

County of Butler Right-to-Know Law Policy

As revised February 6, 2019

I. Authority

The County of Butler (“County”) adopts this policy pursuant to Section 504(a) of the Right-to-Know Law, 65 P.S. §§ 67.101-67.3104 (“RTKL”). The County has made this policy available to the public at the Office of the Butler County Commissioners, Butler County Government Center, 124 West Diamond Street, P.O. Box 1208, Butler, PA 16003 and on its public website (<http://www.co.butler.pa.us/Files/Admin/Commissioners/COB-RTK-Policy.pdf>) along with the RTKL Uniform Request Form.

II. Agency Website

The County of Butler maintains a public website at <https://co.butler.pa.us>. Many of the records most commonly requested from the County are available on the website. The following information is also posted on the County’s website: Open Records Officer contact information; contact information for the Commonwealth of Pennsylvania Office of Open Records; a form which may be used to file a Right to Know request; and a copy of this policy.

III. Submitting a RTKL Request to the County

A. *Butler County Open Records Officer.* With the exception of Judicial and District Attorney records (see next section), requests for access to open records are to be submitted to the Butler County Open Records Officer.

The contact information for the County Open Records Officer is:

Open Records Officer Maria Malloy
County of Butler
5th Floor County Government Center
124 West Diamond Street
P.O. Box 1208
Butler, PA 16003-1208
Phone: 724.284.5100
Fax: 724.284.5400
Email: openrecords@co.butler.pa.us

B. *Open Records Officer for Judicial*

While the Court generally follows the County procedure outlined in this document, special rules of court govern which information may or may not be released. Judicial records include the records of Court Administration, Adult Probation, Juvenile Probation, Court Reporters, Domestic Relations, Magisterial District Judge Offices, and the Law Library. Requests for judicial records should be directed to:

Court Open Records Officer
County of Butler
124 West Diamond Street
P.O. Box 1208
Butler, PA 16003-1208
Phone: 724.284.5200
Fax: 724.285.5185
Email: court.admin@co.butler.pa.us

C. *Open Records Officer for District Attorney Records*

The Butler County District Attorney's Office maintains its own Open Records Officer. Requests for open records for the District Attorney's Office should be directed to:

District Attorney Open Records Officer John Johnson
Appeals Officer: Patricia J. McClean, Esq.
Office of the District Attorney
County of Butler
124 West Diamond Street
P.O. Box 1208
Butler, PA 16003-1208
Phone: 724.284.5222
Fax: 724.285.5185
Email: jjohnso@co.butler.pa.us

The contact information for the various County of Butler Open Records Officers is also posted on the County's website.

D. *Request.* Requests should be submitted in writing using Butler County Standard Right to Know Request Form available on the County's website and should be addressed to the appropriate Open Records Officer. If a requester chooses not to

use the request form, the request should clearly indicate that it is seeking records under the RTKL. To allow the County to locate requested records and determine whether those records are public, requests for records should be specific and concise and clearly identify as precisely as possible the records sought. Requesters should clearly indicate the preferred method of access – paper copies, electronic copies or by inspection. Requesters should retain a copy of the request for their file, as a copy of the request is necessary should a requester appeal the County response.

- E. *Receipt of the request.* For the purpose of calculating the response deadline, the County is deemed to have received the request on the business day that the Open Records Officer receives the request. Any request that is received by the County after the close of regular business hours shall be deemed to be received on the next business day. If the request is received by a County employee other than the Open Records Officer, the request will be forwarded to Open Records Officer as soon as practical.
- F. *Response period generally.* The County has 5 business days to respond to a request for records under the RTKL. If the County does not respond, the request is considered “deemed denied,” and a requester’s appeal rights commence.

IV. County Response

A. General Rule

1. Upon receipt of a written request for access to a record, the Open Records Officer shall, as promptly as possible under the circumstances existing at the time of the request, determine if the record requested is a public record and whether the County has possession, custody or control of the identified record, and shall provide a response to the requester.
2. Unless one or more of the circumstances under paragraph 4B apply, the response shall be made within five (5) business days from the date the written request is received by the Open Records Officer. For purposes of determining the end of the five (5) business day period, the day that an

open records request is received (or deemed received) is not counted. The first day of the five (5) business day period is the County's next business day.

3. If the Open Records Officer determines that one or more of the exceptions set forth under paragraph 4B applies to a written request for access, the Open Records Officer shall, within five (5) business days of receipt of the written request, send a written notice to the requester explaining that the request for access is being reviewed, giving the reason for the review and a projected date by which a response to the request is expected to be provided, and an estimate of applicable fees owed when the record becomes available. This projected response date should not extend beyond thirty (30) days after the end of the initial response period unless the requester agrees in writing to a specific extension date longer than the statutory thirty (30) days
4. The requester may agree, in writing, to extend the County response period. The requester must agree to the extension during the initial 5 business-day response period or the extended 30 calendar day response period, if the County has invoked one.
5. If a request involves records provided to the County by a third party and the third party previously provided the County with a written statement that the record contains a trade secret or confidential proprietary information, the County shall provide notice to the third party.

B. *Exceptions to 5-Business Day Response:*

1. The request for access requires redaction of a public record.
2. The request for access requires the retrieval of a record stored in a remote location.
3. A timely response to the request for access cannot be accomplished due to bona fide and specified staffing limitations.

4. A legal review is necessary to determine whether the record is a public record subject to access under the Right-to-Know Law.
5. The requester has not complied with the County's policy regarding access to public records.
6. The requester refuses to pay applicable fees authorized by the Right-to-Know Law.
7. The extent or nature of the request precludes a response within the required time period.

C. *Final Response.* The County may grant a request, partially grant and partially deny a request, or deny a request in its entirety. The final response of the County will be in writing. Should the County fail to issue a response within the applicable response period, the request is deemed denied.

1. *Granting access to records.* The County may grant a request for records by issuing a response: (1) granting access to inspect County records during the County's regular business hours; (2) sending copies of the records to the requester; or (3) by notifying the requester that the records are available on the County website or other publicly accessible electronic means.
2. *Denying or partially denying access to records.* Should the County deny or partially deny a request for records through redaction or otherwise, the County will inform the requester of the denial or partial denial in writing. The response will describe the requested records, inform the requester that the County does not possess the responsive records or, if the records are exempt from public access, provide a citation to the relevant legal basis for withholding the requested records. Additionally, the response will provide the name, signature, title, business address and telephone number of the Open Records Officer who denied the request, as well as the date of the response and the procedure to appeal the denial.

D. *Fee Schedule.* All applicable fees shall be paid in advance in order to receive access to the record requested. The County Open Records Officer may waive the fees for duplication of a record when the County deems it is in the public interest to do so.

Record Type / Delivery Method	Fee
Black & White Copies	\$0.25 per copy. ¹
Color Copies	\$.050 per copy. ²
Specialized Documents ³	Up to actual cost.
Records Delivered via Email	No additional fee may be imposed. ⁴
CD / DVD	Up to actual cost, not to exceed \$3.00 per disc.
Flash Drive	Up to actual cost.
Facsimile	Up to actual cost. ⁵
Other Media	Up to actual cost.
Redaction	No additional fee may be imposed. ⁶
Conversion to Paper	\$0.25 per page. ⁷
Photographing a Record	No additional fee may be imposed. ⁸
Postage	Up to actual cost of USPS first-class postage.
Certification of a Record	Up to \$5.00 per record. ⁹
Tax Maps	Up to actual cost.

V. RTKL Appeals

A. *Generally.* To challenge the denial, partial denial, or deemed denial of a request for County records, an appeal may be filed using the Office of Open Records

¹ A “copy” is either a single-sided copy, or one side of a double-sided copy, on 8.5”x11” or 8.5”x14” paper.

² A “copy” is either a single-sided copy, or one side of a double-sided copy, on 8.5”x11” or 8.5”x14” paper. Note that a requester may ask for black and white copies even if the original is in color and color copies are available.

³ Including, but not necessarily limited to, non-standard sized documents and blueprints.

⁴ If a requester asks to receive records which require redactions in electronic format, the County may print the records to provide for secure redaction, then scan them in for delivery by email. Accordingly, the County may charge the fees noted above for either black and white or color copies, as appropriate.

⁵ If the County must print records to send them by facsimile, the County may charge the fees noted above for black and white copies.

⁶ If a requester seeks records requiring redaction, the County may copy or print the records to provide for secure redaction. Accordingly, the County may charge the fees noted above for either black and white or color copies, as appropriate.

⁷ If a record is only maintained electronically or in other non-paper media, duplication fees shall be limited to the lesser of the fee for duplication on paper or the fee for duplication in the original media, unless the requester specifically requests for the record to be duplicated in the more expensive medium.

⁸ This assumes the requester is using his or her own camera, such as a cellphone camera, to photograph the records. *See Muenz v. Township of Reserve, OOR Dkt. AP 2015-1021, 2015 PA O.O.R.D. LEXIS 1176.* If redaction is required prior to the requester being granted access to photograph records, the County may copy or print the records to provide for secure redaction. Accordingly, the County may charge the fees noted above for either black and white or color copies, as appropriate.

⁹ Under the RTKL, the County may impose “reasonable fees for official certification of copies if the certification is at the behest of the requester and for the purpose of legally verifying the public record.” The Office of Open Records recommends no more than \$5 per record to certify a public record. Certification fees do not include notarization fees.

appeal form, available at

<http://www.openrecords.pa.gov/Appeals/AppealForm.cfm>, or by contacting:

Executive Director
Office of Open Records
Commonwealth of Pennsylvania
333 Market St., 16th Floor
Harrisburg, PA 17101-2234
openrecords@pa.gov

Criminal investigative records. To challenge the denial of a request or portion of a request on the basis that records were withheld because they are related to criminal investigative records, an appeal should be filed by contacting:

Appeals Officer Patricia J. McLean, Esq.
Office of the District Attorney
County of Butler
124 West Diamond Street
P.O. Box 1208
Butler, PA 16003-1208
Phone: 724.284.5222

- B. *Requirements of an appeal.* All appeals must be filed within 15 business days of the mailing date of the County's denial, partial denial, or deemed denial of the request. All appeals must be in writing; must state the grounds upon which the requester asserts that the requested records are public records; must address any grounds stated by the County for denying the request; and must include a copy of the request and the County's response, if any.

VI. Mediation

The RTKL requires the Office of Open Records to establish an informal mediation process to resolve disputes under the RTKL. This is a voluntary process to help parties reach a mutually agreeable settlement on records disputes before the Office of Open Records. Mediation, a facilitated conversation between the parties that can serve as a fair and efficient tool to resolve conflict, can save time and expense. When appropriate, the County is open to resolving RTKL disputes through the Office of Open Records' mediation process.

VII. Additional Information about the RTKL

Additional information about the RTKL, the request process, and the appeal process is available on the Office of Open Records' website at <https://www.openrecords.pa.gov>.