



Newport News Police Department - Administrative Manual

ADM-160 - PRIVACY/DISSEMINATION OF INFORMATION

Amends/Supersedes: ADM-160 (09/14/2017)

Date of Issue: 12/11/2019

I. GENERAL

[82.1.1(a,c)]

A. All requests for information under the Freedom of Information Act (Chapter 37, title 2.2 of the Code of Virginia) will be forwarded, to and handled by, the Records Unit Commander, or designee, and shall be handled in a manner consistent with the procedures set forth within this policy. Information will be released only during the normal working hours of the Records Unit. The Freedom of Information Act (FOIA) does not apply to releasing information to criminal justice agencies.

1. FOIA Requests do not have to be identified as such by the requestor, and can include any request for a public record by a citizen of the Commonwealth, whether verbal, written, or otherwise.
2. Media requests and inquiries will be handled by the Public Information Office. The Records Unit Commander will be copied on any written response. (See also: "OPS-520 Media Relations & Public Information".)

B. The Records Unit Commander, or designee, is responsible for logging all FOIA requests and determining to whom, and/or where, to forward the request for completion. Department employees who receive an information request from a citizen will direct the individual to the Records Unit, or will provide the citizen's contact information to the Records Unit.

C. In accordance with §2.2-3704B of the Code of Virginia, information requested shall be released to the person(s) making the request within five working days of the Police Department's receipt of the initial request. If the request cannot be completed within this timeframe, the Police Department shall notify the requestor in writing that additional time will be needed to fulfill the request. The Police Department will have an additional seven working days to complete the request.

NOTE: Certain information is protected by law from being released under FOIA guidelines and relevant sections of the Code of Virginia. If the Police Department, with the assistance of the City Attorney, determines that the information requested shall not be released, either in whole or in part, the requestor shall be notified. This notification of refusal to release the information will be made in writing by the Police Department within the time specified in Section II. C, above, and shall specify the code section under which the exemption is being claimed.

D. Suspect information (i.e., name, address, date of birth, pending charges) shall not be released as part of any information request (this does not include requests from investigating officers or the Commonwealth's Attorney's Office).

NOTE: Information regarding adult arrestees is not covered under FOIA and must be released upon request.

II. DEFINITIONS

- A. *Freedom of Information Act (FOIA)*: FOIA guidelines are covered under Chapter 37, Title 2.2 of the Code of Virginia. The Freedom of Information Act addresses the release of public records and criminal history information to the public and others.
- B. *Public Records*: This applies to all written or printed books, papers, letters, documents, maps and tapes, photographs, films, electronic communications and recordings, reports, or other material, regardless of the physical form or characteristics, that are prepared, owned, or in the possession of the city or any employee or officer of the city in the transaction of public business (§2.2-3701 of the Code of Virginia).
1. To be a public record, the record must be used in the transaction of public business and must be:
 - a. prepared by the City; or,
 - b. owned by, but not necessarily in the physical possession of, the City; or,
 - c. in the physical possession of the City, it's officers, employees or agents.
 2. A public record which meets any of the above criteria may be in any physical format, regardless of its characteristics.
- C. *Criminal History Record Information*: This is defined as records or data collected by criminal justice agencies on adult individuals consisting of identifiable descriptions and notations of arrests, detention, indictments, information, or other formal charges, and any disposition arising therefrom are considered criminal history record information. This term shall not include juvenile record information which is controlled by §19.2-389.1 of the Code of Virginia.
- D. *Criminal Justice Agency*: Any agency of a court or any other governmental entity, or sub-unit thereof, which, as its principal function, performs the administration of criminal justice, and any other agency or sub-unit thereof which performs criminal justice activities.

III. PROCEDURE

- A. Guidelines for the release of information from the Records Unit:
1. The Records Unit personnel are responsible for the maintenance of and release of information on the following: [82.1.1(c); 82.2.1(b); 82.3.5]
 - a. *Criminal History Record Information*: Criminal history record information is only disseminated according to the Freedom of Information Act, §19.2-389 and §19.2-389.1 of the Code of Virginia. Those entitled to criminal history record information are the individual, the individual's attorney (notarized release required), any law enforcement agency, and any government agency under presidential order. Criminal history record information of Class 3 and Class 4 misdemeanors committed within the City of Newport News shall be disseminated by the Records Unit only after the requester has completed a Record Information Requisition (NNPD Form #164) and presented two forms of identification.

NOTE: Those persons (other than criminal justice personnel) seeking to obtain Class 1 - 6 felony and/or Class 1 - 2 misdemeanor criminal history record information must make the request to the Department of State Police by submitting a Criminal History Name Search Request Form (State Form SP-167).

b. Incident Reports: As set forth in §2.2-3706 Commonwealth of Virginia, criminal incident information relating to felony offenses is available upon request:

- 1) Criminal incident information released as the result of a disclosure request shall include: a general description of the reported criminal activity; the date and general location of the crime; the identity of the investigating officer; and a general description of any injuries suffered, or property damaged or stolen.

NOTE: A verbal response satisfies the requirements regarding the request for Criminal incident information relating to felony offenses, if it is agreed to by both the requestor and the Police Department.

- 2) Criminal incident reports released to victims of crimes, their insurance companies and their attorneys will only contain the victim's personal information (name, address, date of birth, etc.) date, time and location of offense, offense information, property information and suspect descriptors (M.O.). Information regarding the suspect (name, address, date of birth, etc.), witness and narrative information shall be deleted prior to dissemination. Only the victim of a crime is entitled to a copy of the incident report at no charge.

c. Traffic Accident Reports: Traffic accident reports may be disseminated to all parties involved in an accident, insurance companies representing the victims, and attorneys representing the parties involved. DMV, VCIN or NCIC and other computer related or generated record checks will be released exclusively to law enforcement personnel for criminal justice purposes only.

d. Photographs: Only photographs depicting traffic accidents will be released. No photographs depicting deceased individuals shall be released. Accident photographs can be released to parties involved in the accident, their insurance companies and their attorneys.

2. An administrative fee as outlined in §32-4 of the Newport News City Code will be charged for copies of the documents or photographs defined in Section IV. A. 1. a-d of this policy.

3. The Records Unit will handle any Freedom of Information Act (FOIA) or subpoena duces tecum requests in the following manner: [82.1.1(c)]

- a. All FOIA and subpoena duces tecum requests will be directed to the Records Unit Commander for review.
- b. If necessary, the request will be sent to another Precinct/Division for completion.
- c. If assigned to another Precinct/Division, the respective Precinct/Division Commander will ensure that all requested paperwork is returned within the time specified to the Records Unit Commander.

- d. The Records Unit Commander will maintain a Freedom of Information/Subpoena Log Sheet (NNPD Form # 72) of all requests listing the date received, date completed, date mailed or delivered, and the Bureau/Precinct/Division it was assigned to.
- e. The Records Unit Commander will determine if the request should be sent to the City or Commonwealth's Attorney's Office for review.
- f. Personnel who receive a FOIA or subpoena duces tecum request will forward it to the Records Unit Commander that same day.

B. Guidelines for the release of information from the Analytical Services Unit:

1. The Analytical Services Unit is responsible for the compilation and dissemination of the following: [82.3.5]
 - a. Arrests
 - b. Calls/dispatches for service
 - c. Criminal arrest warrants
 - d. Motor vehicle accidents
 - e. Offenses
 - f. Parking tickets
 - g. Summonses
 - h. Other statistical information

NOTE: Under law, the Police Department is not required to produce any documents not currently in existence.

2. The request for information may be made in writing, in person, by telephone or electronic mail. The person making the request shall include his/her name and address. A telephone and fax number may be requested, but the requestor is not required to provide this information.
3. The request must be specific, outlining in detail the type of information requested.
4. The response letter will disclose the establishment of fees. The fees to be charged include the actual cost of personnel time, including salary of the employee collecting the information, and fees to cover consumables (i.e., ink, paper, copying). These fees must be paid at the time the information is received.
 - a. The Analytical Services Supervisor or designee, will forward the finished product to the Records Unit Commander for collection of fees and release of information.
 - b. The production fee will be waived for governmental agencies, crime watch groups, law enforcement agencies and others as directed by the Chief of Police or his designee.
5. Analytical Services Unit personnel shall be responsible for ensuring that requesters are made aware of the guidelines and related fees at the time a request is made.

C. Job References/Personnel Records

1. Personnel Records – The following information is housed as indicated, and is available for personnel who have been employed by the Newport News Police Department:
 - a. Employee Selection Files;
 - 1) Current employees, Fiscal Services Division;
 - 2) Applicants, Recruiting Unit (3 years).
 - b. Department of Human Resources;
 - 1) Medical Records;
 - 2) Timesheets (computerized);
 - 3) Evaluations (computerized).
 - c. Payroll Records (computerized); and
 - 1) Fiscal Services Division;
 - 2) Human Resources.
 - d. Personnel Files;
 - 1) Desk Files – Fiscal Services;
 - 2) Human Resources.

NOTE: Evaluations prior to the implementation of the automated evaluation system (PEDI) are housed in Fiscal Services. An employee may access their evaluation in the automated system by logging into the system.

Retentions of records are as required by Library of Virginia.

2. Job Reference Inquiries: All job reference inquiries, written or verbal, regarding any past employee of the Newport News Police Department will be referred to the Internal Affairs Division. No information regarding a past employee is to be provided by anyone other than the Chief of Police or his designee.
 - a. All requests must be received in writing prior to a response and must be accompanied by the release form executed by the current or past employee. Faxes are acceptable.
 - b. Personnel files will be referenced for accurate information regarding the following limited response:
 - 1) Employee Selection Records;
 - 2) Payroll records;
 - 3) Timesheets; and
 - 4) Medical files.
 - c. If the information regarding the history of the employee could place the requesting agency in a high liability situation, the information must be released with the guidance of the City Attorney's Office in conference with the Director of Human Resources or his designee.

- d. Any employee terminated for disciplinary actions will be reviewed with the Director of Human Resources, or his designee, prior to release of any of the above listed information.

D. Juvenile Records

[82.1.1(c)]

Juvenile records cannot and will not be released under FOIA as mandated by §19.2-389.1 of the Code of Virginia.

E. Criminal Penalty for Violation

Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information to any agency or person in violation of §9.1-136, §19.2-389 or §19.2-389.1 of the Code of Virginia, shall be guilty of a misdemeanor.

Steven R. Drew
Chief of Police