

# *PRISON LEGAL NEWS*

Dedicated to Protecting Human Rights

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[www.prisonlegalnews.org](http://www.prisonlegalnews.org)

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December 14, 2016

Comptroller of the Treasury  
Office of Open Records Counsel  
505 Deaderick Street, Suite 1700  
Nashville, TN 37243-1402

## **Re: Public Comment on Proposed Model Public Records Policy**

Dear Sir or Madam:

I serve as managing editor of *Prison Legal News*, a monthly publication that reports on criminal justice-related issues and a project of the Human Rights Defense Center. I manage our office in Nashville and submit these comments regarding the proposed model public records policy.

We file numerous public records requests in Tennessee in connection with our news reporting, and litigate violations of the public records law by government agencies or their functional equivalents. See, for example, the Tenn. Court of Appeals rulings at *Friedmann v. CCA*, 310 S.W.3d 366 (Tenn. Ct. App. 2009) and *Friedmann v. Marshall County*, 471 S.W.3d 427 (Tenn. Ct. App. 2015).

With respect to the proposed model public records policy, we offer the following comments:

- Public records requests received by email should always be honored. Email is now an integral part of the way people communicate, and so long as government agencies use email to facilitate their own internal and external communications, there is no legitimate reason why public records requests should not be accepted when submitted by email.
- Public records should be produced in the format requested if they are already in, or can be easily converted to, that format. For example, electronic records should be produced as computer files and records should be faxed upon request. Providing records in electronic format or by fax reduces costs to the public agency and to citizens.
- Private entities that are the functional equivalent of government agencies should be required to comply with public records requests to the same extent as government agencies. Public agencies should develop rules that specify when private entities must comply.

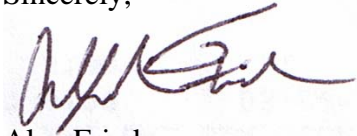
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*PLN is a project of the Human Rights Defense Center*

- Government agencies should be encouraged to create protocols for waiving fees for public records requests, particularly when the costs are low; waivers should also be considered for members of the media when the records are to be used to serve the public through news reporting.
- Although this is beyond the scope of the proposed model policy, violations of the public records statute that result in the denial of public records should result in the mandatory, not discretionary, assessment of attorney fees and costs against the agency that commits the violation if the requester files a successful court challenge. If the assessment of attorney fees and costs is mandatory, government agencies and their functional equivalents will be less likely to violate the public records law.

Thank you for your time and attention in this regard;

Sincerely,

A handwritten signature in dark ink, appearing to read 'Alex Friedmann', is written over a light gray rectangular background.

Alex Friedmann  
Managing Editor, PLN