

**STATE OF MICHIGAN  
IN THE 3<sup>rd</sup> CIRCUIT COURT FOR WAYNE COUNTY**

MI GRASSROOTS ALLIANCE  
Plaintiff,

Case No: 23-\_\_\_\_\_ -CZ

v.

Hon. \_\_\_\_\_

WAYNE COUNTY  
Defendant

**COMPLAINT**

\_\_\_\_\_ /

Thomas J. Lambert (P86348)  
Thomas J. Lambert, PLC  
Attorney for Plaintiffs  
PO Box 8041  
Kentwood, MI 49518  
(616) 275-2976  
tlambert@tjlplc.com

There are no other pending or resolved civil actions arising out of the same transactions or occurrences alleged in this Complaint.

*An action commenced under Section 10 of the FOIA "shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way." MCL 15.240(5) & MCL 15.240a(5).*

**COMPLAINT / PETITION FOR EXPEDITED ENTRY OF ORDER  
DIRECTING FOIA DISCLOSURE & SEEKING OTHER RELIEF**

NOW COMES Plaintiff MI GRASSROOTS ALLIANCE, by and through counsel, and complains as follows:

**PARTIES**

1. Plaintiff MI GRASSROOTS ALLIANCE is a Michigan not-for-profit public advocacy organization that advocates for citizen participation and support for public policies and programs which enhance freedoms, protect families, protect the environment, and stimulate individual initiative.

2. Defendant WAYNE COUNTY is an organized county of the State of Michigan and a body corporate pursuant to Art VII, Section 1 of the Michigan Constitution.

**JURISDICTION**

3. This Court has jurisdiction by statute pursuant to MCL 15.240(1)(b) and MCL 15.240a(1)(b).

4. Venue is proper in this case pursuant to MCL 15.240(4) and MCL 15.240a(4) as an office of the public body is located within the County of Wayne.

5. This Court must advance this matter expeditiously as MCL 15.240(5) and MCL 15.240a(5) require that “[a]n action commenced under this section . . . shall be assigned for hearing and trial or argument at the earliest practicable date and expedited in every way.”

### GENERAL ALLEGATIONS

6. On August 12, 2022, Plaintiff MI GRASSROOTS ALLIANCE, by and through its agent, submitted a FOIA request to Defendant WAYNE COUNTY via electronic mail seeking the following records:

For the time period between 3pm on August 2, 2022 and 5pm on August 3, 2022, please provide the surveillance footage for the surveillance camera positioned just outside of the entrance to the Wayne County Clerk’s office on the 5<sup>th</sup> floor of the Coleman A. Young Municipal Center on 2 Woodward Ave, Detroit, MI.

[hereinafter the “Aug 12 FOIA Request”]

7. A fair and accurate copy of the Aug 12 FOIA Request is attached hereto as **Exhibit 1**.

8. The Aug 12 FOIA Request was addressed to and sent to Defendant WAYNE COUNTY via the email address of “foiarequests@waynecounty.com” per Defendant WAYNE COUNTY’s publicly available website and publicly available FOIA summary.

9. The subject line of the Aug 12 FOIA Request contained the phrase “FOIA Request” as required by statute.

10. If a FOIA request is submitted via email, the request is not considered to have been received by the public body until 1 business day after the electronic transmission is made. See MCL 15.235(1).

11. Defendant WAYNE COUNTY is considered to have received the Aug 12 FOIA Request on August 15, 2022.

12. A public body is required to respond to a FOIA request within 5 business days of receiving the request. See MCL 15.235(2).

13. Defendant WAYNE COUNTY’s deadline to respond was August 22, 2022.

14. On August 23, 2022, Defendant WAYNE COUNTY sent Plaintiff MI GRASSROOTS ALLIANCE a late extension via email [hereinafter the “Aug 23 Late Extension”].

15. A fair and accurate copy of the Aug 23 Late Extension is attached hereto as **Exhibit 2**.

16. At most, a public body may only issue one timely extension for “not more than 10 business days.” See MCL 15.235(2)(d).

17. The Aug 23 Late Extension claimed to extend the deadline by “ten (10) additional business days;” however, a due date of “September 7, 2022.”

18. 10 business days from August 22, 2022, is September 6, 2022.

19. On October 5, 2022, Defendant WAYNE COUNTY sent Plaintiff a communication purporting to “grant” the Aug 12 FOIA Request [hereinafter the “Oct 5 Late Response”].

20. A fair and accurate copy of the Oct 5 Late Response is attached hereto as **Exhibit 3**.

21. October 5, 2022, is 36 business days (approximately 1 3/4 months) after Defendant Wayne County is considered to have received the Aug 12 FOIA Request.

22. The Oct 5 Late Response invoked no exemptions to the FOIA.

23. The Oct 5 Late Response stated that the records requested by Plaintiff “are available.”

24. The Oct 5 Late Response demanded a deposit of \$2,495.29.

25. The Oct 5 Late Response stated that “no further action will be taken regarding the request until the deposit is received.”

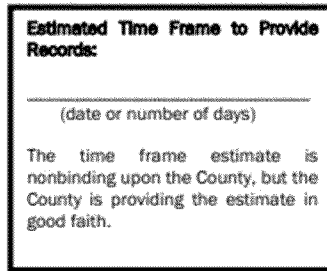
26. The Oct 5 Late Response stated that a demanded deposit could be paid via “check or money order payable to the County of Wayne.”

27. Included with the Oct 5 Late Response was an itemization of Defendant’s estimated fees [hereinafter the “Oct 5 Itemization”].

28. A fair and accurate copy of the Oct 5 Itemization is attached hereto as **Exhibit 4**.

29. The Oct 5 Itemization estimated a grossly excessive 126.5 hours (over three work weeks) to find and process a single video of surveillance footage.

30. The Oct 5 Itemization failed to provide a good-faith estimate of how many days it would take for Defendant to process and fulfill the Aug 12 FOIA Request as required by law and Defendant’s own standardized form. See MCL 15.234(8).



31. The Oct 5 Itemization failed to reduce the estimate by 5% per-day late, as required by law. See MCL 15.234(9).

32. The Oct 5 Itemization should have been reduced by the maximum 50%.

33. If a public body requires a good-faith deposit, the requestor has 48 days to pay that deposit from the time the public body sends notice of the deposit requirement to the requestor, or the request may be considered abandoned. See MCL 15.234(14).

34. Notice of Defendant's deposit requirement for the Aug 12 FOIA Request was sent to Plaintiff on October 5, 2022.

35. 48 days from October 5, 2022, is November 22, 2022.

36. The October 5 Itemization falsely stated that Plaintiff only had until November 10, 2022, to pay the deposit.

37. A public body may only charge a fee for the "cost of search, examination, review, and the deletion and separation of exempt from nonexempt information [if] failure to charge a fee would result in unreasonably high costs to the public body because of the nature of the request in the particular instance, **and the public body specifically identifies the nature of these unreasonably high costs.**" See MCL 15.234(3) (emphasis added).

38. Neither the Oct 5 Late Response nor the Oct 5 Itemization stated that a failure to charge a fee for the Aug 12 FOIA Request would result in an unreasonably high cost to Defendant, nor did they identify a nature of the unreasonably high cost in the particular instance, as required by law.

39. On November 15, 2022, Plaintiff MI GRASSROOTS ALLIANCE sent a valid check to Defendant for the full deposit amount of \$2,495.29.

40. On December 6, 2022, after several inquiries from Plaintiff, Defendant WAYNE COUNTY confirmed receipt of Plaintiff's check, but claimed that the check needed to be returned as it was "not issued with guaranteed funds."

41. A fair and accurate copy of the December 6 guaranteed funds discussion between Defendant WAYNE COUNTY and Plaintiff MI GRASSROOTS ALLIANCE is attached hereto as **Exhibit 5**.

42. Defendant WAYNE COUNTY never required “guaranteed funds,” or anything similar, from Plaintiff MI GRASSROOTS ALLIANCE on any of Plaintiff’s prior FOIA requests to Defendant.

43. Defendant WAYNE COUNTY never communicated any requirement for “guaranteed funds,” or any similar requirement, to Plaintiff MI GRASSROOTS ALLIANCE prior to December 6, 2022.

44. Defendant WAYNE COUNTY’s official FOIA Policies and Procedures and Public FOIA Summary contain no requirement for “guaranteed funds” or any similar requirement.

45. A fair and accurate copy of Defendant WAYNE COUNTY’s FOIA Policies and Procedures is attached hereto as **Exhibit 6**.

46. A fair and accurate copy of Defendant WAYNE COUNTY’s Public FOIA Summary is attached hereto as **Exhibit 7**.

47. Plaintiff MI GRASSROOTS ALLIANCE has never stopped payment on any checks to Defendant WAYNE COUNTY.

48. On December 20, 2022, after multiple attempts to get clarification from Defendant WAYNE COUNTY, Plaintiff MI GRASSROOTS ALLIANCE mailed a cashier’s check for the full deposit amount to Defendant.

49. A fair and accurate copy of the letter mailed with the cashier’s check is attached hereto as **Exhibit 8**.

50. Over the intervening weeks, Plaintiff MI GRASSROOTS ALLIANCE inquired multiple times as to the status of the Aug 12 FOIA Request.

51. On February 1, 2023, Defendant WAYNE COUNTY responded indicating that the “video is in the Wayne County Prosecutor’s Office Evidence Submission Portal queue.”

52. Defendant WAYNE COUNTY further indicated that it was illegally requiring full payment “before the redacted video is provided,” in direct conflict with the limit that a public body may only demand at most 50% of the estimated cost “before providing the public records to the requestor.” See MCL 15.234(8).

53. Defendant WAYNE COUNTY still provided no good-faith estimate as to how long it would take to process the Aug 12 FOIA Request.

54. Defendant WAYNE COUNTY still failed to identify the nature of any unreasonably high cost.

55. A fair and accurate copy of Defendant’s February 1, 2023, response is attached hereto as **Exhibit 9**.

56. At the time of filing for this Complaint, Defendant WAYNE COUNTY has provided no responsive records pursuant to the Aug 12 FOIA Request.

57. At the time of filing for this Complaint, Defendant WAYNE COUNTY has provided no required good-faith estimate as to how long it will take to process the Aug 12 FOIA Request.

58. At the time of filing for this Complaint, Defendant WAYNE COUNTY has identified no nature of any unreasonably high cost in this particular instance.

59. At the time of filing for this Complaint, Defendant WAYNE COUNTY has invoked no exemptions or otherwise provided any justification for any redactions, denials, or delays of responsive records.

60. At the time of filing for this Complaint, nearly 9 months have elapsed since Defendant WAYNE COUNTY received the Aug 12 FOIA Request, and over 6 months since it first received payment for its late-demanded deposit.

**COUNT I**  
**WRONGFUL DENIAL / FAILURE TO PRODUCE REQUESTED RECORDS OR INVOKE**  
**EXEMPTIONS**

61. Plaintiff MI GRASSROOTS ALLIANCE incorporates by reference the previous allegations as set forth word for word herein.

62. Plaintiff MI GRASSROOTS ALLIANCE made a proper request for public records under the FOIA to Defendant WAYNE COUNTY.

63. Defendant WAYNE COUNTY failed to timely respond as required under MCL 15.235(2) by taking 6 business days to initially respond to the Aug 12 FOIA request.

64. Defendant WAYNE COUNTY also failed to timely respond as required under MCL 15.235(2) by taking 36 business day to finally respond to the Aug 12 FOIA request.

65. Failure to respond as required “constitutes a public body’s final determination to deny the request.” See MCL 15.235(3).

66. Defendant WAYNE COUNTY has wrongfully withheld and/or otherwise failed to produce responsive records which Plaintiff MI GRASSROOTS ALLIANCE is entitled to receive under the FOIA.

67. Defendant WAYNE COUNTY acted arbitrarily and capriciously in its delay or refusal to comply with the FOIA and its own policies.

68. Defendant WAYNE COUNTY’s delay and failure to comply with the FOIA constitutes a determination to deny the Aug 12 FOIA Request by operation of law.

69. As a result of Defendant WAYNE COUNTY's wrongful denial, Plaintiff MI GRASSROOTS ALLIANCE has incurred attorney fees, costs, and disbursements which must be ordered paid by Defendant WAYNE COUNTY pursuant to MCL 15.240(6).

70. This Court is requested to award all applicable punitive damages to Plaintiff MI GRASSROOTS ALLIANCE and impose all civil fines against Defendant WAYNE COUNTY as authorized by the FOIA.

## **COUNT II WRONGFUL FOIA FEE**

71. Plaintiff MI GRASSROOTS ALLIANCE incorporates by reference the previous allegations as set forth word for word herein.

72. This Count is pleaded in the alternative to Count I, contingent upon this Court finding that Defendant WAYNE COUNTY did not deny Plaintiff's Aug 12 FOIA Request.

73. A public body may earn the privilege of charging a fee for its FOIA response if it first created a policy that complies with the FOIA and then follows that policy. MCL 15.234(1).

74. Defendant WAYNE COUNTY's FOIA policy does not comply with the FOIA.

75. Defendant WAYNE COUNTY has not complied with its FOIA policy as it relates to the Aug 12 FOIA Request.

76. A fee charged by a public body must comply with certain calculation and itemization requirements. MCL 15.234(2).

77. Upon information and belief, Defendant City has not calculated its demanded fee in accordance with the FOIA including, but not limited to, by:

- a. Not calculating fees based on the hourly wage of the lowest paid employee capable of performing the task regardless of who actually performs the task.
- b. Calculating fees based on fringe benefits in excess of the actual cost of said benefits.
- c. Calculating fees for unnecessary work and materials.
- d. Not estimating hours in good-faith based on the public body working diligently to fulfill the FOIA request.

78. If a public body earns the privilege of charging a fee, and calculates the fee in a legal manner, it may then only demand the fee if failure to charge a fee would constitute and unreasonably high cost to the public body based on the request in the particular instance "and the public body specifically identifies the nature of these unreasonably high costs." MCL 15.234(3).

79. Defendant WAYNE COUNTY has not stated that the costs related to responding to the Aug 12 FOIA Request represent an unreasonably high cost to Defendant, nor has Defendant identified the nature of any unreasonably high cost in this particular instance.

80. Defendant WAYNE COUNTY has illegally demanded full payment prior to providing public records.

81. Defendant WAYNE COUNTY does not provide for fee appeals to the head of the public body.

82. By failing to comply with the FOIA and its own policies, Defendant WAYNE COUNTY has demanded an unlawful fee.

83. Defendant WAYNE COUNTY has acted arbitrarily and capriciously in its refusal to comply with the FOIA and its own policies.

84. As a result of Defendant WAYNE COUNTY's unlawful fee demand, Plaintiff MI GRASSROOTS ALLIANCE has incurred attorney fees, costs, and disbursements which may be ordered paid by Defendant City pursuant to MCL 15.240a(6).

85. This Court is requested to award all available punitive damages to Plaintiff MI GRASSROOTS ALLIANCE and impose all civil fines against Defendant WAYNE COUNTY as authorized by the FOIA.

### **RELIEF REQUESTED**

86. Plaintiff respectfully requests this Court to:

- a. Enter an order assigning this matter a hearing and trial for argument at the earliest practicable date and that this matter be expedited in every way pursuant to MCL 15.240(5) and MCL 15.240a(5);
- b. Find Defendant WAYNE COUNTY illegally denied Plaintiff MI GRASSROOTS ALLIANCE's Aug 12 FOIA Request by failing to fulfill the request as required under the FOIA;
- c. Find Defendant WAYNE COUNTY arbitrarily and capriciously created substantial delay when it refused to accept otherwise valid payment that it previously solicited.
- d. Enter an order against Defendant WAYNE COUNTY compelling disclosure of the public records requested via the Aug 12 FOIA Request;
- e. To the extent applicable, find Defendant WAYNE COUNTY has illegally demanded fees in excess of what is permitted under the FOIA;
- f. To the extent applicable, find Defendant WAYNE COUNTY has demanded an illegal deposit;



- g. Enter a judgement awarding attorney fees, costs, and disbursements pursuant to MCL 15.240(6);
- h. To the extent applicable, enter a judgement awarding attorney fees, costs, and disbursements pursuant to MCL 15.240a(6);
- i. Enter a judgement awarding all punitive damages and imposing all civil fines authorized by the FOIA;
  - a. Grant all other relief that his Court deems equitable and just.

Date: May 5, 2023

Respectfully Submitted,

Thomas J. Lambert /s/  
Thomas J. Lambert (P86348)  
Thomas J. Lambert, PLC  
Attorney for Plaintiffs  
PO Box 8041  
Kentwood, MI 49518  
(616) 275-2976  
tlambert@tjlplc.com

# Exhibit 1

August 12 FOIA Request

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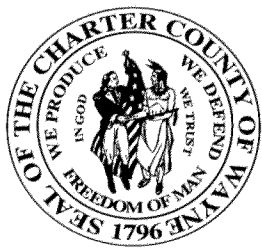
**From:** Patrick Colbeck <patrick@migrassrootsalliance.org>  
**Sent:** Friday, August 12, 2022 10:10 AM  
**To:** foiarequests@waynecounty.com  
**Subject:** FOIA Request

For the time period between 3pm on August 2, 2022 and 5pm on August 3, 2022, please provide the surveillance footage for the surveillance camera positioned just outside of the entrance to the Wayne County Clerk's office on the 5<sup>th</sup> Floor of the Coleman A. Young Municipal Center on 2 Woodward Ave, Detroit, MI.

Thank you for your assistance in fulfilling this request,  
Patrick Colbeck  
47841 Royal Pointe Drive  
Canton, MI 48187

# Exhibit 2

Aug 23 Late Extension



# Office of the County Clerk

**Cathy M. Garrett**  
Wayne County Clerk

August 23, 2022

Patrick Colbeck  
47841 Royal Pointe Dr.  
Canton, MI 48187  
patrick@migrassrootsalliance.org

Re: Freedom of Information Act requesting surveillance footage for the surveillance camera positioned just outside of the entrance to the Wayne County Clerk's Office on the 5<sup>th</sup> Floor of the Coleman A. Young Municipal Center on 2 Woodward Ave., Detroit, MI., for the time period between 3 pm on August 2, 2022, and 5 pm on August 3, 2022.<sup>1</sup>

Dear Mr. Colbeck:

The above-described request for information was received by our office via email on August 16, 2022. The response date would normally be August 23, 2022. In order to determine the extent of responsive information, inquiry must be made within this office and relevant files must be searched. Therefore, we are extending our response time by ten (10) additional business days, and the response will be due on September 7, 2022.

Sincerely,

*Lisa Williams*

Lisa Williams  
FOIA Officer

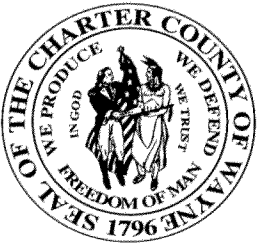
Cc: FOIA Coordinator

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<sup>1</sup> The legally required posting of the "Wayne County Freedom of Information Act Procedures & Guidelines," as well as the "Wayne County Summary of FOIA Procedures & Guidelines," are available for viewing under the "Public Records" section of the County's website at the following web address: <http://waynecounty.com/county/foia.htm>

# Exhibit 3

Oct 5 Late Response



# Office of the County Clerk

**Cathy M. Garrett**  
Wayne County Clerk

October 5, 2022

Patrick Colbeck  
47841 Royal Pointe Dr.  
Canton, MI 48187  
patrick@migrassrootsalliance.org

Re: Freedom of Information Act requesting surveillance footage for the surveillance camera positioned just outside of the entrance to the Wayne County Clerk's Office on the 5<sup>th</sup> Floor of the Coleman A. Young Municipal Center on 2 Woodward Ave., Detroit, MI., for the time period between 3 pm on August 2, 2022, and 5 pm on August 3, 2022.<sup>1</sup>

Dear Mr. Colbeck:

The above-described request for information was received by our office via email and an extension was issued. Your request is granted, and the records you requested are available. An itemized invoice detailing the estimated cost to provide these records to you is attached. Because we anticipate that the cost to provide these records exceeds \$50.00 in labor costs, we will require a 50% deposit in the amount of \$2,495.29. Please make your check or money order payable to the *County of Wayne* and mail to:

Wayne County Elections Division  
Attention: Lisa Williams  
2 Woodward Ave., Suite 500, Detroit, MI 48226

No further action will be taken regarding the request until the deposit is received. You will be contacted when the records are ready and the final balance due has been calculated.

Sincerely,

*Lisa Williams*

Lisa Williams  
FOIA Officer

Cc: FOIA Coordinator

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<sup>1</sup> The legally required posting of the "Wayne County Freedom of Information Act Procedures & Guidelines," as well as the "Wayne County Summary of FOIA Procedures & Guidelines," are available for viewing under the "Public Records" section of the County's website at the following web address: <http://waynecounty.com/county/foia.htm>

# Exhibit 4

Oct 5 Itemization





## Wayne County Detailed Cost Itemization for FOIA Request

### 3. LABOR COST TO LOCATE RECORDS THAT ARE NOT AVAILABLE ON THE COUNTY'S WEBSITE.

This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in connection with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the County due to the nature of the request in this particular instance, specifically:

(check all that apply):

- The request does not seek an easily identifiable document consisting of a few standard size pages with minimal redactions
- The request will require more than 15 minutes of labor to search for, locate, and examine the records
- The request seeks "any and all" documents on a particular subject
- The request requires that many boxes of documents be searched
- The request requires numerous hours of examination
- The request seeks a large volume of records
- The request seeks records from more than one County department
- The request incurs costs greater than incurred from the typical or usual FOIA request received by Wayne County for searching, locating, and examining public records
- Other reason: \_\_\_\_\_

The County will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, whether or not that person is available or actually performs the work. These costs will be estimated and charged in 15 minute time increments with all partial time increments rounded down. If the total number of minutes is less than 15, there will be no charge for searching for, locating, and examining the requested records.

**Base Hourly Wage Charged: \$ 38.52**

**Charge per ¼ hour: \$ 14.45**  
(Hourly wage with fringe benefit costs divided by 4)

**Hourly Wage with Fringe Benefit Cost: \$ 57.78**  
Multiply the hourly wage by 1.5 (50% fringe rate) for the total hourly rate

**Number of increments = 90**  
(Divide the number of minutes by 15 and round down)

**3. Total labor cost for locating records**

**\$ 1,300.50**

(Charge per ¼ hour X number of increments)

Overtime rate charged if authorized by you (overtime is not used to calculate the fringe benefit cost)

## Wayne County Detailed Cost Itemization for FOIA Request

**4. LABOR COST TO SEPARATE (REDACT) EXEMPT FROM NONEXEMPT MATERIAL THAT IS NOT LOCATED ON THE COUNTY'S WEBSITE.** The County will not charge you to redact information if we know or have reason to know that the materials have already been redacted and the redacted version is still in the County's possession. This fee is being charged because failure to do so will result in unreasonably high costs to the County due to the nature of the request in this particular instance, specifically:

(check all that apply):

- The request does not seek an easily identifiable document consisting of a few standard size pages with minimal redactions
- The request will require more than 15 minutes of labor to separate exempt from nonexempt material
- The request requires that many boxes of documents be reviewed to separate exempt from nonexempt material
- The request requires numerous hours to separate exempt from nonexempt material
- The request incurs costs greater than incurred from the typical or usual FOIA request received by Wayne County for separating exempt from nonexempt material
- Other reason: \_\_\_\_\_

The County will not charge more than the hourly wage of its lowest-paid employee capable of separating the exempt from the non-exempt material contained with the public records in this particular instance, whether or not that person is available or actually performs the work, unless the County does not employ a person capable of separating and deleting the exempt from non-exempt information in which case a contractor may be used. These costs will be estimated and charged in 15 minute time increments with all partial time increments rounded down. If the total number of minutes is less than 15, there is no charge for searching for, locating, and examining the requested records.

Charges for County employee labor to separate exempt from non-exempt materials:

<p><b>Base Hourly Wage Charged: \$ <u>23.00</u></b></p> <p><b>Hourly Wage with Fringe Benefit Cost: \$ <u>34.50</u></b> Multiply the hourly wage by 1.5 (50% fringe rate) for the total hourly rate</p>	<p><b>Charge per ¼ hour: \$ <u>8.63</u></b> (Hourly wage with fringe benefit costs divided by 4)</p> <p><b>Number of increments = <u>416</u></b> (Divide the number of minutes by 15 and round down)</p>
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Overtime rate charged if authorized by you (overtime is not used to calculate the fringe benefit cost)

Charges for contract (non-County) labor to separate exempt from non-exempt materials:

<p><b>Base Hourly Wage Charged: \$ _____</b></p> <p>Name of contracted individual or firm: _____ _____ _____</p>	<p><b>Charge per ¼ hour: \$ _____</b> (Hourly wage divided by 4)</p> <p><b>Number of increments = _____</b> (Divide the number of minutes by 15 and round down)</p>
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The County will not use contract labor to separate exempt from non-exempt materials unless there is no County employee capable of performing the work; the use of contract labor is approved by the FOIA Coordinator on a case-by-case basis; and the labor costs do not exceed six times the state minimum hourly wage (MCL 408.411 et seq.)

**4. Total labor cost for separating exempt from non-exempt material**

**\$ 3,590.08**

(Charge per ¼ hour X number of increments)

## Wayne County Detailed Cost Itemization for FOIA Request

**5. LABOR COST TO COPY OR DUPLICATE RECORDS THAT ARE NOT LOCATED ON THE COUNTY'S WEBSITE.** This is the cost of labor directly associated with duplication of publications, including making paper copies, making digital copies, or transferring digital public records to be given to you on non-paper physical media or through the Internet or other electronic means as you request, provided the County has the capability to do so. This rate shall not be more than the hourly wage of the County's lowest-paid employee capable of necessary retrieval and duplication in this particular instance, whether or not that person is available or actually performs the work. These costs will be estimated and/or charged in one minute time increments, and all partial time increments will be rounded down. If the task takes less than one minute to perform, there will be no charge.

Base Hourly Wage Charged: \$ \_\_\_\_\_

Charge per minute: \$ \_\_\_\_\_  
(Hourly wage with fringe benefit costs divided by 60)

Hourly Wage with Fringe Benefit Cost: \$ \_\_\_\_\_  
Multiply the hourly wage by 1.5 (50% fringe rate) for the total hourly rate

Number of whole minutes = \_\_\_\_\_

Overtime rate charged if authorized by you (overtime is not used to calculate the fringe benefit cost)

5. Total labor cost copy or duplicate records that are not located on the County's website

\$N/A \_\_\_\_\_

(Charge per minute X number of whole minutes)

**6. COST OF COPIES (EXCLUDING LABOR).** Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection).

Paper cost:

- Letter (8 1/2 x 11-inch, single or double-sided): \$.10 cents per sheet of paper
  - Legal (8 1/2 x 14-inch, single or double-sided): \$.10 cents per sheet of paper
- Total number of pages (8 1/2 x 11 or 8 1/2 x 14 paper): \_\_\_\_\_

No more than the actual cost of a sheet of paper for other paper sizes:

- Total number of other paper sizes (size): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)
- Total number of other paper sizes (size): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)

**THE COUNTY WILL PROVIDE TWO-SIDED COPIES TO YOU WHEN PROVIDING HARD COPIES IF IT'S POSSIBLE TO DO SO. IF YOU PREFER SINGLE-SIDED COPIES, YOU MUST TELL US IN WRITING AND WE WILL CHARGE YOU \$.10 PER PAGE.**

Requester has authorized the County to provide single-sided copies at \$.10 per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: CD-Rom\* / Tape / Drive / Other Digital Medium ( \_\_\_\_\_ )

Total number of CD-Rom\* discs: \_\_\_\_\_ X cost\* (actual cost of CD's \$ \_\_\_\_\_)

Total number of tapes: \_\_\_\_\_ (actual cost of tapes \$ \_\_\_\_\_)

Total number of drives: 1 (actual cost of drives \$ 100)

Total number of other digital media (name): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)

Total number of other digital media (name): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)

\*The actual cost for a CD-Rom with a protective case is \$.50. The actual cost for a CD-Rom without a protective case is \$.15. There is no charge if the County is capable of emailing the records and you have provided us with an email address.

\*\*\*\*\*  
**LEAVE THIS BLANK IF THIS RESPONSE IS AN ESTIMATE OF COSTS**  
\*\*\*\*\*

6. Cost for copies

Paper cost:

\$ \_\_\_\_\_  
(Number of pages X cost per page)

Other non-paper physical digital media cost:

\$ 100 \_\_\_\_\_  
(Number of CDs, tapes, drives, or other digital media X actual cost added together and totaled)

Total cost for copies:

\$ 100 \_\_\_\_\_

**Wayne County  
Detailed Cost Itemization for FOIA Request**

**7. MAILING COSTS.** The County will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. The County may charge for the least expensive form of postal delivery confirmation, but the County may not charge more for expedited shipping or insurance unless you specifically request it.

Actual cost of postage: \$ \_\_\_\_\_ per stamp  
 \$ \_\_\_\_\_ per pound  
 \$ \_\_\_\_\_ per package

Actual cost (least expensive) postal delivery confirmation: \$ \_\_\_\_\_

\*Expedited shipping if requested: \$ \_\_\_\_\_

\*\*Insurance if requested: \$ \_\_\_\_\_

- \* You have asked the County for expedited shipping  
 \* \* You have asked the County for insurance

\*\*\*\*\*  
 LEAVE THIS BLANK IF  
 THIS RESPONSE IS AN  
 ESTIMATE OF COSTS  
 \*\*\*\*\*

**7. Total mailing cost**

\$ \_\_\_\_\_  
 (total of all mailing charges)

**8. SUBTOTAL OF FEES, BEFORE WAIVERS, DISCOUNTS, OR DEPOSITS ARE APPLIED:**

Records on County Website (#1):  
Labor to retrieve records from the County's website (#2):  
Labor costs to locate records not on the County's website (#3):  
Labor cost to separate exempt from non-exempt material (#4):  
Labor cost for copying (#5):  
 Copy/duplication cost (#6):  
 Mailing cost (#7):

No Charge  
 \$N/A  
 \$ 0  
 \$ 0  
 \$ 4,890.52  
 \$  
 \$

**Estimated Time Frame to Provide Records:**

\_\_\_\_\_ (date or number of days)

The time frame estimate is nonbinding upon the County, but the County is providing the estimate in good faith.

**8. SUBTOTAL OF ALLOWABLE FEES:**  
 (Total of items #2-#5 if this is an estimate of costs)  
 (Total of items #1-#7 if this is a final response)

**\$4,990.58**

**Wayne County  
Detailed Cost Itemization for FOIA Request**

<b>FEE DISCOUNTS (ONLY IF APPLICABLE)</b>	
<p><b>9. Waiver of fees in the public interest (at the County's option)</b></p> <p>A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the County determines, upon request, that a waiver or reduction of the amount on line 8 above is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. There is no requirement that the County reduce fees on this basis.</p> <p><input type="checkbox"/> All fees are waived    <u>OR</u>    <input type="checkbox"/> All fees are reduced by: _____%</p>	<p>Discount amount applied: \$ _____</p> <p><input checked="" type="checkbox"/> No discount applied</p>
<p><b>10. Discount for indigence.</b> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request if you are entitled to information and also:</p> <p>1) if you submit an affidavit stating that you are indigent and receiving specific public assistance, or</p> <p>2) if you are not receiving public assistance, you state facts showing inability to pay the cost because of indigence.</p> <p>You are ineligible for this fee reduction if <u>either</u> of the following apply:</p> <p><input type="checkbox"/> (i) You previously received discounted copies of public records from the County twice during this calendar year, <u>or</u></p> <p><input type="checkbox"/> (ii) You are requesting the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. The County may require you to state in an affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.</p> <p><input type="checkbox"/> You <u>are</u> eligible for an indigence discount</p>	<p>Discount amount applied: \$ _____</p> <p><input checked="" type="checkbox"/> No discount applied</p>
<p><b>11. Discount for certain nonprofit organizations.</b> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets <u>all</u> of the following requirements:</p> <p>(i) it is made directly on behalf of the organization or its clients; and,</p> <p>(ii) it is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) it is accompanied by documentation of its designation by the state, if requested by the County.</p> <p><input type="checkbox"/> You <u>are</u> eligible for nonprofit discount</p>	<p>Discount amount applied: \$ _____</p> <p><input checked="" type="checkbox"/> No discount applied</p>
<p><b>12. SUBTOTAL OF DISCOUNTS (add lines 9, 10, and 11)</b></p>	<p>Subtotal of discounts: \$0 _____</p>

**Wayne County  
Detailed Cost Itemization for FOIA Request**

<p><b>13. REDUCTION IN LABOR COSTS FOR LATE RESPONSE.</b> If the County does not respond to a written request in a timely manner as required under MCL 15.235(2), the County must reduce the charges for labor costs otherwise permitted by 5% for each day the County exceeds the time permitted for a response to the request, up to a maximum 50% reduction. <b>Labor costs are those charges in Lines 2-5 <u>only</u>.</b></p>	<p>Reduction for late response, if any: \$0_____</p>
<p><b>14. SUBTOTAL OF FEES MINUS DISCOUNTS &amp; REDUCTIONS</b> (Line 8) - (Line 12) - (Line 13)</p>	<p>\$4,990.58_____</p>
<p><b>15. GOOD FAITH DEPOSITS, IF APPLICABLE</b> (50% OR 100% of Line 14).</p> <p>If there is an amount on this line, noted in either 15a or in 15b, this is the good faith deposit that you must pay before the County will begin processing your request.</p> <p><u>50% deposit:</u> If the estimated cost of responding to this request exceeds \$50.00, the County may collect up to 50% of that estimate (i.e., 50% of the amount on line 14) before responding.</p> <p><u>100% deposit</u> (due to previous FOIA fees not paid in full): If you have not paid the County in full for the total amount of fees and copies relating to a previously granted and fulfilled written request, the County may require you pay an increased deposit of up to 100% of the estimated fees before we begin a full public record search for any subsequent written request from you if <u>all</u> of the following apply:</p> <ul style="list-style-type: none"> <li>(a) The final fee for the prior written request was not more than 105% of the estimated fee;</li> <li>(b) The public records made available contained the information being sought in the prior written request and are still in the County's possession;</li> <li>(c) The public records were made available to you, subject to payment, within the best effort estimated time frame given by the County for the previous request;</li> <li>(d) Ninety (90) days have passed since the County notified you in writing that the public records were available for pickup or mailing;</li> <li>(e) You are unable to show proof of prior payment to the County; and,</li> <li>(f) The County calculates a detailed itemization, as required under MCL 15.234, that is the basis for the increased estimated fee deposit relating to this request.</li> </ul> <p>The County can no longer require an increased estimated fee deposit of up to 100% if <u>any</u> of the following apply:</p> <ul style="list-style-type: none"> <li>(a) You are able to show proof of prior payment in full to the County;</li> <li>(b) The County is subsequently paid in full for the applicable prior written request; or,</li> <li>(c) Three hundred sixty-five (365) days have passed since you made the written request for which full payment was not remitted to the County.</li> </ul> <p>Even if the increased deposit requirements are not applicable, the County is still permitted to ask for up to a 50% deposit.</p> <p><b>(STOP HERE IF THIS IS AN ESTIMATE OF FEES AND A DEPOSIT IS REQUIRED)</b></p>	<p>15a. 50% good faith deposit required in the following amount: \$2,495.29_____</p> <p>15b. 100% good faith deposit required in the following amount: \$_____</p> <div style="border: 2px solid black; padding: 5px; margin-top: 10px;"> <p><b>Deposit due date:</b> <u>11/10/22</u></p> <p>(We are not required to respond to your request if your deposit is paid after this date unless a timely fee appeal is filed.)</p> </div>
<p><b>16. TOTAL AMOUNT DUE (LESS ANY DEPOSIT PAID)</b> The total amount due must be paid before copies can be picked up, delivered, mailed, or emailed.</p>	<p>Total amount due: \$ <u>4,990.58</u>_____</p>

# Exhibit 5

Dec 6 Guaranteed Funds Discussion



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**From:** Lisa Williams <lwilliams@waynecounty.com>  
**Sent:** Tuesday, December 6, 2022 3:58 PM  
**To:** Patrick Colbeck  
**Cc:** Dwayne Seals  
**Subject:** Re: FOIA Request Status Check: Surveillance Video

Patrick,

The correct person that you should contact is the Chief Deputy Clerk, Dwayne Seals, at 313-815-6421.

Regards,

Lisa Williams

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**From:** Patrick Colbeck <patrick@migrassrootsalliance.org>  
**Sent:** Tuesday, December 6, 2022 2:41 PM  
**To:** Lisa Williams <lwilliams@waynecounty.com>  
**Cc:** Tom Yee <Tyee@waynecounty.com>  
**Subject:** RE: FOIA Request Status Check: Surveillance Video

Lisa,  
I have not issued any stop payments on checks. In fact, you have previously cashed one of my checks. This is clearly an attempt at FOIA obstruction.

It appears that you have given me cause for additional FOIA requests.

Patrick

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**From:** Lisa Williams <lwilliams@waynecounty.com>  
**Sent:** Tuesday, December 6, 2022 2:26 PM  
**To:** Patrick Colbeck <patrick@migrassrootsalliance.org>  
**Cc:** Tom Yee <Tyee@waynecounty.com>  
**Subject:** Re: FOIA Request Status Check: Surveillance Video

Patrick,

The Office of the Wayne County Clerk has had stop payments on non-guaranteed funds. I am communicating what was conveyed to me. If you have questions, please contact Finance Manager, Tom Yee, at 313-224-3799. He is also copied on this email.

Regards,

Lisa Williams  
Director of Communications/FOIA Officer  
Office of the Wayne County Clerk,  
Cathy M. Garrett

2 Woodward Ave.  
Detroit, MI 48226

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**From:** Patrick Colbeck <[patrick@migrassrootsalliance.org](mailto:patrick@migrassrootsalliance.org)>  
**Sent:** Tuesday, December 6, 2022 12:53 PM  
**To:** Lisa Williams <[lwilliams@waynecounty.com](mailto:lwilliams@waynecounty.com)>  
**Subject:** RE: FOIA Request Status Check: Surveillance Video

Lisa,  
Of all of the FOIA's which I have issued requiring payments including those involving Wayne County, this is the first time such a stipulation has been made. It leads me to conclude that you are attempting to obstruct the execution of my FOIA request.  
Sincerely,  
Patrick Colbeck

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**From:** Lisa Williams <[lwilliams@waynecounty.com](mailto:lwilliams@waynecounty.com)>  
**Sent:** Tuesday, December 6, 2022 11:54 AM  
**To:** Patrick Colbeck <[patrick@migrassrootsalliance.org](mailto:patrick@migrassrootsalliance.org)>  
**Subject:** Re: FOIA Request Status Check: Surveillance Video

Hello Mr. Colbeck:

I am in receipt of said check for \$2,495.29. The check has to be returned to you, as it is not issued with guaranteed funds. I will mail your check back to you. Please reissue a cashier's check or money order. Thank you.

Regards,

Lisa Williams  
Director of Communications/FOIA Officer  
Office of the Wayne County Clerk,  
Cathy M. Garrett  
2 Woodward Ave.  
Detroit, MI 48226

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**From:** Patrick Colbeck <[patrick@migrassrootsalliance.org](mailto:patrick@migrassrootsalliance.org)>  
**Sent:** Tuesday, December 6, 2022 11:22 AM  
**To:** Lisa Williams <[lwilliams@waynecounty.com](mailto:lwilliams@waynecounty.com)>  
**Cc:** FOIA Requests <[foiarequests@waynecounty.com](mailto:foiarequests@waynecounty.com)>  
**Subject:** FOIA Request Status Check: Surveillance Video

Dear Ms. Williams,  
Pursuant to my surveillance video FOIA request, a check for \$2,495.29 was mailed to your attention on November 15, 2022. This check has yet to be deposited nor have I received a copy of the requested surveillance video.

Please advise as to the status of this FOIA request and your timeline for compliance with this request.  
Patrick Colbeck  
Canton, MI

# Exhibit 6

Defendant's FOIA Policies and Procedures

# **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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## **PURPOSE**

To establish procedures and guidelines governing the release of public records, pursuant to Public Act 442 of 1976, as amended, hereafter referred to as the "FOIA statute."

## **SCOPE**

This policy establishes a process and procedures for the release of public documents, establishes a policy to recover costs associated with requests, and establishes a procedure for appeals.

## **POLICY**

It is the public policy of the State of Michigan that all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees, consistent with the FOIA statute. Wayne County has prepared these procedures and guidelines to comply with Michigan law and to respond to FOIA requests in a consistent, fair, and even-handed manner regardless of who makes such a request.

Wayne County acknowledges that it has a legal obligation to disclose all nonexempt public records in its possession pursuant to a FOIA request. Wayne County further acknowledges that it is sometimes necessary to invoke the exemptions identified under FOIA statute in order to ensure the effective operation of government and to protect the privacy of individuals.

Wayne County will protect the public's interest in disclosure while balancing the need to withhold or redact portions of certain records. Wayne County's policy is to disclose public records consistent with and in compliance with State law.

### **Section 1: General Policies**

The Wayne County Executive, acting pursuant to the authority at MCL 15.236, has designated a member of the Wayne County Executive's office to act as the FOIA Coordinator. The FOIA Coordinator is to be the central contact for FOIA requests and responses. He or she may authorize other County staff to act as FOIA Officers to accept and process written requests for the County's public records and to approve denials.

The Wayne County Executive, through the Department of Corporation Counsel, may develop internal policies that are consistent with State law and

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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these procedures and guidelines to administer the acceptance and processing of FOIA requests.

If a request for a public record is received by facsimile or e-mail, the request is deemed to have been received on the following business day. If a request is sent by e-mail and delivered to a County spam or junk-mail folder, the request is not deemed received until one day after the FOIA Coordinator or FOIA Officer first becomes aware of the request. The FOIA Coordinator and FOIA Officers shall note both the date the request was delivered to the spam or junk-mail folder and he or she became aware of the request. Spam and junk mail folders should be regularly reviewed by the FOIA Coordinator and the FOIA Officers.

Wayne County is not obligated to create a new public record or make a compilation or summary of information that does not already exist. The FOIA Coordinator and FOIA Officers are not obligated to provide answers to questions contained in requests for public records or regarding the content of the records themselves.

A copy of all written requests for public records received by Wayne County will be maintained for a period of at least one year as required by State law and the applicable department record retention schedule.

The Wayne County Executive is responsible for deciding appeals. The Wayne County Executive may authorize other County employees who are licensed attorneys but who are not employed in the Department of Corporation Counsel to respond to appeals of a denial of all or portion of a public record and appeals of processing fees.

Any subpoena from any court, attorney, or any other person that requests the production of any Wayne County record falls outside of the scope of these Procedures and Guidelines.

### **Section 2: Requesting a Public Record – Verbal and Written Requests**

Wayne County may provide requested information available in County records in response to a verbal request. In the event that the public record sought by a verbal request will not be released its entirety, the requesting party will be advised to file a written request.

A person who makes a verbal request for information believed to be available on Wayne County's website will be provided with the pertinent website address, where practicable and to the best ability of the employee receiving the request. Wayne County employees are not required to provide non-County web addresses or perform internet research to locate non-County materials.

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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A person wanting to inspect or obtain copies of public records prepared, owned, used, possessed, or retained by Wayne County may also do so in writing. The request must sufficiently describe a public record to enable Wayne County personnel to identify and find the requested public record. Unless a FOIA requester qualifies as an indigent person, the written request for records must also contain a complete name, address, and contact information. Requests made by corporations or other organizations must provide a complete name, address and contact information for a contact person. All addresses provided to us must comply with United States Post Office standards. All requests must also contain a valid telephone number or an email address. This contact information must be contained within all FOIA requests no matter what method is used to submit the FOIA request.

No specific form to submit a request for a public record is required. However the FOIA Coordinator may make a FOIA request form available for use by the public. Written requests for public records may be submitted in person or by U.S. mail addressed to: Wayne County FOIA Coordinator, Guardian Building, 500 Griswold – 31<sup>st</sup> Floor, Detroit, MI 48226. Requests may also be submitted electronically by facsimile (313/224-8458), by e-mail sent to [FOIArequests@waynecounty.com](mailto:FOIArequests@waynecounty.com), or through the County's website at the following address: <http://waynecounty.com/county/foia.htm> Requests for public records that are received by someone other than the FOIA Coordinator must be promptly forwarded to the FOIA Coordinator for processing upon receipt by the public employee who received the request.

A person may request that public records be provided on non-paper physical media, electronically mailed, or other otherwise provided in a form other than paper copies. Wayne County will comply with the request only if it possesses the necessary technological capability to provide records in the requested non-paper physical media format.

A person may subscribe to future issues of public records that are created, issued, or disseminated by Wayne County on a regular basis. A subscription is valid for up to 6 months and may be renewed by the subscriber.

Any request to review and/or receive copies of any portion of a personnel file maintained or possessed by Wayne County must be made in writing. This policy does not affect the right of current or former Wayne County employees to review or receive copies of documents from their own personnel files.

A person serving a sentence of imprisonment in a local, state or federal correctional facility is not entitled to submit a request for a public record. All such requests will be denied.

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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### **Section 3: Processing a Request**

Unless otherwise agreed to in writing by the person making the FOIA request, Wayne County will issue a response to the request within 5 business days of receipt of the request. If a request is received by facsimile, e-mail or other electronic transmission, the request is deemed to have been received on the following business day. Wayne County will respond to the request in writing in at least one of the following ways:

- Granting the request; or,
- Denying the request; or,
- Granting and denying the request in part; or,
- Issuing a notice indicating that due to the nature of the request, Wayne County needs an additional 10 business days to respond (only one such extension is permitted); or,
- Issuing a written notice indicating that the public record requested is available at no charge on the Wayne County website.

If the request is granted entirely, or granted in part, and fees are required in connection with the request, payment must be made in full for the allowable fees associated with responding to the request before the public record is made available. A detailed itemization of the allowable costs incurred to process the request will be provided to the person making the request. A copy of these Procedures and Guidelines, which include a blank Detailed Cost Itemization form, along with Wayne County's Written Public Summary will be provided to the requester with the response to a written request for public records, provided however, that if these Procedures and Guidelines, and Wayne County's Written Public Summary are maintained on Wayne County's website, then a website link to those documents will be provided in lieu of providing paper copies.

If the cost of processing a FOIA request is \$50 or less, the requester will be notified of the amount due and how to obtain the requested documents. If, based on a good faith calculation, the cost of processing a FOIA request is expected to exceed \$50, or if the requester has not fully paid for a previously granted request, Wayne County may require a good-faith deposit before processing the request.

In making the request for a good-faith deposit, Wayne County will provide the requester with a detailed itemization of the allowable costs estimated to

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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be incurred by Wayne County to process the request and will also provide a best efforts estimate of a time frame it will take to provide the records to the requester. The best efforts estimate is nonbinding on Wayne County, but it will be made in good faith and the FOIA Coordinator and FOIA Officers will strive to be reasonably accurate, given the nature of the request in the particular instance, so as to provide the requested records in a manner consistent with the public policy of the State of Michigan.

If the request is denied in whole or in part, the FOIA Officer will issue a denial letter that may provide the requester with one or more of the following, depending on the circumstances:

- An explanation as to why a requested public record is exempt from disclosure; or,
- A determination and certification that the requested record does not exist under the name or description provided by the requester, or another name reasonably known by Wayne County; or,
- An explanation or description of the public record or information within a public record that is separated or deleted from the public record; and,
- An explanation of the person's right to submit an appeal of the denial to either the Wayne County FOIA Appellate Officer or seek judicial review in the Wayne County Circuit Court; and,
- An explanation of the right to receive attorneys' fees, costs, and disbursements as well actual or compensatory damages, and punitive damages of \$1,000, should the requester prevail in Wayne County Circuit Court.
- The letter will be signed by the FOIA Officer or his or her designee and in most cases will also be countersigned by an attorney from the Department of Corporation Counsel after review.

Requests that do not describe a public record sufficiently to enable the County to locate the record will be denied on that basis. FOIA Officers may seek clarification of a request from the person making the request but they are not required to do so. Any clarification or amendment will be considered a new request subject to the timelines described in this Section.

Wayne County will provide reasonable facilities and opportunity for persons to examine and inspect public records during normal business hours. The



## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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FOIA Coordinator, in conjunction with the Department of Corporation Counsel, is authorized to promulgate rules regulating the manner in which records may be viewed so as to protect Wayne County records from loss, alteration, mutilation or destruction and to prevent excessive interference with normal Wayne County operations.

The FOIA Officer shall, upon written request, furnish a certification of a public record at no additional cost to the person requesting the public record.

### **Section 4: Fee Deposits**

If the fee estimate to provide the requested public records is expected to exceed \$50.00 based on a good-faith calculation by Wayne County, the requester will be asked to provide a deposit not exceeding one-half of the total estimated fee.

If a request for public records is from a person who has not fully paid Wayne County for copies of public records made in connection with a previously granted written request, the FOIA Officer may require a deposit of 100% of the estimated processing fee before beginning to search for a public record for any subsequent written request by that person when all of the following conditions exist:

- the final fee for the prior written request was not more than 105% of the estimated fee; and,
- the public records made available contained the information sought in the prior written request and remain in Wayne County's possession; and,
- the public records were made available to the requester, subject to payment, within the time frame estimated by Wayne County to provide the records; and,
- 90 days have passed since the requester was notified in writing that the public records were available for pickup or mailing; and,
- the requester is unable to show proof of prior payment to Wayne County; and,

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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- the FOIA Officer has calculated a detailed cost itemization that is the basis for the increased estimated fee deposit in connection with the current written request.

An increased estimated fee deposit will not be required if any of the following apply:

- the requester is able to show proof of prior payment in full to Wayne County; or,
- Wayne County is subsequently paid in full for the applicable prior written request; or,
- 365 days have passed since the person made the request for which full payment was not remitted to Wayne County.

We will provide you with a due date for the deposit payment. This date is calculated by adding 48 days to the date that the request for deposit is mailed. If you do not provide us with a deposit payment by the due date, the request will be considered to be abandoned and we will no longer be required fulfill it. The only exception to this is if a fee appeal is filed. An explanation for filing a fee appeal can be found in "Section 8: Appeal of a FOIA Fee" below.

### **Section 5: Calculation of Fees**

Consistent with the authority granted by statute, it is the intent of Wayne County to charge a fee for a public record search, for the necessary copying of a public record for inspection, or for providing a copy of a public record so that its general fund and departmental budgets are not unduly burdened by the costs associated with processing FOIA requests.

A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to Wayne County because of the nature of the request in the particular instance, and Wayne County specifically identifies the nature of the unreasonably high costs.

The following factors are among those that will be considered in determining what an unreasonably high cost to Wayne County is in a specific instance:

- The particular request incurs costs greater than incurred from the typical or usual FOIA request received by Wayne County; or,

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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- Volume or size of the public record requested; or,
- Whether the amount of time spent to search for, examine, review or separate exempt from non-exempt information in the record requested exceeds 15 minutes; or,
- Whether public records from more than one Wayne County department or various Wayne County offices is necessary to respond to the request; or,
- The available staffing to respond to the request; or,
- Any other similar factors identified by the FOIA Coordinator or FOIA Officer in responding to the particular request.

Wayne County may charge for any or all of the following costs associated with processing a FOIA request:

- Labor costs directly associated with searching for, locating and examining a requested public record, if the failure to charge a fee results in unreasonably high costs to Wayne County.
- Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed, if the failure to charge a fee results in unreasonably high costs to Wayne County.
- The actual cost of computer discs, computer tapes or other digital or similar media.
- The actual cost of duplication or publication, not including labor, of paper copies of public records, which will be charged at the rate of \$.10 per page.
- The cost of labor associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requester.
- The actual cost of mailing or sending a public record, including the least expensive form of postal delivery confirmation; as well

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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as the cost of expedited shipping or insurance when such is asked for by the requester.

Labor costs will be calculated based on the following requirements:

- Labor costs directly associated with searching for, locating and examining a requested public record and labor costs associated with a review of a record to separate and delete information exempt from disclosure from information that is disclosed will be estimated and charged in 15 minute increments, with all partial time increments rounded down.
- Labor costs associated with duplication or publication, including making paper copies, making digital copies or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requester, will be charged in one minute increments, with all partial time increments rounded down.
- Labor costs will be charged at the hourly wage of the lowest-paid Wayne County employee capable of doing the work in the specific fee category, regardless of who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits. Wayne County may add up to 50% to the applicable labor charge amount to cover or partially cover the cost of fringe benefits, but in no case may it exceed the actual cost of fringe benefits. Wayne County may add more than 50% in fringe benefit cost to the applicable labor charge in the event that a requester asks the County to provide materials that are available on the County website at no charge and the County has provided the website link to the documents in response to a written request for information.
- Overtime wages will not be included in labor costs unless agreed to by the requester; overtime costs will also not be used to calculate the fringe benefit cost.

The cost to provide records on non-paper physical media when requested will be based on the following requirements:

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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- Computer disks, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
- This cost will only be assessed if Wayne County has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- In order to ensure the integrity and security of Wayne County's technological infrastructure, Wayne County will procure any requested non-paper media and will not accept non-paper media from the requester.

The cost to provide paper copies of records will be based on the following requirements:

- Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will be charged at the rate of \$.10 per sheet of paper. Copies for non-standard sized sheets of paper will reflect the actual cost of reproduction.
- Wayne County may provide records using double-sided printing, if cost-saving and available. The County will provide only single-sided pages on written request, but we will charge \$.10 per single-sided page.

The cost to mail records to a requester will be based on the following requirements:

- The actual cost to mail public records using a reasonably economical and justified means.
- Wayne County may charge for the least expensive form of postal delivery confirmation.
- No charge will be made for expedited shipping or insurance unless the requester asks for it.

If the FOIA Coordinator or FOIA Officer does not respond to a written request in a timely manner, the following shall be required:

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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- Reduce the labor costs by 5% for each day Wayne County exceeds the time permitted under FOIA up to a 50% maximum reduction, if any of the following applies:
  - The late response was willful and intentional; or,
  - The written request, within the first 250 words of the body of a letter facsimile, e-mail or e-mail attachment conveyed a request for information; or,
  - The written request included the words, characters, or abbreviations for "freedom of information", "information", "FOIA," "copy," or a recognizable misspelling of such, or legal code reference to MCL 15. 231 *et seq* or 1976 Public Act 442 on the front of an envelope or in the subject line of an e-mail, letter or facsimile cover page.
- Fully note the charge reduction on the Detailed Itemization of Costs form

### **Section 6: Waiver of Fees**

Absent a waiver by the FOIA Coordinator or FOIA Officer in whole or in part, all charges associated with processing a FOIA request must be paid in full before the release of any public records. The cost of the search for and copying of a public record may be waived or reduced if in the sole judgment of the FOIA Coordinator or FOIA Officer a waiver or reduced fee is in the public interest because such can be considered as primarily benefitting the general public.

In determining whether the general public is primarily benefited, the FOIA Coordinator or FOIA Officer may consider the following factors, none of which will be determinative:

- whether the public record being disclosed serves the public policy purposes of the FOIA; or,
- whether the release primarily serves a private or commercial purpose; or,
- whether the release implicates the rights of third persons; or,

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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- whether waiver of the fee is in the best interest of Wayne County; or,
- the manner in which similar requests have been treated.

Wayne County will waive the first \$20.00 of the processing fee for a request if the person requesting a public record submits an affidavit stating that they are:

- indigent and receiving specific public assistance; or
- if not receiving public assistance stating facts demonstrating an inability to pay because of indigency.

An indigent individual is not eligible to receive the waiver if:

- the indigent requester has previously received discounted copies of public records from Wayne County twice during the calendar year; or
- the indigent requester requests information in connection with other persons who are offering or providing payment to make the request.

The affidavit shall be a sworn statement made under the penalty of perjury. The FOIA Coordinator may make a Fee Waiver Affidavit Form available for use by the public.

Wayne County will waive the first \$20.00 of the processing fee for a request from a nonprofit organization designated to by the State to carry out activities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 200 and the Protection and Advocacy for Individuals with Mental Illness Act, or their successors, if the request meets all of the following requirements:

- is made directly on behalf of the organization or its clients; and,
- is made for a reason wholly consistent with the mission and provisions of those laws under Section 931 of the Mental Health Code, MCL 330.1931; and,

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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- is accompanied by documentation of its designation by the State of Michigan.

### **Section 7: Appeal of a Denial of a Public Record**

When a requester believes that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, he or she may file an appeal of the denial directed to the Wayne County FOIA Appellate Officer, Guardian Building, 500 Griswold – 31<sup>st</sup> Floor, Detroit, MI 48226. Requests may also be submitted electronically by facsimile (313/224-8458) and e-mail (FOIArequests@waynecounty.com). The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons the requester is seeking a reversal of the denial.

Within 10 business days of receiving the appeal the FOIA Appellate Officer will respond in writing by:

- reversing the disclosure denial; or,
- upholding the disclosure denial; or,
- reversing the disclosure denial in part and upholding the disclosure denial in part; or,
- Under unusual circumstances, such as the need to examine or review a voluminous amount of separate and distinct public records or the need to collect the requested records from numerous facilities located apart from the office receiving or processing the request, the FOIA Appellate Officer may issue not more than 1 notice of extension for not more than 10 business days to respond to the appeal.

All exemptions must be narrowly construed and the burden shall be upon the FOIA Coordinator or FOIA Officer, with the assistance of the Department of Corporation Counsel, to demonstrate that the denial of information is justified and should be upheld.

A requester may file a civil action in Wayne County Circuit Court within 180 days after Wayne County's final determination to deny the request and is not required to appeal the denial decision before filing a civil action.



## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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If the court determines that the public record is not exempt from disclosure, the court will award the appellant reasonable attorneys' fees, cost and disbursements. If the court determines that the appellant has prevailed only in part, the court in its discretion may award all or an appropriate portion of reasonable attorneys' fees, costs and disbursements.

If the court determines that Wayne County arbitrarily and capriciously violated the FOIA by refusing or delaying the disclosure of copies of a public record, it shall award the appellant punitive damages in the \$1,000.

### **Section 8: Appeal of a FOIA Fee**

If a requester believes that the fee or the good faith deposit charged by Wayne County to process a FOIA request exceeds the amount permitted by state law, he or she must first submit a written appeal for a fee reduction directed to the Wayne County FOIA Appellate Officer, Guardian Building, 500 Griswold – 31<sup>st</sup> Floor, Detroit, MI 48226. Requests may also be submitted electronically by facsimile (313/224-8458) or by e-mail sent to FOIArequests@waynecounty.com. The appeal must be in writing, specifically state the word "appeal" and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the FOIA Appellate Officer will respond in writing by:

- waiving the fee; or,
- reducing the fee and issuing a written determination indicating the specific basis that supports the remaining fee, accompanied by a certification by the FOIA Appellate Officer that the statements in the determination are accurate and the reduced fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA statute; or,
- upholding the fee and issuing a written determination indicating the specific basis under Section 4 of the FOIA that supports the required fee, accompanied by a certification by the FOIA Appellate Officer that the statements in the determination are accurate and the fee amount complies with these Procedures and Guidelines and Section 4 of the FOIA; or,
- issuing not more than one notice detailing the reason or reasons for extending for not more than 10 business days the period

## **WAYNE COUNTY FREEDOM OF INFORMATION ACT PROCEDURES & GUIDELINES**

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during which the FOIA Coordinator will respond to the written appeal.

Within 45 days after receiving notice of the FOIA Appellate Officer's determination of a fee appeal, a requester may commence a civil action in the Wayne County Circuit Court to request a fee reduction. If a civil action is filed appealing the fee, Wayne County is not obligated to process the request for the public record until the court resolves the fee dispute.

If the court determines that Wayne County required a fee that exceeds the amount permitted, it shall reduce the fee to a permissible amount. If the appellant in the civil action prevails by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements.

If the court determines that Wayne County has acted arbitrarily and capriciously by charging an excessive fee, the court shall also award the appellant punitive damages in the amount of \$500.

### **Section 9: Conflict with State Law; Effective Date**

To the extent that any provision of these Procedures and Guidelines or any administrative rule promulgated by the FOIA Coordinator pertaining to the release of public records is found to be in conflict with any State statute, the applicable statute shall control. The FOIA Coordinator is authorized to modify these procedures and guidelines, with the assistance of the Department of Corporation Counsel, and to adopt any additional internal procedures as he or she may deem necessary to facilitate the legal review and processing of requests for public records made pursuant to Michigan's FOIA statute without the necessity of an additional executive order, provided that such modifications and procedures are consistent with State law as interpreted by the Michigan courts.

These FOIA Policies and Guidelines become effective on July 1, 2015 and were last updated in January 2019.

**Wayne County  
Detailed Cost Itemization for FOIA Request**

**This is a(n):**     **Estimate of costs**     **Bill showing amount due**

Date: \_\_\_\_\_ Requester Name/Request No.: \_\_\_\_\_ Date Request Received: \_\_\_\_\_

<p><b>1. IF ALL OR A PORTION OF THE REQUESTED INFORMATION IS AVAILABLE ON THE COUNTY'S WEBSITE</b>, the County is required to tell you it is available on the website and, where practicable, include a specific webpage address where the information is available. In this case,</p> <p style="margin-left: 40px;"> <input type="checkbox"/> None  <input type="checkbox"/> Some  <input type="checkbox"/> All         </p> <p>of the requested material can be found at the following webpage(s):</p> <p>_____</p> <p>Information on the County website is available to you at no charge. If you would prefer to pay the County to retrieve these materials for you, we will charge the hourly rate provided in Item #2 below and will add a 100% fringe benefit rate to the hourly rate.</p> <p>(FOIA Officer – if item #1 applies, please go on and complete item #2 as well)</p>	<p><b>1. No charge</b></p>
<p><b>2. LABOR COST FOR COPYING OR DUPLICATING RECORDS THAT ARE AVAILABLE TO YOU AT NO CHARGE ON THE COUNTY'S WEBSITE.</b> This is the cost of labor directly associated with duplication of material located on the County's public web site. This rate is to be charged for the cost of making paper copies, digital copies, transferring materials onto non-paper physical media, or transferring materials through the Internet or other electronic means as you request, provided the County has the capability to do so. This rate shall not be more than the hourly wage of the County's lowest-paid employee capable of necessary retrieval and duplication in this particular instance, whether or not that person is available or who actually performs the labor. A full (100%) fringe benefit rate will be applied to the hourly rate. These costs will be estimated and/or charged in one minute time increments, and all partial time increments will be rounded down. If the task takes less than one minute to perform, there will be no charge.</p> <p>Base Hourly Wage Charged: \$ _____      Charge per minute: \$ _____          (Hourly wage with full fringe benefit cost divided by 60)</p> <p>Hourly Wage with Full Fringe Benefit Cost: \$ _____      Number of whole minutes = _____          (FOIA Officer – please contact Payroll for this rate)</p> <p><input type="checkbox"/> Overtime rate charged if authorized by you (overtime is not used to calculate the fringe benefit cost)</p>	<p><b>2. Total labor cost if the County retrieves materials for you that you could obtain at no charge from the County's website</b></p> <p>\$ _____</p> <p>(Charge per minute X number of whole minutes)</p>

## Wayne County Detailed Cost Itemization for FOIA Request

### 3. LABOR COST TO LOCATE RECORDS THAT ARE NOT AVAILABLE ON THE COUNTY'S WEBSITE.

This is the cost of labor directly associated with the necessary searching for, locating, and examining public records in connection with receiving and fulfilling a granted written request. This fee is being charged because failure to do so will result in unreasonably high costs to the County due to the nature of the request in this particular instance, specifically:

(check all that apply):

- The request does not seek an easily identifiable document consisting of a few standard size pages with minimal redactions
- The request will require more than 15 minutes of labor to search for, locate, and examine the records
- The request seeks "any and all" documents on a particular subject
- The request requires that many boxes of documents be searched
- The request requires numerous hours of examination
- The request seeks a large volume of records
- The request seeks records from more than one County department
- The request incurs costs greater than incurred from the typical or usual FOIA request received by Wayne County for searching, locating, and examining public records
- Other reason: \_\_\_\_\_

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The County will not charge more than the hourly wage of its lowest-paid employee capable of searching for, locating, and examining the public records in this particular instance, whether or not that person is available or actually performs the work. These costs will be estimated and charged in 15 minute time increments with all partial time increments rounded down. If the total number of minutes is less than 15, there will be no charge for searching for, locating, and examining the requested records.

Base Hourly Wage Charged: \$ \_\_\_\_\_

Charge per 1/4 hour: \$ \_\_\_\_\_  
(Hourly wage with fringe benefit costs divided by 4)

Hourly Wage with Fringe Benefit Cost: \$ \_\_\_\_\_  
Multiply the hourly wage by 1.5 (50% fringe rate) for the total hourly rate

Number of increments = \_\_\_\_\_  
(Divide the number of minutes by 15 and round down)

- Overtime rate charged if authorized by you (overtime is not used to calculate the fringe benefit cost)

**3. Total labor cost for locating records**

\$ \_\_\_\_\_

(Charge per 1/4 hour X number of increments)

## Wayne County Detailed Cost Itemization for FOIA Request

**4. LABOR COST TO SEPARATE (REDACT) EXEMPT FROM NONEXEMPT MATERIAL THAT IS NOT LOCATED ON THE COUNTY'S WEBSITE.** The County will not charge you to redact information if we know or have reason to know that the materials have already been redacted and the redacted version is still in the County's possession. This fee is being charged because failure to do so will result in unreasonably high costs to the County due to the nature of the request in this particular instance, specifically:

(check all that apply):

- The request does not seek an easily identifiable document consisting of a few standard size pages with minimal redactions
- The request will require more than 15 minutes of labor to separate exempt from nonexempt material
- The request requires that many boxes of documents be reviewed to separate exempt from nonexempt material
- The request requires numerous hours to separate exempt from nonexempt material
- The request incurs costs greater than incurred from the typical or usual FOIA request received by Wayne County for separating exempt from nonexempt material
- Other reason: \_\_\_\_\_

The County will not charge more than the hourly wage of its lowest-paid employee capable of separating the exempt from the non-exempt material contained with the public records in this particular instance, whether or not that person is available or actually performs the work, unless the County does not employ a person capable of separating and deleting the exempt from non-exempt information in which case a contractor may be used. These costs will be estimated and charged in 15 minute time increments with all partial time increments rounded down. If the total number of minutes is less than 15, there is no charge for searching for, locating, and examining the requested records.

Charges for County employee labor to separate exempt from non-exempt materials:

<b>Base Hourly Wage Charged: \$</b> _____	<b>Charge per ¼ hour: \$</b> _____ (Hourly wage with fringe benefit costs divided by 4)
<b>Hourly Wage with Fringe Benefit Cost: \$</b> _____ Multiply the hourly wage by 1.5 (50% fringe rate) for the total hourly rate	<b>Number of increments =</b> _____ (Divide the number of minutes by 15 and round down)
<input type="checkbox"/> Overtime rate charged if authorized by you (overtime is not used to calculate the fringe benefit cost)	

Charges for contract (non-County) labor to separate exempt from non-exempt materials:

<b>Base Hourly Wage Charged: \$</b> _____	<b>Charge per ¼ hour: \$</b> _____ (Hourly wage divided by 4)
Name of contracted individual or firm: _____ _____ _____	<b>Number of increments =</b> _____ (Divide the number of minutes by 15 and round down)

The County will not use contract labor to separate exempt from non-exempt materials unless there is no County employee capable of performing the work; the use of contract labor is approved by the FOIA Coordinator on a case-by-case basis; and the labor costs do not exceed six times the state minimum hourly wage (MCL 408.411 et seq.)

**4. Total labor cost for separating exempt from non-exempt material**  
 \$ \_\_\_\_\_  
 (Charge per ¼ hour X number of increments)

**Wayne County  
Detailed Cost Itemization for FOIA Request**

**5. LABOR COST TO COPY OR DUPLICATE RECORDS THAT ARE NOT LOCATED ON THE COUNTY'S WEBSITE.** This is the cost of labor directly associated with duplication of publications, including making paper copies, making digital copies, or transferring digital public records to be given to you on non-paper physical media or through the Internet or other electronic means as you request, provided the County has the capability to do so. This rate shall not be more than the hourly wage of the County's lowest-paid employee capable of necessary retrieval and duplication in this particular instance, whether or not that person is available or actually performs the work. These costs will be estimated and/or charged in one minute time increments, and all partial time increments will be rounded down. If the task takes less than one minute to perform, there will be no charge.

Base Hourly Wage Charged: \$ \_\_\_\_\_ Charge per minute: \$ \_\_\_\_\_  
(Hourly wage with fringe benefit costs divided by 60)

Hourly Wage with Fringe Benefit Cost: \$ \_\_\_\_\_ Number of whole minutes = \_\_\_\_\_  
Multiply the hourly wage by 1.5 (50% fringe rate)  
for the total hourly rate

Overtime rate charged if authorized by you (overtime is not used to calculate the fringe benefit cost)

5. Total labor cost copy or duplicate records that are not located on the County's website

\$ \_\_\_\_\_

(Charge per minute X number of whole minutes)

**6. COST OF COPIES (EXCLUDING LABOR).** Copying costs may be charged if a copy of a public record is requested, or for the necessary copying of a record for inspection (for example, to allow for blacking out exempt information, to protect old or delicate original records, or because the original record is a digital file or database not available for public inspection).

Paper cost:

- Letter (8 ½ x 11-inch, single or double-sided): \$.10 cents per sheet of paper
  - Legal (8 ½ x 14-inch, single or double-sided): \$.10 cents per sheet of paper
- Total number of pages (8 ½ x 11 or 8 ½ x 14 paper): \_\_\_\_\_

No more than the actual cost of a sheet of paper for other paper sizes:

- Total number of other paper sizes (size): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)
- Total number of other paper sizes (size): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)

**THE COUNTY WILL PROVIDE TWO-SIDED COPIES TO YOU WHEN PROVIDING HARD COPIES IF IT'S POSSIBLE TO DO SO. IF YOU PREFER SINGLE-SIDED COPIES, YOU MUST TELL US IN WRITING AND WE WILL CHARGE YOU \$.10 PER PAGE.**

Requester has authorized the County to provide single-sided copies at \$.10 per sheet

Actual and most reasonably economical cost of non-paper physical digital media:

- Circle applicable: CD-Rom\* / Tape / Drive / Other Digital Medium ( \_\_\_\_\_ )

Total number of CD-Rom\* discs: \_\_\_\_\_ X cost\* (actual cost of CD's \$ \_\_\_\_\_)

Total number of tapes: \_\_\_\_\_ (actual cost of tapes \$ \_\_\_\_\_)

Total number of drives: \_\_\_\_\_ (actual cost of drives \$ \_\_\_\_\_)

Total number of other digital media (name): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)

Total number of other digital media (name): \_\_\_\_\_ (actual cost each \$ \_\_\_\_\_)

\*The actual cost for a CD-Rom with a protective case is \$.50. The actual cost for a CD-Rom without a protective case is \$.15. There is no charge if the County is capable of emailing the records and you have provided us with an email address.

\*\*\*\*\*  
LEAVE THIS BLANK IF THIS RESPONSE IS AN ESTIMATE OF COSTS  
\*\*\*\*\*

6. Cost for copies

Paper cost:

\$ \_\_\_\_\_

(Number of pages X cost per page)

Other non-paper physical digital media cost:

\$ \_\_\_\_\_

(Number of CDs, tapes, drives, or other digital media X actual cost added together and totaled)

Total cost for copies:

\$ \_\_\_\_\_

**Wayne County  
Detailed Cost Itemization for FOIA Request**

**7. MAILING COSTS.** The County will charge the actual cost of mailing, if any, for sending records in a reasonably economical and justifiable manner. The County may charge for the least expensive form of postal delivery confirmation, but the County may not charge more for expedited shipping or insurance unless you specifically request it.

Actual cost of postage: \$ \_\_\_\_\_ per stamp  
 \$ \_\_\_\_\_ per pound  
 \$ \_\_\_\_\_ per package

Actual cost (least expensive) postal delivery confirmation: \$ \_\_\_\_\_

\*Expedited shipping if requested: \$ \_\_\_\_\_

\*\*Insurance if requested: \$ \_\_\_\_\_

- \* You have asked the County for expedited shipping  
 \* \* You have asked the County for insurance

\*\*\*\*\*  
 LEAVE THIS BLANK IF  
 THIS RESPONSE IS AN  
 ESTIMATE OF COSTS  
 \*\*\*\*\*

**7. Total mailing cost**  
 \$ \_\_\_\_\_  
 (total of all mailing charges)

**8. SUBTOTAL OF FEES, BEFORE WAIVERS, DISCOUNTS, OR DEPOSITS ARE APPLIED:**

Records on County Website (#1):  
Labor to retrieve records from the County's website (#2):  
Labor costs to locate records not on the County's website (#3):  
Labor cost to separate exempt from non-exempt material (#4):  
Labor cost for copying (#5):  
 Copy/duplication cost (#6):  
 Mailing cost (#7):

No Charge  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_  
 \$ \_\_\_\_\_

**Estimated Time Frame to Provide Records:**

\_\_\_\_\_

(date or number of days)

The time frame estimate is nonbinding upon the County, but the County is providing the estimate in good faith.

**8. SUBTOTAL OF ALLOWABLE FEES:**  
 (Total of items #2-#5 if this is an estimate of costs)  
 (Total of items #1-#7 if this is a final response)

\$ \_\_\_\_\_

**Wayne County  
Detailed Cost Itemization for FOIA Request**

<b>FEE DISCOUNTS (ONLY IF APPLICABLE)</b>	
<p><b>9. Waiver of fees in the public interest (at the County's option)</b></p> <p>A search for a public record may be conducted or copies of public records may be furnished without charge or at a reduced charge if the County determines, upon request, that a waiver or reduction of the amount on line 8 above is in the public interest because searching for or furnishing copies of the public record can be considered as primarily benefiting the general public. There is no requirement that the County reduce fees on this basis.</p> <p><input type="checkbox"/> All fees are waived    <u>OR</u>    <input type="checkbox"/> All fees are reduced by: _____%</p>	<p>Discount amount applied: \$ _____</p> <p><input type="checkbox"/> No discount applied</p>
<p><b>10. Discount for indigence.</b> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request if you are entitled to information and also:</p> <p>1) if you submit an affidavit stating that you are indigent and receiving specific public assistance, or</p> <p>2) if you are not receiving public assistance, you state facts showing inability to pay the cost because of indigence.</p> <p>You are ineligible for this fee reduction if <u>either</u> of the following apply:</p> <p><input type="checkbox"/> (i) You previously received discounted copies of public records from the County twice during this calendar year, <u>or</u></p> <p><input type="checkbox"/> (ii) You are requesting the information in conjunction with outside parties who are offering or providing payment or other remuneration to the individual to make the request. The County may require you to state in an affidavit that the request is not being made in conjunction with outside parties in exchange for payment or other remuneration.</p> <p><input type="checkbox"/> You <u>are</u> eligible for an indigence discount</p>	<p>Discount amount applied: \$ _____</p> <p><input type="checkbox"/> No discount applied</p>
<p><b>11. Discount for certain nonprofit organizations.</b> A public record search must be made and a copy of a public record must be furnished without charge for the first \$20.00 of the fee for each request by a nonprofit organization formally designated by the state to carry out activities under subtitle C of the federal Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the federal Protection and Advocacy for Individuals with Mental Illness Act, if the request meets <u>all</u> of the following requirements:</p> <p>(i) it is made directly on behalf of the organization or its clients; and,</p> <p>(ii) it is made for a reason wholly consistent with the mission and provisions of those laws under section 931 of the Michigan Mental Health Code, 1974 PA 258, MCL 330.1931.</p> <p>(iii) it is accompanied by documentation of its designation by the state, if requested by the County.</p> <p><input type="checkbox"/> You <u>are</u> eligible for nonprofit discount</p>	<p>Discount amount applied: \$ _____</p> <p><input type="checkbox"/> No discount applied</p>
<p><b>12. SUBTOTAL OF DISCOUNTS (add lines 9, 10, and 11)</b></p>	<p>Subtotal of discounts: \$ _____</p>



**Wayne County  
Detailed Cost Itemization for FOIA Request**

<p><b>13. REDUCTION IN LABOR COSTS FOR LATE RESPONSE.</b> If the County does not respond to a written request in a timely manner as required under MCL 15.235(2), the County must reduce the charges for labor costs otherwise permitted by 5% for each day the County exceeds the time permitted for a response to the request, up to a maximum 50% reduction. <b>Labor costs are those charges in Lines 2-5 only.</b></p>	<p>Reduction for late response, if any: \$ _____</p>
<p><b>14. SUBTOTAL OF FEES MINUS DISCOUNTS &amp; REDUCTIONS</b> (Line 8) - (Line 12) - (Line 13)</p>	<p>\$ _____</p>
<p><b>15. GOOD FAITH DEPOSITS, IF APPLICABLE</b> (50% OR 100% of Line 14).</p> <p>If there is an amount on this line, noted in either 15a or in 15b, this is the good faith deposit that you must pay before the County will begin processing your request.</p> <p><u>50% deposit:</u> If the estimated cost of responding to this request exceeds \$50.00, the County may collect up to 50% of that estimate (i.e., 50% of the amount on line 14) before responding.</p> <p><u>100% deposit</u> (due to previous FOIA fees not paid in full): If you have not paid the County in full for the total amount of fees and copies relating to a previously granted and fulfilled written request, the County may require you pay an increased deposit of up to 100% of the estimated fees before we begin a full public record search for any subsequent written request from you if <u>all</u> of the following apply:</p> <ul style="list-style-type: none"> <li>(a) The final fee for the prior written request was not more than 105% of the estimated fee;</li> <li>(b) The public records made available contained the information being sought in the prior written request and are still in the County's possession;</li> <li>(c) The public records were made available to you, subject to payment, within the best effort estimated time frame given by the County for the previous request;</li> <li>(d) Ninety (90) days have passed since the County notified you in writing that the public records were available for pickup or mailing;</li> <li>(e) You are unable to show proof of prior payment to the County; and,</li> <li>(f) The County calculates a detailed itemization, as required under MCL 15.234, that is the basis for the increased estimated fee deposit relating to this request.</li> </ul> <p>The County can no longer require an increased estimated fee deposit of up to 100% if <u>any</u> of the following apply:</p> <ul style="list-style-type: none"> <li>(a) You are able to show proof of prior payment in full to the County;</li> <li>(b) The County is subsequently paid in full for the applicable prior written request; or,</li> <li>(c) Three hundred sixty-five (365) days have passed since you made the written request for which full payment was not remitted to the County.</li> </ul> <p>Even if the increased deposit requirements are not applicable, the County is still permitted to ask for up to a 50% deposit.</p> <p style="text-align: center;"><b>(STOP HERE IF THIS IS AN ESTIMATE OF FEES AND A DEPOSIT IS REQUIRED)</b></p>	<p><b>15a. 50% good faith deposit required in the following amount:</b> \$ _____</p> <p><b>15b. 100% good faith deposit required in the following amount:</b> \$ _____</p> <div style="border: 2px solid black; padding: 5px; margin-top: 10px;"> <p><b>Deposit due date:</b> _____</p> <p>(We are not required to respond to your request if your deposit is paid after this date unless a timely fee appeal is filed.)</p> </div>
<p><b>16. TOTAL AMOUNT DUE (LESS ANY DEPOSIT PAID)</b> The total amount due must be paid before copies can be picked up, delivered, mailed, or emailed.</p>	<p>Total amount due: \$ _____</p>

# Exhibit 7

Defendant's Public FOIA Summary

## **WAYNE COUNTY SUMMARY OF FOIA PROCEDURES & GUIDELINES**

Consistent with Public Act 442 of 1976, as amended, the following is Wayne County's Written Public Summary of its FOIA Procedures and Guidelines.

### **1. How do I submit a FOIA request to Wayne County?**

- Requests to inspect or obtain copies of public records prepared, owned, used, possessed or retained by Wayne County must be submitted in writing.
- All requests from persons who are not indigent must contain ALL of the following information (no matter what form is used to submit the request):
  - The complete name of the person making the request (if the request is made a company or organization, then the request must contain the complete name of a contact person)
  - A complete address that complies with United States Postal Service standards
  - A valid telephone number or electronic mail ("email") address
- A request must sufficiently describe a public record so as to enable the County to find it.
- No specific form to submit a written request is required. However you may submit a request through the County's website at the following address: <http://waynecounty.com/county/foia.htm>
- Written requests for public records may be submitted in person or by U.S. mail addressed to: Wayne County FOIA Coordinator, Guardian Building, 500 Griswold – 31<sup>st</sup> Floor, Detroit, MI 48226.
- Requests may also be submitted electronically by facsimile (313/224-8458).
- A request may also be submitted by e-mail. To ensure a prompt response, e-mail requests should contain the term "FOIA" or "FOIA Request" in the subject line and be sent to [FOIArequests@waynecounty.com](mailto:FOIArequests@waynecounty.com)

- *Note: If you are serving a sentence of imprisonment in a local, state or federal correctional facility you are not entitled to submit a request for a public record.*

## **2. What kind of response can I expect to my request?**

- Within 5 business days of receipt of a FOIA request the County will issue a response. If a request is received by facsimile or e-mail the request is deemed to have been received on the following business day. The County will respond to your request, in writing, in one of the following ways:
  - Granting the request; or,
  - Denying the request; or,
  - Granting the request in part and denying the request in part; or,
  - Issuing a written notice indicating that the public record requested is available at no charge on the County's website; or,
  - Issuing a notice indicating that due to the nature of the request Wayne County needs an additional 10 business days to respond after which time the County will respond in one of the four ways described above.
- If the request is granted, or granted in part, the County may ask that payment be made for the allowable fees associated with responding to the request before the public record is made available. If the cost of processing the request is expected to exceed \$50, or if you have not paid for a previously granted request, the County may require a deposit before processing the request.

## **3. What are the County's fee deposit requirements?**

- If the County has made a good faith calculation that the total fee for processing the request exceeds \$50.00, the County may require that you provide a deposit in the amount of 50% of the total estimated fee. When the County requests the deposit, it will provide you a non-binding best efforts estimate of how long it will take to process the request following receipt by the County of your deposit.
- If the County receives a request from a person who has not paid the County for copies of public records made in fulfillment of a previously granted written request, the County may require a deposit of 100% of the

estimated processing fee before it begins to search for a public record for any subsequent written request when all of the following conditions exist:

- the final fee for the prior written request was not more than 105% of the estimated fee; and,
  - the public records made available contained the information sought in the prior written request and remain in the County's possession; and,
  - the public records were made available to the individual, subject to payment, within the time frame estimated by the County to provide the records; and,
  - 90 days have passed since the County notified the individual in writing that the public records were available for pickup or mailing; and,
  - the individual is unable to show proof of prior payment to the County; and,
  - the County has calculated an estimated detailed itemization that is the basis for the current written request's increased fee deposit.
- The County will not require the 100% estimated fee deposit if any of the following apply:
- the person making the request is able to show proof of prior payment in full to the County;
  - the County is subsequently paid in full for all applicable prior written requests; or
  - 365 days have passed since the person made the request for which full payment was not remitted to the County.

*All deposits must be received no later than the deposit due date that we will provide to you (which is 48 days after our notice of deposit requirement is sent to you). We are not required to respond to you if you send a deposit later than the due date.*

#### **4. How does the County calculate FOIA processing fees?**

- A fee will not be charged for the cost of search, examination, review and the deletion and separation of exempt from nonexempt information unless failure to charge a fee would result in unreasonably high costs to the County because of the nature of the request in the particular instance, and the County specifically identifies the nature of the unreasonably high costs.
- The Michigan FOIA statute permits the County to assess and collect a fee for six designated processing components, and we may charge a fee for any of the following:
  - Labor costs associated with searching for, locating and examining a requested public record.
  - Labor costs associated with a review of a record to separate and delete information exempt from disclosure of information which is disclosed.
  - The cost of computer discs, computer tapes or other digital or similar media when the requester asks for records in non-paper physical media.
  - The cost of duplication or publication, not including labor, of paper copies of public records.
  - Labor costs associated with duplication or publication, which includes making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet.
  - The cost to mail or send a public record to a requestor.
- Labor Costs
  - Labor costs for searching, locating, and examining a requested public record, and labor costs for the review of a record to separate and delete information exempt from disclosure from information which is disclosed, is estimated and charged in 15 minute increments with all partial time increments rounded down.
  - Labor costs for duplication or publication, including making paper copies, making digital copies, or transferring digital public records to non-paper physical media or through the Internet or other electronic means when asked for by the requestor, will be charged in one minute increments, with all partial time increments rounded down.

- Labor costs will be charged at the hourly wage of the lowest-paid County employee capable of doing the work in the specific fee category, regardless who actually performs work.
- Labor costs will also include a charge to cover or partially cover the cost of fringe benefits, but will not include charges for overtime unless specifically agreed to by the requester.
- Non-paper Physical Media
  - The cost for records provided on non-paper physical media, such as computer discs, computer tapes or other digital or similar media will be at the actual and most reasonably economical cost for the non-paper media.
  - This cost will only be assessed if the County has the technological capability necessary to provide the public record in the requested non-paper physical media format.
- Paper Copies
  - Paper copies of public records made on standard letter (8 ½ x 11) or legal (8 ½ x 14) sized paper will not exceed \$.10 per sheet of paper. Copies for non-standard sized sheets will reflect the actual cost of reproduction.
  - The County may provide records using double-sided printing, if cost-saving and available.
- Mailing Costs
  - The cost to mail public records will use a reasonably economical and justified means.
  - The County may charge for the least expensive form of postal delivery confirmation.
  - No charge will be made for expedited shipping or insurance unless requested.

## **5. How do I qualify for a reduction of the processing fees?**

- The County may waive or reduce the fee associated with a request when County determines that to do so is in the public interest because release of the information is considered as primarily benefitting the general public.
- The County will waive the first \$20.00 of the processing fee for a request if you submit an affidavit stating that you are:
  - indigent and receiving specific public assistance; or
  - if not receiving public assistance, stating facts demonstrating an inability to pay because of indigency.
- You are not eligible to receive the \$20.00 waiver if you:
  - have previously received discounted copies of public records from the County twice during the calendar year; or
  - are requesting information on behalf of other persons who are offering or providing payment to you to make the request.
- The County will waive the first \$20.00 of the processing fee for a nonprofit organization that meets all of the following conditions:
  - the organization is designated by the State under federal law to carry out activities under the Developmental Disabilities Assistance and Bill of Rights Act of 2000 and the Protection and Advocacy for Individuals with Mental Illness Act; and,
  - the request is made directly on behalf of the organization or its clients; and,
  - the request is made for a reason wholly consistent with the provisions of federal law under Section 931 of the Mental Health Code; and,
  - the request is accompanied by documentation of the organization's designation by the State.



## **6. How may I challenge the denial of a public record or an excessive fee?**

### ○ Appeal of a Denial of a Public Record

If you believe that all or a portion of a public record has not been disclosed or has been improperly exempted from disclosure, you may file an appeal of the denial with the Wayne County FOIA Appellate Officer. The appeal must be in writing, specifically state the word "appeal" and identify the reason or reasons you are seeking a reversal of the denial.

Within 10 business days of receiving the appeal the Wayne County FOIA Appellate Officer will respond in writing by:

- reversing the disclosure denial; or,
- upholding the disclosure denial; or,
- reversing the disclosure denial in part and upholding the disclosure denial in part; or,
- extending the time to respond by 10 business days, after which time the Wayne County FOIA Appellate Officer will respond in writing in one of the three ways described above.

Whether or not you submitted an appeal of a denial to the Wayne County FOIA Appellate Officer, you may file a civil action in Wayne County Circuit Court within 180 days after the County's final determination to deny your request. Should you prevail in the civil action, the court will award you reasonable attorneys' fees, costs and disbursements. If the court determines that the County acted arbitrarily and capriciously in refusing to disclose or provide a public record, the court shall award you damages in the amount of \$1000.00

### ○ Appeal of an Excessive FOIA Processing Fee

If you believe that the fee charged by the County to process your FOIA request exceeds the amount permitted by state law, you must first submit a written appeal for a fee reduction to the Wayne County FOIA Appellate Officer. The appeal must be in writing, specifically state the word "appeal," and identify how the required fee exceeds the amount permitted.

Within 10 business days after receiving the appeal, the Wayne County FOIA Appellate Officer will respond in writing by:

- waiving the fee; or,

- reducing the fee and issue a written determination indicating the specific basis that supports the remaining fee; or,
- upholding the fee and issue a written determination indicating the specific basis that supports the required fee; or,
- extending the time to respond by 10 business days, after which time the Wayne County FOIA Appellate Officer will respond in writing in one of the three ways described above.

Within 45 days after receiving notice of the Wayne County FOIA Appellate Officer's determination of the processing fee appeal, you may commence a civil action in Wayne County Circuit Court for a fee reduction. If you prevail in the civil action by receiving a reduction of 50% or more of the total fee, the court may award all or appropriate amount of reasonable attorneys' fees, costs and disbursements. If the court determines that the County acted arbitrarily and capriciously by charging an excessive fee, court may also award you punitive damages in the amount of \$500.00.

### **Need more details or information?**

This is only a summary of the Wayne County's FOIA Procedures and Guidelines. For more details and information, copies of the Wayne County's FOIA Procedures and Guidelines are available at no charge at any County office and on the Wayne County website at this web address: <http://waynecounty.com/county/foia.htm>

# Exhibit 8

Plaintiff's Dec 20 Check Letter

Lisa Williams, FOIA Officer  
Wayne County Elections Division  
2 Woodward Ave, Suite 500  
Detroit, MI 48226

December 20, 2022

SUBJECT: August 12, 2022 FOIA Request Deposit Remittance

Dear Ms. Williams,

Pursuant to your email received on December 19, 2022, I have enclosed a cashier's check for \$2,495.29 payable to County of Wayne as a deposit in support of my August 12, 2022 FOIA Request for surveillance video footage for the camera positioned just outside of the entrance to the Wayne County Clerk's office for the time period between 3pm on August 2, 2022 and 5pm on August 3, 2022.

Please provide the information requested to [patrick@migrassrootsalliance.org](mailto:patrick@migrassrootsalliance.org) or mail on a flash drive to 47841 Royal Pointe Drive, Canton, MI 48187.

Thank you for your prompt attention to this matter.

Regards,

Patrick J. Colbeck  
Former MI State Senator, 7<sup>th</sup> District  
47841 Royal Pointe Drive  
Canton, MI 48187

Attachments:

- December 19, 2022 correspondence from Lisa Williams
- Cashier's check for \$2,495.29 payable to County of Wayne

# Exhibit 9

Defendant's Feb 1 Response

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**From:** Lisa Williams <lwilliams@waynecounty.com>  
**Sent:** Wednesday, February 1, 2023 2:23 PM  
**To:** Patrick Colbeck  
**Subject:** Re: Surveillance Video Status

Mr. Colbeck:

The video is in the Wayne County Prosecutor's Office Evidence Submission Portal queue. This process will take some time to move up the queue and for the redactions process. There is not a time limit in the FOIA statute for this request. Per Wayne County Department of Corporate Counsel, you will receive the redacted video when it is ready. Upon completion of the video redactions, final payment from the FOIA's cost itemization will be due via guaranteed funds before the redacted video is provided.

Regards,

*Lisa Williams  
Director of Communications / FOIA Officer  
Office of the Wayne County Clerk,  
Cathy M. Garrett  
2 Woodward Ave.  
Detroit, MI 48226*

Disclaimer: This email is covered by the Electronic Communication Privacy Act, 18 U.S.C. Section 2510-2521 and is legally privileged. The accompanying message and any attachments are for the sole use of the intended recipients and may contain proprietary and/or confidential information which may be privileged or otherwise protected from disclosure. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipients, please contact the sender by reply mail and destroy the original message and any copies of the message as well as any attachments to the original message. Thank you for your cooperation.

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**From:** Patrick Colbeck <patrick@migrassrootsalliance.org>  
**Sent:** Monday, January 30, 2023 11:51 AM  
**To:** Lisa Williams <lwilliams@waynecounty.com>  
**Subject:** Surveillance Video Status

Ms. Williams,  
Please advise as to who I should contact regarding the surveillance video that I paid for.  
Thank you for your assistance,  
Patrick Colbeck