

# GENERAL ORDER



Title  
**Freedom of Information**

Topic/Number  
**GO-SPT-204.05**

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**B**

Replaces/Rescinds  
**General Order 204.5 (Freedom of Information)**

## DISTRICT OF COLUMBIA

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### I. BACKGROUND

The Freedom of Information Act (FOIA) guarantees access to information that is in the public domain. Citizens have a right to know what their public agencies are doing to provide the basic services for which public monies are budgeted. Access to information is not absolute because some information, such as criminal intelligence, personnel-related matters, and information gathered pursuant to ongoing investigations must be protected from public disclosure in order not to jeopardize legitimate law enforcement operations. The timely, unobstructed providing of information to which the public is guaranteed access, not only complies with District of Columbia (and applicable Federal) Law, but also builds trust and respect between the community and the Metropolitan Police Department (MPD).

### II. POLICY

The policy of the Metropolitan Police Department is to provide information to individuals upon request, pursuant to the provisions of applicable District of Columbia and Federal Law. In doing so, members shall be sensitive to the type of information requested and the potential need to protect it from disclosure. (CALEA 82.1.1)

### III. DEFINITIONS

For the purpose of this directive, the following terms shall have the designated meanings:

1. Access - the right to inspect and copy any records that can be disclosed to the public.
2. Act - the District of Columbia Freedom of Information Act (D.C. Official Code §2-531).

3. Member –sworn and non-sworn personnel of the MPD, unless otherwise specified.
4. Receipt - receipt by the Public Information Office (PIO) of a properly addressed request, as required by the rules to the public. A request improperly addressed (i.e., forwarded to PIO after having been erroneously addressed to another office or agency) is not considered received in a timely manner until received by the Public Information Office.
5. Record - all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics prepared, owned, used, in the possession of, or retained by the MPD.

#### IV. RULES

- A. Members of the MPD shall furnish records to the public in the customary and regular conduct of the member's official duties, unless the public disclosure of the records is prohibited by this order. (CALEA 82.1.1-d)
- B. Any requests for multiple matters or matters that appear to be complicated in nature, shall be made in writing.
- C. A request for a record shall reasonably identify the record sought. A request is considered reasonably identified if it contains one of the following:
  1. General description of the subject matter and a reference to the member, or unit within the MPD that was either the source of, or is responsible for, maintaining the record;
  2. Reference to a public meeting or the minutes thereof;
  3. Reference to an appropriate date of issuance; or
  4. Such other similar information sufficient to enable members to locate the record with a reasonable amount of effort.
- D. If a request does not reasonably identify the record sought, the response denying the request on that ground shall specify the reasons why the request failed to meet the above listed requirements. The response shall extend to the requester an opportunity to confer with PIO personnel, to attempt to reformulate the request in a manner that meets both the requester's needs and the requirements.
- E. When a requested record is reasonably identified, the department shall, within 10 days after the date of receipt (excluding Saturdays, Sundays, and legal public holidays), either make the record accessible or notify the requester of

the determination not to make the record or any part of it accessible, and the reasons for such action.

- F. When a requested record may be disclosed, the designated member shall notify the requester where and when the record will be available for inspection, or a copy made available, and any applicable fee.
- G. Denials shall be in writing and signed by the commanding officer of the responsible unit, and shall include:
  - 1. The specific reasons for the denial, including references to the particular exemptions set forth in this order;
  - 2. The name of any other "employee responsible for the decision" where the denial was made at the request of another unit; and
  - 3. A statement that the denial may be appealed as provided in the rules to the public.
- H. In unusual circumstances, the 10-day time limit may be extended by written notice to the requester, indicating the reason(s) for extension and the expected decision date.
  - 1. The extension shall not exceed 10 days (except Saturdays, Sundays, and legal public holidays).
  - 2. The term "unusual circumstances" is limited to:
    - a. The need to search for, collect and appropriately examine a voluminous amount of records demanded in a single request; or
    - b. The need for consultation with another agency or another branch, division, unit, etc., within the MPD, having a substantial interest in responding to the request.
  - 3. The responsible unit shall continue to process the request.
  - 4. The commanding officer shall inform the requester of the reason for the delay, the date a decision is expected and the right to treat the delay as a denial and to appeal.
- I. The requester shall be notified when a record cannot be located, is known to have been destroyed, or is otherwise not available.
- J. If a requester does not contact the department within 30 days after a letter of response has been sent, the request shall be considered abandoned and no further action needs to be taken on that particular request.

1. Information gathered as a result of such a request need not be maintained beyond the 30-day period.
2. Requesters responding after the 30-day period shall be advised of the MPD policy and that the request must be resubmitted.

## V. REGULATIONS

A. The following information must be made available for public disclosure upon request:

1. The names, salaries, rank or title, and dates of employment of all members of the department.
2. General and special orders, circulars, and other instructions that affect a member of the public. For example, GO-PER-201.26 (Duties, Responsibilities and Conduct of Members of the Department).

Note: Certain directives shall not be made available to the general public for either inspection or copying because the contents are considered sensitive to Departmental operations.

Consequently, the material in the exempt directives shall not be released pursuant to a request filed under provisions of the District's Freedom of Information Act. Applicable FOIA exemptions may be found in D.C. Official Code § 2-534(a)(3)(E and F).

3. Final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases. For example, trial board and review board decisions.
4. Those statements of policy and interpretations of policy, acts, and rules that have been adopted by MPD (i.e., gun control, parade permit and harbor regulations published in the D.C. Register.
5. Correspondence and materials relating to any regulatory, supervisory or enforcement responsibilities of the department, whereby the department determines or states an opinion upon, or is asked to determine or state an opinion upon, the rights of the District, the public or any private party. For example, letters to the City Council with respect to the department's position on gun control.
6. Information in or taken from any account, voucher, or contract dealing with the receipt or expenditure of public or other funds. Such information applies only to routine procurement and disbursement accounts, not funds about which disclosure would compromise an investigation (i.e., vice vouchers).

7. Any reasonably separable portion of a record shall be provided to a requester after deletion of those portions exempt from public disclosure.
- B. The following information shall be withheld from public disclosure:
1. Trade secrets and commercial or financial information obtained from outside the government, to the extent that disclosure would result in substantial harm to the competitive position of the person from whom the information was obtained.
  2. Information of a personal nature, where public disclosure would constitute a clearly unwarranted invasion of personal privacy. For example, the medical history of a rape victim; the medical records of a police officer; and certain information in personnel records such as, home address, telephone number and social security number, as outlined in GO-PER-201.09 (Handling Employee Personnel Records).
  3. Investigative records compiled for law enforcement purposes, to the extent that the production of such records would:
    - a. Interfere with enforcement proceedings (for example, any open criminal case);
    - b. Deprive a person of a right to a fair trial or an impartial adjudication (for example, trial board proceedings where the affected member might be prejudiced by the untimely release of information);
    - c. Constitute an unwarranted invasion of personal privacy. (For example, PD Forms 252 and 119, even in closed cases, especially if a witness was not called to testify at the trial); (CALEA 55.1.3)
    - d. Disclose the identity of a confidential source and, in the case of a record compiled by a law enforcement authority in the course of a criminal investigation, confidential information that could lead to identification of the confidential source; (CALEA 42.2.9)
    - e. Disclose investigative techniques and procedures not generally known outside the government;
    - f. Endanger the life or physical safety of law enforcement personnel (for example, the use of the "armed and dangerous" code or the location of stake-outs);
    - g. Inter or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the department (for example, attorney work product and

memoranda giving advice). However, final decisions and factual information must be released;

- h. Test questions and answers to be used in future employment or promotional examinations, except that previous examinations or answers may be released; and (CALEA 34.1.3-h)
- i. Information specifically exempted from disclosure by statute, for example, juvenile records in accordance with D.C. Official Code § 16-2332. (CALEA 82.1.1-b & c)

## VI. PROCEDURAL GUIDELINES

### A. Fees and Costs

1. Reasonable fees and costs are applicable for services rendered to persons pursuant to this order.
2. Fees and costs for a records search shall be in accordance with the following fee schedule:
  - a. \$5.00 per quarter hour, or fraction thereof, after the first quarter hour. In no case shall a search fee exceed \$10.00; and
  - b. 25 cents a page shall be charged for reproduction copies. Only one copy per page shall be provided.
3. The cost for searching and duplication of records shall be tabulated on a PD Form 156 (Public Disclosure Search and Duplication Record).
4. The cost for special services such as computer runs and photos, shall be assessed by the PIO.
5. The direct cost to MPD of services or materials, other than those described above, may be charged. In such cases, the requester shall be notified of the cost before it is incurred.
6. The PIO may demand reimbursement for the cost of mailing requested information.
7. Search costs shall not be assessed if a requested record cannot be located.
8. Fees must be paid in full prior to release of the requested records.
9. Remittances shall be:

- a. In the form of a:
  - (1) Cashier's or certified check;
  - (2) Bank draft drawn on a bank in the United States;
  - (3) U.S. postal money order; or
  - (4) Cash.
- b. Made payable to the D.C. Treasurer.
- c. Delivered to the D.C Treasurer, room 1140 (in 300 Indiana Avenue, N.W.) by:
  - (1) The requester if he/she is on hand; or
  - (2) A designated member of the PIO, or other organizational element, which collects a fee on a daily basis (except Saturdays, Sundays, and legal public holidays).

10. Advance Deposits

- a. When the anticipated fee exceeds \$25.00 (exclusive of search costs) the commanding officer may require an advance deposit of 50% of the anticipated fee, or \$25.00, whichever is greater.
- b. When a requester has previously failed to pay a fee, an advance deposit of the anticipated full amount is required.
- c. The advance deposit shall be processed as provided in item 9 above on a PD Form 196-A (Payer's Receipt). (CALEA 17.4.2-b)
- d. A copy of the paid receipt shall be placed in the Public Disclosure Jacket.

11. The commanding officer, the MPD General Counsel, or the Director of the PIO, acting on behalf of the Chief of Police, may waive all or part of any fee where the information primarily benefits the general public rather than the requester.

B. Public Disclosure File and Request Log

1. A copy of all documents pertaining to a request for records shall be placed in a jacket, which shall be maintained in the PIO, alphabetically by requester name, for each calendar year. A jacket, when completed, shall contain: (CALEA 82.3.5)

- a. The original request;
  - b. Letter(s) to the requester concerning:
    - (1) Receipt of an improperly addressed request;
    - (2) Availability;
    - (3) Extension;
    - (4) Delay; or
    - (5) Denial.
  - c. Memoranda concerning meetings or conversations with the requester for the purpose of adjusting the request;
  - d. Copy of a record, from which certain information has been obliterated, showing the particular deletions;
  - e. PD Form 155 (Public Disclosure Control Record);
  - f. PD Form 156 (Public Disclosure Search and Duplication Record);
  - g. PD Form 196-A (Payer's Receipt); and
  - h. Any appeal and the determination.
2. The PIO shall maintain a log by year to show the:
- a. Control number for each request;
  - b. Date of receipt by the PIO;
  - c. Responsible unit to which the request was forwarded;
  - d. Date forwarded;
  - e. Date of an extension, if any;
  - f. Date returned from the responsible unit;
  - g. Date the requester is notified of an extension; and
  - h. Date the record is released.

### C. Procedures for Processing Requests

1. All requests for records shall be sent to the PIO. The member designated to handle requests shall: (CALEA 82.1.1-d)
  - a. Log in all such requests;
  - b. Determine which element is the responsible unit;
  - c. Forward the request with PD Form 155 to the commanding officer of the responsible unit; and
  - d. Maintain a suspense copy of the PD Form 155, in alphabetical order, in the Public Disclosure Jacket until there is a disposition.
2. Upon receipt of a request for a record, the commanding officer shall:
  - a. Determine if the assistance of other units is necessary, provide a copy of the request to such secondary unit(s), and be responsible for coordinating the response to the request;
  - b. Cause an immediate search for the requested record;
  - c. Follow the instructions stipulated above, except that any response to a request shall be forwarded to the PIO within 7 days (excluding Saturdays, Sundays, and legal public holidays);
  - d. Cause the prompt and accurate completion of PD Form 156, if necessary;
  - e. Forward the original request, the final response, any copies of records that have been made available, and PD Form 156 with PD Form 155 to the PIO upon final disposition of the request;
  - f. Ensure that when it is impractical to reproduce the records requested due to volume, and/or it is considered unfeasible due to the sensitivity of the records to deliver them to the PIO, the requester shall be advised of the location(s) where he/she can view the records, then decide what portion should be copied;

Note: The organizational element holding sensitive information shall maintain that information in his/her element and not provide the information to the PIO. This will prevent unnecessary duplication of sensitive documents.

- g. Ensure that when particular pages of a record contain irrelevant portions, those pages shall be reproduced and the irrelevant portions redacted from the reproduced pages;



- (1) Require the person to produce the notice that was sent in response to his/her request, or another form of proof of identity if the notice is not available; and
  - (2) Process payment for the search and/or duplication of records in the following manner:
    - (a) Complete PD Form 196-A, and advise the requester to take the form to Room 1140 in the Municipal Center to make payment, in cases where:
      - (i) Copies of records are available;
      - (ii) Only the original is available and the requester expresses an intention to copy the whole record; or
      - (iii) A search fee is payable for records which the requester wishes only to view.
    - (b) When the requester intends to copy portions of the record, the PIO member may, at his/her discretion, allow the requester to review and select those portions the requestor wants copied prior to collecting a search fee. After the duplication fee is tabulated, along with the search fee, the member shall follow the procedure in item (a) above.
  - (3) Upon receiving the paid receipt, turn the specified record over to or allow the information to be viewed by the requester; and
  - (4) For records held by another unit located in the Municipal Center, the requester shall be directed to present the payer's receipt to the element's station clerk or other person designated to serve in such capacity.
- e. For payments made through the mail, the PIO member shall:
- (1) Prepare a PD Form 196-A, attach it to the remittance, and secure both in a locked container until taken for deposit; (CALEA 17.4.2-b)
  - (2) Deposit fees on the day received with the D.C Treasurer; (CALEA 17.4.2-e)
  - (3) Place the paid receipt in the affected Public Disclosure Jacket; and (CALEA 17.4.2-b)

- (4) Mail the requested information.
- f. When the requester reports to an element not located in 300 Indiana Avenue, N.W., in response to a letter of notification by the commanding officer to view and/or copy records for which a fee is due, the station clerk or designee shall assist the requester and follow the procedures listed in this order, except that the station clerk shall:
- (1) Collect the fee; (CALEA 17.4.2-e)
  - (2) Provide the requester with a file copy of PD Form 196-A; (CALEA 17.4.2-b).
  - (3) Place the PD Form 196-A and the fee in a locked container until they are delivered to the D.C Treasurer;
  - (4) Inform the PIO, after the records are turned over to or viewed by the requester, who shall complete the PD Form 155;
  - (5) Cause the PD Form 196-A, except for a suspense copy, to be delivered to the D.C. Treasurer in room 1140 of 300 Indiana Avenue, N.W., on the next business day (the suspense copy may be destroyed upon return of the original);
  - (6) Cause a file copy, stamped by the D.C. Treasurer, to be delivered to the PIO for insertion in the Public Disclosure Jacket; and
  - (7) Retain the stamped payer's receipt of PD Form 196-A in the element's correspondence file along with other matters related to the request.

#### D. Appeals Procedure

1. A denial of a request may be appealed to the Mayor.
2. Prior to appealing to the Mayor, the requester should be urged to appeal (in writing) to the Chief of Police, except where the "employee responsible for the decision" is the Chief of Police or the General Counsel.
3. Unless the Chief of Police directs otherwise, a member of the General Counsel's Office shall act on his/her behalf on appeals.
4. All appeals shall be acted upon within 10 days of the receipt date (excluding Saturdays, Sundays, and legal public holidays). In the case

of appeals improperly addressed, the 10-day period begins when the appeal is actually received in the Office of the General Counsel.

5. The decision on appeal shall be in writing and contain, at least, the same information as a letter of denial.
6. All notices of appeal sent from the Mayor's office shall be delivered to the PIO, logged in, and brought immediately to a member of the Office of the General Counsel who shall provide instruction as to how to proceed.

E. Annual Report

By March 31 of each year, the PIO shall submit a report to the Executive Secretary for the D.C. Government (on a form provided by the latter) covering public disclosure activities of the department during the 12-month period preceding the above reporting date. (CALEA 11.4.1)

**VII. CROSS REFERENCES**

1. D.C. Official Code § 2-531 (District of Columbia Freedom of Information Act)
2. GO-PER-201.26 (Duties, Responsibilities and Conduct of Members of the Department)
3. D.C. Official Code § 2-534(a)(3)(E and F) Applicable FOIA Exemptions
4. GO-PER-201.09 (Handling Employee Personnel Records)
5. D.C. Official Code § 16-2332 (Information Specifically Exempted from Disclosure by Statute)

// SIGNED //  
Charles H. Ramsey  
Chief of Police

CHR:NMJ:MAR:njg