

GENERAL ORDER
FAIRFAX COUNTY POLICE DEPARTMENT



SUBJECT: RELEASE OF INFORMATION	NUMBER: 401.1
CANCELS ORDER DATED: 1-1-97	DATE: 7-1-12

I. PURPOSE

The purpose of this Order is to establish guidelines for the public release of official Police Department information.

II. RELEASE OF INFORMATION

A. The following information should be made available to the public in criminal matters, subject to restrictions contained elsewhere in this Order or in General Order 401.

1. The arrestee's name, if over 18 years old, age, gender, residence, employment (if known), and similar biographical information.
2. The substance or text of the charge or charges.
3. The identities of the investigating and arresting agencies and the length of the investigation.
4. The circumstances immediately surrounding an arrest, including the time and place, resistance, pursuit, use of weapons and nature of any injuries sustained, if known. A description of any physical evidence seized at the time of the arrest, other than a confession, admission or statement, unless release of such description would hinder the investigation.
5. The general type of weapon used, if known, and the general nature of any injuries sustained, unless release of that information is protected by privacy rights and/or federal law, regulation, or policy.
6. In the case of juvenile offenders, age, gender, and general area of residence only.
7. In the event of rape or sex offenses, the age and gender of the victim and general location of the offense only.

B. The following information will **not** be released to the public in criminal matters:

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1. Information which may jeopardize the successful conclusion of an investigation.
2. Statements related to the character, reputation or prior criminal record of an arrested person or a prospective witness, or any opinion as to the guilt or innocence of the accused.
3. The existence or contents of any admissions, confessions or statements attributable to an accused person, or failure to make a statement.
4. The performance or the results of any examinations or tests, or the refusal of the accused to take any examinations or tests or participate in a lineup.
5. The identity, address, credibility or anticipated testimony of prospective witnesses.
6. The possibility of a plea of guilty to the offense charged or to a lesser offense, or any other disposition.
7. Opinions concerning evidence or any argument in the case whether or not it is anticipated that the evidence or argument will be used at trial.
8. Name, address and current location of any victims of sex offenses.
9. Identity of a person charged with a crime but not yet arrested, unless public assistance is sought to locate the individual, or to warn the public of any dangers the individual may present.
10. Names, addresses or other information which would lead to the specific identity of juvenile offenders.
11. The existence or contents of any suicide note.
12. The amount of money taken in any robbery (except for general descriptors, such as "small amount" at the discretion of any information releasing authority as defined in General Order 401).

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13. Names and precise addresses of residential burglary victims (unless specifically authorized by an information releasing authority).
 14. Names or other information which would lead to the identity of persons who have attempted to commit suicide, or who have committed suicide, except in exceptional circumstances.
- C. Non-crime related information in the following categories may be released:
1. With review and approval of the Chief or Deputy Chief of Police, organizational or policy changes, or major personnel changes, providing that the information has been previously released to members of the Department.
 2. Human interest stories concerning the Department or its personnel.
 3. Accidents, natural disasters, other calamities, or other incidents of public interest.
 4. As soon as practical following a critical incident involving a Department employee, the Public Information Office shall release the involved employee's age, years of service, and current duty assignment, unless release may jeopardize the employee's safety.
 5. In the case of deployment of deadly force, the Chief of Police will conduct an initial review to determine whether or not an officer's name will be released to the media. Such a review would occur after the appropriate measures have been taken to provide for the welfare of the involved officer and their family, as defined in Standard Operating Procedure 12-045.
- D. Home addresses or telephone numbers of Police Department employees will not be released.
- E. Subject to legal restrictions and adequate notification, photographs and/or video of newsworthy events may be provided to news media by the Public Information Office.

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- F. The release of previously recorded Mobile In-Vehicle video/audio recordings and Helicopter video/audio recordings shall be pursuant to General Order 430.8, Section VIII and General Order 530.2, Section V., H, respectively.

III. RELEASE OF POLICE REPORTS

The Department receives numerous requests from other agencies concerning the release of police reports for investigative purposes, and the general public. Employees should follow these guidelines for the release of official departmental reports:

- A. The release of crash reports is governed by Fairfax County Code Section 82-8-7, as well as *Code of Virginia* Sections 46.2-409 and 46.2-410. All requests for such reports will be handled in strict accordance with these laws. Virginia state crash reports (FR300) are releasable once they have been approved by a supervisor (Level 2). The following guidelines have been established for the release of crash reports:
 - 1. The crash report may be releasable at the station level or at Central Records. Any station may release a report, in accordance with the policies outlined in this section, regardless of crash location or an individual's place of residence.
 - 2. There is no charge to involved vehicle drivers, vehicle owners, involved passengers, involved pedestrians, and involved damaged property owners.
 - 3. Insurance companies and attorneys shall not obtain crash reports from the station. They should be advised to contact Central Records.
 - 4. The releasing agent shall ensure only the accident crash and accident crash description are released. At no time shall anyone release investigative information in either the crash description or any supplemental documentation. Investigative information shall be redacted from the document. This will require that the releasing agent thoroughly reads the narrative and redacts (blacks out) any portion of the narrative that is not specifically describing the mechanics of how the accident crash occurred. Types of information that should be redacted include witness information, investigative opinions/conclusions, or any

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type of investigative summary outside the scope of describing how the accident crash occurred.

5. A crash incident report (non-FR300) shall not be released from the station, unless the releasing authority is properly trained in FOIA. If the releasing authority has been trained, the above guidelines will apply to the release of these reports as well. Individuals requesting these reports should be referred to Central Records.
 6. If a customer has questions concerning the content and/or accuracy of the crash report, the releasing agent should provide them the investigating officer's name and duty station phone number.
- B. Police investigative reports are not excluded from the Virginia Freedom of Information Act (Chapter 37, Code of Virginia). As such, other than release to a law enforcement officer for investigative purposes, as directed by court order, or as specified herein, all requests for the release of police investigative reports shall be forwarded to the Inspections Division of the Internal Affairs Bureau for processing. Requests shall be processed in accordance with Section IV of this General Order.
- C. Requests for investigative reports from agencies other than law enforcement must be in writing with the specific reason for the request clearly stated. The written request will be forwarded to the Internal Affairs Bureau for processing and final determination as to the release of the requested report. Exceptions are noted as follows:
1. Requests from Adult Probation and Parole for copies of investigative reports will be made to the Central Records Section for approval and release.
 2. Copies of investigative reports documenting adult and juvenile felony arrests will be forwarded to the Commonwealth Attorney's Office. as directed by those commanders whose subordinates affect such arrests.
 3. Copies of investigative reports documenting any death which the State Medical Examiner assumes jurisdiction will be forwarded to the Office of the Chief Medical Examiner by the Criminal Investigations Bureau.

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4. Copies of investigative reports documenting the abuse/neglect of a child will be forwarded to the Child Protective Services, as mandated by General Order 603.2.
5. Copies of investigative reports documenting violations regulated by the County Office of Consumer Affairs will be forwarded to that office by the entity taking the report. Central Records employees may release a copy of investigative reports to an investigator with the Office of Consumer Affairs, if it pertains to an investigation they are conducting. Consumer Affairs investigators shall make this request, in person, at the Central Records Section.
6. Copies of investigative reports documenting arson or suspected arson will be forwarded to the Fire Marshal by the entity taking the report.
7. Photographs pertaining to a criminal investigation shall not be released, except to a police officer or as directed by a court order. Traffic accident crash photographs may be released to those persons entitled by law to receive a copy of the crash report. Photographs taken at the morgue or showing a close-up of a deceased person will not be released, except to law enforcement or as directed by court order.
8. The release of criminal history record information is governed by *Code of Virginia* Section 19.2-389. This law is very explicit regarding who is allowed access to criminal history record information. All employees shall strictly adhere to the provisions of this code.
9. Information regarding the existence of any warrant may be released without restriction. Personnel receiving such inquiries shall confirm the existence of a warrant based upon information obtained from the requestor. An officer may choose to restrict the disclosure of the existence of a warrant for public safety or investigative reasons; this shall be done in accordance with the guidelines established in General Order 601, Section IV., A.
10. The officer shall notify a supervisor upon the decision to restrict disclosure of a warrant's existence. The Warrant Desk shall be informed of any restrictions at the time the warrant control number is issued.

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11. Any report initiated by the Department which contains the name of a victim and/or defendant shall not be disseminated outside the agency except as previously noted. Copies of the daily Event Summary Report generated by the duty officer will be distributed only within the department and to those outside the agency authorized to receive it.
12. Fairfax County Housing Authority agents have been granted access to Department reports involving incidents at County owned public housing complexes. The request for information is usually made after the investigating officer/detective is completed with the case.
13. Patrol officers observing extreme incidents of "hoarding" should forward a copy of the report to the Fire Marshal's Office and the Department of Code Compliance.
14. Copies of investigative reports documenting violations regulated by the Department of Code Compliance will be forwarded to that department by the entity taking the report. Central Records employees may release a copy of investigative reports to an investigator with the Department of Code Compliance if it pertains to an investigation they are conducting. Department of Code Compliance investigators shall make this request, in person, at Central Records.

IV. FOIA REQUESTS

All requests for the release of police investigative reports shall be forwarded to the Inspections Division of the Internal Affairs Bureau for processing. A computer generated verification letter may be provided to complainants and/or victims upon request.

- A. FOIA requests may be made online, by mail, by telephone or fax, or in person. *Code of Virginia* Section 2.2-3704 requires requestors to provide a name and legal address, and identify the records they are requesting with reasonable specificity.
- B. FOIA requests shall be processed within five working days of receipt of the request. The five day deadline begins on the day following the receipt.

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- C. The Department is allowed to make reasonable charges for any request that does not exceed the cost of such request. If it is determined in advance that the cost of any request will exceed \$200, the Department can require a deposit.

- D. The following public documents are exempt from release under *Code of Virginia* Section 2.2-3705.1 and §2.2-3706:
 - Legal memoranda and written advice from legal counsel
 - Tests or examinations
 - Confidential administrative investigations
 - Background investigations of applicants
 - Complaints, memos, correspondence, case files, statements, and evidence
 - Cell phone, pager, and/or mobile device numbers of personnel

- E. The Department may choose to withhold the identity of victims and/or witnesses; undercover officers; investigative techniques; and the identity of anonymous sources.

- F. The Department may temporarily withhold information that would jeopardize an ongoing investigation or the safety of an individual; cause a suspect to flee; or result in destruction of evidence.

V. LEGAL REFERENCE

- A. *Code of Virginia*
 - 1. 2.2-3704
 - 2. 2.2-3705.1
 - 3. 2.2-3706
 - 4. 19.2-389
 - 5. 46.2-409
 - 6. 46.2-410

- B. *Code of the County of Fairfax*
 - 1. 82-8-7

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VI. ACCREDITATION STANDARDS REFERENCE

VLEPSC
ADM
22.01
22.02
22.03
25.03

This General Order becomes effective July 1, 2012 and rescinds all previous rules and regulations pertaining to the subject.

ISSUED BY:

APPROVED BY:

Handwritten signature of the Chief of Police, appearing as stylized initials 'M.M.' followed by a flourish.

Chief of Police

Handwritten signature of the County Executive, appearing as 'Edward L. Lofgren' in cursive.

County Executive