

270-RICR-40-00-1

TITLE 270 – DEPARTMENT OF PUBLIC SAFETY

CHAPTER 40 – PUBLIC RECORDS

SUBCHAPTER 00 - N/A

PART 1 – Rhode Island Department of Public Safety Access to Public Records Regulation

1.1 Purpose

- A. To establish regulations to implement R.I. Gen. Laws § 38-2-1, *et seq.* relating to access to public records maintained by the Department of Public Safety and its agencies, and to comply with R.I. Gen. Laws §§ 42-35-2(a) and 42-7.3-9.
- B. To provide the public and the Department of Public Safety personnel with regulations that set forth the rules and procedures applicable to access public records maintained by the Department.

1.2 Authority

These regulations are promulgated pursuant to R.I. Gen. Laws § 38-2-1, *et seq.*, R.I. Gen. Laws §§ 42-35-2(a), 42-7.3-6 and 42-7.3-9.

1.3 Policy

The Department of Public Safety recognizes both the public's right to access public records and the individual's right to dignity and privacy. It is the Department of Public Safety's policy to facilitate public access to all records that may be disclosed in accordance with R.I. Gen. Laws § 38-2-1, *et seq.* It is also the policy of the Department of Public Safety to make all public records in the Department's possession available for public inspection and copying consistent with applicable state or federal law, unless otherwise prohibited by a court of competent jurisdiction.

1.4 Scope

- A. The Department of Public Safety is responsible for the management and administration of the services provided by various divisions and agencies with the Executive Branch of state government, pursuant to R.I. Gen. Laws § 42-7.3-3. The divisions and agencies include the Rhode Island State Police, Rhode Island

Capitol Police, Division of the Rhode Island State Fire Marshal, E 9-1-1 Uniform Emergency Telephone System, Rhode Island Municipal Police Training Agency, Public Safety Grant Administration Office and Rhode Island Division of Sheriffs.

- B. Members of the public may access public records maintained by the Department of Public Safety through the Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq.*, by making a request consistent with the Department of Public Safety's access to public records guidelines.

1.5 Procedure for Requesting Public Records

- A. The Department of Public Safety adheres to the Access to Public Records Act, R.I. Gen. Laws § 38-2-1 *et seq.*, and has instituted the following procedures for members of the public to obtain public records.
 - 1. A written request is not required for records available pursuant to the Administrative Procedures Act or other documents prepared for or readily available to the public.
 - 2. Members of the public can submit a written request for public records from the Department of Public Safety by contacting the Department of Public Safety Office of Legal Counsel, which is the Department's designated public records unit.
 - 3. Written requests to inspect or copy public records should describe the records being sought. Records request forms are available on the Department's website, www.dps.ri.gov, at Rhode Island State Police Headquarters and Public Safety Complex, at all Rhode Island State Police barracks, and at all Department of Public Safety agencies.
 - 4. Written requests may be mailed, hand-delivered, e-mailed, or sent via facsimile. Requests by mail should be sent to Department of Public Safety, Office of Legal Counsel, 311 Danielson Pike, North Scituate, RI 02857. Hand-delivered requests may be delivered to Rhode Island State Police barracks at all times they are open.

1.6 Guidelines

- A. In order to ensure the Department is able to respond to the request as efficiently as possible, the request should identify the documents or information being requested with as much specificity as possible. If the description of records being requested is not sufficient to allow the Department to identify and locate the requested records, the Department will notify the person requesting such records that additional information is needed in order to properly respond to the request.

- B. Statewide Uniform Crash Reports for Motor Vehicle Accidents can be purchased for a fee, pursuant to R.I. Gen. Laws § 42-28-37, either on-line from a website or by mail through the Rhode Island State Police Accident Bureau, 311 Danielson Pike, North Scituate, RI 02857.
 - 1. Requests for Statewide Uniform Crash Reports that have not been placed on the above-mentioned website for the public shall be reviewed by Legal Counsel to determine whether the investigation is on-going and whether criminal charges are pending. Non-public information will be redacted prior to release.
 - a. Statewide Uniform Crash Reports shall be provided to individuals involved in the accident or their legal representation regardless of the status of the investigation, pursuant to R.I. Gen. Laws § 42-28-37.
- C. You are not required to provide identification or the reason you seek the information. Your rights to access public records will not depend upon providing identification or reasons.
 - 1. However, any parent, guardian, or attorney requesting records on a juvenile they represent will be required to provide identification prior to receiving the requested record.
- D. Copies of public records will be provided electronically, by facsimile, by mail or may be picked up in accordance with the requesting party's choice, unless complying would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The requesting party is responsible for the actual cost of delivery, if any.
- E. The Access to Public Records Act allows a public body ten (10) business days to respond to a request for records, which can be extended up to an additional twenty (20) days for good cause, which will be explained in writing by the Department.
- F. Any denial of access to records, in whole or in part, will be provided through a written response to the requestor indicating the reasons for the denial of access to records or for the denial of certain information contained in a record that is otherwise public pursuant to R.I. Gen. Laws § 38-2-2. The written response will also include the process for appeals outlined in R.I. Gen. Laws § 38-2-8.
- G. Any individual who receives a denial for copies of requested records or the ability to inspect records may petition the Director of the Department of Public Safety for a review of the determinations. The Director shall make a final determination whether or not to allow public inspection within ten (10) business days. If the

denial is confirmed, the individual may file a complaint with the Office of the Attorney General, who will then investigate and make a determination. The individual may also file a lawsuit in Superior Court.

- H. The Access to Public Records Act requires public bodies to apply a case-by-case balancing test to non-exempt records to determine whether the privacy interests of individuals outweigh the public's interest in disclosure. That balancing requires a public body to consider both "the public's right to access to public records and the individual's right to dignity and privacy..." R.I. Gen. Laws § 38-2-1.
- I. The Department is not required to reorganize, consolidate, or compile data not maintained in the form requested, except the extent that such records are in an electronic format and the Department would not be unduly burdened in providing such data.
- J. All records initially deemed to be public records which any person may inspect and/or copy shall continue to be public records whether or not subsequent court action or investigations are held pertaining to the matters contained in the records.

1.7 Hours and Supervision of Inspections

- A. Individuals who request to inspect records, as opposed to obtain copies, deemed to be public pursuant to R.I. Gen. Laws § 38-2-3, will be advised of when the records will be available for inspection, or an appointment will be made for them to inspect the requested records.
- B. The time frame for the Department to respond to requests to inspect public records is the same time frame applicable to responding to requests for copies of public records as set forth in § 1.6 of this Part.
- C. The inspection of public records must be accomplished in a manner which will provide for general supervision by authorized Departmental staff. This is necessary to prevent the misplacement or unauthorized removal of records or any other action that may impair the integrity of the public record.

1.8 Fees

- A. The cost for documents that are able to be copied on common business or legal size paper is fifteen cents (15¢) per page. The fee for electronic records or retrieval fees from a storage facility is not more than the reasonable actual cost of those records.
- B. There is no fee for the first hour of search and retrieval of documents by the Department. There will be a fee of fifteen dollars (\$15.00) per hour for each

additional hour spent for search and retrieval. Multiple requests made within a thirty (30) day time period from the same requesting party for records from one of the Department's agencies shall be treated as one request.

- C. The Department will provide an estimate of the cost of a request for documents prior to providing copies.
- D. If a court or the Department determines the information requested is in the public interest, it may reduce or waive fees for search and retrieval costs.
- E. Department personnel will make copies of requested records. The Department does not have a copy machine available for use by the public to make copies.
- F. Official publications prepared by the Department in the discharge of their duties to inform the public on matters of public interest will be furnished free of charge when available.

1.9 Severability

If any provision of this regulation or the application thereof to any individual or circumstances, is held invalid, such invalidity shall not affect the provisions or application of the remaining portions of the regulation which can be given effect. The provisions of these rules and regulations are declared to be severable.

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Regulation (270-RICR-40-00-1)

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Editorial Note: This Part was filed with the Department of State prior to the launch of the Rhode Island Code of Regulations. As a result, this digital copy is presented solely as a reference tool. To obtain a certified copy of this Part, contact the Administrative Records Office at (401) 222-2473.

