

St. Clair County Community Mental Health
RESPONSE TO REQUEST FOR PUBLIC RECORDS - F.O.I.A.

DEAR: _____ FOIA #: _____ ADDRESS: _____

This is in response to your request dated _____, received in this office on _____,

for copies inspection of the following record(s):

Your request for public records has been reviewed and the following action has been taken in compliance with the provision of the State of Michigan Freedom of Information Act. (Check the appropriate box or boxes, if more than one applies.)

1. REQUEST GRANTED – NO CHARGE: Requested documents enclosed along with copy of the original request detailing items requested
2. REQUEST GRANTED – BALANCE DUE: Request will be processed as requested in the original request attached. The balance due on the Detailed Cost Itemization must be paid before copies may be picked up, delivered, or mailed.
 - a. REQUEST GRANTED IN PART AND DENIED IN PART: Certain portions of this record which are exempt from disclosure have been removed and/or redacted from the enclosed documents. Please see the attached for the items being granted and those being removed and/or redacted. (See exemptions on pages 3 & 4.) You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.00.
 - b. REQUEST GRANTED WITH REDACTIONS: Certain portions of this record have been redacted for reason(s) in the exemption(s) selected on pages 3 & 4. Please see the attached for the records that have been granted and redacted. You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.00.
3. REQUEST DENIED: It has been determined by this agency that the record(s) you have requested is exempt from disclosure based on the provisions of the Freedom of Information act (see applicable exemption(s) on pages 3 & 4). You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines that the public records are not exempt from disclosure, you have the right to receive attorney fees and damages in an amount not to exceed \$1,000.00.
4. RECORD DOES NOT EXIST: The record(s) you requested do not exist within the records of this agency under the name or description given to us. You have the right to submit a written appeal to our Chief Operating Officer that specifically states the word “appeal” and identifies the reason(s) for reversal of this denial. Additionally, you may also seek judicial review of this denial pursuant to MCL 15.240. If you seek judicial review and the Court determines SCCCMHA made an improper decision regarding the records sought, then you may be entitled to attorney fees and the potential damages set forth in the statute.
5. REQUEST DENIED: Your request does not describe the record sufficiently to enable us to determine what record you are seeking. You should submit a new request describing the record in greater detail.
6. The specific nature of your request involves unusual circumstances which require an additional 10 business days to properly process your request. Pursuant to MCL 15.235(2) (d), we are extending the time to respond to your request. SCCCMHA will respond to your request on or before the _____ day of _____, _____.

UNDER THE FREEDOM OF INFORMATION ACT, SEC. 10. YOU HAVE THE RIGHT TO SEEK JUDICIAL REVIEW IF YOUR REQUEST HAS BEEN DENIED IN WHOLE OR PART:

(1) If a public body makes a final determination to deny all or a portion of a request, the requesting person may do 1 of the following at his or her option:

(a) Submit to the head of the public body a written appeal that specifically states the word "appeal" and identifies the reason or reasons for reversal of the denial.

(b) Commence a civil action in the circuit court, or if the decision of a state public body is at issue, the court of claims, to compel the public body's disclosure of the public records within 180 days after a public body's final determination to deny a request. (4) In an action commenced under subsection (1)(b), a court that determines a public record is not exempt from disclosure shall order the public body to cease withholding or to produce all or a portion of a public record wrongfully withheld, regardless of the location of the public record. Venue for an action against a local public body is proper in the circuit court for the county in which the public record or an office of the public body is located has venue over the action. The court shall determine the matter de novo and the burden is on the public body to sustain its denial. The court, on its own motion, may view the public record in controversy in private before reaching a decision. Failure to comply with an order of the court may be punished as contempt of court.

(5) An action commenced under this section and an appeal from an action commenced under this section shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way. (6) If a person asserting the right to inspect, copy, or receive a copy of all or a portion of a public record prevails in an action commenced under this section, the court shall award reasonable attorneys' fees, costs, and disbursements. If the person or public body prevails in part, the court may, in its discretion, award all or an appropriate portion of reasonable attorneys' fees, costs, and disbursements. The award shall be assessed against the public body liable for damages under subsection (7). (7) If the court determines in an action commenced under this section that the public body has arbitrarily and capriciously violated this act by refusal or delay in disclosing or providing copies of a public record, the court shall order the public body to pay a civil fine of \$1,000.00, which shall be deposited into the general fund of the state treasury. The court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to

inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

YOU ALSO HAVE THE RIGHT TO SEEK REVIEW FROM THE CMH CHIEF OPERATING OFFICER and/or CHIEF EXECUTIVE OFFICER.

Signature

Title

Date

**DENIAL OF RECORDS: Denial is based on the following provision(s) of the Freedom of Information Act MCL 15,243 Sec. 13(1).
(Check the box/boxes for the appropriate exemption.)**

- (a) Information of a personal nature where the public disclosure of the information would constitute a clearly unwarranted invasion of an individual's privacy.
- (b) Investigating records compiled for law enforcement purposes, but only to the extent that disclosure as a public record would do any of the following:
 - (i) Interfere with law enforcement proceedings.
 - (ii) Deprive a person of the right to a fair trial or impartial administrative adjudication.
 - (iii) Constitute an unwarranted invasion of personal privacy.
 - (iv) Disclose the identity of a confidential source, or if the record is compiled by a criminal law enforcement agency in the course of a criminal investigation, disclose confidential information furnished only by a confidential source.
 - (v) Disclose law enforcement investigative techniques or procedures.
 - (vi) Endanger the life or physical safety of law enforcement personnel.
- (c) A public record which if disclosed would prejudice a public body's ability to maintain the physical security of custodial or penal institutions occupied by persons arrested or convicted of a crime or admitted because of a mental disability, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.
- (d) Records or information specifically described and exempted from disclosure by statute.
- (e) A public record or information described in this section which is furnished by the public body originally compiling, preparing or receiving the record or information to a public officer or public body in connection with the performance of the duties of that public officer or public body, if the considerations originally giving rise to the exempt nature of the public record remains applicable.
- (f) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy if:
 - (i) The information is submitted upon a promise of confidentiality by the public body.
 - (ii) The promise of confidentiality is authorized by the chief administrative officer of the public body or by an elected official at the time the promise is made.
 - (iii) A description of the information is recorded by the public body within a reasonable time after it has been submitted, maintained in a central place within the public body, and made available to a person upon request. This subdivision shall not apply to information submitted as required by law or as a condition of receiving a governmental contract, license or other benefit.
- (g) Information or records subject to the attorney-client privilege.
- (h) Information or records subject to the physician-patient, psychologist-patient, priest or Christian Science practitioner, or other privilege recognized by statute or court rule.
- (i) A bid or proposal by a person to enter into a contract or agreement, until the time for the public opening of bids or proposals, or if a public opening is not to be conducted, until the time for the receipt of bids or proposals has expired.
- (j) Appraisals of real property to be acquired by the public body until (i) an agreement is entered into; or (ii) 3 years has elapsed since the making of the appraisal, unless litigation relative to the acquisition has not yet terminated.
- (k) Test questions and answers, scoring keys and other examination instruments or data used to administer a license, public employment, or academic examination, unless the public interest in disclosure under this act outweighs the public interest in nondisclosure.
- (l) Medical, counseling or psychological facts or evaluations concerning an individual if the individual's identity would be revealed by a disclosure of those facts or evaluation.
- (m) Communications and notes within a public body or between public bodies of an advisory nature to the extent that they cover other than purely factual materials and are preliminary to the final agency determination of policy or action. This exemption shall not apply unless the public body shows that in the particular instance the public interest in encouraging frank communications between officials and employees public bodies clearly outweighs the public interest in disclosure. This exemption does not constitute an exemption under the state law for purposes of section 8 (h) of Act No. 267 of the Public Acts of 1976, being section 15.268 of the Michigan Compiled Laws.
- (n) Records of law enforcement communication codes, or plans for development of law enforcement personnel, which if disclosed would prejudice a public body's ability to protect the public safety unless the public interest in disclosure under this act outweighs the public interest in nondisclosure in the particular instance.
- (o) Information which would reveal the exact location of archeological sites. The secretary of state may promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, to provide for the disclosure of the location of archeological sites for purposes relating to the preservation or scientific examination of sites.
- (p) Testing data developed by a public body in determining whether bidders' products meet the specifications for purchase of those products by the public body, if disclosure of the data would reveal that only 1 bidder has met the specifications. The subdivision shall not apply after 1 year has elapsed from the time the public body completes the testing.
- (q) Academic transcripts of an institution of higher education established under sections 5, 6, 7 of article 8 of the state constitutions of 1963, where the record pertains to a student who is delinquent in the payment of financial obligations to the institution.
- (r) Records of any campaign committee including any committee that receives monies from a state campaign fund.
- (s) Unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance, public records of a police or sheriff's agency or department, the release of which would do any of the following:
 - (i) Identify or provide a means of identifying an informer.
 - (ii) Identify or provide a means of identifying a law enforcement undercover officer or agent or a plain clothes officer as a law enforcement officer or agent.
 - (iii) Disclose the personal address of telephone number of law enforcement officers or agents or any special skills that they may have.
 - (iv) Disclose the personal address, or telephone numbers of family members, relatives, children, or parents of law enforcement officers or agents.
 - (v) Disclose operational instructions for law enforcement officers or agents.
 - (vi) Reveal the contents of staff manuals provided for law enforcement officers or agents.
 - (vii) Endanger the life or safety of law enforcement officers or agents or their families, relatives, children, or parents of law enforcement officers or agents.
 - (viii) Identify or provide a means of identifying a person as a law enforcement officer, agent, or informer.
 - (ix) Disclose personnel records of law enforcement agencies.
 - (x) Identify or provide a means of identifying residences which law enforcement agencies are requested to check in the absence of their owners or tenants.
- (t) Except as otherwise provided in this subdivision, records and information pertaining to an investigation or a compliance conference conducted by the department under article 15 of the public health code, 1978 PA 368, MCL 333.16101 to 333.18838, before a complaint is issued. This subdivision does not apply to records or information pertaining to 1 or more of the following:
 - (i) The fact that an allegation has been received and an investigation is being conducted, and the date the allegation was received.
 - (ii) The fact that an allegation was received by the department; the fact that the department did not issue a complaint for the allegation; and the fact that the allegation was dismissed.

- (u) Records of a public body's security measures, including security plans, security codes and combinations, passwords, passes, keys, and security procedures, to the extent that the records relate to the ongoing security of the public body.
- (v) Records or information relating to a civil action in which the requesting party and the public body are parties.
- (w) Information or records that would disclose the Social Security number of an individual.
- (x) Except as otherwise provided in this subdivision, an application for the position of president of an institution of higher education established under section 4, 5, or 6 of article VIII of the state constitution of 1963, materials submitted with such an application, letters of recommendation or references concerning an applicant, and records or information relating to the process of searching for and selecting an individual for a position described in this subdivision, if the records or information could be used to identify a candidate for the position. However, after 1 or more individuals have been identified as finalists for a position described in this subdivision, this subdivision does not apply to a public record described in this subdivision, except a letter of recommendation or reference, to the extent that the public record relates to an individual identified as a finalist for the position.
- (y) Records or information of measures designed to protect the security or safety of persons or property, or the confidentiality, integrity, or availability of information systems, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543a to 750.543z, emergency response plans, risk planning documents, threat assessments, domestic preparedness strategies, and cybersecurity plans, assessments, or vulnerabilities, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.
- (z) Information that would identify or provide a means of identifying a person that may, as a result of disclosure of the information, become a victim of a cybersecurity incident or that would disclose a person's cybersecurity plans or cybersecurity-related practices, procedures, methods, results, organizational information system infrastructure, hardware, or software.
- (aa) Research data on road and attendant infrastructure collected, measured, recorded, processed, or disseminated by a public agency or private entity, or information about software or hardware created or used by the private entity for such purposes.
- (2) A public body shall exempt from disclosure information that, if released, would prevent the public body from complying with 20 USC 1232g, commonly referred to as the family educational rights and privacy act of 1974.

OTHER STATUTORY EXEMPTIONS:

- MCL 722.625 (Child Abuse Reporting)** requires that the identity of a person reporting a report of child abuse or neglect be kept confidential.
- MCL 780.758(3) (Crime Victim's Rights Act)** provides exemptions for personal information of a crime victim including images and photos. Please review the statute for a full list of the exemptions.
- MCL 28.247 (Reports of Sexually Motivated Crimes)** requires confidentiality of reports of sexually motivated crimes and juvenile offenses and crimes and juvenile offenses involving sexual conduct and limits disclosure to specifically named officials. The violation of the act is a misdemeanor with a possible year of imprisonment and/or a \$500.00 fine.

Comments: _____

Description of Information Deleted or Separated from the Public Record Requested: