



YORK AREA POLICE DEPARTMENT

GENERAL ORDER

<i>Subject</i> PUBLIC RECORDS POLICY	<i>Date</i> 12/12/02	<i>Number</i> 02- 01- 04
<i>Distribution</i> ALL POLICE PERSONNEL		
<i>Replaces</i> York Township Police Administrative Fees		<i>Review Date</i> ANNUAL
<i>References</i> Right to Know Act, PA. Title 65, Sec. 66.1 et seq.; CALEA 82.1.1.d.		

I. PURPOSE

To provide a structure for compliance with legal requests for release of information and for access to records

II. POLICY

It is the policy of the York Area Regional Police Commission (police department) to provide public records in accordance with the Right to Know Act ("Act") found 65 P.S. Sec.66.1 et. seq. as amended. Pursuant to the requirements of the Act, the police department has adopted this Public Records Policy.

As a law enforcement agency, the police department must be careful pursuant to the requirements of the Act to balance the need to conduct effective investigations, the need to maintain the confidentiality of its investigations and the need to protect the innocent who happen to be subject to investigation. It is the intent of the police department to comply with the spirit and the letter of the Act.

Therefore, police investigations will not be provided except such data as is required to be made public pursuant to applicable decisions at the time a request is made.

Similarly, the confidentiality of personnel records and actions are recognized as confidential.

III. PROCEDURES – PUBLIC RECORDS

A. APPLICABLE RECORDS

1. Public records are defined by law to include:

Any account, voucher or contract dealing with the receipt or disbursement of funds by an agency or its acquisition, use or disposal of services or of supplies, materials, equipment or other property and any minute, order or decision by an agency fixing the personal or property rights, privileges, immunities, duties or obligations of any person or group of persons; provided, that the term "public records" shall not mean any report, communication or other paper, the publications of which would disclose the institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, except those reports filing by agencies pertaining to safety and health in industrial plants; it shall not include any record, document material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute, law or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Commonwealth, or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

65 P.S. Sec. 66.1(2).

2. In addition, the public should be aware of the four-part test adopted by the Courts to determine what records are in fact subject to disclosure. The material:
 - a. must be generated by the police department;
 - b. is a minute, order or decision of the police department or an essential component in the police department arriving at a decision;
 - c. fixes the personal or property right or duties of any person or group; and
 - d. is not protected by statute, order or decree of court.

3. The following information are not public records under law and are not available for public inspection:
 - a. files relating to police investigations;
 - b. files containing employee information;
 - c. any information that could operate to the prejudice or impairment of a person's reputation or personal security, such as rating sheets or employees, and
 - d. any document that is not generated by the police department.
4. Also, note that the police department is not required to compile lists of information that do not already exist.

B. REQUEST PROCEDURE AND COSTS

1. Requests must be made in writing on the form supplied by the police department. They may be submitted to the police department in the office of the Chief of Police or his designee by mail or in person.
2. The request should be sufficiently specific as to permit identification of the records in fact sought.
3. Inspection may be made during regular business hours, Monday through Friday at the headquarters of the police department.
4. The applicable fees are included as a separate document at the end of this general order.

C. TIME LINES

1. The police department will as practicable, make public records that the Act requires be disclosed available within 5 business days of receipt of the request.
2. The police department may take up to an additional 30 days where:
 - a. redaction is required;

- b. retrieval of a record stored in remote location is required;
 - c. staffing limitations do not permit response within 5 business days;
 - d. a legal review is required;
 - e. the requester has not complied with the police department's request procedures; or
 - f. the requester has not paid applicable fees.
3. In such cases the police department will supply written notice of the delay, shall explain the reason for such delay, and indicate when response will be provided. Notice of the extension shall be given to the requester within five (5) business days of the receipt of the request. Any response that indicates that response will take in excess of an additional 30 days may be deemed a denial.

D. DENIALS

1. Denials of written requests shall be made in writing within five (5) days of receipt of the request. The written denial will include a description of the records requested, the specific reasons for the denial, including legal citations, the typed or printed name, title, business address, business telephone number and signature of the police department official denying the request, the date of the denial and the appeal procedure.
2. If the written request for public records is denied, the requester may file exceptions with the Chief of Police within fifteen (15) business days of the mailing date of the police department's denial or "deemed" denial. The exceptions shall set forth in detail the basis of the claim and why the requester claims that the records sought are subject to disclosure.
3. Unless the requester shall agree otherwise, the Chief of Police will make a determination within thirty (30) days of the mailing date of the exceptions. If desired by the Chief of Police he may hold a hearing prior to issuing a determination. If the Chief of Police determines that the denial was correct, he shall provide a written explanation to the requester of the reason for the denial. The decision of the Chief of Police shall be deemed a final order of the

police department.

4. After final order of the police department the requester may file a petition for review of the denial with the York County Court of Common Pleas or the local district magistrate within thirty (30) days of the mailing date of the written denial. The police department must receive service of this petition. The Court is required by statute to provide a reasoned decision.
3. If the court reverses the police department's denial, the public record must be provided to the requester. If the court also find that the police department willfully or with wanton disregard" deprived the requester of access to a public record or that the police department's decision was not based upon a reasonable interpretation of law, the court may award the requester reasonable court costs and attorney's fees. However, if a court affirms the police department's decisions and finds that the challenge was frivolous, the court may award the police department reasonable court costs and attorney's fees.

IV. REQUEST FOR ACCESS TO PUBLIC RECORDS PURSUANT TO THE RIGHT TO KNOW ACT

- A. Under the Right to Know Act, 65 P.S. 66.1 et seq., any person who is a resident of the Commonwealth of Pennsylvania may inspect public records of the police department at reasonable times and may make photographs or copies of the records, while the records are in the possession, custody and control of the police department. In turn the police department has the right to adopt reasonable rules governing the making of the copies. The records custodian is the Chief of Police or his designee.

The police department provides access to public records as follows:

B. APPLICABLE RECORDS

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institution, progress or result of an investigation undertaken by an agency in the performance of its official duties, except those reports filing by agencies pertaining to safety and health in industrial plants; it shall not include any record, document material, exhibit, pleading, report, memorandum or other paper, access to or the publication of which is prohibited, restricted or forbidden by statute, law or order or decree of court, or which would operate to the prejudice or impairment of a person's reputation or personal security, or which would result in the loss by the Commonwealth, or any of its political subdivisions or commissions or State or municipal authorities of Federal funds, excepting therefrom however the record of any conviction for any criminal act.

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F. The requester must provide the following information:

Name of the Requester: _____

Organization: _____

Address of Requester: _____

Telephone Number _____

Are you resident of the Commonwealth of Pennsylvania? _____

Date Request Received by the Police department

Document(s) requested. Please identify the documents you are requesting with specificity. The Act requires that you be specific in order to prevent undue interference with the operations of the police department.

**YORK AREA REGIONAL POLICE DEPARTMENT
ADMINISTRATIVE FEES**

POLICE REPORTS

Report of 5 pages or less	\$15.00
Each additional page	\$.50

REPRODUCTION OF PHOTOGRAPHS**COLOR**

3" X 5"	\$ 1.00
4" X 6"	\$ 2.00
5" X 7"	\$ 3.00
8" X 10"	\$ 6.00

CONTACT SHEET 4" X 5"	\$ 5.50
8 X 10	\$11.00

REPRODUCTION OF AUDIO CASSETTE TAPE **\$15.00**

REPRODUCTION OF VIDEO CASSETTE TAPE **\$25.00**

Copying of documents that are not of a size that can be copied by the equipment at hand.

In such instance, the charge shall be actual cost plus 10% for labor.

Electronic documents will be converted to hard copy upon request at a cost of \$.50 per page. Electronic transfer of a document shall be \$2.00 unless the transfer requires more than 15 minutes of employee time, at which point the hourly cost to the Police department of the employee in charge of electronic transfers shall be charged to the nearest quarter hour increment.

To the extent the requester has sought information that requires more than 30 minutes to compile irrespective of the format, the hourly cost to the police department of the employee performing the work shall be charged to the nearest quarter hour increment.

Certification of documents shall be made at a charge of \$5.00 per certification.

Postage costs shall be the responsibility of the requester.

Prepayment may be required for all information requested that is projected to cost more than one hundred dollars (\$100).

BY ORDER OF

Thomas C. Gross
Chief of Police