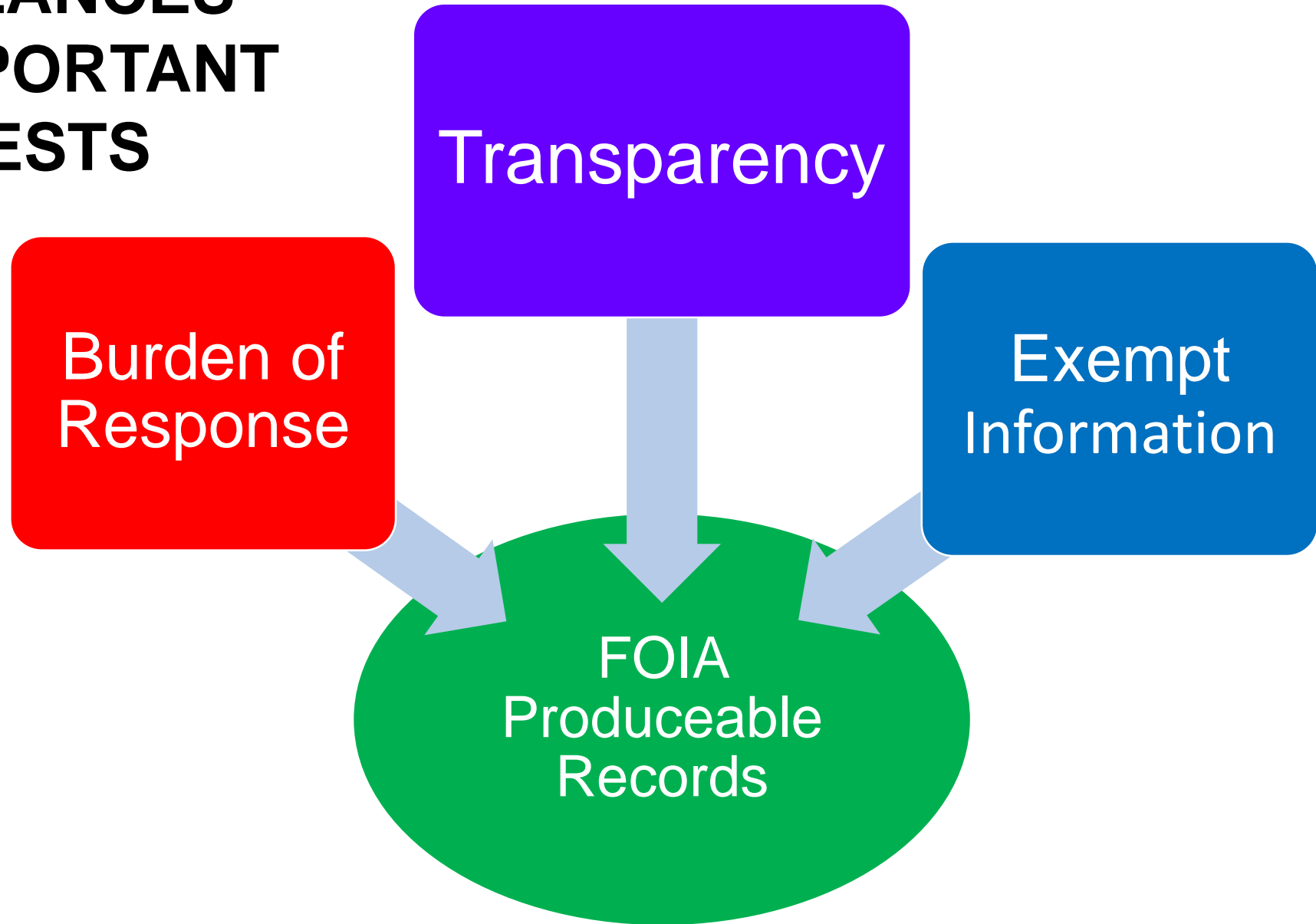


# **Freedom of Information Act**

**5 ILCS 140**

July 20, 2020

# FOIA BALANCES THREE IMPORTANT INTERESTS



# Annual FOIA Requests

## 2015-present

| <b>YEAR</b>        | <b>NUMBER OF REQUESTS</b>       | <b>YR OVER YR INCREASE</b> |
|--------------------|---------------------------------|----------------------------|
| 2015               | 590                             |                            |
| 2016               | 619                             | 4.9%                       |
| 2017               | 651                             | 5.2%                       |
| 2018               | 672                             | 3.2%                       |
| 2019               | 702                             | 4.5%                       |
| 2020 -thru June 30 | 359 (2020 annualized - 718)     | 2.3%                       |
| Total              | 3,593 (2020 annualized - 3,952) | 21.7% (2020 annualized)    |

# Responding to FOIA Requests

**Staff: City Clerk, FOIA Officer, Legal, IT, Department/Individuals**

1. Log in request and assign FOIA #
2. Develop search criteria if FOIA is unclear.
3. Forward request to department/individuals
4. Request extension where appropriate.
5. Conduct search(es) depending upon scope of request
6. Calculate fees where appropriate
7. Send interim response in cases of voluminous or burdensome requests.

# Responding (continued)

8. Compile all records
9. Review all records for FOIA exemptions
10. Copy records to use when making redactions under FOIA exemptions
11. Redact/withhold records that contain exempt information
12. Make hard copies or download electronic records for requester
13. Retain copies of redacted/unredacted records for Public Access Bureau (PAC)
14. Write response to FOIA requester
15. Respond to PAC/ Illinois Attorney General if requester asks for review of City's response.

# Example of FOIA request (multipart)

All documents and data related to:

- 1) During City Council meeting on 5/11/2020, Mayor Marlin mentioned a City meeting attended by herself, Chief Seraphin, Minnie Pearson, Carol Spindel, Tracy Parsons, Robert Moore, Florence Kaplow, Vacellia Clark, Joel Sanders. Please provide all documents from that meeting including the full recording of the meeting.
- 2) During City Council meeting on 5/11/2020, Mayor Marlin mentioned "a bullet that went over the heads of bystanders...". Please provide all documents that support her claim.
- 3) During City Council meeting on 4/6/2020, James Simon announced that ""You'll be please to know that the PAC has blessed exactly what we've been doing all along, with emailing public input to Charlie ...". Please provide all documents and communication between the PAC/city staff/officials that support Simon's claim.
- 4) Emails sent and received by Charlie Smyth from 3/14/2020 to 5/14/2020.
- 5) The central registry of complaints maintained by CPRB, and the central registry of complaints maintained by HRC.

# Example of FOIA request that was overly broad

To Whom It May Concern-

- I am looking for any and all Urbana Police Department complaints and related certified correspondence, complaint reports, and findings letters: This should include formal CPRB complaints as well as any other types of complaints about the Urbana Police Department.

# Example of response to overly broad FOIA request

Section 3(g) of FOIA allows a public body to deny an unduly burdensome request. 5 ILCS 140/3(g). Your request is unduly burdensome because it asks for all records falling within several categories and will yield so many responsive records that the burden on the City to examine each one for information exempt from disclosure would unduly burden City operations. Further, the Urbana Police Department was founded in 1855. Given that most of the records you have requested are decades old and relate to persons no longer employed by the department – and, perhaps, no longer living – the public interest in the disclosure of the requested records does not outweigh the Police Department’s burden of compliance under section 3(g). Accordingly, we ask that you narrow the scope of this request to bring it within manageable proportions pursuant to section 3(g). For example, you may wish to limit your request to a specific year or employee. We would be pleased to help you narrow your request. If you are unable to narrow the scope of this request, we may deny it pursuant to 5 ILCS 140/3(g).



# What is a “Voluminous Request?”

- More than 5 individual requests for more than 5 different categories or combination of individual requests that total requests for more than 5 different categories of records in a period of 20 business days OR
- Requires compilation of more than 500 letter or legal-sized pages of public records UNLESS single record exceeds 500 pages.

# Example of a voluminous request

- 1) Any and all documents related to an incident on May 12 around 10pm involving a damaged van on the 500 block of W Illinois St. UPD responded. Please include all reports, emails, and audio/video.
- 2) Any and all documents related to the Urbana CPRB regarding the resignation of Grace Mitchell, the placement of Mikhail Lyubansky as chair, and the resulting vacant board seat which the City now seeks to fill (including documents about new applicants). Any related related emails should be included.
- 3) All emails to/from Council member Bill Brown from April 15 to May 15.
- 4) All emails to/from Vacellia Clark during 2020. Clark seems to have at least two email addresses ([vpclark@urbanaininois.us](mailto:vpclark@urbanaininois.us) and [hro@urbanaininois.us](mailto:hro@urbanaininois.us)).
- 5) All emails to/from Diane Wolfe Marlin during March and April of 2020

# What is a “Recurrent Requester”

- 50 requests in a 12-month period
- 15 requests in a 30-day period
- 7 requests in a 7-day period

*Duration of designation: 12 months*

*Fees for recurrent requester: Not prescribed by FOIA. City applies same as voluminous requester.*

# Urbana Recurrent Requesters

2018-2020

Two individuals  
57 FOIA requests  
88 different parts  
13% of 2020 requests

| <u>Count</u> | <u>FOIA No.</u> | <u>Requester</u>       | <u>Parts</u> | <u>Count</u> | <u>FOIA No.</u> | <u>Requester</u>       | <u>Parts</u> |
|--------------|-----------------|------------------------|--------------|--------------|-----------------|------------------------|--------------|
| 1            | 2018-F-670      | Recurrent Requester #1 | 3            | 30           | 2020-F-159      | Recurrent Requester #1 | 1            |
| 2            | 2019-F-052      | Recurrent Requester #1 | 1            | 31           | 2020-F-160      | Recurrent Requester #1 | 1            |
| 3            | 2019-F-085      | Recurrent Requester #1 | 1            | 32           | 2020-F-161      | Recurrent Requester #1 | 1            |
| 4            | 2019-F-101      | Recurrent Requester #1 | 1            | 33           | 2020-F-165      | Recurrent Requester #1 | 1            |
| 5            | 2019-F-187      | Recurrent Requester #1 | 1            | 34           | 2020-F-168      | Recurrent Requester #1 | 1            |
| 6            | 2019-F-265      | Recurrent Requester #1 | 1            | 35           | 2020-F-170      | Recurrent Requester #2 | 1            |
| 7            | 2019-F-369      | Recurrent Requester #2 | 1            | 36           | 2020-F-171      | Recurrent Requester #1 | 1            |
| 8            | 2019-F-387      | Recurrent Requester #1 | 1            | 37           | 2020-F-173      | Recurrent Requester #1 | 1            |
| 9            | 2019-F-407      | Recurrent Requester #1 | 2            | 38           | 2020-F-174      | Recurrent Requester #1 | 1            |
| 10           | 2019-F-439      | Recurrent Requester #1 | 1            | 39           | 2020-F-178      | Recurrent Requester #1 | 1            |
| 11           | 2019-F-441      | Recurrent Requester #1 | 2            | 40           | 2020-F-180      | Recurrent Requester #1 | 1            |
| 12           | 2019-F-442      | Recurrent Requester #1 | 3            | 41           | 2020-F-181      | Recurrent Requester #1 | 1            |
| 13           | 2019-F-563      | Recurrent Requester #1 | 1            | 42           | 2020-F-187      | Recurrent Requester #1 | 2            |
| 14           | 2019-F-566      | Recurrent Requester #2 | 1            | 43           | 2020-F-188      | Recurrent Requester #1 | 1            |
| 15           | 2019-F-600      | Recurrent Requester #1 | 1            | 44           | 2020-F-189      | Recurrent Requester #1 | 1            |
| 16           | 2019-F-682      | Recurrent Requester #2 | 1            | 45           | 2020-F-190      | Recurrent Requester #1 | 1            |
| 17           | 2019-F-700      | Recurrent Requester #1 | 4            | 46           | 2020-F-203      | Recurrent Requester #2 | 1            |
| 18           | 2020-F-003      | Recurrent Requester #1 | 1            | 47           | 2020-F-204      | Recurrent Requester #2 | 1            |
| 19           | 2020-F-063      | Recurrent Requester #1 | 2            | 48           | 2020-F-204b     | Recurrent Requester #2 | 1            |
| 20           | 2020-F-075      | Recurrent Requester #1 | 2            | 49           | 2020-F-205      | Recurrent Requester #2 | 1            |
| 21           | 2020-F-078      | Recurrent Requester #1 | 1            | 50           | 2020-F-206      | Recurrent Requester #2 | 1            |
| 22           | 2020-F-079      | Recurrent Requester #1 | 2            | 51           | 2020-F-211      | Recurrent Requester #2 | 1            |
| 23           | 2020-F-117      | Recurrent Requester #1 | 1            | 52           | 2020-F-212      | Recurrent Requester #2 | 1            |
| 24           | 2020-F-123      | Recurrent Requester #1 | 1            | 53           | 2020-F-215      | Recurrent Requester #2 | 1            |
| 25           | 2020-F-130      | Recurrent Requester #1 | 1            | 54           | 2020-F-269      | Recurrent Requester #1 | 5            |
| 26           | 2020-F-134      | Recurrent Requester #2 | 2            | 55           | 2020-F-271      | Recurrent Requester #2 | 5            |
| 27           | 2020-F-137      | Recurrent Requester #1 | 1            | 56           | 2020-F-276      | Recurrent Requester #1 | 4            |
| 28           | 2020-F-140      | Recurrent Requester #1 | 2            | 57           | 2020-F-286      | Recurrent Requester #2 | 5            |
| 29           | 2020-F-158      | Recurrent Requester #1 | 2            |              |                 |                        |              |

Total

88

# Statutory Authority for Charging Fees

## Voluminous requests

- *Electronic, non-PDF: Up to \$20 for 2MB, \$40 for 2MB-4MB, \$100 for more than 4 MB (includes video footage)*
- *Electronic, PDF: Up to \$20 for up to 80 MB, \$40 for 80MB-160MB, \$100 for more than 160 MB*

## Recurrent requester

- *Not prescribed by FOIA. Charges are the same as above.*

## All requesters

- *\$0.15 per page over 50 pages or actual cost of color or oversized copies*

# Requests for Fee Waivers or Reductions

- FOIA provides that documents shall be furnished without fee or at a reduced fee, as determined by the City, if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest.
- A waiver or reduction of a fee is in the “public interest” if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.
- In setting the amount of the waiver or reduction, the public body may take into consideration the amount of materials requested and the cost of copying them.

# FOIA Sections 7 and 7.5: Authority to Withhold Information

Typical exemptions applied by City of Urbana:

1. Personal information
2. Private information
3. Certain information in shared law enforcement databases
4. Preliminary drafts of documents
5. Bids
6. Minutes of closed meetings (released periodically)
7. City-attorney communications
8. Employee grievances or discipline
9. Collective bargaining information
10. Pending sales or purchases of real estate by City
11. Information about minors
12. Library Records Confidentiality Act
13. Personnel Records Review Act
14. Law Enforcement Officer Body Worn Camera Act
15. Cannabis Regulation and Tax Act