

**WEST WHITELAND TOWNSHIP  
POLICE DEPARTMENT  
GENERAL ORDER 4.11.1**



Title: PUBLIC INFORMATION AND RIGHT TO KNOW LAW

Effective Date: July 17<sup>th</sup>, 2017

Revised: May 1, 2026

Accreditation Standards: 4.11.1, 4.11.2, 4.11.3

Pages: 7

A handwritten signature in blue ink that reads "Ralph W. Benson III".

By Order of Ralph W. Benson III, Chief of Police

**PURPOSE:** On January 1, 2009, Act 3 of 2008, the Right-to-Know Law, became effective. This Act provided for access to public information, for a designated opens-record officer for each local agency, for procedure, and appeal of agency determination, for judicial review and for the Office of Open Records. This general order is implemented for the purpose of this department complying with the procedures set forth in the Opens Records Law.

**POLICY:** It shall be the policy of the department that all personnel comply with the provisions of this General Order.

## **PROCEDURES:**

### **I. Public Information and Right-to-Know**

#### **A. Providing public records**

1. The department will provide public records in accordance with the Pennsylvania Right-to-Know Law. (PLEAC 4.11.1a)
2. Definition of Public Records: Any information regardless of its physical form or character that documents a transaction or activity of an agency and is created, received, or retained pursuant to law or in connection with a transaction, business or activity of an agency: paper, emails, phone records, text messages, blueprints, social media, security footage and audio & video recordings, that:
  - a. Is not exempt under section 708 of the Right-to-Know Law;
  - b. Is not exempt from being disclosed under any other Federal or State law or regulation or judicial order or decree; and
  - c. Is a record that is not protected by a privilege.

#### **B. Designation of an Open Records Officer (PLEAC 4.11.1b)**

1. The Board of Supervisors shall designate the Open Records Officer of the department during the Board of Supervisors annual reorganization meeting. The Chief of Police is designated as the Open Records Officer of the Police Department and a civilian employee is designated as the Assistant to the Open Records Officer. The Chief of Police may delegate the responsibilities of the Assistant to the Open Records Officer position within the department, as he/she so deems necessary.
2. In the event that the request for information involves Criminal History Records Information Act requests, the Chief of Police shall work in conjunction with the Assistant Open Records Officer to provide the requested information.
3. Functions:
  - a. The Open Records Officer and/or the Assistant Open Records Officer shall receive requests submitted to the agency under the Right-to-Know Law.
  - b. The Open Records Officer and/or the Assistant Open Records Officer will track the department's progress in responding to requests and issue interim and final responses under this act.
  - c. Upon receiving a request for a public record(s), the Open Records Officer and/or the Assistant Open Records Officer will do the following:
    - 1) Note the date of receipt on the written request.
    - 2) Compute the day on which the five-day period under section 901 of the Right-to-Know Law will expire and make a notation of that date on the written request.

- 3) Maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been fulfilled.
  - 4) If the request is denied, the written request shall be maintained for 30 days or, if an appeal is filed, until final determination is issued under section 1101(b), or the appeal is deemed denied.
- d. Prior to responding to a request for public record(s), the Assistant Open Records Officer shall ensure that the Chief of Police reviews the intended response. In the event that the response shall involve a denial of the request, in part or in whole, the correspondence to the requestor shall be signed by the Chief of Police.
- C. Posting requirements (PLEAC 4.11.1c)
1. The following information will be posted at the department and, if operational, an Internet Website for the department:
    - a. Contact information for the Open Records Officer.
    - b. Contact information for the Office of Open Records or other applicable appeals officer.
    - c. The Open Records Request form (Appendix A).
    - d. Regulations, policies and procedures of the department relating to the Right-to-Know law.
- D. Process for Requesting Information:
1. With the exception of vehicle crash reports (as listed under statute 75 Pa.C.S. 3751 (b)(2)), all requests for public records under the Right-to-Know Law shall be in writing and shall be made utilizing the Request Form (Standard Right-to-Know Request Form specified by the Pennsylvania Office of Open Records or the West Whiteland Township Right-to-Know Form). Refer to Appendix A.
  2. Request Forms may be submitted in the following manner:
    - a. Via mail
      - 1) Completed Request Forms may be mailed to the following address:

West Whiteland Township Police Department  
ATTN: Open Records Officer  
101 Commerce Drive  
Exton, PA 19341
    - b. Via fax
      - 1) Completed Request Forms may be faxed to (610) 363-6671

- c. In person
  - 1) Completed Request Forms may be delivered to the police department during established business hours on Monday - Friday, from 8:30 am to 4:30 pm with the exception of holidays.
- d. Electronically
  - 1) The following information regarding the Department's Right-to-Know policy is posted on the Department's website <http://www.westwhiteland.org/208/openrecords>:
    - a) Contact information for the Department's Open Records Officer
    - b) Contact information for the Pennsylvania Office of Open Records or other applicable appeals officer.
    - c) The Open Records Request Form
    - d) Regulations, policies, and procedures of the Department relating to the Right-to-Know law.

E. Responses to a Request

- 1. The West Whiteland Township Police Department will respond in writing to a Right-to-Know Request within five working days.
- 2. Within five working days, the Department will respond in one of the following three ways:
  - a. Grant the request and provide the record(s).
  - b. Deny the request in whole or in part, cite the reason for the denial, and outline the appeals process for the requestor (refer to #4).
  - c. Invoke a 30 calendar-day extension.
- 3. In the event that the Department invokes an extension, the Department will within the 30 days take one of the following actions:
  - a. Grant the request and provide the record(s).
  - b. Deny the request in whole or in part, cite the reason for the denial, and outline the appeals process for the requestor.
- 4. If a written request is denied or deemed denied, the requestor shall be advised of the appeal process.
  - a. The requestor must file the appeal in writing within 15 business days from the mailing date of the Police Department's response or the date that the request was deemed denied. The requestor may utilize the Pennsylvania Office of Open Records Appeals Form.

- b. The appeal must include the following information:
  - 1) A copy of the original Right-to-Know request.
  - 2) A copy of the Department's response (or a notation that the request was "deemed denied," meaning the Agency didn't respond at all).
  - 3) Statement of grounds for asserting that the information requested is a public record.
  - 4) Address any ground stated by the Department for denying the request.
  
- c. Appeals (non-criminal record) may be submitted via any of the following methods:
  - 1) Appeals may be mailed to:

PA Office of Open Records  
555 Walnut Street, Suite 605  
Harrisburg, PA 17101
  - 2) Appeals may be faxed to 717-425-5343.
  - 3) It is preferred that appeals be submitted through the online version of the official OOR Appeal Form.
  
- d. Appeals (criminal record) may be submitted via any of the following methods:
  - 1) Appeals may be mailed to:

District Attorney  
201 West Market Street  
Suite 4450  
P.O. Box 2746  
West Chester, PA 19380-0989
  - 2) Contact the District Attorney Office at 610-344-6801.

F. Requesting Police Recordings (Video & Audio) in Pennsylvania

- 1. Act 22 of 2017 (specifically, Chapter 67A of the Act) established a new process for requesting audio and video recordings in the possession of law enforcement agencies in Pennsylvania. Act 22 applies to individuals seeking "any audio recording or video recording made by a law enforcement agency." The Right-to-Know Law does not apply to requests for these recordings.
  
- 2. Under Act 22, a request for an audio or video recording in the possession of a law enforcement agency must be made within 60 days of the date the recording was made. Requests must be submitted via personal delivery or certified mail (§67A03). The request is not officially received until it is personally delivered to the Open

Records Officer and/or the Assistant Open Records Officer, or when it is marked as "delivered" by certified mail. The request must include:

- a. The date, time and location of the event recorded; (PLEAC 4.11.2.a.i)
  - b. A statement describing the requester's relationship to the event recorded; (PLEAC 4.11.2.a.ii) and
  - c. If the recorded incident took place inside a residence, the request must also identify every person present at the time of the recording, unless unknown and not reasonably ascertainable (PLEAC 4.11.2.a.iii).
3. Once a request is filed, the agency has 30 days to respond, although the requester and agency can agree to an extension (PLEAC 4.11.2.b). The Office of Open Records has developed a request for police recordings to help ensure that requesters include all of the required information. Refer to Appendix B [https://www.openrecords.pa.gov/Documents/RTKL/Act22\\_RequestForm.pdf](https://www.openrecords.pa.gov/Documents/RTKL/Act22_RequestForm.pdf)
4. The Open Records Officer and/or the Assistant Open Records Officer will review the request. However, if the agency has a memorandum of understanding with either a District Attorney's Office or the Attorney General's Office, an attorney from one of those offices may review the request and decide if the recording will be released.
5. Under Act 22, the agency may deny the request – in writing – if it determines that a recording contains:
- a. Potential evidence in a criminal matter (PLEAC 4.11.2.c.i); or
  - b. Information pertaining to an investigation or a matter in which a criminal charge has been filed (PLEAC 4.11.2.c.ii); or
  - c. Confidential information or victim information (PLEAC 4.11.2.c.iii); and
  - d. The reasonable redaction of the recording would not safeguard potential evidence (PLEAC 4.11.2.c.iv).
6. When the Open Records Officer and/or the Assistant Open Records Officer grants a request, they can charge “reasonable fees”, which are not defined in the law, to provide a copying of the recording.
7. When a request is denied, the requestor may appeal within 30 days of the date of denial to the Court of Common Pleas with jurisdiction over the matter (i.e., the court in the county where the recorded event took place). This appeal is filed as a Petition for Judicial Review and must include (PLEAC 4.11.2.d):
- a. A filing fee of \$125;
  - b. A filing fee of \$125;
  - c. A copy of the written request and any written responses; and

- d. Proof that the West Whiteland Police Department's Open Records Officer and/or the Assistant Open Records Officer was served within five days of the filing of the petition.
- e. If the event recorded took place inside a residence, the petitioner must also certify that notice of the petition has been served on each individual present at the time of the recording, and on the owner and occupant of the residence, unless that information is unknown and not reasonably ascertainable.
- f. In all cases, service is effective upon receipt from personal delivery or certified mail with proof of service.

G. Prohibitions (PLEAC 4.11.1d)

1. No policy or regulation of the Department shall include any of the following:
  - a. A limitation on the number of records which may be requested or made available for inspection or duplication.
  - b. A requirement to disclose the purpose or motive in requesting access to records.

H. Release of Material Exempt from the Provisions of the Right-to-Know Law

1. On occasion, the West Whiteland Township Police Department may receive requests for reports and their accompanying material that are exempt from the provisions of the Right-To-Know Law, and which are not requested via a subpoena. However, in its efforts to fully serve the public, the Department reserves the right to release this material under the provisions set forth in this regulation.
2. Individuals seeking to obtain reports may make their requests either in person, via fax, telephone, or electronic correspondence. These individuals shall indicate their name and address.
3. The Department shall conduct a case-by-case assessment of requests to determine whether it would be appropriate to release the information requested. In the event that the Department determines that it will release the report, the Department will also assess what material(s) shall be released.
4. In the event that the Department determines that the report(s) will be released, the Department shall assess the following fees in accordance with the Official Right-to-Know Law Fee Schedule. Refer to Appendix C (Fee Schedule).
  - a. The Chief of Police reserves the right to waive the fees indicated above if, in the opinion of the Department, the fees would cause undue financial hardship for the requesting party.

I. Crime Victims' Right of Access in Compliance with Act 134 of 2022 (PLEAC 4.11.3).

1. When information is otherwise exempt from public disclosure under the PA Right-to-Know Law or other State or Federal laws, rules, or regulations, certain information may be released

in compliance with Act 134 of 2022, known as the Crime Victims' Right of Access. The following procedures shall apply:

2. Right to Access – The request is made by a crime victim or a defendant in a civil action in which the crime victim is a part to obtain criminal history investigative information for use in or investigation of an actual or potential civil action in the Commonwealth. In these instances, a requesting party or a requesting party's legal representative may obtain criminal history investigative information for use in or investigation of an actual or potential civil action in this Commonwealth relating to that criminal history investigative information.
3. General Rule – A requesting party may request the dissemination of criminal history investigative information that is directly related to a civil action pending in a court in this Commonwealth.
4. General Rule – A crime victim or the crime victim's representative may request the dissemination of criminal history investigative information that is material and necessary to the investigation or preparation of a civil action in this Commonwealth.
5. Request – A request for dissemination shall include an unsworn statement by the requesting party or the requesting party's legal representative, made subject to the penalties of §4904 (relating to unsworn falsifications to authorities), that the requested information is directly related to a civil action pending in a court in this Commonwealth or, if the requesting party is a crime victim or the crime victim's legal representative, material and necessary to the investigation or preparation of a civil action in this Commonwealth. A request for dissemination shall identify or describe the information sought with sufficient specificity to enable the criminal justice agency to ascertain which information is being requested.
6. Service – A request for dissemination shall be served on the records information officer. Service shall be effective upon receipt of the request by the records information officer or head of the criminal justice agency via personal service or certified mail with receipt.
7. Dissemination – Subject to §9158.3 (related to denial) and section 10 below (related to denial), the West Whiteland Township Police Department shall disseminate criminal history investigative information in response to a request for dissemination within 60 days of receipt of the request for dissemination or by the date returnable on the request for dissemination, whichever is later. The West Whiteland Township Police Department may impose reasonable fees for costs incurred to comply with the request.
8. Receipt of Information – Dissemination of information under this section may be made to the requesting party or the requesting party's legal representative, or the attorney for the requesting party's legal representative, as directed by the request for information. Criminal history investigative dissemination obtained under this subchapter shall be discoverable in a civil action directly related to the crime, unless otherwise non-discoverable or privileged from discovery.
9. Subpoenas – The West Whiteland Township Police Department may, in its sole discretion, respond to a subpoena in a pending civil action seeking disclosure of criminal history investigative information as a request for dissemination under this subchapter. Nothing under this subchapter shall relieve the West Whiteland Township Police Department of also responding to a subpoena as otherwise required by law or court rule.

10. Denial – The West Whiteland Township Police Department shall deny a request for dissemination if the criminal justice agency determines:

1. That, absent reasonable redactions, the dissemination of the requested information:

- a. Endangers a person or public safety.
- b. Adversely affects an investigation or ongoing prosecution; or
- c. Relates to law enforcement's use of confidential informants or discloses investigative techniques and procedures

2. Either that:

a. The criminal history investigative information is not:

- i. Directly related to a civil action pending in a court in this Commonwealth; or
- ii. Material and necessary to the investigation or preparation of a civil action in Commonwealth.

b. Dissemination of the requested information would identify a third-party victim of child abuse, domestic violence or sexual abuse, unless the West Whiteland Township Police Department determines that reasonable redaction of the information will prevent identification of the third-party victim.

11. Service of Denial – The West Whiteland Township Police Department shall serve a denial in writing to the requesting party within 60 days of the receipt of the request for dissemination or by the date returnable on the request for dissemination, whichever is later, identifying the grounds for the denial.

12. Judicial Review – A requesting party may file for a petition for review appealing a denial, which shall include the following for the request for dissemination

13. Related Forms - [CHRIA Unsworn Statement Form](#) & [Crime Victim Right of Access Request Form](#)