

# MONTGOMERY COUNTY

## Open Records Policy

Effective: January 1, 2013

The County (hereinafter referred to as “County”) has adopted a policy to comply with the Commonwealth’s Act 3 of 2008, 65 P.S. §§ 67.101 et seq., commonly known as the “Open Records Law” or “Right to Know Law.” With certain exceptions, members of the public have the right to inspect and/or copy such records upon request.

### 1. Definitions

- a. Open Records Law (or Right to Know Law).** Act 3 of 2008, 65 P.S. §§ 67.101 et seq., (“Law”).
- b. Business day.** Monday through Friday during regular business hours<sup>1</sup>, except those days when the offices of the County are closed for all or part of a day:
  - i. due to a federal/state/county holiday;
  - ii. due to natural or other disaster; or
  - iii. due to the request or direction of local, state, or federal law enforcement agencies or officials.
- c. Public Record.** Any document that satisfies the general definition of “public record” set forth in the Law and does not fall within any of the exceptions set forth therein, as the definition and exceptions are amended from time to time and as the definition and exceptions are interpreted by state, federal and/or local courts.
- d. Open Records Officer.** Any official or employee of the County who is officially assigned responsibility for receiving, tracking and responding to requests for information under the Open Records Law. The County may designate a Deputy or Secondary Open Records Officer to act in the absence of an Open Records Officer.
- e. Requester.** A person who requests a record under the Open Records Law.
- f. State Office of Open Records.** The State Office, under the Department of Economic and Community Development, as explained in §1310 of the Open Records Law. The Office of Open Records shall be responsible for many duties, which include (but are not limited to): issuing advisory opinions, training agencies and public employees, assigning appeals officers to review decisions and conducting a biannual review of fees allowed under the Law.

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<sup>1</sup> 8:30AM-4:15PM.

## 2. Open Records Officer

Please see below for the most current Open Records Officer(s) for the County. Please note that some independently elected officials, including the Montgomery County District Attorney's Office, have their own separate and distinct policies. You should consult their respective websites for information specific to their offices, including information concerning their respective Open Records Officers. In addition, each municipality within the County will have their own policies, and are not governed by the policy of the County.

**All requests from lawyers or law firms must be directed to the Open Records Officer in the County Solicitor's office.**

**County Open Records Officer**  
John Marlatt, Esq.,  
Senior Solicitor  
Office of the County Solicitor  
County of Montgomery  
One Montgomery Plaza, Suite 800  
P.O. Box 311  
Norristown, PA 19404-0311  
610-278-3033 (telephone)  
610-278-3069 (fax)

## 3. Procedure

The Law requires that the County act upon each non-anonymous, written request when such request is made in person, by mail, by facsimile, by e-mail, or by online form. The Law does not require that the County act upon oral or anonymous requests, and the County shall refuse to accept any such requests.

Pursuant to the Law, the State Office of Open Records has created and published on its website a standard statewide form which must be accepted by the County for the filing of a request. (<https://www.openrecords.pa.gov/RTKL/Forms.cfm>). Effective March 1, 2013, the County will require the use of either the standard statewide form or the forms provided on the County's website for the submission of Open Records requests, and will not consider a request to be a written request pursuant to the Open Records Law unless the request is submitted on or with either of these forms. As of this March 1, 2013 date, the County will consider any request not submitted on these forms to be an informal request, and not subject to the Open Records Law.<sup>2</sup> The County reserves the right, at its sole discretion, to require a written request pursuant to the Open Records Law before releasing records. A copy of the County's form appears at the end of this policy.

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<sup>2</sup> The County reserves the right, at its sole discretion, to use the Open Records Law as guidance in responding to informal requests for records and/or information.

The Law sets forth various specifications for the contents of a written request. To qualify as a written request under the Open Records Law and the County Open Records Policy the request must (a) be directed to the appropriate Open Records Officer designated above, (b) be submitted on or with the proper forms, as outlined above, and (c) contain, at a minimum, the following information:

- i. name of requester;
- ii. address of requester; and
- iii. records being sought, identified or described with sufficient specificity to allow the County to ascertain which records are being requested.

Under the Law, the County has a duty to make a good faith effort to determine if the record(s) requested is a public record and to respond as promptly as possible under the circumstances existing at the time of the request; this time shall not exceed five (5) business days from the date the request is received by the agency's Open Records Officer. The Law provides that either a final or interim response be provided to the requester within five (5) business days from the date of receipt by the agency. If the agency fails to respond within this five (5) day time period, the Open Records Request is deemed denied.

While the County will endeavor to provide a response to all requests within the five business days described above, the Law does provide the County with specific reasons that may be invoked to receive a single extension of time, which shall not exceed thirty (30) calendar days. If an extension is invoked and no response is provided to the requester within the thirty (30) day time period, the Open Records Request is deemed denied. Additionally, should the County notify the requester it needs more than the maximum thirty (30) day extension, the request is deemed denied unless the requester has agreed in writing to an extension to the date specified in the notice. If the requester agrees to the extension, the request shall be deemed denied on the day following the date specified in the notice if the agency has not provided a response by that date.

The County's final response to a request will do one of the following:

- i. grant the request;
- ii. deny the request;
- iii. grant the request in part and deny the request in part; or
- iv. grant the request and redact part of the information provided pursuant to the Law and/or other applicable federal, state and local law.

#### 4. Appeals of Denied Requests

If a request for access to a record is denied (in whole or in part) or deemed denied, the requester may file an appeal with the State Office of Open Records with fifteen (15) business days of the mailing date of the County 's denial. The appeal should state the grounds upon which the requester asserts the items requested are public and/or financial records under the Law; the appeal shall also address any grounds stated by the County for denying the request, if any. Appeals to the State Office of Open Records should be directed to the following address: Commonwealth of Pennsylvania, Office of Open Records, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120-0225.

Unless the requester agrees otherwise, the State Office of Open Records Appeals Officer shall make a final determination which shall be mailed to the requester and the County within thirty (30) days of receipt of the appeal. Should the appeals Officer fail to issue a ruling within thirty (30) days, the appeal is deemed denied.

Before a final determination is issued, a hearing may be held. The determination by the Appeals Officer shall be a final order. The Appeals Officer shall provide a written explanation of the reasons for the decision to the requester and the County.

Within thirty (30) days of the mailing date of the final determination of the Appeals Officer, a requester or the County may file a petition for review or other document(s) as required by rule of court with the Montgomery Court of Common Pleas.

#### 5. Fees and Charges

Fees for duplication of records have been established and posted by the State Office of Open Records. The County will charge fees consistent with the State Office of Open Records regulations.

The County reserves the right to impose additional fees if it incurs costs for complying with a request, pursuant to the Open Records Law; such additional fees, when charged, must be reasonable. This includes, but is not limited to, fees for enhanced electronic access and certified copies of documents.

These fees shall not apply to any records where the fees or costs for copies are set by any other Pennsylvania or Federal laws.

#### 6. Written Policies and Regulations

The County and any Open Records Officer shall retain the discretion and authority to adopt any other written policies that are consistent with the Open Records Law, and these policies, as amended from time to time, that they deem to be necessary or prudent, consistent with the Open Records Law.