the Bureau of Archives and Records Management and returned to the County Attorney's Office, the original will then be forwarded to the department to keep on file indefinitely. The department will then adhere to the retention period established for the record and complete the Records Disposition Document (Enclosure (1)) once the retention period has expired and the department wishes to dispose of the document.

**RELEASE**

I. §119.07(1)(a), Florida Statutes, states that “every person who has custody of a public record shall permit the record to be inspected...”. Departments that receive such requests shall comply with the standards and procedures as outlined in Administrative Instruction 4903.5 (Responsibilities pertaining to the request and disclosure of public records).

**All requests for public records including subpoenas or subpoenas duces tecum must be copied and sent to the County Attorney’s Office immediately upon receipt.**

J. Departments may choose to keep [unofficial] personnel files on its employees with copies of the documents that are retained in the employee’s official personnel file (i.e. PAF’s, job descriptions, etc.).

Any original discipline notices, doctor releases, etc. shall be forwarded to the Human Resources office so that the documents may be placed in the employee’s official personnel file.

All departments shall insure that any documents pertaining to the employee, which are kept in the department’s possession in the employee’s ‘unofficial’ personnel file, are also provided to the Human Resources office. The Human Resources office will insure that the record is also placed in the employee’s official personnel file.

Once the employee leaves employment with the County, any documents (including copies) that are in the possession of the department, which pertain to the employee, shall be forwarded to the Human Resources office.



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Christine Hurley,  
Assistant County Administrator

Distribution: List VI  
Originator: DCA  
Review: August 28, 2020

Reviewing Attorney: Chris Ambrosio

## PAGE OF PAGES

LOCATION:

Upon disposition, department is to retain this form for the record.  
Copy of this form retained by the Department.

[illegible]



<b>STATE OF FLORIDA</b> <b>DEPARTMENT OF STATE</b> Division of Library and Information Services Form LSSE-105REN.2-09 Rule 1B-24.003, F.A.C.	<b>Request for</b> <b>RECORDS RETENTION SCHEDULE</b>	<i>Department of State Use Only</i> <b>SCHEDULE NO.</b> _____ <b>Agency No.</b> _____ <input type="checkbox"/> New Schedule <input type="checkbox"/> Revise Existing Schd #
<b>Agency Information</b>		
<b>1. Agency</b> Name: _____ Division: _____ Bureau: _____	<b>2. RMLO Contact Information</b> Name: _____ Phone: _____ E-mail: _____ Address: _____	
<b>3. Custodian</b> Name: _____ Phone: _____		
<b>Record Series Information</b>		
Retention schedules are established for record series, regardless of media or format. A record series is a group of related public records arranged under a single filing arrangement or kept together as a unit (physically or intellectually) because they consist of the same form, relate to the same subject or function, result from the same activity, document a specific type of transaction, or have some other relationship arising from their creation, receipt, or use.		
<b>4. Proposed Record Series Title.</b> Provide a brief phrase summarizing the form, function and/or subject of the records, without using agency jargon or abbreviations.		
<b>5. Record Series Description.</b> Provide a general description of the record series, including its purpose and use. This information should enable someone not familiar with the record series to identify it and understand its contents. Please attach any related forms or other documentation.		
<b>6. What is the primary purpose of this record series?</b> <input type="checkbox"/> <i>Administrative</i> <input type="checkbox"/> <i>Legal</i> <input type="checkbox"/> <i>Fiscal</i>  <b>Is this record series subject to audit?</b> <input type="checkbox"/> <i>Yes</i> <input type="checkbox"/> <i>No</i>  List any federal, state, or local statutes, laws, ordinances, rules or other legal or regulatory requirements specifically relating to this record series. Please attach copies, if available.		
<b>Agency Recommended Retention</b>		
<b>7. Based on your agency's knowledge of the record series and its function, what is your agency's recommended retention period?</b> <b>Record Copy:</b> _____ <b>Duplicate Copies:</b> _____		
<b>Agency Authorization</b>		
<b>8. Authorized by:</b>		
Signature _____	Title _____	Date _____
<b>PLEASE SUBMIT TO:</b>		
Florida Department of State State Library and Archives of Florida Mail Station 9A Tallahassee, Florida 32399-0250		
Please note that this is a retention schedule request and that the schedule is not available for use until reviewed and approved by the Department of State. You will be notified when this review is complete.		

**REQUEST FOR MONROE COUNTY FILES/RECORDS**

**Your public records request does not have to be made in writing.** However, in order to assist us in expediting your request for files/records from our office, please complete the following:

In accordance with Florida Statute Chapter 119, I am requesting \_\_\_\_\_ to view ☐ copies ☐ of the following  
Monroe County files/records – *please be specific:*

Name (print) \_\_\_\_\_ OPTIONAL

Signature \_\_\_\_\_ OPTIONAL

Address \_\_\_\_\_ OPTIONAL

Date \_\_\_\_\_

Phone # \_\_\_\_\_ OPTIONAL

**If the records request is directed to Human Resources, please follow instructions below:**

**STAFF MEMBER RECEIVING REQUEST:**

If individual chooses not to fill out - please fill out for him/her for our records (if individual wishes to remain anonymous - state this under "Name.")

**FEES for RECORDS:** In accordance with FL Statute 119: Copies are .15 each per page - .20 each duplexed. Before copies are provided, CONFIDENTIAL information must be blacked out (SS#, addresses, photographs in some instances, etc.). Payment must be received at the time copies are provided. Payment must be received by check or money order made out to **Monroe County BOCC.**

**SUBPOENAS:** If the request for records is due to a SUBPOENA, the requesting party is exempt from the applicable charges. **IMMEDIATELY FORWARD (via fax, courier copy, scan or email) TO THE COUNTY ATTORNEY'S OFFICE UPON RECEIPT ANY SUBPOENAS.**  
**SUBPOENAS DUCES TECUM**

**FEES FOR STAFF TIME:** Under case law and our policy if the request requires a staff person to be pulled of their regular duties for longer than 15 minutes in order to accommodate the request, we would be entitled to a special service charge to compensate for the staff assistance. This would apply to scanning documents and transmitting them electronically. See Administrative Instruction 4903 for further details.

**SUPERVISOR review of SUBORDINATE personnel files:** Supervisors (only) may review original personnel files without redacting confidential information. Medical information, however, is protected information and should be reviewed by the County Attorney's office before release to the Supervisor.

**PRIOR APPROVAL BY HUMAN RESOURCES ADMINISTRATOR IS NECESSARY BEFORE REVIEW/RELEASE OF RECORDS AS REQUESTED ABOVE. IN ADDITION, A COPY OF THE RECORDS ALONG WITH THIS FORM MUST BE FORWARDED TO:**

☐ COUNTY ATTORNEY – CYNTHIA HALL BEFORE RELEASE (HR & Benefits Records, Risk Management Records)

REVIEW Human Resources Administrator \_\_\_\_\_

*In accordance with FL Statute 119.07(2)(c), the record may not be disposed of for a period of 30 days after the date on which a written request to inspect, examine, or copy the records was served on or otherwise made to the custodian. If a civil action is instituted within the 30-day period to enforce the provisions of this section, with respect to the requested record, the custodian shall not dispose of the record except by the order of a court of competent jurisdiction after notice to all affected parties.*

**Employees requesting a copy of their personnel file will not be charged for the first copy. Subsequent copies will be charged the same as any other copies. Place this original record in the personnel file to show that a copy was provided for the record.**

**Personnel File Copy Received** \_\_\_\_\_

☐ Copy of records request document to County Administrator before release of records.

<b>AGENCY NAME &amp; ADDRESS</b>  <div style="text-align: center;">Florida</div>		<b>CUSTOMER BOX NUMBER (if applicable)</b>
<b>RETENTION SCHEDULE NUMBER:</b>	<b>ITEM NUMBER:</b>	<b>FROM DATE:</b> <u>      </u> / <u>      </u> / <u>      </u> <div style="text-align: center;">mm        dd        yyyy</div>
<b>RECORD SERIES TITLE:</b>		<b>TO DATE:</b> <u>      </u> / <u>      </u> / <u>      </u> <div style="text-align: center;">mm        dd        yyyy</div>
<b>DESCRIPTION OF RECORDS</b> (When describing records, avoid vague terms such as "Miscellaneous." If describing a person's files, include the person's position title. For example, rather than saying "Bob Smith's Files," use "Director of Marketing Bob Smith's Promotion Planning Files" instead. Make a note of the range of records in the box for future reference.) :		

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Library and  
Information Services  
Form LSSE200 R 09-2004

**Records Storage Box Label**



**MONROE COUNTY PUBLIC WORKS  
FACILITIES MAINTENANCE**

**RECORDS SHREDDING REQUEST**

---

**Date:** \_\_\_\_\_

**Department Requesting Shredding:** \_\_\_\_\_

**Records Disposition Document approved by the County Administrator? Yes \_\_\_ No \_\_\_**  
*(Note: All Shredding Requests must be accompanied by a copy of your Records  
Disposition Document signed by the County Administrator.)*

**Telephone Number:** \_\_\_\_\_ **Number of Boxes:** \_\_\_\_\_

**Person who will be witnessing the shredding, (if desired):** \_\_\_\_\_

THE SHREDDING OF DOCUMENTS CAN ONLY BE DONE ON WEEKENDS AND  
MONDAYS (IF NOT ALREADY IN USE BY OTHER OFFICIALS).

A MAXIMUM OF 40 BOXES CAN BE SHREDDED PER DAY.

SHREDDING WILL BE DONE ON A FIRST COME FIRST SERVED BASIS!

**DATE SHREDDDED:** \_\_\_\_\_

---

(signature of person shredding)

---

(written name of person shredding)

# PUBLIC RECORDS ACT

ARTICLE I, SECTION 24, FLORIDA  
CONSTITUTION

FLORIDA STATUTES CHAPTER 119

# DANGER

- **DANGER**
- **PELIGRO**
- **GEFAHR**
- **PERICOLO**
- **KINDYNOS**
- **NIEBEZPIECZENSTWO**
- **HATARI**
- Danger in English, French, Spanish, German, Italian, Greek, Polish, Swahili

## F.S.119.07(1)(a)

- Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

# BUT

- You must never turn over that which is confidential
- And you should not turn over that which is exempt



# PENALTIES PUBLIC OFFICERS

- F.S.119.10(1)(a) Any public officer who violates this provision commits a noncriminal infraction punishable by a fine not exceeding \$500.
- F.S.119.10(1)(b) any public officer who **knowingly** violates the provisions of 119.07(1) is subject to suspension and removal...commits a misdemeanor of the first degree

# PENALTIES

- Any person who willfully and knowingly violates
  - Any provision of chapter 119 commits a first degree misdemeanor
  - Section 119.105\* commits a third degree felony
  - \*has to do with use of police reports to solicit victims or relatives of crime or accidents for commercial benefit

# CIVIL LITIGATION

- The Act contemplates civil litigation providing for an expedited hearing F.S. 119.11
- F.S.119.12 provides that the agency must pay all costs and reasonable attorney fees if a civil action is filed to enforce the provision of Chapter 119

# WHAT IS A PUBLIC RECORD

## F.S. 119.011(12)

- Includes documents, papers, letters, maps books, tapes, photos, films, sound recordings, data processing software, or other material regardless of 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.

# STUFF YOU MIGHT NOT THINK OF AS A PUBLIC RECORD

- Drafts of documents are public records if circulated for review
- Emails, even if received on private computers\*
- Text messages
- Facebook
- \*In evaluating whether a record is a public record, determining factor is not location, it is the nature of the record

# F.S. 119.0701

- Each public agency contract for services must include a provision that requires the contractor to comply with the public records law and to
  - Maintain records
  - Provide the public with access to the records
  - Ensure that confidential and exempt records are not disclosed
  - Meet all requirements for retaining and transferring public records at no cost

# EXEMPTIONS V. CONFIDENTIAL MATERIAL

- If info is made confidential by statute, the info is not subject to inspection by the public and may be released only to those persons and entities designated by statute. However, if records are not confidential but are exempt from mandatory disclosure, the agency is not prohibited from disclosing the docs in all circumstances.

# General exemptions

## F.S. 119.071

- Statute 119.071 list general exemptions such as:
- Sealed bids
- Investigations
- Security issues
- Agency personnel information



# CONFIDENTIAL MATTERS

- Other statutes make certain things confidential, and therefore exempt ex.
- F.S. 406.135(2) makes autopsy photos, videos and audio recordings confidential and may not be released without court order
- Ex. F.S. 112.21 makes records identifying public employees who have annuity or custodial accounts confidential

# RETENTION

- F.S. 119.021: All public records, even those that are exempt, must be retained. The Department of State has a retention schedule and each public official shall dispose of records no longer needed in accordance with F.S. 257.36.

# INSPECTION, ETC. PUBLIC RECORDS

- F.S. 119.07
- **Every person** who has custody of a public record **shall** permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

# PUBLIC RECORDS REQUEST

- F.S. 119.07(c) the custodian of records must acknowledge requests to inspect or copy public records promptly and respond to the request in good faith
- The request need not be in writing

# REQUESTS FOR EXEMPTED MATERIAL

## F.S. 119.07(1)(d)-(i)

- If the custodian of records exerts an exemption that applies to part of the requested record, the custodian must redact only the exempt portion and provide the rest of the record
- If the custodian asserts that all or part of the record is exempt, the custodian must state the basis for the exemption, including the statutory citation
- Any record deleted due to a claimed exemption must be retained by the agency for 30 days after a written request to view the record, unless lawsuit is filed, then the record must be kept pending litigation.....

# FEES

- F.S. 119.07(4)(d) allows fees to be charged for copies of public records. A fee schedule is laid out in the statute
- If the nature or volume of the records is such that extensive IT or clerical staff is required, the agency may charge a special service charge that is reasonable and based on the actual cost incurred.
- The statute allows for other costs of duplication.

- 
- 
- An agency may require an advance deposit on the fee. Malone v. City of Satellite Beach and an agency may refuse to produce additional records if fees for prior records have not been paid. Lozman v. City of Riviera Beach, 995 So.2d1027 (Fla. 4<sup>th</sup> DCA 2008)
- Agencies must respond to requests for information regarding copying costs.

# CLOSING

- PUBLIC RECORDS ACT IS TREACHEROUS
- YOUR WHOLE STAFF IS SUBJECT TO THIS AND HAVE RESPONSIBILITY TO PROVIDE DOCS TO THE PUBLIC
- VIRTUALLY EVERY FORM OF COMMUNICATION IS SUBJECT REGARDLESS OF FORM
- SOME “DOCUMENTS” ARE EXEMPT OR CONFIDENTIAL



- THERE ARE LOTS AND LOTS OF EXEMPT AND CONFIDENTIAL DOCUMENTS
- GIVING OUT SOME CONFIDENTIAL OR EXEMPT DOCUMENTS CAN GET YOU IN TROUBLE
- **NOT** GIVING OUT DOCUMENTS THAT ARE NOT EXEMPT AND NOT CONFIDENTIAL **WILL** DEFINITELY GET YOU IN TROUBLE AND WILL COST YOUR AGENCY \$\$\$\$\$

The background of the slide is a stylized American flag. It features a blue field with white stars in the upper left corner, and red and white stripes that flow across the rest of the slide. The stripes are slightly wavy, giving it a sense of movement.

# **Sunshine Law & Public Record**

**Duck Key Security District  
Advisory Board  
March 7, 2017**

The background of the slide is a stylized American flag. The top left corner features a blue field with white stars, while the rest of the slide is filled with red and white wavy stripes.

# **Sunshine Law**

**Article I, Section 24,  
Florida Constitution  
and  
Chapter 286, Florida Statutes**

# **Florida Statute 286.011(1)**

**All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.**

# What is the scope of the law?

- ★ *Applies to any gathering of two or more members of the same Board when discussing any matter that will foreseeably come before that Board for action.*
- ★ *Four elements to holding an open meeting:*
  - *Location is open to the public*
  - *Reasonable advanced notice of date, time & place*
  - *Written minutes taken*
  - *Opportunity for public input*



# Who must comply with the rules?

- ★ *Any member of a board or committee of any state, county, city or other political subdivision of the state must comply.*
- ★ *A meeting of staff for a board is not normally subject to the law except:*
  - *When serving as a conduit between board members;*  
*and/or*
  - *When narrowing the board's choices*

# What about advisory boards?

- ★ Yes. Duck Key Security District Advisory Board
- ★ Any group that helps narrow the issue for the sunshine-required board or commission.
- ★ Making recommendations = narrowing of issues

# What is a meeting?

- ★ The law is applicable to any gathering, whether formal or casual, of two or more members of the same Board to discuss some matter on which foreseeable action could be taken by the Board.
- ★ Written correspondence initiating comment from other board members.
- ★ Any conversation, including telephone, e-mail, or text conversations regarding a subject that will come before the Board.
- ★ Communication using social media.
- ★ Use of staff or other liaisons to effect a discussion between Board members is also included.



# Notice

## ★ Reasonable advance notice

- No minimum time period set by law
- Good rule of thumb is at least a week/7 days
- Paid advertisement in paper good but not required

## ★ Purpose of Notice is to

- Apprise public of matters being considered
- Give opportunity to appear & present views
- Give reasonable time to appear
- Notice must be given even if “meeting is of general knowledge.”

## ★ Agendas recommended but not required.

# **“Public” Meeting**

- ★ **Meeting must be held in a facility that is open to the public**
  - **Can’t discriminate or unreasonably restrict access**
  - **Discussions must be audible**
  - **Should be large enough to hold anticipated crowd**
    - Can use audio & video remote for overflow
  - **Must be ADA accessible**
  - **Businesses or residences discouraged**
  - **Can’t require ID’s to enter (e.g. military bases)**

# **“Public” Meeting**

## **★ Remote Attendance prohibited except:**

### **– In extraordinary circumstances**

- Determined by Board (with advice of counsel)**

- Medical condition prevents attendance – yes**
- Inconvenience or schedule conflict - no**

### **– When quorum must be physically present at public meeting site.**

## **★ Proposed legislation to allow for remote attendance – HB 1295**

# Written Minutes

- *Must be promptly recorded & open for inspection*
- *Draft minutes may be circulated but comments and changes must be made at public meeting*
- *Up to board to decide who takes/keeps minutes*
- *Brief summary of events of meeting*
  - *Who present, absent*
  - *Motions made (mover, seconder, votes cast)*
  - *Transcript not required but acceptable*
  - *Audio/video recordings not minutes*



# Written Minutes & Voting

- *Voice Votes ok. Minutes need to reflect how each member voted.*
- *If use written ballots for votes, must include identification of committee member so minutes can reflect how each member voted.*
- *No proxy voting even with a written proxy.*

# Right to be Heard

- ★ *F.S. 286.0114 requires boards or commissions to give members of the public a “reasonable opportunity to be heard on a proposition” before official action is taken*
- ★ *Best practice is to ask for public comment about items on agenda at:*
  - *Towards the beginning of meeting; and/or*
  - *Prior to taking any votes on a particular item.*

# **F.S. 286.0114**

- ★ **Boards or commissions may maintain orderly conduct or proper decorum in the public meeting.**
- ★ **May adopt rules or policies governing the opportunity to be heard that address:**
  - **The amount of time allotted each speaker;**
  - **Group representation;**
  - **Forms to be filled out indicating opposition, support or neutrality on the proposition;**
  - **Designate a specified time for public comment.**

# **PENALTIES & REMEDIES**

- ★ ***Knowing violations - \$500 fine & 60 days in jail***
- ★ ***Unintentional violations - civil fine of up to \$500***
- ★ ***Removal from office***
- ★ ***Pay attorney fees to challenger of action***
- ★ ***Any action taken in shade is void ab initio***
- ★ ***Injunction & attorney's fees if deny comment***



# **EXCEPTIONS**

## **(Authorized Closed Sessions)**

*The Law Authorizes limited exceptions that are narrowly tailored and strictly construed in following instances:*

- ★ *Collective bargaining*
- ★ *Pending litigation – F.S. 286.011(8)*
- ★ *Risk Management programs*
- ★ *Security systems – see later slides*

The background of the slide is a stylized American flag with red and white stripes and a blue field with white stars.

# **Public Records**

**Article I, Section 24,  
Florida Constitution  
and  
Chapter 119, Florida Statutes**

# What is a Public Record?

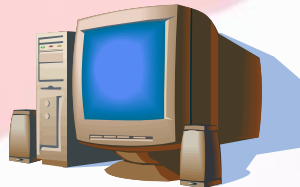
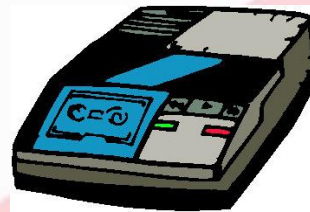
- ★ Any writing made or received pursuant to law or ordinance in connection with the transaction of official business by the agency which is designed to perpetuate, communicate, or formalize knowledge.
- ★ Format of record not important:
  - Can be in form of an email, letter, text messages, online or social media posts, voice mail message, maps, books, video & audio recordings, etc.

# What is a Public Record?

- ★ Includes emails sent and received from your personal email account.
- ★ Includes texts sent and received from your personal phone.
- ★ Can include posts on your personal social media platforms (FaceBook, Twitter, etc.)
- ★ Includes drafts and notes once circulated to another person



# Public Records



# Public Records Requests

- ★ **The Florida Public Records Law creates a right of access to inspect and/or have copies of public records regardless of identity or reason.**
- ★ **It is against the law to require a requestor:**
  - **identify him/herself**
  - **provide reason for the request**
  - **put the request in writing**

# **Responding to P.R. Requests**

- ★ **Response must be acknowledged promptly and responded to within reasonable period of time (no fixed time).**
- ★ **Copies or Inspection**
- ★ **Exemptions must be stated in writing**
- ★ **Copies cost \$.15 per page**
- ★ **Costs for researchers' time for requests that take "extraordinary" amount of time.**

# **Responding to P.R. Requests**

## **★ Not required to create new records**

- Only required to produce records in existence at time of the request.**
- Not obligated to comply with standing requests.**

## **★ Not required to answer questions**



# Exempt & Confidential Records

- ★ The Public Records Act renders some records “confidential” and/or “exempt” from disclosure.
- ★ It is a crime to release records classified as “confidential” under the law.
- ★ Agencies have *discretion* to withhold information deemed to be “exempt” if that information fits within the parameters of the exemption.

# Typical Exemptions

- ★ **Home Addresses, maps showing location of homes, & other personal information for**
  - Judges, Law Enforcement Officers, Armed Forces members serving after 9/11, prosecutors, and other covered officials.
- ★ **Ongoing investigations**
- ★ **Trade Secrets**
- ★ **Certain proprietary business information**

# **Confidential Records Include**

- ★ **Medical Information**
- ★ **Social Security numbers**
- ★ **Security plans and information**

# **Security System Exceptions**

- ★ **Florida law exempts from public records laws documents that relate directly to or that would reveal security systems.**
- ★ **Renders such information “confidential” and “exempt” from disclosure.**
- ★ **Strictly Construed/Narrowly Tailored.**



# **Security System Exception**

## **F.S. 281.301**

★ **Applies to information such as:**

- **Building plans, blue prints, schematic drawings, and diagrams of govt. buildings.**
- **Includes all records, information, photos, audio and video presentations, surveys, recommendations of consultants that reveal security systems.**
- **Threat assessments, response plans, emergency evacuation plans, sheltering arrangements, or security manuals.**

# **Security System Information May be Released to:**

- ★ **property owners & their leaseholders;**
- ★ **the possessing govt. agency or other govt. agencies in performance of official duties;  
or**
- ★ **another party upon showing of good cause  
before Circuit Court.**

# **Duty to Preserve Public Records**

- ★ **All records kept in buildings in which ordinarily used in fireproof & waterproof safes/rooms to the extent practical.**
- ★ **Worn records should be copied or repaired**
- ★ **Records must be retained pursuant to Dept. of State's retention schedules**
  - **Process for disposing public records**
  - **Retention period based upon content, not media type**

# **Penalties for Noncompliance**

## **★ Knowing violations –**

- Suspension and removal or impeachment**
- Up to 1 year in jail and up to \$1000 fine.**

## **★ Unintentional violations – civil fine \$500**

## **★ Civil Action**

- Ordered to produce records**
- Ordered to pay requestor's attorney's fees and costs**



# **More Information**

**Attorney General's Website**

**Online Sunshine Manual (@350 pages)**

**[www.myfloridalegal.com](http://www.myfloridalegal.com)**

**Click on “Open Government” Link**

**Click on “Sunshine Manual” Link**

# QUESTIONS?

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[Limbert-Christine@monroecounty-fl.gov](mailto:Limbert-Christine@monroecounty-fl.gov)

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