

Freedom of Information Act Update

March 2026, MAMA Advanced Institute



FOIA Discussion Topics

- Recent FOIA Case Law
- Practitioner Advice
- Litigation Trends
& Advice
- Questions



Recent FOIA Case Law



Outside Legal Couns., PLC v. Cnty. of Saginaw,
No. 375882, 2026 WL 121527 (Mich. Ct. App. Jan. 15,
2026)

- HELD: County did not violate FOIA by denying request for legal bills of law firm hired to defend Sheriff.
- Although the firm acted in the County's interests, the County did not require the invoices or any of the data contained in them to carry out an official function, and neither the invoices nor the data was ever made available to the County (they were sent directly to insurer).

Recent FOIA Case Law



Litkouhi v. Rochester Cmty. Sch. Dist.,
No. 364409, 2024 WL 748476 (Mich. Ct.
App. Feb. 22, 2024), *appeal denied*, 515
Mich. 942, 11 N.W.3d 268 (2024)

- School District denied possession of lesson plans, readings, and assignments for a high school course and disputed duty to produce records held by schools or individual teachers.
- HELD: local government employees, including public school teachers, are not included in FOIA's definition of "public body," so their individually created and retained records are not public records under FOIA. *See* MCL 15.232(h)(iii).

Ruggiero v. Unnamed Genesee Cnty. Pub. Body Consisting of Cir. Ct. Judges to Appoint Genesee Cnty. Clerk-Reg.,
No. 367378, 2025 WL 1183397 (Mich. Ct.
App. Apr. 23, 2025), *appeal denied*, 26
N.W.3d 826 (Mich. 2025)

- County denied FOIA for applications for vacant clerk of court/register of deeds position under the judicial exemption, because position filed by committee of judges.
- HELD: Reversed and Remanded. "It was immaterial whether the committee of circuit court judges tasked with filling the vacancy had handled or possessed the requested information; what mattered was whether the County possessed the requested information."

Recent FOIA Case Law



Farida v. McDonald, No. 373717, 2025 WL 3226898 (Mich. Ct. App. Nov. 18, 2025)

- FOIA request for recording of an internal training at Prosecutor's Office. County granted request in part but stated it *would apply* redactions under MCL 15.243(1)(a) (privacy exemption) and (m) (frank communications exemption). Asked if requester was still interested, "and I will send you an estimate for the labor required for duplicating and redacting."
- HELD: This was a "final determination" that allowed Plaintiff to challenge redactions/seek unredacted copy. REMANDED for further proceedings.

AMERICAN FRIENDS SERVICE COMMITTEE v. MDOC, No. 373489, 2026 WL 516043 (Mich. Ct. App. Feb. 20, 2026)

- Held: Response requesting good faith deposit is not a "final decision"; Plaintiff's argument that deposit demand letter failed to articulate exemptions was premature; letter was clear request would be processed upon payment of fee.
- Held: FOIA lawsuit untimely because Plaintiff never paid the deposit demand or filed an appeal to contest the fee.

Recent FOIA Case Law



ACLU v. City of Taylor, No. 372705, 2025 WL 3637628 (Mich. Ct. App. Dec. 15, 2025)

- FOIA request for: “records that were created on or at any time after October 7, 2021 that in any way concern allegations or findings that Taylor Police Department officers engaged in racial profiling, racial discrimination, harassment, or excessive force”
- HELD: city improperly provided blanket denial as vague. Request sufficiently clear to allow public body to know what records being requested.
- HELD (reminder): civil litigation exception did not apply because plaintiff in ongoing civil suit was not the requestor

Hjerstedt v. City of Sault Ste. Marie, No. 358803, 2024 WL 3907176, -- N.W. 3d - - (Mich. Ct. App. Aug. 22, 2024), appeal denied, 16 N.W.3d 90 (Mich. 2025), reconsideration denied, 20 N.W.3d 552 (Mich. 2025)

- Order production of unredacted copy of police department’s use of force policy
- HELD: law enforcement staff manual exception did not apply because policy was not located in an employee handbook

Recent FOIA Case Law



SADO v. City of Grand Rapids, No. 373357, 2025 WL 3535072 (Mich. Ct. App. Dec. 9, 2025)

- SADO submitted FOIA request for “all incident reports, memos, and logs” from 2006 until May 30, 2008, relating to a police response to a particular address. City provided 23 police reports, redacting personal information of all individuals with whom police interacted under the privacy exemptions.
- HELD: redactions were appropriate. Witness names were associated with major crimes, which is itself information containing embarrassing details about that person

ACLU v. City of Grand Rapids, No. 373417, 2025 WL 3561489 (Mich. Ct. App. Dec. 11, 2025)

- ACLU submitted a FOIA request seeking public records related City’s delays in fulfilling FOIA requests. City estimated FOIA request would take 2 hours and 15 minutes to process but that it would take 8 to 10 months to provide the records.
- HELD: no FOIA violation. FOIA does not now contain a deadline within which public bodies must fulfill FOIA requests. Clear statutory language must be enforced as written.

FOIA Practitioner Advice

Priority: Records Management

Who's on first? SOP's and Policies

Blanket Denials



FOIA Litigation Trends & Advice

TRENDS

- Fee Litigation, esp. for video
- Critical reviews of fee/deposit forms
- Length of time to process



ADVICE

- Write it down!
- Have an administrative appeal process
- Have a solid policy in place
- Critically examine the litigation at intake
- Don't forget to plead all available exemptions in the Answer/Affirmative Defenses

FOIA Discussion Question



The City Clerk contacts you because her office just received a FOIA request written in a different language.

How do you advise her?

FOIA Discussion Question

The City Manager contacts you because a local citizen group filed a FOIA request for all communication between her and Microsoft, including any Nondisclosure Agreements (NDA).

How do you advise her?



FOIA Discussion Question

The City Manager has been publicly touting the City's development of a generative AI system used by the City's 311 department to assist staff in responding to citizen requests for information.

The City just received a FOIA request for all records used to train the City's 311 AI system.

How does the City respond?



Freedom of Information Act Update

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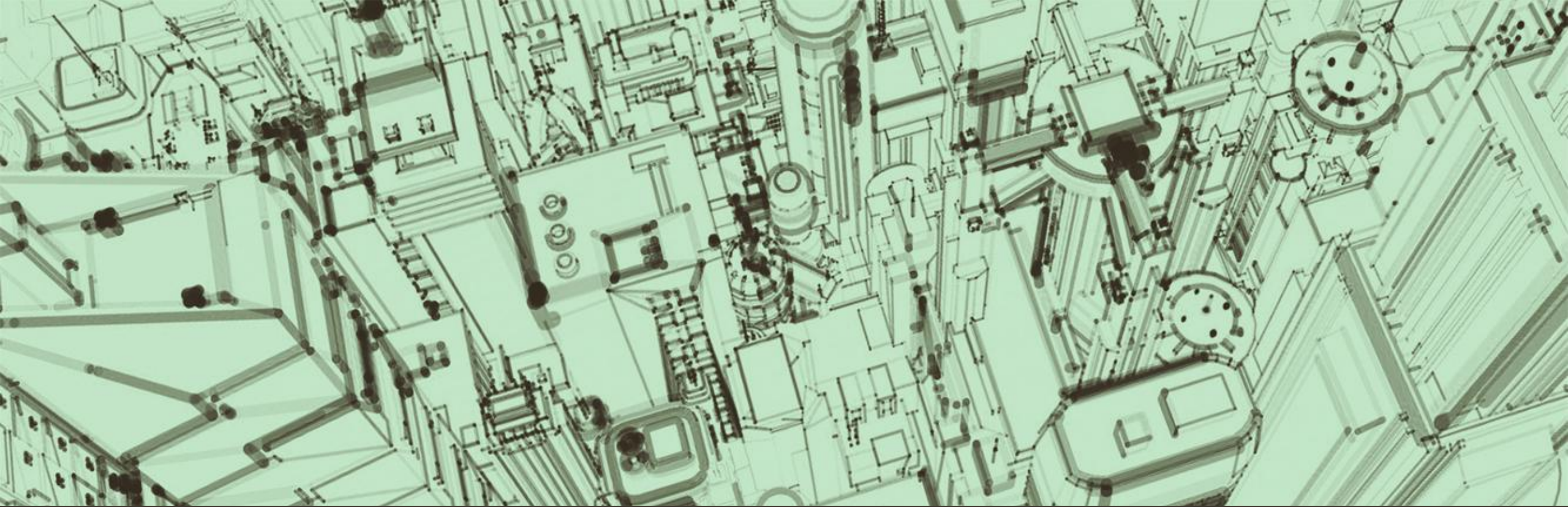
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