

GENERAL ORDER

October 2016

Immediately

II-15

Distribution: All Employees

Subject: **SECURITY OF RECORDS AND FILES**

Index as:	Access to Records and Reports Custodian of Records E-mail	Files, Security of Juvenile Records Records, Custodian of	Records, Security of Security of Records and Files
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Accreditation Standards: 1.2.5, 82.1.1, 82.1.2, 82.3.6 and CFA 15.01, 15.03, 26.03, 26.07

Cross Reference: G.O. II-3, Release of Information to the Public and the Media
G.O. II-17, Computers and Software
City of St. Petersburg Administrative Policies, Section #030000
Florida Statutes Chapter 119

Replaces: G.O. II-15, Security of Records and Files (December 18, 2008)

This Order establishes policy and procedures for the security of records and files at the St. Petersburg Police Department. It consists of the following sections:

- I. Policy
- II. Definitions
- III. Requests to Receive or Inspect Records
- IV. Confidential Records
- V. Electronic Messages
- VI. Physical Access to the Records Division
- VII. Retention and Destruction of Records

I. POLICY

It is the policy of the St. Petersburg Police Department that all documents and materials, defined by Florida Statute as Public Records, be available to the public to the extent provided by law. Those records that are exempt from public access will be made available to other law enforcement agencies upon request and the presentation of proper identification.

II. DEFINITIONS

A. Custodian of Records – The Manager, Records Division, is the Custodian of Records for the Police Department.

B. Public Records – All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official business by any state, county or municipal agency in Florida. [§119.011(1), F.S.S.]

C. Electronic Messages (E-mail) – (Other than “transitory messages”) are considered to fit into the definition of *Public Records*. It is the responsibility of the originator to preserve e-mail documents.

D. Transitory Messages – Records that are created primarily for communication of information as opposed to formalization of knowledge. They have short-lived administrative value; for example, messages about supplies, meeting

dates, etc.

III. REQUESTS TO RECEIVE OR INSPECT RECORDS

A. In accordance with §119.07(1)(a), F.S.S.:

“Every person who has custody of public records, shall permit the records to be inspected and examined by any person desiring to do so, at reasonable times, under reasonable conditions, and under supervision by the custodian of the records or his designee.”

B. Florida Statutes provide that any public officer who knowingly violates the provision of §119.07(1), F.S.S. is subject to suspension and removal or impeachment; and, in addition, is guilty of a misdemeanor of the first degree.

C. Public Records Requests Processing

1. Members of the public or the press, requesting to review or purchase a record or document, may make “over the counter” requests at the Records Division, public counter.

a. Requests requiring extensive research or large quantities of material shall be placed on a *Request for Information* form prepared by the employee.

b. The *Request for Information* form will be forwarded to the Manager, Records Division for processing.

2. Costs for copies of public records will be established by City policy, not to exceed rates established by §119.07, F.S.S. These costs will be reviewed on a periodic basis.

3. The custodian shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law.

a. Costs for copies of public records will be established by City policy, not to exceed rates established by §119.07, F.S.S.

b. These costs will be reviewed on a periodic basis.

D. Employees SHALL NOT release copies of any record or report to the public without prior approval from one of the following:

1. The Records Division, or

2. The Legal Advisor, or

3. An Assistant Chief of Police, or

4. The Chief of Police.

E. The Public Information Officer (PIO) shall release information as provided for in <J:\Research\GeneralOrders\II\Administrative General Orders\II-03 Release Of Information To The Public and News Media.pdf>.

F. Requests for Emergency Communications Center audio tapes shall be referred to the Manager, Records Division, or designee.

G. Requests for Office of Professional Standards reports shall be referred to the Office of Professional Standards.

H. Requests for employee personnel records shall be referred to the Manager, Fiscal Services Division.

I. Custodial Arrest Records

1. Juvenile Identification Records

- a. Juvenile records, created when a juvenile is taken into custody, are not maintained by this Department.
 - 1) Records created when a juvenile is taken to the Juvenile Assessment Center (JAC) are maintained and are available from the Pinellas County Sheriff's Office.
- b. Juvenile identification records are considered confidential, and if obtained for a criminal justice purpose from the Sheriff's Office, shall be clearly marked as such and handled in an appropriate manner.
 - 1) Any records obtained for investigative purposes should be handled as evidence, if necessary, or affirmatively destroyed when no longer needed.
 - 2) Juvenile identification records are not available for release to the public unless:
 - a) The child has been taken into custody for a violation of law which, if committed by an adult, would be a felony; or
 - b) The child has been found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors.
 - c. Any questions pertaining to juvenile records shall be referred to the **Manager, Records** Division.
 - d. Any juvenile fingerprint records maintained for comparison purposes shall be kept separate from any other records in a secure file and clearly marked as "Juvenile – Confidential".

2. Adult Identification Records

- a. The Department does not create or maintain adult arrest records.
- b. Adult arrest records are created and maintained by the Pinellas County sheriff's Office.
- c. Officers obtaining adult arrest records for investigative purposes shall dispose of them properly when they are no longer needed.

IV. CONFIDENTIAL RECORDS

A. Examples of information **not** available for release to the public or media include, but are not limited to:

- 1. Records and information classified as confidential or exempt pursuant to federal law, the Florida Public Records Law (Chapter 119), or by judicial decision shall not be released.
- 2. Exemptions from public disclosure include:
 - a. Examination questions and answer sheets of examinations, which are administered for the purpose of licensing, certification or employment.
 - b. Active criminal investigation information and active criminal intelligence information.
 - 1) Information is considered *active* if it is directly related to pending prosecutions or appeals.
 - 2) Criminal intelligence information shall be considered *active* as long as it is related to an ongoing investigation which is continuing with a reasonable, good-faith anticipation of securing an arrest or prosecution in the foreseeable future.
 - 3) The names and/or addresses of witnesses involved in active criminal investigations.
 - 4) The names, addresses, and/or photographs of suspects wanted in crimes, unless help from the news media is desired, in an effort to locate the suspects.
 - c. Any information revealing the identity of confidential informants or sources.
 - d. Any information revealing surveillance techniques, procedures or personnel.
 - e. Information of any type which may reveal undercover personnel of any criminal justice agency.
 - f. Photographs, names, addresses or other information which will reveal the identity of sex offense victims as defined in Chapter 794; F.S.S.
 - 1) Also exempt is the exact location of the offense **if** it is a residence or business address. **However**, the victim's sex and age **will be** released along with a general description of the City area where the offense occurred.
 - g. Any information which reveals the personal assets of the victim of a crime, other than property stolen or destroyed during the commission of the crime.
 - h. The home addresses, telephone numbers and photographs of law enforcement personnel.
 - 1) The home addresses, telephone numbers, photographs, and places of employment of the spouses and children of law enforcement personnel.
 - 2) The names and locations of schools attended by the children of law enforcement personnel.
 - i. Photographs, names, addresses, or other information which will reveal the identity of any victim of child abuse as defined by Chapter 827, F.S.S.
 - j. Identity of deceased victims, until reasonable efforts have been exhausted to notify the next of kin.
 - k. Identity of persons legally defined as juveniles who have been arrested or who are under investigation, except as otherwise specified under Florida law.

- l. Information concerning child abuse offenses as defined according to Florida Law.
- m. Information regarding evidence prior to the discovery process, including:
 - 1) The contents of any statement, admission or confession, or the fact that an admission or confession has been made, or whether a person has refused to provide a statement.
 - 2) Opinions concerning the character, reputation, guilt or innocence of the arrested person.
 - 3) Opinions concerning evidence, arguments or merits of the case.
 - 4) Statements concerning anticipated testimony or the truthfulness of prospective witnesses.
 - 5) Fingerprint, polygraph, ballistics, or other laboratory test results.
 - 6) Precise description of modus operandi, evidence seized or discovered during the investigation.
- n. All criminal intelligence and criminal investigative information received by this Department prior to January 25, 1979, is exempt.
 - o. Social Security Numbers.
 - p. Any document that reveals the identity, home or employment address or telephone number or personal assets of a person who has been the victim of sexual battery, aggravated child abuse, aggravated stalking, harassment, aggravated battery, or domestic violence upon written request by the victim for five (5) years after the date of the incident.
 - q. Traffic crash information for a period of sixty (60) days, unless specifically allowed access to the information by §316.066, F.S.S.

B. Access to confidential records shall be granted to any employee of the Department who has need for such information while conducting a criminal investigation, an official task assigned by the Department, or a required official duty.

C. Employees are prohibited from using any confidential record to satisfy personal curiosity or for any other reason, except as provided for in this order.

D. Confidential records shall be open to other law enforcement officers/agencies in conjunction with official investigations, when those members have been properly identified.

E. Requests for information which is available only through the Florida Crime Information Center (FCIC) generally cannot be released.

1. Florida law provides that certain Florida records may be released to the public for specific purposes; e.g., to identify certain sex offenders or predators.

a. Requests for records available only through FCIC shall be directed to the Manager, Records Division, or their designee.

b. At no time will other state or national information appearing on the FCIC record be released.

2. Requests for such information shall usually be referred to the Florida Department of Law Enforcement.

F. Any request for records which have been sealed or expunged will be directed to the Manager, Records Division without disclosing to the person making the request that such a record exists.

V. ELECTRONIC MESSAGES

A. Electronic messages are public records. Unless a message meets the criteria to be considered “transitory”; i.e., those messages that, by their nature, quickly become “obsolete, superseded, or their administrative value is lost,” must be retained in a manner that complies with Chapter 119, F.S.S.

B. For all messages meeting the criteria to be considered a public record, the City is required to allow access to any person upon request. A person need not have a “legitimate” need for public records to be entitled to inspect them. However, state and federal law exempts certain categories of documents and, in some cases, certain types of information within a document from disclosure under the Public Records Law. Before any e-mail is released pursuant to a public records request, any exempt information must be redacted.

VI. PHYSICAL ACCESS TO RECORDS AND IDENTIFICATION DIVISION SERVICE AND SUPPORT AREA

A. Except as provided in this Order, only employees assigned to the Records Division shall have direct access to

documentary records maintained by the Records Division, however, physical access is permitted for administrative support services; e.g., access to the high-speed fax device, to obtain subpoenas, confer with Records Supervisors for the locking/unlocking of reports, or to make contact with follow-up clerks, etc.

1. Employees needing information and/or copies of paper documents, not available electronically shall go to the employee counter of the Records Division.

2. After hours, Information Desk personnel will obtain or arrange for the retrieval of the needed documents.

B. Direct access to the Records Division document files for the purpose of conducting confidential investigations or research is limited to:

1. All supervisors.

2. Division personnel from:

- a. Intelligence Unit,
- b. Vice and Narcotics Division, and
- c. Office of Professional Standards.

C. All other employees requiring access to the Records Division documentary files must be accompanied by a supervisor, or have permission from a Supervisor, Records Division, or designee.

D. No employee shall have access to the files of any unit other than the one to which they are assigned, unless they have the permission of the unit supervisor having control of the files.

E. No employee, except those in the employee's Chain of Command, shall use the personal files or enter the desk of another employee without that employee's permission, or the permission of the employee's Chain of Command.

VII. RETENTION AND DESTRUCTION OF RECORDS

A. The Department will retain records pursuant to the *Records Retention Schedule* established by the Library and Information Services Division of the Department of State of the State of Florida.

B. The Department will dispose of records in compliance with the procedures set forth by the Library and Information Services Division of the Department of State of the State of Florida.

Anthony Holloway
Chief of Police