

WEST EARL POLICE DEPARTMENT STANDARD OPERATING PROCEDURE



Records Release, Retention, and Security

BY THE ORDER OF:

Chief Eric S. Higgins

OF PAGES:

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EFFECTIVE DATE: June 23, 2025

ACCREDITATION STANDARDS: 4.11.1, 4.11.2

SUPERSEDES ORDER #: N/A

PURPOSE:

The purpose of this policy is to establish standard procedures for the secure management of the West Earl Township Police Department records systems and guidelines for releasing reports or information in compliance with the Right-to-Know law, Criminal History Record Information Act and other applicable laws.

POLICY

It shall be the policy of the West Earl Township Police Department to provide security measures for the safekeeping and releasing of Police Department reports or information in compliance with the Right to Know Law and other applicable laws. The Pennsylvania "Right to Know" Law provides for access to municipal records defined as "common public records" to any United States resident, regardless of interest in the incident. It shall be the policy of this Department to provide responsible disclosure of information and to be in compliance with the law.

Furthermore, it shall be the policy of this Department to, at a minimum, abide by the schedule established by the Pennsylvania Historical and Museum Commission regarding the retention of records, the transfer of records from one form to another, and the destruction of records.

DEFINITIONS:

Criminal History Record Information: Information collected by criminal justice agencies concerning individuals, and arising from the initiation of a criminal proceeding, consisting of identifiable descriptions, dates, and notations of arrest, indictments, information, or other formal criminal charges and any dispositions arising therefrom. This term will not include intelligence information, investigative information, treatment information, or any other prohibited information.

Criminal History Records Information Act (CHRIA): All provisions encompassed by Title 18 PA C. S. A. 9101 et. seq. regulating the collection, storage, and dissemination of criminal justice agency information and related records.

Criminal Justice Agency: Any court, including the minor judiciary, with criminal jurisdiction or any other governmental agency, or subunit thereof, created by statute or by the State or Federal constitutions, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to such function. Criminal justice agencies include, but are not limited to: organized State and municipal police departments, local detention facilities, county, regional, and State correctional facilities, probation agencies, district or prosecuting attorneys, parole boards, pardon boards, the facilities and administrative offices of the Department of Public Welfare that provide care, guidance, and control to adjudicated delinquents, and such agencies or subunits thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal Constitutions or both.

Dissemination: Oral, written, or electronic transmission or disclosure of information outside of the agency which maintains the information.

Open Records Officer: The Chief of Police has been designated as the Open Records Officer responsible for assuring compliance with the Pennsylvania Right-to-Know Law.

Protected information: Protected Information includes three types of information:

- A. Intelligence information - Information concerning the habits, practices, characteristics, possessions, associations, or financial status of any individual compiled to anticipate, prevent, monitor, investigate or prosecute criminal activity. Notwithstanding the definition of "treatment information" contained in this section, intelligence information may include information on prescribing, dispensing, selling, obtaining, or using a controlled substance as defined in the Act of April 14, 1972 (P.L. 233, No. 64), known as the Controlled Substance Drug Device and Cosmetic Act.
- B. Investigative information - Information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing and may include modus operandi information.
- C. Treatment information - Information concerning medical, psychiatric, psychological, or other rehabilitative treatment provided, suggested, or prescribed for any individual charged with or convicted of a crime.

Record: Information, regardless of physical form or characteristics, that documents a transaction or activity of an agency and that is created, received, or retained pursuant to law or in connection with a transaction, business, or activity of the agency. The term includes a document, paper, letter, map, book, photograph, film or sound recording, information stored or maintained electronically, and a data-processed or image-processed document.

Records Custodian: The Chief of Police or their designee shall act as the Department's designated records officer and assistant to the Township's Open Records Officer.

PROCEDURES:

I. RECORDS ACCESS AND SECURITY

- A. All paper records and files are kept in filing cabinets located within the secure administrative area.
- B. All personnel authorized to have access to or all personnel who have access to criminal justice information (CJI), including new employees, current users, personnel who

manage users, IT personnel, contractors, and personnel with physical access to the building shall receive Security Awareness training within six months of assignment and once every two years thereafter.

II. RELEASE OF AGENCY RECORDS

A. The following are examples of public records that may be available for release by law enforcement agencies:

1. Police blotters;
2. Incident reports;
3. Traffic Reports; and/or
4. Emergency time response logs.

B. All records in possession of a law enforcement agency shall be presumed to be public record unless:

1. The record is exempt under the Right-To-Know Law;
2. The record is protected by privilege; and/or
3. The record is exempt under any other federal or state law or judicial order or decree;

C. The following are examples of records of a law enforcement agency that are exempt and can be withheld:

1. Investigative materials from active investigations;
2. Confidential source information;
3. Victim Information, 9-1-1 Calls, and transcripts;
4. Officer's field notes; and/or
5. Autopsy reports and related photographs.

D. Crash Reports

1. In accordance with Section 3751(b) Title 75 of the Pennsylvania Motor Vehicle Code, Police Departments shall, upon request, furnish at cost not to exceed the allowed amount by state code for a certified copy of the investigation of any vehicle accident to any person involved in the accident, their attorney or insurer, and to the Federal Government, branches of the military service, and to Commonwealth agencies, and to officials of political subdivisions and to agencies of other states and nations and their political subdivisions.
2. A crash report may be obtained via [CrashDocs](#) or in person at the department during normal business hours.

E. Child Abuse Investigations

1. Pursuant to Title 18 PA C. S. A. § 9106 the Department may disseminate information relating to an allegation or instance of child abuse to a county agency or the Department of Human Services for the purpose of investigating the allegation.

F. Crime Victim Right of Access

1. Crime victims and/or a defendant in a civil action in which the crime victim is a party may obtain criminal investigative information for use in an existing civil action or in contemplation of a potential civil action. 18 Pa. C.S. § 9158.1. This is a specific, limited exception to CHRIA's strict prohibition against the dissemination of investigative information.

- a) The act does not permit the disclosure of otherwise non-discoverable or privileged information, including:

- (1) Grand Jury materials;

- (2) Medical, mental health, or treatment information;

- (3) Attorney-client or work product privileged materials;

- (4) Materials protected by 42 Pa. C.S. Ch. 63 (relating to juvenile matters);

- (5) Materials protected by 42 Pa. C.S. Ch. 47 (relating to recordings by law enforcement officers);

- (6) Information otherwise prohibited or protected from disclosure or dissemination by Federal or State law.

2. To be eligible, the requesting party must be:

- a) A crime victim or a defendant in a civil action in which a crime victim is a party, **AND**

- b) The requested information must be directly related to or material and necessary to investigate or prepare for a civil action within the Commonwealth.

Note: The term "crime victim" applies to those individuals who have suffered "physical or mental injury, death or the loss of earnings" as a direct result of a criminal act. 18 Pa. C.S. § 11.103.

3. Requests

- a) Requests must be made to the “records information officer,” defined by statute as the head of the Chief of Police or their designee. 18 Pa. C.S. § 9158.2(c).
- b) All requests shall be made on the department’s [Crime Victim Right of Access Request Form](#). This is not a Right to Know request. See section II.I of this policy for procedures on processing Right to Know Request.

(1) The [Crime Victims Right of Access Request Form](#) shall include an unsworn statement made subject to the penalties of section 4904 (relating to unsworn falsification to authorities) that the information is directly related to a civil action pending in a court of this Commonwealth or is material and necessary to the investigation or preparation of a civil action in this Commonwealth. 18 Pa. C.S. § 9158.2(b), and

- c) All requests must describe the information sought with sufficient specificity to enable the agency to ascertain what is being requested. 18 Pa. C.S. § 9158.2(b).

4. The department has the discretion to decide whether to treat a subpoena in a pending civil action as a request for dissemination under the Crime Victim Right of Access. 18 Pa. C.S. § 9158.2(f).

5. All Crime Victim Right of Access Requests should be submitted to the Chief of Appeals and Legal Services for the Lancaster County District Attorney’s Office.

6. Response

- a) The department shall respond with a denial or dissemination of the requested materials within sixty (60) days or the date returnable on the request, whichever is later.

(1) Approval and Dissemination

- (a) Dissemination may be made to the requesting party, legal representative, or their attorney. 18 Pa. C.S. §§ 9158.2(d) and 9158.3(b).
- (b) Personal identification information, including social security numbers, driver’s license numbers, financial information, phone numbers, and e-mail addresses, shall be exempt from dissemination and must be redacted.

(2) Denial of Requests

(a) Requests may be denied, in whole or in part, for any of the reasons provided in 18 Pa. C.S. § 9158.3.

(b) Requests shall be denied if, absent reasonable redactions, dissemination would:

(i) Endanger a person or public safety;

(ii) Adversely affect an investigation or ongoing prosecution;

(iii) Relates to law enforcement's use of confidential informants or discloses investigative techniques or procedures; or

(iv) The information sought does not meet one of the two necessary criteria as outlined in Section II.F.2.b)-c) of this policy; or

(v) Dissemination would identify a third-party victim of child abuse, domestic violence or sexual abuse.

7. Appeals

a) A requesting party may appeal a denial on these grounds. A petition for judicial review must be filed within forty-five (45) days of service of the denial in the Court of Common Pleas in the judicial district where the agency is located. 18 Pa. C.S. § 9158.4.

8. Fees

a) The department is permitted by law to impose reasonable fees for costs incurred to comply with Crime Victim Right of Access requests. The requests are not subject to the Official Fee Schedule established by the Office of Open Records.

b) All fees will be set by the West Earl Township Board of Supervisors and follow the encouraged fee schedule established by the District Attorney's Office.

G. Request for Individual Access and Review of Criminal History Information

1. Title 18 PA C. S. A. § 9151 provides for the right of any individual to request access and review of their personal criminal history record. The individual must be told that any records provided as a result of this inquiry will be only those records contained in the files of the West Earl Township Police Department.

2. To be eligible to access and review a personal criminal history record, a requester must be the subject of the record or a legal representative of the subject of the record.

- a) In order for a legal representative to be eligible to access and review a record, a notarized legal affidavit, court order, or letter of representation from an attorney at law must be presented at the time of the request.
- 3. Title 18 PA C. S. A. § 9152 permits an individual to challenge an entry on their criminal history record. The individual must specify which portion of the record is inaccurate and what the correct version should be. The agency will then have 60 days to conduct a review of the challenge to determine if the challenge is valid.
 - a) Individuals who do not desire to challenge the accuracy of a criminal history record but who do desire to have the record expunged should be directed to consult an attorney at law.
- 4. Upon confirmation of the requester's identification, the fee of \$15, in the form of a certified check, money order, or receipt of cash payment, must be received prior to accepting the request form for processing.
- 5. Requested information will be mailed to the requester without unnecessary delay.

H. Request for Criminal History Records Check

- 1. Title 18 PA C. S. A. § 9121(b) provides for the right of any non-criminal justice personnel or agencies to request access and review of criminal history record information of any individual(s) upon request. The requesting individual must be told that any records provided as a result of this inquiry will be only those records contained in the files of the West Earl Township Police Department.
- 2. The requester must be told the following:
 - a) That statute requires all notations of arrest or indictments where three years have elapsed from the date of initiation of the proceedings will be redacted from the record; and
 - b) Arrests or indictments where no conviction occurred will be redacted; and
 - c) Records where no proceedings are pending seeking a conviction will be redacted.
 - d) No information which is subject to a court order limiting access will be provided.
 - e) Intelligence, Investigative, and Treatment Information is considered protected information by definition and will be redacted from the record.
- 3. Upon confirmation of the requester's identification, the fee of \$15, in the form of a certified check, money order or receipt of cash payment, must be received prior to accepting the request form for processing. By statute, this fee is waived for those individuals who make a request in order to apply for, or become volunteers with, Big Brothers or Big Sisters of America, rape crisis centers, domestic violence programs, county children and youth programs, or the Department of Public Welfare in the performance of their duties related to children and youth.

4. Requested information will be mailed to the requester without unnecessary delay.

I. Public Information and Right-to-Know

1. The department will provide public records in accordance with the Pennsylvania Right-to-Know Law.
2. The Open Records Officer or their designee shall:
 - a) Receive requests submitted to the agency under the Right-to-Know Law and direct requests to other appropriate persons within the agency or to appropriate persons in another agency;
 - b) 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 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 a final determination is issued under section 1101(b) or the appeal is deemed denied.
3. Posting requirements
 - a) The following information will be posted at the department and on the Township's [website](#):
 - (1) Contact information for the Open Records Officer.
 - (2) Contact information for the Office of Open Records or other applicable appeals officer.
 - (3) The Open Records Request Form.
 - (4) Regulations, policies, and procedures of the department relating to the Right-to-Know law.
4. Process for Requesting Information:
 - a) With the exception of vehicle crash reports (as listed under statute 75 Pa.C.S. 3751 (b)(1)), all requests for public records under the

Right-to-Know Law shall be in writing and shall be made utilizing the Open Records Request Form specified by the Pennsylvania Office of Open Records.

b) Request Forms may be submitted in the following manner:

(1) Via mail

(2) In person

(a) Completed Request Forms may be delivered to the police department during established business hours on Monday-Friday, from 7:30 am to 4:00 pm with the exception of holidays.

(3) Electronically

(a) Completed Request Forms may be emailed to RTK@westearlpd.org.

5. Responses to a Request

a) The Open Records Officer will respond in writing to a Right-to-Know Request within five working days in one of the following ways:

(1) Grant the request and provide the records.

(2) Deny the request in whole or in part, cite the reason for the denial, and outline the appeals process for the requestor.

(3) Invoke a 30 calendar-day extension.

(a) In the event that the Open Records Officer invokes an extension, the Open Records Officer will within 30 days take one of the following actions:

(i) Grant the request and provide the records.

(ii) Deny the request in whole or in part, cite the reason for the denial, and outline the appeals process for the requestor.

6. Fees

a) Pennsylvania statute (75 Pa.C.S. 3751 (b) (2)) gives the Department the authority to charge up to \$15.00 per report for providing a copy of a vehicle accident report. Non-police-related reports such as minutes and financial records will follow the fee schedule established by the Office of Open Records:

(1) Up to 25 cents per page for black-and-white copies.

- (2) Actual cost for specialized documents such as color copies or blueprints.
 - (3) \$1 per page for certifications.
 - (4) Actual cost for fax, microfiche, or other media.
 - (5) Actual cost for postage.
7. If a written request is denied or deemed denied, the requester shall be advised of the appeal process.
 - a) The requester must file the appeal in writing (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 Open Records Officer's response (or a written statement that the request was deemed denied due to a lack of response).
 - (3) Statement of the grounds for asserting that the information requested is a public record.
 - (4) Address any ground stated by the Open Records Officer for denying the request.
 - (5) The appeal must be submitted to the Office of Open Records within 15 business days of the mailing date of the Department's response.

(a) Appeals may be submitted via any of the following methods:

 - (i) General Appeals:
 - (a) Appeals may be mailed to the Office of Open Records

333 Market Street, 16th Floor
Harrisburg, PA 17101-2234
 - (b) Appeals may be faxed to 717-425-5343.
 - (c) Appeals may be submitted via email as a Microsoft Word document or PDF attachment to openrecords@pa.gov.
 - (ii) Criminal Investigative Record Appeals:

(a) Appeals may be mailed to Lancaster County
Office of the District Attorney, District
Attorney Appeals Officer

50 North Duke Street
Lancaster, PA 17608

8. Redaction

- a) If the Open Records Officer determines that a public record contains information that is subject to access as well as information that is not subject to access, the Open Records Officer's response will grant access to the information which is subject to the access and deny access to the information which is not subject to access. The Township and/or Department will redact from the record the information which is not subject to access. The Department may not deny access to the record if the information which is not subject to access is able to be redacted.

9. Prohibitions

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

J. Audio and Video Recordings Release

1. The following definitions are specific to Act 22 of 2017:

- a) Confidential Information: Information that includes the identity of a confidential source, the identity of a protected suspect or witness, or any information made confidential by law or court order.
- b) Information Pertaining to an Investigation: An audio recording or video recording that contains:
 - (1) Complaints or depictions of criminal conduct, including all actions or statements made before or after the criminal conduct that are part of or relate to the same incident.
 - (2) Information that, if disclosed, would reveal details of a criminal or agency investigation, deprive an individual of a fair trial or impartial adjudication, hinder the ability to locate a defendant, impair the prosecution of a case, or endanger someone's life or safety.
- c) Victim: An individual who has experienced an act that constitutes a criminal offense, including offenses related to controlled substances, crimes and offenses, operating watercraft under the influence, homicide by vehicle, aggravated assault by vehicle, accidents causing death or

injury, driving under the influence, or any similar offense outside of Pennsylvania.

- d)** Victim Information: Information that could reveal the identity or jeopardize the safety of a victim.

2. Request Process:

- a)** Individuals seeking audio or video recordings made by a law enforcement agency must adhere to the following:

- (1)** Within 60 days of the recording's creation date, submit a written request to the designated open-records officer. Service is considered effective upon the open-records officer's receipt, achieved through personal delivery or certified mail with proof of service.
- (2)** Requests must provide precise details regarding the incident or event covered by the recording, including date, time, and location.
- (3)** Requesters must include a statement describing their relationship to the incident or event featured in the audio or video recording.
- (4)** In cases where the recording pertains to an incident inside a residence, the request must identify all individuals present at the time of recording, unless their identities are unknown and not reasonably ascertainable.

3. Preservation

- a)** Upon receiving a request for an audio recording or video recording, this agency shall preserve the unaltered audio recording or video recording that has been requested for no less than the time periods provided in Act 22 for service (60 days) of and responses to written requests for the production of the audio recording or video recording (30 days) and any period within which a petition for judicial review is allowable (30 days) or pending.

4. Response

- a)** This agency shall either provide the requested audio or video recording or provide a written explanation for the denial within 30 days of receiving the request unless both the requester and the law enforcement agency mutually agree to a longer time frame.
- b)** Unless otherwise specified, if this agency determines that an audio or video recording contains any of the following; potential evidence in a criminal matter, information related to an ongoing investigation, confidential information, or victim information, and if reasonable redaction would not safeguard these interests, the agency shall issue a written denial. The denial must explicitly state that reasonable redaction is insufficient to protect the interests listed above.
- c)** Failure to provide the recording or a written explanation within the specified or mutually agreed-upon timeframe will result in the request being deemed denied by operation of law.

5. Redactions

- a)** Law enforcement agencies shall have the authority to redact portions of audio and video recordings when it is necessary to protect potential evidence in a criminal matter, maintain the confidentiality of information related to an ongoing investigation, safeguard sensitive data, or ensure the anonymity of victims or witnesses.
- b)** Redactions must be performed in a manner that balances these interests while still providing the requester with the relevant and non-sensitive portions of the recording.

6. Fees

- a)** As outlined by Act 22, this agency may establish reasonable fees related to the costs incurred for disclosing audio or video recordings. These fees must be paid by the requesting party at the time of disclosure.

7. Petition for Judicial Review

- a)** If a request is denied, the requester may file a petition for judicial review in the court of common pleas with jurisdiction within 30 days of the denial.
- b)** The petitioner must fulfill the following obligations:
 - (1)** Pay a filing fee of \$125.
 - (2)** Certify service of notice to individuals present at the time of the recording and the owner/occupant of the residence, if applicable.
 - (3)** Include the original written request and any responses with the petition.
 - (4)** Serve the petition on the open-records officer of the respondent law enforcement agency within five days of filing, with proof of service.
- c)** Grounds for summary dismissal of a petition include untimely requests, inadequate request specificity, or non-compliance with the stipulated requirements.
- d)** A court of common pleas with jurisdiction may grant a petition, in whole or in part, and order the disclosure of the recording if the petitioner demonstrates, by a preponderance of the evidence, that certain criteria have been met, including considerations of public interest, safety, privacy, and available resources for reviewing and disclosing the recording.

K. Incident Verification Letter

- 1.** Members of the public may occasionally require written verification that an incident was reported, often for insurance or related purposes. In cases where the report itself is exempt from disclosure under the Pennsylvania Right-to-Know Law, individuals may request an [Incident Verification Letter](#) as an alternative form of confirmation.

2. The Right-to-Know Officer or designated Records Clerk is authorized to prepare and issue an [Incident Verification Letter](#) to the requesting party, as appropriate.

L. Media Releases

1. It will be the Police Department's policy to cooperate with the media with regard to releasing information concerning vehicle crashes, crime, critical incidents, or other requested information as long as it is in the public's interest and will not compromise an ongoing investigation or jeopardize someone's safety. Media information may only be released by the Chief of Police or their designee (see this Department's [Public Information](#) Policy).

- a) The unauthorized release of information concerning official police matters to news agencies shall be considered a serious breach of discipline.

III. RETENTION OF RECORDS

- A. Retention and purging of reports shall be accomplished consistent with the provisions of the Municipal Records Manual issued by the Pennsylvania Historical and Museum Commission, Division of Archival and Records Management Services.
- B. When outdated records need to be destroyed, the Chief of Police may reassign personnel to records disposal duties. Or the Chief of Police may authorize an outside vendor to shred the records.
- C. Personnel shall not haphazardly discard police-related records into the trash without first destroying or redacting confidential information contained within such as social security numbers, driver's license numbers, DOB, telephone numbers, etc.