


<b>FAIRFAX COUNTY POLICE DEPARTMENT</b>  <b>GENERAL ORDER</b>	SUBJECT: <b>RELEASE OF INFORMATION, RECORDINGS, AND DOCUMENTS</b>		NUMBER: <b>402</b>
	EFFECTIVE DATE: <b>February 12, 2022</b>	REVIEW: <b>February 2024</b>	
RESPONSIBLE ENTITY: PUBLIC AFFAIRS BUREAU			<input type="checkbox"/> New Directive <input type="checkbox"/> Replaces: <input checked="" type="checkbox"/> Revised
ACCREDITATION STANDARDS:	CALEA: 54.1.1, 82.1.1  VLEPSC: ADM.22.01, ADM 22.03		

I. PURPOSE

The purpose of this policy is to establish guidelines for the release of Department information, documentation, audio recordings, Body Worn Camera (BWC) and In-Car Video (ICV) footage, and other materials to the general public for routine informational requests, police-affiliated critical incidents (PACI), and other events of public interest that involve employees of the Fairfax County Police Department (FCPD) and/or members of the public.

II. POLICY

It is the policy of the Department to embrace openness, seek transparency, and commit to a predisposition to disclose information to the community in a timely manner. This obligation is essential to maintaining public trust and ensuring department accountability. Keeping the community informed of police events in an expeditious manner shall always be balanced against the needs to protect public safety, ensure due process for all, compliance with County policy (to include the [Fairfax County Trust Policy](#)) and the Code of Virginia, and safeguard criminal investigation and prosecutorial integrity. The Department is also bound by the Virginia Freedom of Information Act (VFOIA), and as such, all disclosures of information to the public shall be in accordance with the act's provisions. Informational releases to the community often involve complex and fluid incidents, and as such, public disclosures of material by the Department may be supplemented and/or corrected as an individual investigation proceeds.

III. DEFINITIONS

A. Criminal Investigation: Official actions of law enforcement authorities to gather facts and evidence associated with an allegation of criminal activity for presentation to the Office of the Commonwealth's Attorney for determination of whether any individual may be subject to criminal prosecution.

- B. Deadly Force: Any level of force that is likely to cause death or serious injury.
- C. Directly Involved Officer: During a deadly force incident or PACI, any officer who discharges a firearm or deploys another form of deadly force, or, whose actions involve physical contact, restraint, less lethal force, or who operates a vehicle during a Precision Immobilization Technique (PIT) maneuver, pursuit, or cruiser crash in which any person suffers serious injury or death.

Officers are considered to be directly involved if they (1) provide tactical support to assist the directly involved officer(s)' ability to deploy deadly force, or (2) assist the directly involved officer(s) in engaging in physical contact, deploying restraints, or less lethal force at any time during a PACI, or (3) their actions involve giving a direct order to deploy deadly force or restraint, use physical contact or less lethal force, or engage in a vehicle pursuit or utilize a precision immobilization technique (PIT) maneuver that results in a person suffering serious injury or death.

- D. Incident Support Services: A comprehensive array of employee support services, which includes department psychiatrists, psychologists, or chaplains, or the Employee Assistance Program (EAP) or Peer Support Team, and any other contracted services designed to assist Department employees and/or their family members to maintain professional and personal wellness during and following critical incidents. All ISS responses are coordinated by the Director of ISS at the direction of the Chief of Police.
- E. Information: Specific content contained within the Fairfax County Police Department's records and documents that may be subject to public release.
- F. Information Releasing Authority: Personnel authorized by the Chief of Police to release official Department information to the community without prior approval. The Chief of Police, Executive Deputy Chief, Deputy Chiefs of Police, and Public Affairs Bureau may serve as primary releasing authorities.
- G. Law Enforcement Witness: Any officer, Department employee, or Department volunteer who is not a directly involved officer, as outlined above, and did not deploy any form of force in engage in any of the actions that may constitute a PACI. Additionally, a law enforcement witness is not the subject of a criminal investigation as they are only a witness to the event.
- H. Personnel Information: Internal or otherwise private information regarding any employee of the Fairfax County Police Department, to include home address, personal telephone numbers, disciplinary actions, performance, age, date of birth, and other information that is not releasable either by Department or County policy or established law.

- I. Police Affiliated Critical Incident (PACI): Any sudden, powerful, and often traumatic event in which an individual suffers a serious injury or death during their contact with an officer and the officer's actions may be subject to criminal liability or a criminal investigation. This can include, but is not limited to, the deployment of deadly force, less-lethal force, Precision Immobilization Technique, vehicle pursuits, cruiser crashes, in-custody deaths, or any other intentional or unintentional action that results in serious injury or death of an individual.
- J. Public Affairs Bureau (PAB): Department entity primarily responsible for the release of information to the public via press conferences, social media platforms, and news releases.
- K. Records and Documents: All writings and recordings that consist of letters, words or numbers, or their equivalent, set down by handwriting, typewriting, printing, Photostatting, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of the Fairfax County Police Department or its officers, employees or agents in the transaction of public business. Records that are not prepared for or used in the transaction of public business are not public records.
- L. Serious Injury: An injury which creates a substantial risk of death, disfigurement, prolonged hospitalization, impairment of the functions of any bodily organ or limb, or any injury that medical personnel deem to be potentially life-threatening.
- M. Victim Services Division: Department entity established to ensure the rights of all crime victims are protected. VSD provides immediate and direct support and assistance to crime victims, their families, and witnesses who may suffer emotionally, financially, and/or physically due to the commission of a crime.
- N. Virginia Freedom of Information Act (VFOIA): Va. Code Ann. §§ [2.2-3706](#), [2.2-3706.1](#) provides citizens of the Commonwealth of Virginia, and the representatives of media that circulate or broadcast into the Commonwealth, the rights to access public records and documents in the custody of the Fairfax County Police Department or its officers and employees.

#### IV. GENERAL RELEASE OF INFORMATION

- A. The Chief of Police, or their designee, shall be the spokesperson for all critical incidents or other incidents deemed newsworthy. The Chief may release, within the confines of the law and County policy, any Department records, to include videos, documents, recordings, and photographs, as it pertains to police and public interest events.
- B. The Public Affairs Bureau (PAB) is the primary entity, as authorized by the Chief of Police, responsible for releasing information to the public via news conferences, social media platforms, and other news releases. PAB shall also determine what Department events are newsworthy and thus appropriate for public release.
- C. Department employees should engage with community members and provide requested information when it does not compromise ongoing investigations.
- D. Where any employee receives a media inquiry, they shall either directly consult with PAB prior to releasing any information or refer the requester directly to PAB.
- E. Any 9-1-1 audio recordings and/or police dispatch audio recordings shall be released in conjunction with the Fairfax County Department of Public Safety Communications (DPSC), provided that the release would not potentially compromise an ongoing criminal investigation.
- F. The following **criminal investigatory information** may be released to the public:
  - 1. The arrestee's name (if 18 years of age or older), age, gender, residence (using only the hundred block of their residential street), employment (if relevant), and other biographical information deemed relevant.
  - 2. For **juvenile offenders**, age, gender, and general area of residence only.
  - 3. The specific criminal charge(s) where available, identities of any participatory agencies, and relevant case details. This may potentially include arrest circumstances, any level of resistance, and the use of any weapon(s). The seizure of any specific item of evidence may also be provided unless such disclosure would hinder or otherwise compromise the investigation.

4. Any injuries sustained, unless the release of that information would violate medical privacy rights (HIPAA), federal or state law, Department or County policy, or would compromise an ongoing investigation.
- G. The following **non-criminal information** may be released to the public:
1. Any event deemed by the Chief of Police to be of public interest, to include BWC or ICV footage, or 9-1-1 audio records and police dispatch audio recordings in collaboration with the Department of Public Safety Communications (DPSC).
  2. Organizational changes, policy changes, or major personnel changes with review and approval of the Chief of Police subsequent to internal department release to all Department employees.
  3. Human interest stories concerning Department employees.
- H. Active criminal warrant information shall only be released after the Warrant Desk has been consulted to deconflict any disclosure restrictions.
- I. The Police Liaison Commander (PLC) may provide, in response to public or media inquiry, general incident information, to include date, time, general location, and a general summary of the incident upon proper vetting through the incident commander or on-scene supervisor. Further inquiries shall be directed to on-call PAB personnel.
- J. The Internal Affairs Bureau, in conjunction with PAB, shall serve as the primary entity responsible for the release of all records and documents specifically required pursuant to a valid court order.
- K. All written information, posters, or other material specifically prepared for public release shall be forwarded to PAB for review and approval prior to dissemination.
- L. The Chief of Police shall make the final determination on what Department information is released within established law and County policy and with a predisposition towards disclosure of as much information to the public as possible in a timely manner.

V. RELEASE OF INFORMATION FOR DEADLY FORCE INCIDENTS AGAINST A PERSON OR POLICE-AFFILIATED CRITICAL INCIDENTS

- A. PAB, in direct coordination with the Chief of Police, shall be the primary Department entity responsible for providing information to the public for all PACIs or cases involving the deployment of deadly force against any person. Disclosures shall be timely and in accordance with the goal of promoting Department transparency to the community to maintain public trust.
- B. PAB, in coordination with the Chief of Police, shall provide initial disclosures of information to the community no later than thirty (30) calendar days from the date of the incident within the confines of established law, and provided the release does not compromise an ongoing criminal or administrative investigation.
- C. The initial release of information should include basic descriptors of any directly involved officer(s) (rank, assignment, tenure) in addition to any disclosable fact(s) regarding the incident which may be supplemented and corrected as needed. The Chief of Police, or their designee, shall be responsible for providing all initial statements to the public in a manner that facilitates transparent disclosure, while simultaneously balancing the need for public safety, protecting individual privacy rights, and preserving the integrity of any ongoing criminal or administrative investigation(s).
- D. **Public Release of Involved Officer(s) Names:** Within ten (10) days of a PACI or deadly force incident, the Chief of Police shall release the name, rank, assignment, and tenure of any directly involved officer(s) and current duty status.
  - 1. Under no circumstances may any directly involved officer(s) identity be disclosed by any member of the Department to the public or media prior to the Chief of Police or their designee's initial statement to the community regarding the facts and circumstances of the incident.
  - 2. A comprehensive risk assessment, as defined in [SOP 12-045](#) shall be conducted to determine if any credible risk exists to the officer(s) and/or their family members. No officer(s) name shall be released until the risk assessment has been concluded and both the Chief of Police and PAB staff have had the opportunity to meet with the affected employee(s).
  - 3. Where any credible risk exists to an officer's safety or their family that cannot be fully investigated within ten (10) calendar days from the time of the event, the Chief of Police shall inform the Fairfax County Chairman of the Board of Supervisors and Chair of the Public Safety Committee, in

writing, of their decision to not release the name(s) of any directly involved officer(s). The community shall also be informed of the basis for this decision in an expeditious manner.

- a. The Board of Supervisors may review the Chief of Police's decision not to release the name(s) of any directly involved officer at the next regularly scheduled Board meeting, in closed session as appropriate, and can ultimately direct the Chief of Police to release the name(s).
4. The Criminal Intelligence Division (CID) shall be responsible for conducting the risk assessment, which shall include, at a minimum, open-source internet information and social media reviews. Upon release or withholding of the officer(s) name(s), the CID commander shall continue to update and promptly notify the Chief of Police of any additional safety risks to the directly involved officer(s) and/or their family. Risk-mitigation plans on behalf of any directly involved officer(s) shall be implemented when credible threats are identified.
  5. Prior to the release of a directly involved officer's name, Incident Support Services (ISS) shall ensure that all appropriate measures have been taken to provide for the welfare of the officer and their family. Either ISS or the Victim Services Division (VSD) shall serve as primary points of contact for any directly involved officer after the name release. This will include providing priority viewing of any BWC, ICV footage, photographs, or other related materials, to include 9-1-1 and police dispatch audio recordings, prior to public release.
  6. When applicable, and with the officer's permission, the affected officer's commander shall coordinate with CID to notify the primary law enforcement agency of the locality where the officer resides for awareness and support.
  7. At the discretion of the Chief of Police, the Department may publicly release related video, photographs, or other information from other non-directly involved responding officers to provide additional context of the PACI so long as the release would not identify any directly involved officer(s) prior to name release.
- E. The Department shall publicly release BWC or ICV footage of officer-involved shootings or any other event that is deemed to be of public interest within thirty (30) calendar days of occurrence, provided that the release would not potentially compromise an ongoing criminal investigation. Where release does not occur within thirty (30) calendar days, the community shall be

informed in an expeditious manner of the basis for that decision by the Chief of Police or their designee.

- F. For any PACI that results in the death of an individual, PAB shall be responsible for publicly releasing the identity of any decedent in accordance with [SOP 16-052](#).

## VI. RELEASE OF MOTOR VEHICLE CRASH REPORTS

- A. The Department does not serve as the legal custodian of Traffic Records Electronic Data System (TREDS) reportable crash reports, which instead are the property of the Virginia Department of Motor Vehicles (DMV). As such, any request seeking a copy of a TREDS report shall be directed to the nearest Virginia DMV location.
- B. All requests for I/LEADS reportable motor vehicle accident reports (transcribed prior to implementation of TREDS) and non-reportable crash incident reports shall be directed to the Department's Central Records Division. Release of I/LEADS accident reports is governed by the Code of Virginia and Fairfax County Code of Ordinance.
  - 1. Any crash-related photographs shall be released in accordance with State and County code requirements.

## VII. RELEASE OF POLICE INCIDENT REPORTS, PHOTOGRAPHS, AND VIDEOS

- A. Any individual or entity, other than those exceptions listed in Subsection B, who requests a Department incident report shall immediately be referred to the PAB VFOIA Compliance Section ([FCPDFOIA@fairfaxcounty.gov](mailto:FCPDFOIA@fairfaxcounty.gov)). This includes:
  - 1. Requests from Adult or Juvenile Probation and Parole or Court Services.
  - 2. Requests for arrestee booking photographs.
  - 3. Any request where an employee is unsure whether to release a report.
- B. The release of incident reports to representatives of the following entities without referral to PAB VFOIA is permissible (for law enforcement purposes only) unless otherwise prohibited by law:
  - 1. Fairfax County Office of the Commonwealth's Attorney.
  - 2. Fairfax County Office of the Magistrate.



3. Fairfax County Juvenile Intake Office (for pending cases under that office's purview, to include the Alternative Accountability Program).
  4. Office of the Medical Examiner (where that office assumes jurisdiction in a death investigation).
  5. Fairfax County Fire Department's Fire Marshal (for reports documenting arson, suspected arson, or hoarding cases).
  6. Child Protective Services (Alleged abuse or child neglect cases).
  7. Adult Protective Services (Alleged abuse or adult neglect cases).
  8. Fairfax County Attorney's Office.
  9. Fairfax County Risk Management Division.
  10. Any United States Federal Prosecutor.
  11. Other law enforcement agencies when actively assisting those agencies in their respective criminal investigations.
  12. Fairfax County Department of Code Compliance (Code Violations or Hoarding cases).
- C. The Central Records Division shall provide an incident summary, upon request of an allegedly abused person or person protected by a protective order in accordance with the Code of Virginia.
- D. Adult arrestee photographs taken during initial intake, following an arrest, and as part of the routine booking procedure shall be released in accordance with the Code of Virginia or pursuant to a valid FOIA request. PAB may release adult arrestee photographs to the general public, except where the release of the photograph would jeopardize an ongoing felony investigation. All requests for adult arrestee photographs should be referred to PAB's VFOIA Section ([FCPDFOIA@fairfaxcounty.gov](mailto:FCPDFOIA@fairfaxcounty.gov)).
- E. All criminal investigative photos and/or videos may be released to the public under the following circumstances:
1. By PAB in coordination with the responsible investigating entity for law enforcement purposes or public awareness purposes.

2. By the investigating entity for law enforcement purposes in consultation with PAB.
3. By IAB in consultation with PAB pursuant to a court order.

VIII. VIRGINIA FREEDOM OF INFORMATION ACT

- A. The Virginia Freedom of Information Act (VFOIA) establishes the right of the public to access certain public records within the custody of the Department or its employees. As such, employees should refrain from using personal applications or software, to include personal email accounts or text messages, to communicate Department or County business as those communications may be subject to both VFOIA and the Library of Virginia retention schedules.
- B. The PAB VFOIA Compliance Section shall be responsible for processing all VFOIA requests.
- C. Any request for Department records and documents shall be considered a VFOIA request and thus processed in accordance with the Code of Virginia. To invoke Department VFOIA compliance, the requestor need not specifically cite the VFOIA in their request, nor must they make the request in writing. All requests for Department records and documents can be made via email ([FCPDFOIA@fairfaxcounty.gov](mailto:FCPDFOIA@fairfaxcounty.gov)), or in person, by phone, by mail, by fax, or any other manner.
- D. All VFOIA requests shall be processed in accordance with the Code of Virginia, with [Fairfax County Procedural Memorandum No.13-06 \(Countywide Virginia Freedom of Information Act Policy\)](#), and in coordination with the Fairfax County Office of Public Affairs' Freedom of Information Act Officer.

IX. INFORMATION, RECORDS, AND DOCUMENTS PROHIBITED FROM PUBLIC RELEASE

- A. The following information shall **not** be released without prior authorization from the Chief of Police:
  1. Any information that may directly or indirectly identify any victim of sexual assault, sex offenses, and/or family abuse offenses, or the identity of any juvenile killed as the result of the commission of a crime. Exceptions include:

- a. Disclosure of the site of the crime, information required by law, information necessary for law-enforcement purposes, and/or information permitted by the court may be disclosed.
  - b. With written consent from the victim(s), or the victim's next of kin if the victim is a minor whose death resulted from the commission of a crime, information may be released. The investigating entity shall be responsible for obtaining written consent.
2. Information which may jeopardize an ongoing investigation, or discloses the identity of, or could reasonably lead to the identification of, a confidential source.
3. Information 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.
4. Information about the existence or contents of any admissions, confessions, or statements attributable to an accused person, or the fact the accused person failed to make a statement.
5. Information about the accused's performance or results of any examinations or tests, the refusal of the accused to take any examinations or tests, or the accused's participation or refusal to participate in a lineup procedure.
6. Any information containing the identity, address, credibility, or anticipated testimony of prospective witnesses.
7. Information about the possibility of a guilty plea by the accused to a charged or lesser offense, or any other disposition.
8. Information containing opinions concerning any evidence or any prosecutorial strategy, including whether certain evidence may or may not be used at trial.
9. Information about a grand jury proceeding or grand jury subpoena.
10. Information containing the name, address, and/or current location of any victims of a criminal offense. This does not preclude the release of an adult homicide victim's name by either the Chief of Police, PAB, or Commander of the Major Crimes Bureau in consultation with the Chief of Police and PAB.

11. The identity of a person charged with a crime who has not yet been arrested, unless public assistance is being sought to locate the individual or warn the public of any believed dangers the person may present to the community.
12. Information containing the names, addresses, or other information that might lead to the identity of a potential juvenile offender.
13. Information containing the amount of money taken in a robbery offense.
14. Information pertaining to the identity of a person who committed or attempted to commit suicide. This does not prohibit publicly confirming that a suicide has occurred.
15. Any adult or juvenile's individual criminal history record information unless otherwise permitted by the Code of Virginia.
16. The identity of any individual providing information about a crime or believed criminal activity under a promise of anonymity.
17. The identity of any witness to a criminal prosecution that (i) involves gang participation or recruitment, (ii) possession of narcotics offenses with the intent to sell to others, or (iii) any violent felony listed in Va. Code Ann. § 17.1-805(c), to include the residential address, telephone number, email address, or place of employment of a witness or victim, or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv), permitted by the court for good cause.
18. Any law enforcement records pertaining to a juvenile, with the following exception:
  - a. Law enforcement records concerning a juvenile may be disclosed to the public if the juvenile is 14 years of age or older and has been charged with a violent juvenile felony as specified in subsections B and C of [Va. Code Ann. 16.1-269.1](#) (Trial in circuit court; preliminary hearing; direct indictment; remand).
  - b. The Chief of Police or their designee may disclose, for the protection of the juvenile, their fellow students and/or school personnel, directly to that juvenile's school principal, that a juvenile is a suspect in or has been charged with a violent juvenile felony, or violation of any of the provisions of Article 1 ([§18.2-77](#) et seq.) of Chapter 5 of Title 18.2, or a

violation of law involving any weapon as described in subsection A of [§18.2-308](#) (See [Va. Code Ann. §16.1-301](#) for further).

- B. Any records and/or documents that the Department is not the primary custodian of, to include:
1. Autopsy reports.
  2. Child Protective Services' reports.
  3. Adult Protective Services' reports.
  4. Department of Motor Vehicles' records.
  5. Documents obtained from databases not controlled by the Department.
  6. Health care records.
  7. Financial records.
  8. The first five digits of a social security number.
  9. Any information, records, and/or documents under court seal.
  10. Any Department's employees' personal information, except as otherwise provided by Department policy or law.
  11. Criminal investigation photographs depicting a deceased individual except to law enforcement personnel for criminal justice purposes or by court order.

X. LEGAL REFERENCES

- A. [Va. Code Ann. § 2.2-3706](#); Disclosure of law-enforcement and criminal records; limitations.
- B. [Va. Code Ann. § 2.2-3706.1](#); Disclosure of law-enforcement records; criminal incident information and certain criminal investigative files; limitations
- C. [Va. Code Ann. § 2.2-3815](#); Access to social security numbers prohibited; exceptions.
- D. [Va. Code Ann. § 16.1-269.1](#); Trial in circuit court; preliminary hearings; direct indictment; remand.
- E. [Va. Code Ann. § 16.1-301](#); Confidentiality of juvenile law-enforcement records; disclosures to school principal and others.

- F. [Va. Code Ann. § 17.1-805](#); Adoption of initial discretionary sentencing guideline midpoints.
- G. [Va. Code Ann. § 19.2-10.1](#); Subpoena *duces tecum* for obtaining records concerning banking and credit cards.
- H. [Va. Code Ann. § 19.2-11.2](#); Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege.
- I. [Va. Code Ann. § 19.2-81.3](#); Arrest without a warrant authorized in cases of assault and battery against family or household member and stalking and for violations of protective orders; procedures, etc.
- J. [Va. Code Ann. § 19.2-389](#); Dissemination of criminal history record information.
- K. [Va. Code Ann. § 32.1-127.1:03](#); Health records privacy.
- L. [Va. Code Ann. § 32.1-283](#); Investigations of deaths; obtaining consent to removal of organs, etc.; fees.
- M. [Va. Code Ann. § 46.2-208](#); Records of Department; when open for inspection; release of privileged information.
- N. [Va. Code Ann. § 46.2-380](#); Reports made under certain sections open to inspection by certain persons; copies; maintenance of reports and photographs for three-year period.
- O. [Va. Code Ann. § 46.2-381](#); Accident reports required by county or municipal ordinances; copies.
- P. [Va. Code Ann. § 51.5-122](#); Confidential records and information concerning adult services and adult protectives services; penalty.
- Q. [Va. Code Ann. § 63.2-105](#); Confidential records and information concerning social services; child-protective services and child-placing agencies.
- R. [Fairfax County Code Section 82-8-7](#); Use of accident reports made by investigating officers.
- S. [Fairfax County Public Trust and Confidentiality Policy \(Trust Policy\)](#).

General Order 402 shall be implemented and in effect on the above date and rescind all previous rules and regulations pertaining to the subjects.

ISSUED BY:

APPROVED BY:



Chief of Police



County Executive