
	<b>LOWER MERION TOWNSHIP POLICE DEPARTMENT</b> <b>Ardmore, Pennsylvania</b>	
	<b>Policy 3.17.1</b>	
Subject:		Distribution:
<b>Records – Release of Police Information</b>		<b>All Personnel</b>
Date of Issue:	Expiration Date:	Rescinds:
<b>06-01-2014</b>	<b>Until Amended or Rescinded</b>	<b>General Order: 09-36</b>
References:		
<b>CALEA: 82.1.1; PLEAC: 4.11.1</b>		
By Authority of:		
		<b>Superintendent of Police</b>

## **PURPOSE**

To establish guidelines for the safe keeping and releasing of Police Department reports or information in compliance with the Right to Know Law and other applicable laws; and to outline procedures for the release of reports requiring a subpoena. **(PLEAC 4.11.1 a)**

## **POLICY**

The Pennsylvania “Right to Know” Law provides for the access to municipal records defined as “common public records” to any United States resident, regardless of interest in the incident. It shall be the policy of this Department to provide responsible disclosure of information and to be in compliance with the law. **(PLEAC 4.11.1 a)**

## **DEFINITIONS**

**Record:** Information, regardless of physical form or characteristics, that document a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image-processed document.

**Open Records Officer:** The Public Information Officer of the Township is designated as the Open Records Officer responsible for assuring compliance with the Pennsylvania Right-to-Know Law. **(PLEAC 4.11.1 b)**

**Police Department Records Custodian:** The Auxiliary Services Unit Commander is the Department’s designated records officer and assistant to the Township’s Open Records Officer. **(PLEAC 4.11.1 b)**

**Right to Know:** The Act provides that any report, communication or other paper, which would disclose the institution, progress or result of an investigation, is not a “public record.” It makes no difference whether the investigation is open or closed. It is the policy of the Department to release any such records only upon receipt of a properly executed subpoena. It is appropriate in some circumstances, and required by law in others, that certain records not otherwise required to be released under the “Right to Know” law be made available in specific situations where there is no foreseeable harm.

## **PROCEDURE**

### **A. Records Access and Security**

1. All records and files are kept in the Auxiliary Services Unit in locked filing cabinets. The normal business hours of the Auxiliary Services Unit, are 8:00 AM to 5:30 PM, Monday through Friday, holidays excepted. During those hours, personnel of the Auxiliary Services Unit are available to assist department members with their requests relating to documents maintained by the Unit. **(CALEA 82.1.1 a)**
2. Outside of normal business hours, and except as noted in this Policy, Department personnel are not permitted to access locked files and records kept in the Auxiliary Services Unit. However, shift supervisors may access the locked files and records outside of normal business hours for the purpose of obtaining records required for legitimate police business. **(CALEA 82.1.1 b)**
3. Additional personnel are permitted to access the locked files and records outside of normal hours in the event of extraordinary circumstances, but only with approval of the Shift Supervisor. **(CALEA 82.1.1 b)**

### **B. Report Access: (CALEA 82.1.1 c)**

The following are examples of public records may be available for release by law enforcement agencies:

1. Police blotters.
2. Incident reports.
3. Traffic Reports.
4. Emergency time response logs.

All records in possession of a law enforcement agency shall be presumed to be public record unless:

1. The record is exempt under the Right-To-Know Law.
2. The record is protected by privilege.
3. The record is exempt under any other federal or state law or judicial order or decree.

The following are examples of records of a law enforcement agency that are exempt and can be withheld:

1. Investigative materials from active investigations.
2. Confidential source information.
3. Victim Information, 9-1-1 Calls and transcripts.
4. Officer's field notes.
5. Autopsy reports and related photographs.

**C.** All Open Records requests for police records shall be submitted in writing. This request may be on the form provided by the State Office of Open Records on their website (<http://openrecords.state.pa.us>), or on a form provided by the Township in hard copy at the Public Safety Building, Township Administration building, or on the Township's website. The form must be fully completed to be accepted and comply with the following regulations: **(PLEAC 4.11.1 c 3)**

1. No verbal or anonymous Open Records requests will be accepted. Requests may be submitted in person, by mail, by e-mail, or by facsimile.
2. All requests must be answered within five (5) business days of receipt or the request will be deemed denied, unless an extension is requested.
3. There shall be no limitation on the number of public records which may be requested or made available for inspection or duplication. **(PLEAC 4.11.1 d 1)**
4. There shall be no requirement to disclose the purpose or motive in requesting access to records which are considered public. **(PLEAC 4.11.1 d 2)**
5. The Auxiliary Services Unit Commander or his/her designee may, as assistant to the Township's Open Records Officer and only upon consultation with the Open Records Officer, request an extension if additional time is needed.
6. This initial extension cannot exceed thirty (30) days. Extensions are appropriate only when one of the following criteria is met:
  - a. The record is in a remote location.
  - b. The Open Records Officer requires, and has sought a legal opinion as to the request.
  - c. There is a bona-fide staffing issue that precludes filling the request within five days.
  - d. The size of the request is so large, as to necessitate additional time to respond.
  - e. The requester refuses to pay the applicable fees.
  - f. If the record is not complete.
5. Upon receipt of an open records request, it is to be date and time stamped. In addition, mark the request with the five (5) day response due date for reply.

These forms will be tracked by the designated Records Section Clerk. This clerk shall forward a copy to the Township's Open Records Officer with the original forwarded to the Auxiliary Services Unit Commander. An email shall also be sent to the Open Records Request Distribution group listing the requesting party's information and the record(s) requested.

6. In the event the Auxiliary Services Unit Commander is off or unavailable to respond within the five (5) business day period, the Staff and Inspections Unit Lieutenant, or in his/her absence, the Staff Services Division Commander is to be notified for proper handling of the request.
7. A record request denial will be sent in writing to the requesting party, noting that the appeal shall be directed to the Office of Open Records. Denials under the criminal investigative exception shall be directed to the District Attorney's Right to Know Appeals Officer (Appeals. <http://da.montcopa.org/da/site/default.asp>).

**D. Criteria to be met for document release under subpoena:**

1. Written proof of active litigation must be provided.
2. The original subpoena must be properly completed and presented, displaying a raised seal. The process server will retain the original subpoena leaving a copy with the Township representative being served.
3. The appropriate subpoena surcharge fee along with all applicable document fees, payable to Lower Merion Township, must accompany the subpoena.
4. No reports shall be released under subpoena until all appropriate fees have been collected.

**E. Procedure for producing reports under subpoena:**

1. All subpoenas for Police Department reports or documents shall be presented to the Records Custodian for proper review and disposition. Upon approval, the following procedure will be followed:
  - a. In honoring the request to produce copies of all approved documents and in lieu of having the Records Custodian appear in person with the documents, the Department will provide a Records Certification form ([AUX-43](#)) with the released documents.
  - b. The certification shall verify that the documents being provided are a true and correct copy of the original. The certification shall be dated and signed by the Records Custodian.

**F. Fee schedule for providing reports**

1. The Records Custodian is responsible for ensuring that all established fees for the duplication and release of public records are properly charged and collected. The Records Custodian is also responsible for maintaining a list of such fees. In the event the estimated cost involved in fulfilling a request is expected to exceed \$100, the Department shall obtain fifty percent (50%) of the expected cost in advance. All fees must be paid in full prior to a record being released.

**G. Right to Appeal**

1. Any person who has submitted an Open Records request and been denied access to a Police Department report or other document has the right to appeal that denial. The appeals process information is provided with the denial notice. All appeals are handled by the State Office of Open Records

**H. Media Informational Releases**

1. It will be the Police Department's policy to cooperate with the media with regard to releasing information concerning vehicle crashes, crime, critical incidents, or other requested information as long as it is in the public's interest and will not compromise an ongoing investigation or jeopardize someone's safety. Media information may only be released by a member of Command Staff or his/her designee.

**I. Employee Responsibilities**

1. Records that are normally publicly accessible may contain non-disclosable information that should be redacted. This includes all juvenile information unless the parent/guardian is the requesting party, HIPAA-related information, drivers' license number, personal financial information, social security numbers, and home, cellular or personal telephone numbers. In the event of an active PFA, the victim's address and related contact information should also be redacted. Any questions should be directed to the Custodian of Records. It is important that the redaction method used is visually obvious to the requestor and shows the specific location of any redacted material. If a report contains information that must be redacted, such as personal or confidential information, the employee will use the following method.
  - a. Make a paper copy of the original record and manually "black out" the information with a dark colored marker.
  - b. Then copy the "blacked out" version of the document and provide that copy to the requestor after ensuring that no redacted information is readable.

2. All documents retained by the Police Department, either written or electronically stored, shall be considered confidential in nature and are the property of the Township of Lower Merion. Employees, during the course of their employment, may have the occasion to read, copy, or become familiar with this confidential information. It is the duty of all employees to continue to keep all police documents and information confidential.
  3. Any deliberate unauthorized or negligent release of police documents or information, in whatever format, whether original or a copy, or any unauthorized verbal release of confidential information will be considered a severe breach of discipline, which could result in suspension or termination of employment and/or criminal prosecution.
- J. The Township's policy on the "Right to Know Law", the contact information for the Public Information Officer, and appeals process shall be posted on the Township web site, in the lobby of the Public Safety Building and attached to the request form for public view. **(PLEAC 4.11.1 c 1, 2, 4)**

### **RESPONSIBILITY**

It is the responsibility of all supervisory personnel to ensure that all personnel under their immediate supervision comply with this policy.