

IN THE OHIO SUPREME COURT

STATE EX REL.
ALPHONSO MOBLEY JR.
RELATOR
v.
OHIO DEPARTMENT OF REHABILITATIONS
AND CORRECTIONS
RESPONDENT

CASE NO. 21-0725
ORIGINAL ACTION IN MANDAMUS

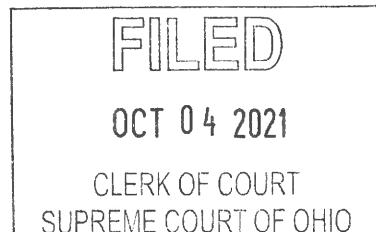
CITATION TO RELEVANT AUTHORITY
PURSUANT TO S.CT.PRAC.R. 16.08

Relator presents herein attached relevant authority pertaining to the instant action, specifically ODRC policy concerning public records 07-ORD-02, with Appendix A attached.

Respectfully Submitted
Alphonso Mobley Jr.
501 Thompson Road
Conneaut Ohio 44030

Certificate of Service

I HEREBY CERTIFY THE FORGOING HAS BEEN SENT VIA USPS TO THE RESPONDENT LOCATED AT 30 EAST BROAD STREET 23rd FLOOR COLUMBUS OHIO 43215 ON THIS 30th DAY OF SEPTEMBER 2021.





Department of
Rehabilitation & Correction

SUBJECT: Public Records	PAGE <u>1</u> OF <u>5</u>
	NUMBER: 07-ORD-02
RULE/CODE REFERENCE: ORC 149.43, 149.011 & 5120.21 & AR 5120-9-49 & 5120:1-1-36	SUPERSEDES: 07-ORD-02 dated 01/02/12
RELATED ACA STANDARDS: 2-1079, 2-1128 & 4-APPFS-3C-03	EFFECTIVE DATE: October 15, 2018
	APPROVED: 

I. AUTHORITY

Ohio Revised Code 5120.01 authorizes the Director of the Department of Rehabilitation and Correction, as the executive head of the department, to direct the total operations and management of the department by establishing procedures as set forth in this policy.

II. PURPOSE

The purpose of this policy is to establish a comprehensive and consistent procedure for complying with Ohio's public record law and responding to public record requests.

III. APPLICABILITY

This policy applies to all Ohio Department of Rehabilitation and Correction (DRC) employees and contractors, particularly those who receive and/or process requests for records access and who review those materials prior to release.

IV. DEFINITIONS

Public Record - Records kept by the DRC unless exempted or excepted from public disclosure by any state or federal statutes or administrative codes, or other legally binding authorities.

Public Records Coordinator/Public Information Officer – An employee designated by the Managing Officer (typically, his/her Administrative Assistant) to be responsible for the implementation and oversight of public records requirements, as set forth in this policy **and** Ohio's public record law.

Record - Any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in R.C. 1306.01, created or received by, or coming under the jurisdiction of the DRC, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the DRC.

Redaction - Obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record".

V. POLICY

It is the policy of the Ohio Department of Rehabilitation and Correction (DRC) to make available to requesting persons, organizations, and agencies any records that are considered public records. DRC will endeavor to keep non-public, within the constraints of Ohio public record law, any records that are exempt from public disclosure.

VI. PROCEDURE**A. General Information**

1. Each Managing Officer shall designate a Public Records Coordinator to manage public records requests for the institution and be responsible for overseeing compliance with the requirements set forth in this policy and Ohio's public record law. The Public Records Coordinator shall work closely with the DRC Office of Legal Services to implement these procedures and Ohio's public record law.
2. All DRC personnel should familiarize themselves with the records considered "public" and "non-public" by DRC. In addition to Ohio Revised Code (RC) 149.43, public records are addressed in administrative rules and other DRC policies. Determining whether a record is a public record focuses on the use and substance of the document or record, not on its form or where and how it was created. DRC may disclose, provide access to, and/or make copies available of, any public record, as described in paragraph (A) of rule 5120-9-49 of the Ohio Administrative Code (OAC). DRC shall not disclose, nor provide access to, nor make copies available of, any non-public record, as described in paragraph (B) of rule 5120-9-49 of the OAC. The most common non-public records are inmate records and records of offenders under the supervision of the Adult Parole Authority pursuant to RC 5120.21. However, certain inmate and offender records may be made available to the public at the discretion of the Director, Managing Officers or the Deputy Director of the Division of Parole and Community Services or, as appropriate, their designees. Additionally, certain non-public records may be disclosed to the public according to paragraphs (C) and (D) of rule 5120-9-49 of the OAC.

B. Public Record Maintenance and Organization

1. Information and records, and copies thereof, that are considered public, shall be made available at the office or institution where the records are maintained. Each office or institution shall organize and maintain all public records in a manner that serves both their administrative needs and the public's interest in the availability of those records for inspection and copying. The Public Records Coordinator shall manage the processing of public record requests and arrange for an area to accommodate in person inspection. The Public Records Coordinator shall be responsible for approving the material to be inspected or copied and keeping a written record of each request and the response thereto.
2. Announcements regarding the availability of public records shall be posted in areas accessible to the public. The DAS and DRC record retention schedules shall be posted on the DRC's internet website <http://www.drc.ohio.gov>.

C. Record Requests

Each request for public records shall be evaluated for a response using the following guidelines.

1. Identification of Requested Record. Although the Public Records Act does not require specific language to make a public records request, the requester must specifically identify the requested records with enough clarity to allow staff to identify, retrieve, and review the records. If it is not clear what records are being sought, staff shall ask the requester for clarification, and assist the requestor in revising the request by informing the requestor of the way the office maintains its records (e.g., DRC's record retention schedule lists record titles and record descriptions).
2. Form of Request. Requests may be made in person, by letter, e-mail, fax, or telephone. Requestors are encouraged to make all public record requests in written form, but a requestor is not required to do so. The requestor may be informed that a written request enables DRC staff to identify responsive records with greater speed and accuracy and maintains a better record of the request and response.
3. Identification of Requestor and Intended Use of Records. A requestor is neither required to provide his/her identity nor the intended use of the requested public record. This does not preclude requesting mailing address information. Security considerations require that visitors produce identification and sign into DRC institutions or other offices before entry.

D. Availability of Records

1. Public records must be made available for prompt inspection Monday through Friday between 8:00 a.m. and 5:00 p.m. except for published holidays. Copies of public records must be made available within a reasonable time. "Reasonable" considers the volume of records requested, the form of the requested records, the proximity of the location where the records are stored, the necessity for any legal review and redaction, and other facts and circumstances of the records requested. When the requested records are available on the DRC website the requestor should be advised of this fact. If not feasible to satisfy the record request within five (5) business days following DRC's receipt thereof, then acknowledge, in writing, that DRC received request and plans to respond within a reasonable time.
2. DRC staff is only obligated to make records available as they are kept in the normal course of business. Requestor may cite RC 149.43, but seek information, not any specific DRC record, which does not constitute a request for records under RC 149.43 and 149.011 (G). DRC staff is not required to perform research or create new records in responding to this type of request.

E. Redaction or Withholding

Public record requests may be for DRC records that require review and redaction of any non-public information. The Public Records Coordinator shall redact using Adobe Acrobat Pro, prior to the release of any record and direct any legal question to the Office of Legal Services. If a request is denied in part (redactions within a document) or in whole (withhold entire document), the Public Records Coordinator is required to provide a citation to the statutory/rule authority which exempts the information from disclosure and describe the record withheld. See Appendix A for a list of non-public/exempt records.

F. Response Time

Upon receipt, each public records request shall be evaluated for an estimated length of time required to gather the records.

1. **Routine Requests.** Routine requests should be satisfied immediately if feasible to do so. An immediate reply should not be feasible at the institutions or other offices where records are kept in secure areas not accessible to the public. In addition, there may be a requirement for legal review. These facts do not relieve the Public Records Coordinator from responding quickly where there is not a need for redaction or legal review. Records in this category include, but are not limited to, press releases, budgets, salary information, forms and applications, personnel rosters, DRC policies (except security policies in the 310 Series), and administrative rules. For such policy or rule requests, direct requestor, if acceptable to him/her, to DRC's internet website <http://www.drc.ohio.gov> to satisfy the request.
2. Requested records may be transmitted by e-mail in a reasonable time, without charge for copies, if the records are readily available/scanned in an electronic format that can securely and easily be e-mailed.
3. **Non-Routine Requests.** If a request is beyond routine (e.g., seeking many copies, seeking records more than one-year old, seeking records from multiple institutions or other offices, records involving multiple persons, requests involving pending or potential litigation, or other circumstances that would make the request non-routine), the written acknowledgement of the request should include the following:
 - a. An estimated number of business days it will take to satisfy the request, if known.
 - b. The estimated cost to be borne by the requestor if the request is fulfilled, if known.
 - c. Identification of the type of items within the responsive records that may be exempt from disclosure and/or subject to redaction, if known.

Legal Services may coordinate or direct the response to a non-routine request such as preparing and delivering a response.

4. **Record Review.** Prior to providing records deemed responsive to a specific record request, the Public Records Coordinator or other designated staff shall review the records to ensure the response complies with applicable DRC policies and rules as well as any statutory restrictions on dissemination of information. Staff may address any legal

Appendix A

THE FOLLOWING IS A LISTING OF NON-PUBLIC/EXEMPT RECORDS (mandatory records prohibited by state/federal law from public release; and discretionary records [e.g., RC 149.43 (A) & 5120.21] not released unless consent granted by Director/Managing Officers-Warden/Managing Director of Courts and Community/their designees):

Inmate medical record per RC 5120.21 (C) and 149.43 (A) (1) (a). Except per RC 5120.21 (F) for medical records and Ohio Administrative rule (AR) 5120-9-49 (B) (2) for **mental health** records, upon the inmate's signed written request plus the written request of an attorney/physician designated by the inmate to receive the records, DRC releases certified copies only to the attorney/physician once/yr. Per DRC Policy 07-ORD-11 inmates cannot have copies of medical/mental health records, only inspect (in presence of med/MH staff) and take pencil notes, 1x/3mos./written request to HCA/MH Mgr. But, before such inspection, the medical/mental health records shall be reviewed by a DRC psychiatrist/physician and if concludes that presentation of the record *directly to the inmate* results in (undue/significant mental anguish)/serious mental/medical harm to the inmate, the psychiatrist/physician shall so indicate on the record. [Note-mental health standard per DRC Policies 07-ORD-05 VI. B. 4. b. and 07-ORD-11 VI.F. 2. c. and medical std./5120.21 (F)] Such review doesn't apply if records are not released directly to the inmate. Former inmates obtain their records per signed written request. Deceased inmate records released by request of executor/administrator of estate and attorney/physician. A court order releases any medical and or mental health records with a certification and cover letter summarizing records enclosed and indicating use of the records is restricted by RC 149.43 and 5120.21 (e.g., inmate records remain confidential).

Certain records that identify an inmate or former inmate concerning transfer from DRC to a psychiatric hospital per RC 5120.17.

Quality assurance records (medical) per RC 5120.211.

Architectural, engineering, or construction **diagrams, drawings, or plans of a correctional institution** per RC 5120.21 (D).

Security Plans for hostage negotiation, for disturbance control, for the control and location of keys, and for dealing with escapes per RC 5120.21 (D).

Statements made by inmate **informants** per RC 5120.21 (D).

Records maintained **by ODYS** pertaining to youth in its custody released to DRC per RC 5120.21 (D) and 149.43 (A) (1) (I).

Victim impact statements and information provided by victims per RC 5120.21 (D). Information provided to the office of victim services by a victim representative per RC 5120.60 (G). A victim impact statement associated with a felony committed by an adult offender and involved a specified "physical harm" aspect per RC 2152.19(D)(3), 2930.13(D), and 2947.051(C).

question to Legal Services, who, in turn, shall provide advice and legal justification for withholding specific information, typically based on using Appendix A.

G. Waiver of Exemption

The DRC Director or designee may decide to voluntarily waive a valid exemption when providing non-public, discretionary records in response to a public records request. This waiver should not be construed to waive, and does not in fact waive, any right to the future assertion of the exemption. The waiver is only as to that specific record, not to other related records, or to the same kind of records in other cases or files.

H. Failure to Respond to a Public Records Request

There are legal and non-legal consequences in failing to timely or properly respond to a public record request. In addition to the distrust in government that failure to comply may cause, failure to comply with a request may result in a court ordering the DRC to produce the records, pay the court costs, and pay the requestor's reasonable attorney's fees, and, if applicable, pay statutory damages.

I. Calculation of Costs for Public Records

1. **Actual Costs.** The DRC may only charge the requestor for the actual cost of making copies, as follows:
 - a. Five cents per page for paper copies. Two-sided copies shall be charged at the rate of ten cents per page.
 - b. Downloaded computer files to a compact disk at the rate of one dollar per disk.
 - c. If a requestor asks that documents be mailed to them, then charge the actual cost of postage.
2. **Prepayment of Costs.** Advanced payment is required for all actual costs which are anticipated to exceed five dollars.
3. **Waiver of Costs.** The DRC may choose to waive costs in connection with a public record request. Any waiver should not be construed to waive and does not waive, any future right of the DRC to request and collect actual costs in response to a public record request.

Attachments:

Appendix A List of Non-Public/Exempt Records

Information and data pertaining to **security threat groups** per RC 5120.21 (D).

Conversations recorded from the monitored inmate telephones per RC 5120.21 (D).

Inmate records per RC 5120.21 (F) **except** charges and decisions in inmate disciplinary cases.

Per RC 149.43 (A) (1) (k) **inmate records** are released by DRC pursuant to a court order of a court of record per RC 5120.21 (E).

Records of persons under the supervision of the adult parole authority (releasee) per RC 5120.21 (F).

Inmate and releasee records may be released to the public at the discretion of the Director, Wardens or the Deputy Director of Courts and Community or their designees per DRC Policy 07-ORD-02.

Per AR 5120-9-49 news media or citizen record request for the following non-public **information about an inmate, parolee, probationer or other releasee** may be released upon the prior approval of DRC's bureau of communication or managing officer: name and inmate number, age and date of birth, race and sex, physical description, county where crime was committed, crime and sentence, admission date, sentencing entry, RIB actions (RIB charges and decisions only), prison transfers (i.e., dates and locations only), outside court actions regarding confinement and release, institutional work assignments, security level, prior DRC incarceration, release eligibility and supervision history (i.e., date and type), time at large (i.e., absconded or escaped), and death (identity withheld until next-of-kin notified or 24 hours following death, whichever occurs first).

Per AR 5120:1-1-36 (D, E, F & G) unless disclosure of any **parole board record** would foreseeably result in harm to any person or jeopardize the safety of any DRC staff, or would present a security risk to any institution or other facility or would materially interfere with the achievement of a fair parole hearing, as determined by the parole board representative (Jamie O'Toole), the following non-public records shall be released, *if written request specifically identifies the records*, to the news media, citizen (except inmate or releasee requesting parole board records of other inmates), government official, victim, or attorney designated by the victim/inmate: parole board decision sheets, parole board risk assessments (not part of ORAS)/criminal history risk score (except mental health related reports such as Clinical Risk Assessment, Violent Risk Assessments and Sexually Violent Predator Assessments unless court order), hearing officer sanction receipt, revocation order, post-release control result notification, and parole candidate information sheets. Additionally, per DRC Policy 7-ORD-5, release institutional summary reports with inmate signed waiver and special conditions of parole. Per AR 5120:1-1-36 (G) redact victim identity, statements by informants, prosecuting attorneys and judges concerning the offender, witness protection information, inmate separation information, juvenile history and diagnostic and testing information of the offender. The following confidential information shall not be released to the inmate: responses from judges, prosecutors, victims and victim representatives or any other party statutorily mandated to receive notice of the hearing, information noted in official records as confidential or obtained under promise of anonymity, presentence investigation or offender background investigation and recommendation per RC 2951.03, and any information which could result in physical harm to any person or diagnostic/medical opinions which, if disclosed, could seriously disrupt rehabilitative programs, or any information deemed

confidential by the hearing officer(s) or parole board member(s) conducting the hearing or interview. Parole Board records are identified/gathered by the Parole Board's public records coordinator (Jamie O'Toole).

Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions [including Warden/Staff Hearing Input Form (DRC3032)/(DRC3031)] per RC 149.43 (A) (1) (b) **except** APA/parole board determinations, orders and minutes (certified by the parole board chair) from any hearing and records of attempts to provide notice to any individual or entity other than a victim.

Record kept by DRC that reflects attempted notices by DRC to notify victims of specified crimes of specified activity concerning the incarceration or release of an inmate per RC 2930.16 (D) (2).

Records stored in the Ohio Risk Assessment System (ORAS) per RC 5120.115 (B).

Per RC 149.43 (A) (1) (h) confidential law enforcement investigatory record (CLEIR) which is any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only 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) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity; (c) Specific confidential investigatory techniques or procedures or specific investigatory work product; or (d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source. Records of open internal equal employment opportunity investigations are confidential law enforcement investigatory records, if conducted pursuant to OAC Chapter 123:1-49, per RC 149.43 (A). CLEIR does not apply to administrative investigations conducted for purposes of public office employment matters (e.g., internal disciplinary investigations, pre-employment questionnaires and polygraph tests, or to public records that later become the subject of a law enforcement investigation) unless the employee is also under investigation pertaining to law enforcement. **Note** - consult with legal counsel before using the CLEIR exemption to withhold employee disciplinary investigation records.

Per RC 149.43 (A) (1) (p) parole officer, probation officer, correctional employee who in the course of performing job duties has or has had contact with inmates or persons under supervision, community-based correctional facility employee, or youth services employee residential and familial information, as follows: (a) street address of the actual personal residence, **except** for the state or political subdivision; (b) information compiled from referral to or participation in an employee assistance program (EAP), R.C. 124.88(B); (c) social security number, residential telephone number, bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information; (d) name of any beneficiary of employment benefits (i.e., medical, dental, vision, life, and disability insurance, union dues, and leave donation) provided by employer; (e) identity and amount of any charitable or employment benefit deduction from compensation unless the amount of the deduction is required by state or federal

law; and (f) name, residential address, name and address of the employer, the social security number (federal Privacy Act: 5 U.S.C. § 552a), the residential telephone number, any bank account (e.g., direct deposit), debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child. **Exception** - journalist engaged in, connected with, or employed by any news medium, may obtain the residential street address, as well as the name and address of spouse, former spouse, or children, if employed by a public office by submitting a written request, with journalist's name and title, employer's name and address, and a statement that release of the information is in the public interest. Personal/home email addresses per RC 1306.23 and State Ex. Rel. Dispatch Printing Co. v. Johnson, 106 Ohio St.3d. 160 (2005).

Per RC 149.433 (B) a **security record** which is any record that contains information directly used for protecting or maintaining the security of DRC against attack, interference, or sabotage; or any record assembled, prepared, or maintained by DRC to prevent, mitigate, or respond to acts of terrorism, including portions of records containing specific and unique vulnerability assessments or specific and unique response plans either of which is intended to prevent or mitigate acts of terrorism, and communication codes or deployment plans of law enforcement or emergency response personnel.

Per RC 149.433 (B) an **infrastructure record** which is any record that discloses the configuration of critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of a building. Also, includes a risk assessment of infrastructure performed by a state or local law enforcement agency at the request of a DRC/DAS.

Security video camera recordings are both an infrastructure record and a security record per RC 149.433 (B) and AR 5120-9-49 (B)(6) and (7).

Criminal history "rap sheets" information obtained from the federal National Crime Information Center system or through the state law enforcement automated data system per 42 U.S.C. section 3789(g). LEADS, NCIC, or CCH criminal record information per 42 U.S.C. § 3789g; 28 C.F.R. § 20.21, § 20.33(a)(3); RC 109.57(D) and (E); OAC 109:05-1-01 and 4501:2-10-06. Also, records (e.g., arrest, conviction, guilty plea and fingerprints including from employee background checks) from the Ohio Bureau of Criminal Identification and Investigation per RC 109.57 and 109.5721 (E). Law enforcement investigative file, including information, data, and statistics gathered or disseminated through the Ohio Law Enforcement Gateway (OHLEG) per R.C. 109.57 (D)(1)(b).

Federal, state, and municipal **income tax returns and social security numbers** contained in personnel files per 26 U.S.C. section 6103 and RC 149.43 (A) (1) (v) (federal), 5703.21 and 5747.18 (state) and 718.13 (municipal). Federal tax returns and "return information" filed under the jurisdiction of the IRS (26 U.S.C. § 6103). Ohio income tax records, any information gained as the result of returns, investigations, hearings, or verifications required or authorized by R.C. Chapter 5747 is confidential (R.C. 5747.18). Information obtained from municipal tax returns is confidential (R.C. 718.13)

Personal information numbers on the internet for: social security, state or federal tax identification, driver's license, state identification, checking account, savings account, credit card, debit card, demand

deposit account, money market account, mutual fund account, or any other financial or medical account per RC 149.43(A)(1) (dd) (referencing RC 149.45).

Information contained in an employment record if the DRC 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.

Pre-sentence investigation reports and an offender background investigation, but may disclose, in a confidential manner, any such report (redact victim impact section and information identifying a witness) to courts, law enforcement agencies, community-based correctional facilities, halfway houses, and medical, mental health, and substance abuse providers per RC 2951.03 (D). Certain or all information in presentence investigation reports (contents and summaries) and those reports, psychiatric reports, victim impact statements and other investigative reports in a court record to be reviewed per RC 2930.13 (D), 2947.06, 2951.03, and 2953.08 (F) (1).

Education records (e.g., school transcripts, attendance records, or other individually identifiable student records) unless student consent per RC 3319.321.

Recovery services records or information pertaining to the identity, diagnosis or treatment of an offender or employee receiving alcohol and/or drug treatment per RC 5119.27. Records and reports identifying a person and pertaining to the person's mental health condition, assessment, care or treatment about services certified by the department of mental health and addiction services, unless disclosed by a permitted party per RC 5119.28. Health and medical records of a person treated for alcoholism or drug addiction per RC 5119.26. Strict confidentiality of information (e.g., alcohol or drug abuser) about offenders receiving alcohol and drug treatment is mandated by 42 U.S.C. §§290 dd-3 and ee-3 and 42 C.F.R. part 2. Restrictions on disclosure applies whether the requestor already has the information, has other ways of getting the information, has some form of official status, is authorized by state law or has a subpoena or search warrant. Disclose only in the following situations: offender signed the Disclosure/Release of Client Information form (DRC5214) (medical and mental health consent forms are not adequate); during a medical emergency when the offender is not able to sign a consent to release information; program evaluations and communications among program staff; and upon receipt of an order of a state or federal court to release information. A subpoena signed by a judge is not sufficient to permit disclosure. Per DRC Policy 07-ORD-11, by written request to Recovery Services Supervisor, an inmate may review, with recovery services staff, his/her recovery services record.

Per RC 149.43 (A) (1) (a) employee medical information (i.e., medical dental, vision, life, and disability insurances, Medicare, workers' compensation, COBRA, and leave for occupational injury, disability, child birth/adoption and FMLA) unless employee consents to release, in writing. "Medical information" pertaining to a corrections employee is also exempt per RC 149.43(A)(7)(c). Medical records are any document pertaining to a patient's medical history, diagnosis, prognosis, or medical condition and generated and maintained in the process of medical treatment.

Information gathered by employer who conducts voluntary medical examination of employee as part of an employee health program per 29 C.F.R. 1630.14 (d) (1). Information regarding an employee's medical condition or history compiled because of a medical examination required by employer to ensure

employee's ability to perform job related functions per 29 C.F.R. 1630.14 (c) (1) (Americans with Disability Act).

Fitness for employment records (i.e., physical, psychiatric and psychological examinations) are not medical records, but may be "records the release of which is prohibited by state (e.g., "confidential personal information" under Ohio's Personal Information Systems Act) or federal laws (e.g., Americans with Disability Act and its implementing regulations).

Employee court documents [e.g., child support, garnishment, adoption per RC 149.43 (A) (1) (d)].

Personal history information of state retirement (e.g., **OPERS**) contributors per RC 145.27 (A), 742.41(B), 3307.20 (B), 3309.22 and 5505.04(C).

Records the release of which is prohibited by state or federal law per 149.43 (A) (1) (v).

Orders for active military service in the US armed forces including reserves or Ohio militia per RC 149.43 (A) (1) (ff).

Military Discharge DD214 per Privacy Act of 1974 limits access to a veteran's DD214 to only the service member (either past or present) or the member's legal guardian; only these persons will have access to almost any information contained in that member's own record. Others requesting information from military personnel/health records must have the signed authorization of the service member or legal guardian.

Inmate is not permitted to inspect/obtain a copy of any public record concerning/(what would be) a **criminal investigation/prosecution** if the subject of the investigation/prosecution were an **adult, unless** the request is for a public record and the sentencing judge/successor, finds the information necessary to support inmate's justiciable claim per RC 149.43 (B) (8).

PREA investigation is a CLEIR until the criminal and or administrative investigation is completed then a public record but redact from the investigation documents any personally identifiable inmate and staff reporting information as exempt from public disclosure based on the Prison Rape Elimination Act 28 CFR Part 115, Subpart A Standards for Adult Prisons and Jails, §115.51 (a), (b) & (c). §115.51 Inmate reporting. (a) The agency shall provide multiple internal ways for inmates to privately report sexual abuse and sexual harassment, retaliation by other inmates or staff for reporting sexual abuse and sexual harassment, and staff neglect or violation of responsibilities that may have contributed to such incidents.(b) The agency shall also provide at least one way for inmates to report abuse or harassment to a public or private entity or office that is not part of the agency, and that is able to receive and immediately forward inmate reports of sexual abuse and sexual harassment to agency officials, allowing the inmate to remain anonymous upon request. (c) Staff shall accept reports made verbally, in writing, anonymously, and from third parties and shall promptly document any verbal reports. (d) The agency shall provide a method for staff to privately report sexual abuse and sexual harassment of inmates.

Materials submitted to DRC in response to a competitive solicitation, until the date DRC either announces the award of a contract based on the competitive solicitation or cancels the competitive solicitation per RC 9.28 (B), (C).

Financial information requested by a state agency or political subdivision from an apparent low bidder on a public contract per RC 9.312 (A).

Records that would jeopardize the state's use or security of computer or telecommunications devices or services associated with electronic signatures, records or transactions per RC 1306.23.

Information or data concerning any arrest, complaint, indictment, information, trial, adjudication, or correctional supervision contained in sealed records per RC 2953.60.

All information that was obtained because of or that otherwise pertains to a Civil Rights Commission preliminary investigation into allegedly unlawful discriminatory practices, prior to certain Commission actions per RC 4112.05 (B) (2) and (3) (c) and 149.43 (A) (1) (i).

Attorney-client privilege for confidential communications which records, and information must not be revealed without the client's waiver and are prohibited from release by RC. 149.43(A)(1)(v). The common law attorney work product doctrine also protects certain materials in a similar manner as the attorney-client privilege per Schaefer, Inc. v. Garfield Mitchell Agency, Inc., 82 Ohio App.3d 322 (2d Dist. 1992); Hickman v. Taylor, 329 U.S. 495 (1947). The doctrine is incorporated into Rule 26 of both the Ohio and Federal Rules of Civil Procedure. [#] pages of records, consisting of emails between Mr. ? and attorneys for DRC about legal advice, have been withheld based on attorney-client privilege per RC. 149.43(A)(1)(v).

NOTE – DRC Legal Services does not represent this information to be an exhaustive list. Independent legal research to determine whether there are additional applicable exemptions elsewhere in Ohio or Federal law that may apply to records being requested is still recommended.