



Ohio Administrative Code Rule 5120-9-49 Public records.

Effective: [March 21, 2021](#)

(A) A "record" means any item that is kept by the department of rehabilitation and correction (department) that:

(1) is stored on a fixed medium,

(2) is created, received by, or coming under the jurisdiction of a public office and

(3) documents the organization, functions, policies, decisions, procedures, operations, or other activities of the department

(B) "Public record" means records kept by the department unless exempted by any provision of the Ohio Revised Code or other binding legal authorities. The records of the department that shall be deemed public records include, but are not limited to, the following:

(1) Rules of general applicability and procedure (i.e., rules of the Ohio Administrative Code) and statements of general policy (i.e., department policies exclusive of security).

(2) Charges and decisions in inmate disciplinary cases.

(3) Non-security related manuals and instructions

(4) Determinations, orders and minutes made by the adult parole authority, including the parole board, resulting from any hearing required by law or Chapter 5120:1-1 of the Administrative Code.

(C) The following documents are not public records:

(1) Records, the release of which is prohibited by state law (e.g., all records referred to in section 5120.21 of the Revised Code, attorney-client privilege, attorney work product, and trade secrets) or



federal law. See division (A)(1)(v) of section 149.43 of the Revised Code.

(2) Medical records that pertain to the medical history, diagnosis, prognosis, or medical condition of an inmate and that is generated and maintained in the process of medical treatment. "Medical records" does not include any document relating to birth, deaths, and the fact of admission to or discharge from a hospital. See divisions (A)(1)(a) and (A)(3) of section 149.43 of the Revised Code. However, pursuant to division (C) of section 5120.21 of the Revised Code, inmate medical and mental health records may be released, once every twelve months, if the inmate or former inmate to whom the record pertains, signs a written request designating a licensed attorney or licensed physician to receive the records and the designee signs on letterhead a request for the records. The executor or designated administrator of a deceased inmate's estate may request that inmate's medical records along with a designated attorney or physician.

(3) Recovery services files and information that would identify an offender or employee receiving alcohol and/or drug treatment. See section 5119.27 of the Revised Code.

(4) Information provided to the office of victim services by a victim of crime or a victim representative designated under section 2930.02 of the Revised Code for the purpose of program participation, of receiving services, or to communicate acts of an inmate or person under the supervision of the adult parole authority that threaten the safety and security of the victim. See section 5120.60 of the Revised Code.

(5) Residential and familial information of parole officers and correctional employees. See division (A)(7) of section 149.43 of the Revised Code.

(a) Under this rule, "correctional employee" means any department employee who in the course of performing job duties has or has had contact with inmates or persons under supervision. Under this rule, "residential and familial information" means any information that discloses any of the following about a correctional employee or a parole officer:

(i) Residential street address (the state and political subdivision are a public record).

(ii) Information that is compiled from referral to or participation in an employee assistance program.



(iii) Social security number.

(iv) Residential and emergency telephone numbers.

(v) Numbers of bank accounts (e.g., direct deposits) and debit, charge, and credit cards.

(vi) Medical information.

(vii) The name of any beneficiary of employment benefits (e.g., life insurance).

(viii) The identity and amount of any charitable or employment benefit deduction (e.g., insurance for health, dental, vision, life, and disability, union dues, and leave donation).

(ix) Name, residential address, employer name and address, social security number, residential or emergency telephone numbers, numbers of bank accounts and debit, charge, and credit cards of the spouse, former spouse, or children.

(b) A journalist may obtain the residential street address of a correctional employee or parole officer, as well as the name and address of that person's spouse, former spouse, or children, if employed by a public office. See division (B)(9) of section 149.43 of the Revised Code. To obtain this information, the journalist must submit a written request, which includes the journalist's name and title, the employer's name and address, and a statement that release of the information is in the public interest.

(c) For a department employee that does not meet the definitions of correctional employee or parole officer, their home address may not be a public record. The analysis is whether the address is a "record," in that it documents the organization, functions, policies, decisions, procedures, operations, or other activities of the department. For example, if a department employee is required to live in a certain area as a condition of employment, the portion of the home address that documents compliance with that condition is a record. If the address is kept by the department for administrative convenience, it is not a record.

(6) Infrastructure records. An "infrastructure record" means any record that discloses the



configuration of the department's critical systems, such as its communications, computer, electrical, mechanical, ventilation, water, plumbing, or security systems. Infrastructure records may be disclosed for purposes of construction, renovation, or remodeling of the department's institutions and facilities without waiving the non-public status of that record. Simple floor plans or records showing the spatial relationship components of the public office are not infrastructure records. See section 149.433 of the Revised Code. However, pursuant to section 5120.21 of the Revised Code, architectural, engineering, or construction diagrams, drawings, or plans of a correctional institution are not public records.

(7) Security records. A "security record" means any record that contains information directly used for protecting or maintaining the security of the department against attack, interference, sabotage, or to prevent, mitigate, or respond to acts of terrorism. Security records may be disclosed for purposes of construction, renovation, or remodeling of the department's institutions and facilities without waiving the non-public status of that record. See section 149.433 of the Revised Code.

(8) Criminal history "rap sheets" obtained from the federal national crime information center system or through the state law enforcement automated data system. Also, records from the bureau of criminal identification and investigation. See section 3789(g) of 42 U.S.C. as amended January 5, 2006 and section 109.57 of the Revised Code.

(9) Federal, state, and municipal income tax returns and social security numbers contained in personnel files. See section 6103 of 26 U.S.C. as amended July 2, 2010 and section 5703.21 and 718.13 of the Revised Code.

(10) Public employee retirement system personal history information. See section 3307.20 of the Revised Code.

(11) Records of open internal equal employment opportunity investigations are confidential law enforcement investigatory records under division (A)(1)(h) of section 149.43 of the Revised Code, if conducted pursuant to Chapter 123:1-49 of the Administrative Code.

(12) Information contained in a certain employment record if the department employee whose information is recorded therein can demonstrate a high potential for victimization or a substantial



risk of bodily harm or death from the release of such record.

(13) Pursuant to division (A)(2) of section 149.43 of the Revised Code, confidential law enforcement investigatory records pertaining to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised.

(b) Specific confidential investigation techniques or procedures or specific investigatory work product.

(c) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(d) Information provided by an information source or witness to whom confidentially has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity.

(14) Personal information listed online (i.e., numbers for federal tax identification, social security, driver's license, state identification, and accounts for checking, savings, and credit cards) must be redacted upon a person's request pursuant to section 149.45 of the Revised Code.

(15) Records maintained by the department of youth services pertaining to children in its custody, that are released to the department for the limited purpose of carrying out the duties of the department. See division (A)(1)(l) of section 149.43 and section 5139.05 of the Revised Code.

(16) Reports of a pre-sentence investigation and an offender background investigation. The department may disclose, in a confidential manner, any such report to courts, law enforcement agencies, community-based correctional facilities, halfway houses, and medical, mental health, and substance abuse providers. Prior to such disclosure, the department shall redact the victim impact section and any information identifying a witness. See section 2951.03 of the Revised Code.



(17) Education records without student consent. School transcripts, attendance records, or other individually identifiable student records. See section 3319.321 of the Revised Code.

(18) Certain records that identify an inmate or former inmate concerning transfer of mentally ill or mentally retarded inmates from a department correctional institution to a psychiatric hospital. See section 5120.17 of the Revised Code.

(19) Department quality assurance records. See section 5120.211 of the Revised Code.

(20) Inmate records released by the department to the department of youth services or a court pursuant to division (E) of section 5120.21 of the Revised Code. See division (A)(1)(k) of section 149.43 of the Revised Code.

(D) Upon request from a representative of an approved news media organization or a private citizen, the following non-public information about an inmate, parolee, probationer or other releasee may be made available upon the prior approval from the department's bureau of communication or from the appropriate managing officer:

(1) Name and number.

(2) Age and date of birth.

(3) Race and sex.

(4) Physical description.

(5) Admission date.

(6) Sentencing entry.

(7) Prison transfers (i.e., dates and locations only).



(8) Outside court actions regarding confinement and release.

(9) Institutional work assignments.

(10) Security level.

(11) Prior department incarceration.

(12) Release eligibility and supervision history (i.e., date and type).

(13) Time at large (i.e., absconded or escaped).

(14) Death. The identity of a deceased inmate shall be withheld until next-of-kin have been notified or twenty-four hours following death, whichever occurs first.

(E) Rule 5120:1-1-36 of the Administrative Code lists certain non-public parole board records which may be disclosed, according to the procedures established in that rule, to the following representatives:

(1) Approved news media organizations.

(2) Government officials.

(3) Victims of any offense of commitment or a subsequent parole violation.

(4) An attorney designated by the victim or the inmate.

(F) The department must organize and maintain its records so that they can be made available in response to public requests. On receiving a public records request for specific, existing records, the department must provide prompt inspection at no cost during regular business hours, or provide copies at actual cost within a reasonable period of time, if requested. The department may withhold or redact specific records which are covered by an exception to the Public Records Act, but is required to give the requester an explanation and legal authority. If a requester makes an ambiguous



or overly broad request, or the department believes that asking for, but not requiring, the request in writing, or for the requester's identity, or for the intended use of the requested information would benefit the requester by enhancing the ability of the department to provide the records, the Public Records Act provides for negotiation to help identify, locate, and deliver the requested records. In addition to denials justified by exceptions to the Public Records Act, the department may deny a request in the extreme circumstance where compliance would unreasonably interfere with the discharge of the department's duties.

(G) Non-public records of the department may, in the sole discretion of the director, or designee, be made available to counsel of record of an inmate or releasee, researchers, law enforcement agencies, or other persons with a need for access to such documents, subject to other restrictions on such access as may be provided by law.