



DEPARTMENTAL
GENERAL
ORDER

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7 Dec 07

Evaluation Coordinator:
Records Division Manager

Ref: CALEA
Standard 82.1.1

Index as:
Release of Records

Evaluation Due Date:
7 Jun 08

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RELEASE OF RECORDS

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RELEASE OF RECORDS

The purpose of this order is to set forth Departmental policy regarding the release of police records, summary criminal history information, Departmental-originated materials, and challenges to refusals to release information. In the event that a particular type of document is not discussed in this order, the decision to release or withhold it shall be referred to the Custodian of Records of the unit involved. The unauthorized release of records may subject the releasing member or employee to criminal or civil liability.

I. POLICY

It is the policy of this Department to make public any information except that expressly exempted by statute from public disclosure. Records or information, which, if released, would endanger the safety of a person involved in an investigation or would endanger the successful completion of the investigation or a related investigation shall not be released.

II. DEFINITIONS

- A. Public Records include any "writing" containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.
- B. Police Reports are also defined as public records. However, portions of a police report which reflect the analysis or conclusion of a police officer is not public information.

- C. Writing means handwriting, typewriting, printing, photostating, photographing, and every other means of recording upon any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents (G.C. 6252f).
- D. A Court Order is an order from a judge requiring the production of specific records.
- E. A T.N.G. Order is the juvenile court order for each county that defines conditions for releasing information on juveniles.
- F. A Subpoena Duces Tecum is not a court order, but a process to provide certified copies of business records.
- G. Local Summary Criminal History Information means the master record of information compiled by any local criminal justice agency pertaining to the identification and criminal history of any adult person. It does not refer to records of complaints to, or investigations conducted by, or records of intelligence information or security procedures of, the local agency.
- H. Criminal Offender Record Information (CORI) means the records and data compiled by criminal justice agencies for purposes of identifying criminal offenders and maintaining a summary of criminal history of each such offender. (CORI information can be local or state criminal summary information.)
- I. State Summary Criminal History Information means the master record of information compiled by the State Attorney General pertaining to the identification and criminal history of any adult person.
- J. A Juvenile is a person who, at the time of the matter described in the record in question, was under 18 years of age.
- K. Member of the public means any person other than a member, agent, officer, or employee of a federal, state or local agency acting within the scope of his/her membership, agency, office, or employment.

III. LEGAL AUTHORITY

Type of Records/Circumstances

Legal References

Local Summary Criminal History

Penal Code (P.C.) 13200-13305

CORI

Criminal Offender Records Production Unified
System (CORPUS)

Persons authorized to receive

P.C. 13300, Labor Code (L.C.) 432.7

Unlawful dissemination

P.C. 13301-13305

Examination of and correction by offenders

P.C. 13320-13325

State Summary Criminal History

P.C. 11076-11081

CORI

Department of Justice (DOJ) rap sheets

Rap sheets of the Federal Bureau of Investigation
or other states

Requirement to keep logs of releases

Persons authorized to receive

P.C. 11105-11105.2; L.C. 432.7

Examination of and correction by offenders

P.C. 11126

Unlawful dissemination

P.C. 11140-11144

Information and Criminal Histories of Juveniles

Decisional law (TNG Superior Court, 4
Cal. 3d 767, 94 Cal. Rptr. 813 (May 6,
1971) and a revised Alameda County
Juvenile Court order 30 Mar 95.

Non-Summary Departmental Records

Arrest reports

Offense reports

Follow-up/investigative reports

California Public Records Act,
Government Code (G.C.) 6260-6266

Traffic accident/vehicle reports

Vehicle Code 20012

Exemptions from disclosure

G.C. 6254

Departmental personnel records

L.C. 1198.5; G.C. 6264(c),
G.C. 6254(g), G.C. 6254.8

Unlawful disclosure of arrest records to, or used by,
employers

L.C. 432.7

IV. CUSTODIANS OF RECORD

- A. The commander or supervisor of each Departmental division or section shall be designated the Custodian of Records for records and data in the unit's files.
- B. If the organizational unit has a computer terminal, the commander or supervisor shall be the Custodian of Records with respect to information obtained from or transmitted through the unit's terminal.
- C. Each Custodian of Records shall be responsible for the release of records and information from the unit's files or terminal in accordance with the provisions of this order and superseding legislative changes, if any.
- D. Each Custodian of Records shall ensure that computer terminal operators make only those transmissions they are authorized to make and that CORPUS logs or other documents are maintained in such a way that the terminal operator for each transaction can be identified.
- E. Each Custodian of Records may delegate release responsibility to specified representatives in his/her unit. As used in this order, the expression "Custodian of Records" shall be understood to include specified representatives.

V. RELEASE OF ADULT CRIMINAL HISTORY SUMMARY INFORMATION CRIMINAL OFFENDER RECORD INFORMATION (CORI)

- A. Requests for either CORPUS or DOJ rap sheets shall be referred to the Alameda County Central Identification Bureau (CIB).
- B. Custodians of Records may release summary data in their unit's files or through their terminals to persons, officials, and agencies as specified in Penal Code Section 13300 (local information) or 11105 (state information). Recipients must have both a right to know the information and a need to know.
- C. Pursuant to Penal Code Section 11105(b) (10), City Council Resolution No. 55252 C.M.S. (January 6, 1976) authorizes the Director of Office of Personnel to receive DOJ rap sheets regarding applicants for City employment.

- D. Pursuant to Penal Code Section 11105(b) (10), City Council Resolution No. 56320 C.M.S. (April 12, 1977) authorizes the City Administrator to receive DOJ rap sheets for the purpose of enforcing City regulatory permit provisions.
- E. Prior to the release of information, the name and position of the requester must be verified by return telephone call, personal familiarity, or checking identification papers.
- F. Each Custodian of Records shall maintain an audit trail that specifies the date of each release, the name of the agency and person to whom information is released and the means of release (e.g., orally, by telephone, by Teletype, photocopy). Records of releases shall be retained and available for inspection for a period of not less than 3 years from the date of release.
- G. Conviction information contained in CORPUS is public and such information may be released to any person upon request. Release of other CORPUS information shall be restricted.
 - 1. Requests from the public regarding other CORPUS information or regarding DOJ rap sheet files shall be referred to CIB.
 - 2. Except for CORPUS conviction information, the existence or nonexistence of CORPUS or DOJ rap sheet files or other criminal history files shall not be discussed with the public.
- H. The Alameda County Committee on Criminal Justice Data Processing publishes "Regulations for CORPUS," which supplements the Penal Code regulations.
- I. Criminal offender information that is preserved in other summary formats shall be released only to recipients authorized to receive CORPUS and DOJ rap sheet summary information. A proper audit trail shall be maintained regarding releases.
- J. The Departmental com-alpha file index is a tool for locating police reports on file at the Records Division. Access to the index is considered CORI and therefore restricted to authorized Departmental personnel and other law enforcement or governmental agents only.

VI. RELEASE OF JUVENILE RECORDS AND INFORMATION

- A. Department-originated traffic reports and related information regarding juveniles shall be released in accordance with procedures set forth in Part VII of this order.
- B. The Custodian of Records of the unit storing other Department-originated juvenile records and information may release them to law enforcement agencies for law enforcement purposes and any persons as specified in the current "TNG Order" signed by the presiding Alameda County Juvenile Court Judge.
- C. The Records Division may release all available information regarding a minor for governmental purposes to any of the persons, officials, or agencies as specified in the current "TNG Order."

EXCEPTION: Juvenile arrest records on file at the Youth and Family Services Division may only be released by a Youth and Family Services Division Sergeant or the Records Section Supervisor pursuant to a subpoena or court order.

- 1. Welfare and Institutions Code Section 828 requires that any information gathered by the Department relating to the arrest of a minor may be disclosed to another law enforcement agency, or to any person or agency which has a legitimate need for the information for purposes of official disposition of a case. All available disposition information regarding the arrest must be disclosed along with other information.
- 2. The Records Division shall not release any information to a member of the public under the following circumstances:
 - a. If there is a reasonable likelihood that releasing the requested information would endanger a person's safety or the success of an investigation, the request must be referred to the investigator.

- b. In the case of a victim pursuing a civil remedy from the offender who is a minor, the minor's name and address cannot be released until final disposition of the case. If it is not known whether a final disposition of the case has been made, the request for information shall be referred to the Records Section Supervisor.
 - c. All press requests for information shall be referred to the assigned investigator. If a minor's identity is already known to the press, this information may be confirmed.
- D. Information contained in sealed records (Welfare and Institutions Code Section 781 and Penal Code Section 1203.45) shall not be released to any person or agency except by court order. The existence or absence of a sealed record shall never be acknowledged except by order of a court.

VII. RELEASE OF VEHICLE COLLISION REPORTS (TF-3047/3047-1) AND RELATED REPORTS

- A. The Custodian of Records of the unit involved shall release screened traffic accident reports to any person who has a proper interest in them.
- B. Vehicle Code Section 20012 lists persons who are authorized to receive traffic accident reports and specifies that other unlisted persons who have a proper interest may also receive such information.
- C. All information contained in the Vehicle Collision and related reports shall be released, including, but not limited to, the accident date, time, and location; names, addresses and statements of drivers and witnesses; all diagrams; and the registration numbers and descriptions of the vehicles involved.
- D. Requests for records of other agencies, including the Department of Motor Vehicles, shall be referred to the agency involved.

VIII. DEPARTMENTAL INCIDENT REPORTS

- A. Departmental offense reports include:
 - 1. Crime Report (536-933);
 - 2. Vehicle Report (536-254);
 - 3. Worthless Document Report (536-257); and
 - 4. Automated Field Based Crime Report.
- B. The Custodian of Records of the unit involved shall furnish unedited copies of Departmental offense reports to peace officers, federal officers, or state or federal investigators for law enforcement purposes.
 - 1. The requester must furnish proper identification as to his/her position or employment.
 - 2. Telephone requests must be verified by return call to the agency.
 - 3. Fees will not be charged for providing copies of offense reports to other law enforcement agencies.
- C. Government Code Section 6254(f) requires the following information be provided to victims of an incident, or an authorized representative thereof, an insurance carrier against which a claim has been or might be made, and any person suffering bodily injury or property damage or loss as a result of an incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicles theft, or a crime as defined by subdivision (b) of Section 13951 of the California Government Code:
 - 1. Description of any property involved;
 - 2. Date, time, location of the incident;
 - 3. All diagrams;
 - 4. Statement of the parties; and
 - 5. Statement of witnesses (other than confidential informant(s)).

- D. Government Code Section 6254(f)(2) requires that the following information be available to the public:
1. Time, nature, location of call for service and response.
 2. Time and date of the report.
 3. Name and age of the victim (see restrictions described in sections E and F below).
 4. The factual circumstances surrounding the crime or incident.
 5. General description of injuries, weapons, and property involved.
- E. The name of any victim of sex crimes defined by Penal Code Sections 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 may be withheld at the victim's request or at the request of the victim's parent or guardian if the victim is a minor. When a person is the victim of more than one crime, information disclosing that the person is a victim of a crime defined by Penal Code Sections 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 may be deleted at the request of the victim or the victim's parent or guardian if the victim is a minor, prior to releasing the report of the crime or of any crime or incident accompanying the crime.
- F. Subject to the restriction of Section 841.5 of the California Penal Code and California Government Code Section 6254(f)(3), the current address of the victim of a crime, can only be provided when the requester declares under penalty of perjury that the request is made for a scholarly, journalistic, political, or governmental purpose, or when the request is made for investigation purposes by a licensed private investigator. However, the address of the victim of any crime defined by Section 220, 261, 261.5, 262 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code shall remain confidential.

California Penal Code Section 841.5 prohibits the release of the victim or witness's telephone number or address to an arrestee or any person who may be a defendant in the alleged offense.

- G. Pursuant to California Family Code 6228, domestic violence victims, or his or her representative if the victim is deceased, shall be provided one copy of all domestic violence incident report face sheets, one copy of all domestic violence incident reports, or both, upon request.
- H. Information whose disclosure would endanger law enforcement personnel, a witness, or party to the investigation or information whose disclosure would endanger the successful completion of an investigation where the prospect of enforcement proceedings is likely shall not be released.
- I. Records and documents exempt from disclosure under the California Public Records Act pertaining to any investigation, arrest or other law enforcement activity shall be disclosed to the public to the full extent permitted by law only after the District Attorney or court determines that a prosecution will not be sought against the subject involved or the statute of limitations for filing charges has expired, whichever occurs first.
- J. California Government Code Section 6254(k) includes additional exempted or prohibited information.
 - 1. Child abuse reports are protected under Penal Code Section 11167.5.
 - 2. Elder abuse reports are protected under Welfare & Institutions Code Section 15633.
- K. Records Division procedures are outlined in Records Division Policy and Procedure Manual R-1.

IX. DEPARTMENTAL CONSOLIDATED ARREST REPORTS (CAR, 536-252) REGARDING ADULTS

- A. The Custodian of Records of the unit involved shall furnish copies of Departmental arrest reports to peace officers, federal officers, or state or federal investigators for law enforcement purposes.
 - 1. The requester must furnish proper identification as to his/her position or employment.
 - 2. Telephone requests must be verified by return call to the agency or through personal familiarity with the caller.

- B. Government Code Section 6254(f) requires that the following information be made public unless release of the information would endanger the safety of a person or the successful completion of an investigation:

Arrestee Information

1. The full name and occupation of every person arrested by the agency.

The current address of every individual arrested is releasable to requestors who declare, under penalty of perjury by written affidavit, that the request is made for scholarly, journalistic, political, or governmental purposes, or that the request is made for investigation purposes by a licensed private investigator, and that the address information obtained may not be used directly or indirectly, or furnished to another, to sell a product or service to any individual or group of individuals.

2. The arrestee's physical description including:
 - a. Date of birth;
 - b. Height;
 - c. Color of eyes and hair;
 - d. Sex; and
 - e. Weight.
3. Date and time of arrest.
4. Date and time of booking.
5. Location of arrest.
6. Factual circumstances surrounding arrest.
7. Amount of bail set.
8. Time and manner of release or location where the arrestee is being held.
9. All charges on which the arrestee is being held, including outstanding warrants and probation/parole holds.

- C. Records Division procedures are outlined in Records Division Policy and Procedure Manual R-1.

X. OTHER DEPARTMENTAL RECORDS/INFORMATION

A. Bail Information

1. California Penal Code Section 11105.6 authorizes the following Criminal Offender Record Information (CORI) be released to licensed bail bond agents:
 - a. An individual's known aliases;
 - b. Booking photograph;
 - c. Information identifying whether the individual has been convicted of any violent felony; and
 - d. An unaltered copy of the booking and property record, excluding any medical information.
2. As a general rule, bail bondsmen shall not be permitted to read police reports. If a bail bondsman wishes to purchase a copy of the police report, he/she will be subject to the same restrictions as described in Parts VIII and IX of this order.
3. With the approval of the Custodian of Records of the Warrants Section, bail bondsmen may receive telephone information regarding warrants when they wish to post bonds for their clients. The same information may also be released when a bail bondsman appears in person with a client (offender) who wishes to surrender on a specific warrant.

B. Printed directives, training materials, and research and statistical reports produced in the Department.

1. Custodians of Records of the above documents shall provide copies to persons requesting them provided that the material is not classified or security oriented (e.g., the Departmental roster, and building security procedures).

2. Information from Departmental reports may be released for research or statistical purposes provided that the identities of individuals discussed in the reports are not discoverable and that the Custodian of Records of the unit involved approves the release of edited report information.
3. Research requests for information and reports not generated by the Department shall be referred to the originating agency.

C. Departmental Personnel Records

1. Requests regarding the release of personnel files shall be referred to the Personnel Section commander. Departmental personnel shall not remove any personnel files from the Personnel Section without the prior approval of the Personnel Section commander.
2. Labor Code Section 1198.5 allows members and employees to inspect their own personnel files which have been used to determine their qualifications for employment, promotion, additional compensation, termination, or other disciplinary action. Information, which can be inspected, however, does not include letters of reference or records relating to the investigation of a possible criminal offense.
3. Government Code Section 6254.8 defines employment contracts between individual members and employees and the City as public records. Copies of such contracts shall be released to persons who request them.
4. Except as specified in subsections 2 and 3, above, or in applicable statutes, Government Code Section 6254(c) provides that personnel files need not be disclosed.

D. Review Board Reports

Reports of the Major Incident Board of Review, the Firearms Discharge Board of Review, and the Departmental Safety Committee shall not be released to the public.

E. Recordings of Telephone and Radio Communications

Government Code Section 34090.6 requires that routine daily taping and recording of telephone communications to and from the Department and all radio communications relating to the operations of the Department be preserved for a period of 100 days or, in the event that such recordings are evidence in any claim filed, until pending litigation is resolved.

1. The Custodian of Records for recordings of telephone and radio communications shall be the Communications Division Commander.
2. Requests for copies of recordings pursuant to court orders or subpoenas are submitted through the Records Section Supervisor to the Communications Division administrative sergeant, who shall deny the requests in writing if copies are unavailable or arrange to make copies of the voice tapes.

F. In-Car Data Capture System (In-car Video)

Government Code Section 34090.6 requires that routine video monitoring, defined as videotaping by a video or electronic imaging system designed to record the regular and ongoing operations of the department, including mobile in-car video systems, be preserved for a period of one year or, in the event that such recordings are evidence in any claim filed, until pending litigation is resolved. Departmental General Order I-15 requires a retention period of five (5) years.

1. The Custodian of Records for video recordings (ICDCS) shall be the Communications Division Commander.
2. Requests for copies of video recordings pursuant to court orders or subpoenas are submitted through the Records Section Supervisor to the Communications Division administrative sergeant, who shall deny the requests in writing if copies are unavailable or arrange to make copies of the video recordings in accordance with federal, state, and local statute. Refer to VIII, H & I of this order.

XI. REVIEW OF LOCAL AND STATE SUMMARY CRIMINAL HISTORY RECORDS BY SUBJECT OFFENDERS

- A. Offenders are entitled by Penal Code Section 13300(b)(11) to receive copies of their local criminal history summaries. Offenders shall be referred to CIB, where their CORPUS files will be made available to them after fingerprinting.
- B. Offenders are entitled by Penal Code Section 11121-11124 to apply to the DOJ for copies of their state criminal history rap sheets. Offenders shall be referred to CIB for the application form and fingerprinting. The DOJ will furnish copies of rap sheets to applicants.
- C. Departmental personnel shall not provide offenders with copies of their CORPUS or DOJ rap sheet printouts. With the approval of the responsible Custodian of Records and for investigative purposes, information from such documents may be shown or communicated orally to the subject offenders.

XII. CHALLENGES TO DEPARTMENTAL RELEASE POLICIES OR TO CONTENT OF RECORDS

- A. Challenges to Departmental release policies

In the event that persons, including offenders, contest refusals to release any reports, information, documents, or other materials discussed in this order, such persons shall be referred to the Custodian of Records responsible for the material.
- B. Challenges to local and state criminal offender summary information derived from Departmental reports
 - 1. In the event that an offender who has viewed a copy of his/her state rap sheet wishes to challenge the accuracy of information derived from Departmental records, he/she must apply to the DOJ, which will notify the Department and require a response pursuant to procedures set forth in Penal Code Section 11126.

2. In the event that an offender wishes to challenge the accuracy of local CORPUS information derived from Departmental records, the Custodian of Records responsible for the material in question shall refer the offender to CIB so that the appropriate form can be completed.
 - a. Challenges shall be forwarded through channels to the responsible Custodian of Records, who shall investigate the complaint and make a recommendation to the Chief of Police regarding the appropriate response.
 - b. Recommendations shall be forwarded to the Chief of Police within 30 days.
 - c. With the approval of the Chief of Police, records shall be corrected, as necessary, and a written reply to the challenge shall be prepared by the Custodian of Records for the signature of the Chief. These procedures shall be completed so that the challenger will receive a reply within 60 days of the date on which it was filed in CIB.

C. Challenges to information contained in Departmental files

Persons, including offenders, who dispute the accuracy of information contained in Departmental reports or documents shall be referred to the responsible Custodian of Records.

XIII. SERVICE FEES, BUSINESS HOURS

A. Fees

1. All services, including photocopying and copying of telephone/radio recordings, shall be provided to other law enforcement agencies without charge.
2. The Traffic Investigations Unit or the Records Division shall make the photocopies and collect the service and photocopy fees authorized by the Master Fee Schedule. Other Custodians of Records shall personally take the documents to the Records Division, request that they be photocopied, and ensure that the recipients pay the fees before the documents are released.

DEPARTMENTAL GENERAL ORDER
OAKLAND POLICE DEPARTMENT

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3. The Communications Division administrative sergeant and Records Section Supervisor shall calculate the combined costs of labor and materials involved in processing a Subpoenaed duces tecum and shall ensure that the requester pays the fees at the Records Division before releasing any materials.

B. Business Hours

Business hours for providing services for which fees are charged shall be 1000-1500 hours for the Traffic Investigation Unit, Tuesday through Friday, and 0800-1600 hours for the Records Division, Monday through Friday, and 0800-1400 hours Saturday, Sunday, and Holidays.

By order of

Wayne G. Tucker
Chief of Police

Date Signed: _____