

GLENDALE POLICE DEPARTMENT

POLICY: 202

DATE: May 16, 2022

SUBJECT: Open Records

I. Purpose

- A. To establish a policy and procedure regarding the release of departmental information in conformity with the law, and with the recognition of the Department's general responsibility to the public for open access to public records, while maintaining balanced, reasonable regulation of records.
- B. To establish rules for release, for determining what types of police records may be released and the conditions necessary for such release.
- C. To establish a structure of authority for the release of information.

II. Policy

- A. The general policy of the Glendale Police Department regarding the disclosure or release of police records favors disclosure of records to the public. Thus, denial of the inspection or release will be the exception.
- B. The Department recognizes that a consistent open release policy may prove advantageous to the Department by creating an "active" image, while educating the public as to the organization's needs.
- C. Generally, there is a presumption in favor of disclosing public records to the public. However, there is no absolute right to access. In each case, the records custodian is charged with balancing the public interest in disclosing records against the public interest in denying or restricting access at the time of the request.
- D. The Department will display a public notice which identifies the records custodian and agency, the times and location in which the public may obtain information and access to records, the method for requesting records and the process of obtaining copies of records.

III. Definitions

A. Records Officer

The Chief of Police is the Department's Custodian of Records. Any employee who provides authorized reports to requestors in compliance with this procedure does so on the authority of the Records Officer.

B. Juvenile Record

Any report made concerning the arrest or detention of a person under the age of seventeen (17).

C. Public Records

Public records are those items and documents, the gathering of which stems from the primary and substantial functions of the police agency, most of which are specified by statutory law. (This includes photographs, slides, drawings, and other supplementary material).

D. Scope

The scope of public records within the Department's control consists of the following categories:

1. Arrest records
2. Juvenile apprehension records
3. Complaint (incident) reports
4. Accident reports
5. Activity logs
6. Departmental matters:

IV. Access Hours

Any public record of the Police Department will be made available for inspection at the offices of the Police Department. Subject to the availability of a Police Desk Officer, these records will be available from 8:00 A.M. to 10:00 P.M. Monday through Friday, exclusive of all Legal Holidays as defined in Sec. 895.20, Wis. Stats.

V. Access Policies

- A. After receipt of any written request for access to the public records of the Department, the designated Records Officer will attempt to make such records available as soon thereafter as practical and in accordance with the access hours as stated above. In any event, every request should be responded to within five (5) working days.
- B. If a request is denied, it will be denied in writing not later than five (5) working days after the request has been made. If the record cannot be made available within this period, the Records Officer will inform the requestor when the record can be made available.
- C. If any records of the Department are requested which are necessary for the day-to-day operation of the Department, the Records Officer may arrange for the records to be inspected at the Department's convenience.
- D. If the Records Officer determines that portions of any records requested contain information, which should not be released, the Officer will redact such records to remove the material not to be released and thereafter release the balance of the document. An explanation for the redacting of records should be given upon request.
- E. Any requests for computer records of the Department will be referred to the individual in charge of the equipment involved to determine the cost of any computer search, printing charges and possible time available on the machine. Since computer time can be expensive, computer information will not be provided until the requestor is informed of the estimated costs.

VI. Written Requests

- A. It is the general policy of the Department that the Department will not respond to oral requests for records of the City and, therefore, all requests for any records of the Department must be submitted in writing to the Records Officer. It is not necessary that any person requesting access to the records of the Department identify himself or herself to obtain a record, nor need any person requesting access to the records of the Department state any reason for his or her request.
- B. Any written request for a record must reasonably describe the record or information sought. If the Records Officer cannot reasonably determine what records or information are being requested, the request shall be denied in writing and the reason for the denial shall be stated in the written denial.

VII. Copies

Any person shall have not only the right to inspect the records of the Department, but also the right to receive a reproduction of such records. If a person files a written request for reproduction of any of the records of the Department, that person shall be informed of the costs of locating and producing any of the records of the Department as established by Glendale Ordinance 3.3 Exhibit B - Fee Schedule for Access to Public Records.

VIII. Limitations on Right to Access

A. The following records are exempt from inspection, Wis. Stat. 19.36:

1. Records specifically exempted from disclosure by state or federal law or authorized to be exempted from disclosure by state law, such as, but not limited to, any report (except for State Accident Reports) containing arrest information where the arrested person(s) has not made an initial appearance before the court or district attorney or any record or report which may be withheld pursuant to sec. 800.07, Wis. Stats.
2. Any records relating to investigative information obtained for law enforcement purposes if federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.
3. Computer programs and files, although the material used as input for a computer program/file, or the material produced as a product of the computer program is subject to inspection.
4. Neither a law enforcement agency nor any of its employees may make information regarding an individual that was obtained from the DOJ CCW database available to the public except in the context of a prosecution for an offense in which the person's status as a CCW licensee or holder of a certification card is relevant. Wis Stat 175.60(12g).

B. In responding to a request for inspection or copying of a record which is not specifically exempt for disclosure, the Records Officer, after conferring with the City Attorney and upon the authority of the City's Legal Custodian of City Records, may deny the request, in whole or in part, only if he or she determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record.

Examples of matters for which disclosure may be refused include, but are not limited to, the following:

1. Records obtained under official pledges of confidentiality, which were necessary, and given to obtain the information contained in them.
 2. Pursuant to Sec. 19.85(1)(a), Wis. Stats. records of current deliberations after a quasi-judicial hearing.
 3. Pursuant to Sec. 19.85(1)(b) and (c), Wis. Stats., records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any City officer or employee, or the investigation of charges against a City officer or employee, unless such officer or employee consents to such disclosure.
 4. Pursuant to Sec. 19.85(1)(e), Wis. Stats., records concerning strategy for crime detection or prevention.
- C. If a record contains information that may be made public and information that may not be made public, the Records Officer shall provide the information that may be made public and delete the information that may not be made public from the record before release. The Records Officer shall confer with the City's Legal Custodian of City Records and the City Attorney prior to releasing any such record and shall follow their guidance when separating out the exempt material. If, in the judgment of the City's Legal Custodian of City Records and the City Attorney, there is no feasible way to separate the exempt material from the nonexempt material without unreasonable jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.
- D. Driver's Privacy Protection Act
1. Establishes guidelines for the release of records derived from the Department of Motor Vehicles to third parties. The Driver's Privacy Protection Act (hereinafter "DPPA") was created to protect people from the personal dangers resulting from the disclosure of sensitive personal information and highly restricted personal information by governmental entities to third parties.
 2. Information obtained through the Department of Motor Vehicles that should not be disclosed or otherwise made available to non-excepted third parties. The following personal information should be redacted from any official records prior to release to non-excepted third parties. Only the person's name will be released.

- Addresses, including home addresses.
 - Telephone numbers (cell or hard line).
 - Dates of birth.
 - Driver's license numbers and driver's ID numbers.
 - Any record identifying any individual when that identification would invade the person's privacy and discourage full cooperation in reporting accidents.
 - An individual's photograph.
 - An individual's social security number.
 - 9-digit zip code (but not the 5-digit zip code).
 - Medical or disability information.
 - Any information that would compromise the safety of victims or witnesses of a crime. See Wis. Stats. Chapter 950, Rights of Victims and Witnesses of Crime.
 - Any record that would endanger an individual's life or safety, Wis. Stat. § 19.35.
 - Any record that would identify a confidential informant, Wis. Stat. § 19.35; and
 - Any record, the release of which would not be in the public interest under the Wisconsin Open Records law. See Glendale Police Department's Open Records Policy.
3. The DPPA allows personal information derived from the Wisconsin Department of Motor Vehicles records to be used in 14 specific exceptions. Six (6) of these exceptions are most relevant to this policy. They are as follows:
- For use in connection with matters of motor vehicle or driver safety and theft, motor vehicle emissions, motor vehicle product alterations, recalls or advisories.
 - For use by any government agency, including any court or law enforcement agency, in carrying out its functions, or any private persons or entity action on behalf of a federal, state, or local agency in carrying out its functions.
 - For bulk distributions for surveys, marketing, or solicitations if the State has obtained the express consent of the person to whom such personal information pertains.

- For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or agency or before any self-regulatory body, including the service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court; and
- For any other use specifically authorized under the laws of the state that holds the records if such use is related to the operation of a motor vehicle or public safety.
- For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating or underwriting.

IX. Juvenile Records

- A. Peace officer's records of children shall be kept separate from records of persons 17 or older and shall not be open to inspection or their contents disclosed except under sub. (5), s. 48.293, Wis. Stats. by order of the court assigned to exercise jurisdiction under Chapter 48, Wis. Stats. or pursuant to sections IX.C, D of this policy.
- B. This section shall not apply to the representation of newspapers or other reporters of news who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved or to the confidential exchange of information between the police and officials of the school attended by the child or other law enforcement or social welfare agencies or to children 16 or older who are transferred to the criminal courts.
- C. If requested by the parent, guardian, or legal custodian of a child who is the subject of a law enforcement officer's report or if requested by the child, of 14 years of age or over; our agency will provide to the parent, guardian, or child a copy of that report. If the report contains names and/or information regarding other juveniles, the other juvenile's information will be removed and the requestor will be advised to contact the Chief Judge, Milwaukee County Children's' Court Center, if they wish to obtain the additional information.

- D. Upon written permission of the parent, guardian or legal custodian of a child who is the subject of a law enforcement officer's report, plus the written permission of the child if 14 years of age or over, our agency will make available to the person named in the permission, any reports specifically identified by the parent, guardian, legal custodian, or child in the written permission.

X. Reproduction Expenses

Glendale Ordinance 3.3, Exhibit B – Fee Schedule for Access to Public Records, establishes the costs of copying and reproduction of records.

XI. Records Retention

Records retention is governed by WI Statute 19.21 and Glendale Ordinance 3.3.9. Unless otherwise prescribed, official police records are to be retained for at least 7 years. The Chief of Police shall authorize the destruction of records, after notifying the Wisconsin Historical Society.

- A. Squad videos and body camera videos not needed as evidence will be retained for 120 days then may be destroyed. Records saved as evidence will also be archived for 7 years.
- B. Jail videos not needed as evidence will be retained for 120 days then may be destroyed.
- C. Custodial interview videos and photographs will be archived for 7 years.

By Order of:

Mark Ferguson - Chief of Police

Replaces: Policy 202, Open Records dated February 24, 2022
Review Date: June 30, 2025