


# AURORA POLICE DEPARTMENT

## DIRECTIVES MANUAL

08.22	Title: Criminal Justice Records		
	Approved By: Vanessa Wilson, Chief of Police		Duty Honor Integrity
	Effective: 09/01/1998	Revised: 05/06/2021	
	Associated Policy:		
Review: Records Section Manager			Page 1 of 4

### 8.22 CRIMINAL JUSTICE RECORDS

All criminal justice records are initially presumed to be open for public inspection to comply with the Colorado legislative intent that criminal justice agencies maintain records of official action and these records will be open for inspection. The Department is responsible for the maintenance, control, dissemination, access, security and content of these records. APD records are governed by the Colorado Criminal Justice Records Act. C.R.S. 24-72-301 et seq. The policy includes the requirements for CCJRA records disclosure as well as addresses specific departmental requirements for the handling of criminal justice records.

#### 8.22.1 Definition

“Criminal justice records means all books, papers, cards, photographs, tapes, recordings, or other documentary materials, regardless of form or characteristics, that are made, maintained, or kept by any criminal justice agency in the state for use in the exercise of functions required or authorized by law or administrative rule, including but not limited to the results of chemical biological substance testing to determine genetic markers conducted pursuant to sections 16-11-102.4 and 16-23-104, C.R.S.” C.R.S. 24-72-302(4).

#### 8.22.2 Responsibility for Criminal Justice Record Information

The Chief of Police is the Official Custodian of Records for the Aurora Police Department. The Records Section Manager is the designated Custodian. All members are responsible for using this information for criminal justice purposes only, and never for personal use or curiosity inquiries.

#### 8.22.3 Authorized Use

Criminal Justice Records may only be used for criminal justice purposes in the commencement of official duties. The Department recognizes it is occasionally necessary for a member to remove certain documents from police facilities to carry out his/her official duties (i.e., court, district attorney's offices, other criminal justice

agencies etc.). Nothing in this policy is intended nor should it be construed to interfere with or hamper a member from performing his/her official duties.

#### 8.22.4 Penalties for Unauthorized Use

A member who removes or copies criminal justice information from its secured location (physical or electronic), and (1) the act is not related to the performance of his/her official duties, and/or (2) the information is disseminated to unauthorized personnel, and/or (3) the information is disseminated outside of the agency without following proper request, review and release protocol, is subject to criminal, civil, and disciplinary action.

Members are on notice that a person who willfully and knowingly violates the records disclosure requirements of the Colorado Criminal Justice Records Act is guilty of a misdemeanor and may be fined and/or imprisoned. C.R.S. 24-72-309.

#### 8.22.5 Training

All staff responsible for processing requests for criminal justice information receive training in applicable laws from the Department's Open Records Coordinator and/or outside persons/agencies. Legal updates are provided by the Department's Legal Advisor with training material updated as required. Staff are encouraged to receive certifications in their respective fields and to maintain training points annually per the requirements of applicable certifications.

#### 8.22.6 Public Requests for APD Records

This does not apply to the disclosure of Criminal Justice Information as part of discovery (municipal, state, or federal court) or internally or with law enforcement partners as part of investigations, or to the City Attorney's office as part of a civil litigation case.

Criminal Justice Information may be requested by the public (including defense attorneys, insurance companies, defendants, victims) and distributed by methods, days and hours established by the designated custodian. Forms are available online. Fees are controlled by the fee schedule set by City administrators and approved by City Council.

All public requests for criminal justice information require enough information to properly research the request and a signed pecuniary gain statement. The signed pecuniary gain statement is required per statute, and if not received the request shall be denied. C.R.S. 24-72-305.5.

8.22.7 Processing Public Requests for APD Records

Members will follow this Directive and the Colorado Criminal Justice Records Act when reviewing criminal justice records for release.

Only trained staff, Public Information Officers, the Open Records Coordinator, Records Section members, or members specifically authorized by the Chief of Police are authorized to release Criminal Justice Information.

Routine requests for information are processed and distributed/referred/denied by a Records Technician or Supervisor in the Records Unit.

Requests for basic Traffic Accident Photos may be processed by the Digital Records Unit. If it is found that there are review considerations or factors the request is routed to the Open Records Coordinator for review.

Complex/high profile requests including reports, digital evidence, internal affairs investigations and other records are processed and distributed/referred/denied by the Open Records Coordinator.

8.22.8 Denials or Referrals of Public Requests for APD Records

The release of criminal justice information is denied when inspection is contrary to statute; contrary to the public interest; or contrary to a court order.

Requests for criminal justice information may be denied when a case is open and pending investigation as premature release could unduly disrupt or compromise the ability to sufficiently investigate a crime and interview involved parties - contrary to the public interest.

Requests for criminal justice information may be referred to the District Attorney's Office when open and pending trial as premature release may unduly disrupt ongoing criminal proceedings and a defendant's right to due process and a fair trial. Additionally, there are actions taken at the trial level that are a matter of public safety and security for an involved party; sealed addresses for example, that are not always known to law enforcement staff members – contrary to the public interest.

The applicant may request a written statement explaining the grounds for denial. The statement response will cite the law, regulation or the general nature of the public interest to be protected and will be provided within 72 hours of the receipt of the request. Staff members may be required to appear at a 'show cause' hearing to justify denial grounds to a presiding judge.

8.22.9      Sealed (Adult) or Expunged (Juvenile) Records

A defendant may petition the court to seal or expunge criminal justice records in some instances, and in others the records are automatically expunged based off the age of the defendant. After an order to seal/expunge a record(s) is received from the court, future requests will result in a “no such record exists” response.

Sealed and expunged records may only be reviewed by Law Enforcement and only for use for criminal justice purposes.