

Requests for government documents skyrocket

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Macomb County government attorneys have been flooded with a “tsunami” of Freedom of Information Act requests that the top lawyer partially attributed to “political turmoil and a general distrust in government.”

The number of FOIA requests to the county this year will nearly triple the amount from five years ago, increasing to over 1,000 this and last year, according to county Corporation Counsel John Schapka.

Schapka reported the onslaught last month at his annual budget hearing in front of the Board of Commissioners, noting the number has risen from 434 in 2019 to 1,071 last year and a projected 1,261 this year.

“Political turmoil and a general distrust in government has created a tsunami of public records requests of ever-escalating proportions, an alarming number of which require production of multiple boxes of records requiring careful, page-by-page review,” he wrote to the board for the meeting that was held in the county Administration Building in Mount Clemens.

“A lot of people want to know what the government is up to,” Schapka added in an interview. “It is their right to know. I sort of applaud them for taking an interest.”

He also attributed the increase to “data miners,” people who gather information for a minimal cost and sell it.

“They harvest a tremendous amount of information from various government entities,” he said. “Then they sell it online.”

More requests also are coming from plaintiff attorneys considering a lawsuit for clients, the media (including true-crime TV shows) and ones in which people appear to be checking out a romantic partner or potential romantic partner, Schapka speculated is the result of the increase in online dating.

The department averages just over six requests per workday, he said.

A sampling of a batch of requests from last week including a lawsuit threat from an attorney representing someone who got injured walking on a damaged street (Schapka determined it was not a county road so not under the Macomb’s jurisdiction.), a copy of the county audit, record of the maintenance record of the Macomb Orchard Trail, the wages of all employees and a request from a prisoner that will be denied because prisoners cannot obtain information via FOIA.

He said the wages request is fairly common, and that the information is prepared and readily available.

One of the typical mistakes of FOIA requests getting denied is, “They ask questions; they don’t ask for information,” he said.

Most of the requests can be handled fairly quickly and easily by contacting the proper county department. Accident and police reports of routine matters are passed on to the Sheriff’s Office for a fairly quick resolution, he said.

However, requests for criminal case prosecution files have become a burden, Schapka said. The files make up 15 percent of the requests but take up 80% of the labor costs due to redaction requirements, he said. The county must redact personal information about victims, especially child victims, under the Crime Victims Rights Act. In fact, in juvenile sexual-abuse cases, all information that may lead to victim’s identification must be removed, he said. That requires going through each document of a often-contested criminal case that can involve hundreds or even thousands of pages.

Some of those cases require three or four boxes to store the documents.

Schapka said his office typically receives requests once or twice a year for the Stephen Grant murder case, a file that contains “hundreds of thousands of pages.” Grant was convicted of second-degree murder for slaying his wife, Tara, 34, in 2007 in their Washington Township home for which he is serving 50 to 80 years.

Nearly every time, the request is withdrawn after the \$64,000 cost is revealed, he said.

One time, the ABC-TV show 20-20 hired a person who spent a week in his office copying all of the information, he said.

“She brought her own scanner; she brought everything,” he said.

Although the Grant case, which took place over 15 years ago, did not have a lot of electronic evidence, most cases today include a great deal of video evidence on disks.

As required under the FOIA, the county can charge the lowest rate at which the duplication can be performed by an employee. For a clerk's work, the county charges a FOIA requester about \$38 per hour, which includes the wage and benefits. For attorneys, who are needed for redactions, the county charges \$68 per hour.

The county also passes on its cost for hard drives or flash drives and can demand up-front payment when the projected cost exceeds \$50.

The money goes into the general fund.

The requests are divvied up among the seven full-time attorneys, including Schapka, he said. A paralegal in his office reviews the initial requests and forwards them to the appropriate attorney. In most cases, the attorney contacts the relevant county department's FOIA coordinator to provide the information.

Schapka did not request an increase in staff in his 2025 budget request to help handle the increased workload, despite saying at the meeting his staff was "overwhelmed," explaining in an interview his office enough space to add even one person. Board Chairman Don Brown told The Macomb Daily added a staffer in 2023 to help deal with the onslaught.

"The board wants transparency, and responding to FOIA's is an important part," Brown said.

Under the county ordinance, Corporation Counsel is the FOIA officer, and by policy each department has a FOIA coordinator.

The county also recently amended its FOIA ordinance to allow each of the five countywide officials to have their own FOIA officer. The new wrinkle also required notification of a countywide official of any FOIA that involves their department. The countywide officials, who in effect are elected department heads, include the prosecutor, clerk, treasurer, public works commissioner and sheriff.