



Approved:  
*Chief Marcia Harnden*

Subject:

# 601. Records Maintenance and Release

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82.3.5

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## 601.1: PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records.

## 601.2: POLICY

**The Albany Police Department is committed to providing public access to records in a manner consistent with the Oregon Public Records Law ([ORS 192.001](#) et seq.).**

## 601.3: CUSTODIAN OF RECORDS RESPONSIBILITIES

The **Records and Systems Supervisor** is designated by the Chief of Police Custodian of Records. The responsibilities of the Custodian of Records include, but are not limited to ([ORS 192.318](#)):

- a. Managing the records management system for the Department, including the security, retention, archiving, release, and destruction of department public records.
- b. Maintaining and updating the Department records retention schedule, including:
  - 1) Identifying the minimum length of time the Department must keep records;
  - 2) Identifying the Department division responsible for the original record.
- c. Establishing rules regarding the inspection and copying of Department public records as reasonably necessary for the protection of such records.
- d. Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- e. Establishing rules regarding the processing of subpoenas for the production of records.
- f. Ensuring a current schedule of fees for public records as allowed by law is available ([ORS 192.324](#)).

- g. Preparing and making available to the public a written procedure that includes the name and address of where to obtain department records as well as the amounts and the manner of calculating fees for responding to requests for public records (ORS 192.324).

#### 601.4: PROCESSING REQUESTS FOR PUBLIC RECORDS

Any Department member who receives a request for any public records shall route the request to the Custodian of Records or their authorized designee.

##### 601.4.1: REQUESTS FOR RECORDS

The processing of requests for any record is subject to the following:

- a. Requests for public records shall be made in writing, email, fax, or over the phone;
- b. The Department is not required to create records which don't exist;
- c. When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released ([ORS 192.338](#)).
  - 1) When a report is redacted, evidence of the redaction remains with the electronic copy of the report. If the record is audio/video, a copy of the redacted audio/video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.
- d. Responses to written requests for inspection or copies of public records shall be made as soon as practical without unreasonable delay. If necessary, the Custodian of Records or the authorized designee may request additional information or clarification for the purpose of expediting the response to the request. All requests shall be acknowledged and shall include one of the following ([ORS 192.440](#)):
  - 1) A statement that the Department does not possess or is not the custodian of the public record.
  - 2) Copies of the requested public records if no exemption applies under [ORS 192.311 through ORS 192.478](#).
  - 3) A statement that the Department is the custodian of some of the requested records, an estimate of time that the Department requires before the public records may be inspected or that the copies will be provided, and an estimate of the fees required of the requester.
  - 4) A statement that the Department is the custodian of some of the requested records and that an estimate of the time and fees for disclosure of the public records will be provided within a reasonable time.

- 5) A statement that the Department is uncertain whether the Department possesses the public record, and that the Department will search for the record and make an appropriate response as soon as practical.
  - 6) A statement that state or federal law prohibits the Department from acknowledging whether the record exists or that acknowledging whether the record exists would result in the loss of federal benefits or other sanctions. This statement shall include the state or federal law citation relied upon by the Department.
- e. If the public record is maintained in a machine readable or electronic form, a copy of the public record shall be provided in the form requested, if available. If the public record is not available in the form requested, the public record shall be made available in the matter it is maintained (ORS 192.324).

#### 601.4.2: DENIALS

- a. If the Custodian of Records determines that a requested record is not subject to disclosure or release, the Custodian of Records should inform the requestor of that fact and state the reason for the denial.
- b. If the denial is challenged by the requester by petition to the Attorney General or the Prosecuting Attorney, the Department will have the burden to support the denial ([ORS 192.411](#); [ORS 192.415](#)).

#### 601.5: RELEASE RESTRICTIONS

Examples of release restrictions include:

- a. Personal identifying information, including an individual's photograph, month and day of the individual's date of birth, Social Security number, driver identification number, and medical or disability information that is contained in any driver's license record, motor vehicle record or any Department record, including traffic collision reports are restricted except as authorized by the Department and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose ([18 USC § 2721](#); [18 USC § 2722](#)).
- b. Personal identifying information of members including Social Security number, date of birth, telephone number, home address, email addresses, driver license numbers, employer-issued identification card numbers, emergency contact information, medical information or information of a personal nature that would constitute an unreasonable invasion of privacy (ORS 192.345).
  - 1) A showing of clear and convincing evidence that public interest requires disclosure may overcome the restriction.
- c. Member identification badge or card as provided in [ORS 192.447](#).
- d. Information regarding a member working undercover and for the period of six months after the conclusion of those duties unless the member consents in writing or required by law ([ORS 181A.825](#)).

- e. Photograph of public safety personnel without the written consent of that member ([ORS 181A.830](#)).
- f. Personnel discipline action including materials or documents supporting the action unless allowed by law ([ORS 181A.830](#); ORS 192.345).
- g. Certain victim information, including participants in the Address Confidentiality Program ([ORS 192.368](#); [ORS 192.844](#)).
- h. Certain juvenile records ([ORS 419A.255](#); [ORS 419A.257](#)).
- i. Certain ongoing investigation material for criminal law purposes (ORS 192.345).
- j. Audio or video records of internal investigation interviews ([ORS 192.385](#)).
- k. Certain types of reports involving, but not limited to, child abuse ([ORS 419B.035](#)) and adult abuse ([ORS 124.090](#); [ORS 430.763](#); [ORS 441.671](#)).
- l. Ongoing litigation records including those created in anticipation of potential litigation (ORS 192.345).
- m. Certain identifying information of an individual that has applied for, or is a current or former holder of, a concealed handgun license as provided in [ORS 192.374](#).
- n. Specific operation plans in connection with an anticipated threat to individual or public safety (ORS 192.345).
- o. Any public records or information prohibited by federal law ([ORS 192.355](#)).
- p. Any public records or information prohibited, restricted, or made confidential or privileged under Oregon law (ORS 192.355).
- q. Records less than 75 years old that were sealed in compliance with statute or by court order. Such records may only be disclosed in response to a court order ([ORS 192.398](#)).
- r. Records of a person who has been in the custody or under the lawful supervision of a state agency, a court or a unit of local government are exempt from disclosure for 25 years after termination of such custody or supervision. Disclosure of the fact that a person is in custody is allowed (ORS 192.398).
- s. Audio or video recordings from a member's body-worn camera that record the member's interaction with members of the public. Such recordings may only be disclosed under the conditions provided by ORS 192.345, including facial blurring.
- t. Personal information of complainants and of officers who are the subject of racial or bias-based profiling complaints. Personal information for this purpose means individual's name, address, date of birth, photograph, fingerprint, biometric data, driver license number, identification card number or any other unique personal identifier or number ([ORS 131.925](#); [ORS 807.750](#)).

- 1) Any report inclusive of racial or bias-based profiling complaints shall be approved by the Records and Systems Supervisor prior to release.

#### **601.6: SUBPOENAS AND DISCOVERY REQUESTS**

- a. Any member who receives a subpoena duces tecum or discovery request for records should contact the Custodian of Records for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.
- b. Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the Prosecuting Attorney, City Attorney, or the courts.
- c. All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

#### **601.7: MARKING OF RELEASED RECORDS**

- a. The first page of any written record released pursuant to this policy should have a saved copy documenting items released and/or redacted and saved under "Records Work" in Laserfiche under the corresponding case number. The case number, to whom the record was released, and the date and time must be listed for any record that is released excluding records released to the Albany Municipal Court or the District Attorney's office.
- b. Each audio/video recording released should include the Department name and a record should be kept of the recipient of the recording. These records should be marked with a blue sticky note icon.

#### **601.8: EXPUNGEMENT**

Expungement orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall expunge such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention, or conviction. Once expunged, members shall respond to any inquiry as though the record did not exist ([ORS 137.225](#)).

#### **601.9: SECURITY AND PRIVACY**

Authorized staff can access reports and records at any time by logging into RMS and/or Laserfiche with an authorized username and password.

##### **601.9.1: SECURITY BREACHES**

In the event of an unauthorized acquisition of personal information, the Chief of Police or the authorized designee shall ensure that an investigation into the breach is made and applicable steps pursuant to [ORS 646A.602](#) et seq. are taken.

Required notice shall be made as follows ([ORS 646A.604](#)):

- a. Notice shall be made to any individual whose private or confidential data was or is reasonably believed to have been breached. Notice shall be provided in the most expeditious manner possible, without unreasonable delay, unless the notice impedes a criminal investigation.
  - 1) The notice shall be made as set forth in ORS 646A.604 and include a general description of the breach of security; the approximate date of the breach; the type of information that was compromised; the contact information for national consumer reporting agencies; and that any suspected identity theft should be reported to law enforcement, the Attorney General and the Federal Trade Commission.
- b. When notice is delayed because it will impede an active criminal investigation, the member in charge of the investigation must document the reason why a delay in notification is necessary to the investigation.
- c. Provide substitute notice if notification would cost more than \$250,000 or if there were more than 350,000 individuals whose personal information was breached.
- d. If notification is required to be made to more than 1,000 individuals, the Department should also notify consumer reporting agencies.
- e. Provide notice to the Oregon Attorney General if the breach involves the personal information of more than 250 people.
- f. Document when a breach of security is unlikely to cause any harm and does not require notification. In these cases, the documentation shall be maintained for at least five years.

#### **601.10: JUVENILE RECORDS**

- a. All department police records are maintained electronically in RMS and Laserfiche. Juvenile records are distinguishable from the adult records by font color and "Juvenile" at the top of each record.
- b. Access to juvenile custody files is restricted to provisions listed in [ORS 419A.250 \(section 4\)](#).
- c. Juvenile custody files shall be destroyed in compliance with [ORS 419A.250 \(sections 5A-7A\)](#).
- d. Juvenile records, including reports, are subject to expunction orders and provision as contained in [ORS 419A.262](#).

#### **601.11: RECORDS MAINTAINED OUTSIDE OF THE RECORDS UNIT**

- a. All records that have been identified by the Records Unit as "permanent" will be retained/managed in Laserfiche and subject to the records retention laws.

- b. Records may be maintained by various components within the Police Department in accordance with both City Records Retention Schedule and Oregon State Archives. The following records are maintained outside the Records Unit:
- 1) Internal Affair reports are kept in the IA Pro software.
  - 2) Confidential Informant files are stored in the LINE Office.
  - 3) Homicide, murder, and cold cases prior to 1989 are stored as hardcopies in the Records Room.
  - 4) All other reports are stored in Laserfiche.
- c. Any questions regarding retention/destruction will be directed to the Records and Systems Supervisor.