

# Fredericksburg Police Department

## Public Information Rules, Procedures, and Charges

### General Information

Public information requests must be in writing.

You may request to receive copies of information, inspect the information, or both.

- General Rule for Copies
  - The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead.
- General Rule for Inspection
  - Generally, a charge may not be imposed when making paper records available for inspection.
  - If the information exists electronically, a charge may not be imposed for access to the information, unless complying with the request will require programming or manipulation of data.

If the Fredericksburg Police Department (FPD) wishes to withhold information, the FPD must request a ruling and state the exceptions that apply from the Office of the Attorney General (OAG) within 10 business days of receiving the request. You will receive a copy of the communication from the FPD asking the Attorney General for a ruling on whether the information can be withheld under one of the accepted exceptions, or if the communication discloses the requested information, a redacted copy. The OAG will issue a letter ruling in response to the FPD's request for a ruling within 45 business-days.

The Fredericksburg Police Department will:

- treat all requestors uniformly and shall give to the requestor all reasonable comfort and facility, including accommodation in accordance with ADA requirement;
- Inform the requestor if the information cannot be provided promptly and set a date and time to provide it within a reasonable time;
- Segregate public information from information that may be withheld and provide that public information promptly;
- Make a good faith attempt to inform third parties when their proprietary information is being requested from the FPD;
- Respond in writing to all written communications from the Attorney General regarding complaints about the charges for the information and other alleged violations of the Act.

The FPD shall *promptly* produce public information for inspection, duplication, or both on application by any person.

- “Promptly” means as soon as possible under the circumstances, that is, within a reasonable time, without delay.
- If the FPD cannot produce information within 10 business days after the date the information is requested, the FPD must certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available.

### Body Worn Camera Videos

A member of the public is required to provide the following information when submitting a written request to a law enforcement agency for information recorded by a body worn camera:

- the date and approximate time of the recording;

- the specific location where the recording occurred; and
- the name of one or more persons known to be a subject of the recording.

A failure to provide all of the information required does not preclude the requestor from making a future request for the same recorded information.

Information recorded by a body worn camera and held by the FPD is not subject to the requirements of Section 552.021, Government Code, with the exception that information that is or could be used as evidence in a criminal prosecution is subject to the requirements of Section 552.021, Government Code. The FPD may:

- seek to withhold this information;
- assert any exceptions to disclosure in Chapter [552](#), Government Code, or other law; or
- release information requested after the FPD redacts any information made confidential under Chapter [552](#), Government Code, or other law.

The FPD may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

**Confidential Information under the Public Information Act**

*It is mandatory for the FPD to withhold confidential information from public disclosure. However, the FPD has discretion to withhold other requested information.*

**Mandatory** - The FPD is required to withhold certain types of information by statute. If information is confidential by statute, the FPD generally cannot release the requested

information. Here is a list of common types of information that is confidential by law.

- Dates of birth of living persons
- Driver's license numbers
- License plate numbers
- Credit card numbers
- Insurance policy numbers
- Juvenile offender records
- Child abuse investigations
- Peace officer's home address
- Peace officer's family member information

**Discretionary** - The FPD has the option to withhold non-confidential information in certain circumstances. In other words, the FPD is not required to withhold requested information, but it may use its discretion to withhold the information. Here is a list of common types of information the FPD may choose to withhold.

- Attorney-Client communications
- Drafts of policymaking documents
- Information related to pending litigation
- Audit working papers
- Competitive bidding information before contract awarded

In either circumstance, the FPD is generally required to seek a ruling from OAG unless there is a previous determination allowing the FPD to withhold the type of information it seeks to withhold. Further, if the FPD has previously released information voluntarily that is not confidential by law, the FPD cannot claim a discretionary exception to withhold the previously released information.

**Charges**

**Rates:**

- Standard paper copy -- **\$0.10** per page (each printed side is a page)
- Oversize paper copy -- **\$0.50** per page
- Rewritable CD (CD-RW) -- **\$1.00**
- Non-rewritable CD (CD-R) -- **\$1.00**
- Other electronic media -- **actual cost**

- Miscellaneous supplies -- **actual cost**
- Shipping – **actual cost**
- Overhead --varies
- Labor charges (locating, compiling, manipulating, or reproducing data) -- **\$15.00** per hour

The FPD may waive or reduce charges if the FPD determines that access to the information primarily benefits the general public

The FPD is required to provide a requestor with an itemized statement of estimated charges if charges for copies or inspection of public information will exceed \$40. The itemized statement of estimated charges is to be provided before copies are made to enable requestors to make the choices allowed by the Act. If the FPD fails to provide the required statement, the FPD may not collect more than \$40. The itemized statement must be provided free of charge and shall contain the following information:

- The itemized estimated charges, including any allowable charges for labor, overhead, copies, etc.;
- Whether a less costly or no-cost way of viewing the information is available;
- A statement that the requestor must respond in writing by mail, in person, by facsimile or email
- A statement that the request will be considered to have been automatically withdrawn by the requestor if a written response from the requestor is not received within 10 business days after the date the statement was sent, in which the requestor states that the requestor:
  - Will accept the estimated charges;
  - Is modifying the request in response to the itemized statement; or
  - Has sent to the Attorney General a complaint alleging that the requestor has been overcharged

for being provided with a copy of the public information.

If after starting the work, but before making the copies available, the FPD determines that the initially accepted estimated statement will be exceeded by 20% or more, an updated statement must be sent. If the requestor does not respond to the updated statement, the request is considered to have been withdrawn by the requestor. If the actual charges exceed \$40, the charges may not exceed:

- The amount estimated on the updated statement; or
- An amount that exceeds by more than 20% the amount in the initial statement, if an updated statement was not sent.

The FPD must request an exemption before seeking to recover costs that are more than 25% higher than the charges established by these rules.

The FPD may request a deposit up to 50% of the entire estimated amount if the estimated charges will exceed \$100.

If the FPD cannot produce the public information for inspection and/or duplication within 10 business days after the date the written response from the requestor has been received, the FPD shall certify to that fact in writing, and set a date and hour within a reasonable time when the information will be available.

If a requesting party asks that information be provided on computer-compatible media of a particular kind, and the requested information is electronically stored and the FPD has the capability of providing it in that format and it is able to provide it at no greater expense or time, the FPD shall provide the information in the requested format. If the FPD does not have the required technological capabilities to comply with the request in the format preferred by the requestor, the FPD shall proceed in accordance with §552.228(c) of the Public Information Act.

Inspection Charges - Access to information in standard paper form. The FPD shall not charge

for making available for inspection information maintained in standard paper form. Charges are permitted only where the FPD is asked to provide, for inspection, information that contains mandatory confidential information and public information. When such is the case, the FPD may charge to make a copy of the page from which information must be edited. No other charges are allowed except as identified in Title 1 Part 3 §70.5 of the Texas Administrative Code.

#### Body worn camera footage:

This section does not apply to a request, or portions of a request, seeking to obtain information other than a copy of a body worn camera recording. Portions of a request seeking information other than a copy of a body worn camera recording are subject to the charges identified above.

The charge for obtaining a copy of a body worn camera recording shall be:

- **\$10.00** per recording responsive to the request for information; and
- **\$1.00** per full minute of body worn camera video or audio footage responsive to the request for information, if identical information has not already been obtained by a member of the public in response to a request for information.

The FPD may provide a copy without charge, or at a reduced charge, if the agency determines waiver or reduction of the charge is in the public interest.

If the requestor is not permitted to obtain a copy of a requested body worn camera recording under Texas law, the FPD will not charge the requestor under this section.

#### Complaints

A requestor may submit written complaints to the OAG if the requestor believes the FPD is not complying with the Act.

Pursuant to §552.269(a) of the Texas Government Code, requestors who believe they have been overcharged for a copy of public information may complain to the Attorney General.

*The above information does not represent all potential rules or charges that may apply to your PIA request. For a complete list of regulations regarding PIA requests, please visit the Office of the Attorney General's website and/or the Texas Public Information Act Handbook.*