

# TEXARKANA POLICE DEPARTMENT

## GENERAL ORDERS MANUAL

<b>SUBJECT</b>	<b>Freedom of Information Requests and Records Release</b>		
<b>NUMBER</b>	<b>1102.16</b>	<b>EFFECTIVE DATE</b>	<b>February 01, 2011</b>
<b>Scheduled Review Date</b>	<b>July 30, 2018</b>	<b>ISSUE DATE</b>	<b>February 01, 2011</b>
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<b>APPROVED BY</b>		<b>ALEAP Standards</b>	5.03

### I. Scope and Purpose

- A. The mission of any law enforcement agency remains heavily dependent upon written communication. This written communication often takes the form of policies, procedures and a wide variety of incident reports. Many of these records fall into categories that mandate their release to the public upon receipt of a request. This policy addresses the Agency's response to such requests and provides guidance concerning the non-availability of certain categories of records.

### II. Policy

- A. The Arkansas Freedom of Information Act (A.C.A. 25-19-101)—often referred to as FOI requests—requires the Agency to operate within narrowly defined guidelines when responding to requests for the release of records that fall within an appropriate category. It shall be the policy of the Texarkana Police Department to establish and operate within a set of policies, procedures and guidelines that formulate the Agency's response to such FOI requests. All members of the Agency shall recognize and adhere to the following procedures and guidelines.

### III. Procedures

#### A. Freedom of Information (FOI) Requests <sup>ALEAP 5.03</sup>

1. The Arkansas Freedom of Information Act requires an immediate response to most FOI requests. Should the targeted record be unavailable because it is in storage or active use, the record must be made available within three (3) working days of the request.
2. Ongoing investigations are not subject to release or disclosure; however, when the investigation is closed by an administrative action, or completed and the offense adjudicated, the record becomes subject to disclosure and release.
3. All requests for personnel records and employee evaluation records must be acted upon within twenty-four (24) hours of the custodian's receipt of the request. During this time period, the records custodian must make every effort to the fullest possible extent to notify the person making the request as well as the person who is the subject of such release.
4. The record's custodian, the person who submitted the request and the person who is the subject of such release may seek an Attorney General's opinion who will further determine whether the decision to release the file or withhold the file is consistent with the act.

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5. Should an FOI request be received by a member of the Agency, and the employee is uncertain whether the targeted information is subject to release—or if the information is not immediately available—the following guidelines shall apply:
  - a. If an FOI request is received, the employee shall note the date and time the request is received and immediately forward the request through the appropriate chain-of-command to his/her Division Commander for advancement to the Chief of Police, or his/her designee. This is usually handled by the Services Division Commander or a Services Division Supervisor in conjunction with the City Attorney.
  - b. Should the FOI request be received by an oral request, the employee who received the request should ask the person submitting the request to prepare a written statement that contains the specific information sought. Should the person refuse, the employee should generate a Department memorandum that documents the request in writing and contact his/her immediate supervisor.
  - c. The supervisor will contact a member of the Agency’s Command Staff or a Division Commander, and they will forward the oral request to the Chief of Police. The following information should be noted on all oral FOI requests:
    - (1) The date and time the request was made;
    - (2) The identity of the person who submitted the request;
    - (3) The manner in which the submitting person can be contacted; and
    - (4) The specific information requested.
6. Official FOI requests should not be confused with normal questions received from members of a news media organization. Such questions from the news media that concern crime and other police operations will be handled in accordance with the guidelines and procedures contained within [General Order 1102.15--Public Information and Media Relations](#).
  - a. Employees of the Agency are reminded that the news media organizations are in the business of keeping the public informed concerning the things that occur within our city. The Texarkana Police Department and its members shall not assume an adversarial role with any member of a news media organization, and it shall remain within the Department’s best interest to cooperate with such persons to the best of its ability.
  - b. Employees of the Department will provide all information requested by the public unless such a release is prohibited by Departmental orders or those information releases that violate sound police practices. When received, all requests will be managed in a careful, courteous and prompt manner.

**IV. Information from Police Files**

- A. Except under the following instances, members of the Texarkana Police Department shall not release information from any Department file:
  1. Incident reports, to include supplemental reports as required;
  2. Arrest reports;
  3. Accident reports; and

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4. Those Departmental records released pursuant to an FOI request where its release is governed by Arkansas State Statute and Departmental Policy.
- B. No report originating from Departmental files will be copied for distribution outside of the Agency until it has been reviewed and endorsed by a supervisor, and the releasing officer or civilian employee has verified the original report is on file in Central Records. Copies of police reports will be given to members of the news media only in accordance with the listed procedures found within this policy or as provided under the Arkansas Freedom of Information Act.
  - C. Except under the following conditions, arrest information that relates to juveniles shall not be disclosed to the public:
    1. A written order of the Juvenile Court—or the court having jurisdiction—that authorizes the record's release;
    2. The arrest or judicial process has resulted in the juvenile being formally charged in the court having jurisdiction for a felony offense, and the Prosecuting Attorney has certified the juvenile as an adult.
  - D. Incident reports involving juveniles may only be released when the juvenile's name and all additional identifying information has been deleted or authorized by a supervisor unless the juvenile is certified as an adult.
  - E. No official record of the Department shall be removed, altered, destroyed or amended except as directed by a supervisor or Division Commander. Members of the Agency shall utilize supplemental reports in order to address additional issues or circumstances surrounding a report of official record.
    1. This section does not prohibit a supervisor from requiring an employee to change a report as part of the quality control process that ensures the report reflects comprehensive information while maintaining a high level of quality control.
  - F. In accordance with *A.C.A. 25-19-105*, when a misdemeanor or felony investigation is closed, the release of these reports in their entirety—with no information stricken or obliterated—is mandated upon a request for such a release. *A.C.A. 25-19-104* creates a clear violation to the established FOI laws when a refusal to release such information occurs.
  - G. **Court Docket Book**
    1. All questions concerning docket book information should be referred to the District Court Clerk's Office, the City Attorney or the District Court Judge's Office.
  - H. **Employee Personnel Records**
    1. Personnel Records corresponding to members of the Texarkana Police Department shall not be open to routine public inspection. Residence addresses or telephone numbers corresponding to members of the Texarkana Police Department shall not be released to a member of the public or members of the news media without consent from the targeted member of the Agency.
      - a. The purpose for classifying such information as unavailable is the result of the Department's desire to strengthen the off-duty privacy and safety of the Agency's officers and their families.
      - b. This provision should not be used to shield officers from legitimate contact by the public in an attempt to render the officer inaccessible. The secretarial staff of the Agency shall notify callers of the officer's unavailability, and when deemed appropriate, take a message for the officer in his/her absence.

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- c. Calls to the Agency that surround legitimate police related business should be returned by the appropriate officer as soon as possible.

**I. Internal Investigation Information**

- 1. Inquiries concerning personnel investigations shall be referred to the Chief of Police or the appropriate Division Commander.
  - a. Employees of the Agency shall not discuss matters concerning internal investigations with those persons who are not members of the Department without obtaining consent from the Chief of Police or the appropriate Division Commander.

**J. Access to Confidential Information**

- 1. Members of the Texarkana Police Department shall treat the Agency's official business in a confidential manner. Furthermore, members of the Department shall not reveal police information outside of the Agency except as provided elsewhere within the General Orders Manual.
  - a. No information shall be released—either orally or in a written format—to any attorney or other interested person except as required and in accordance with the Freedom of Information Act without the consent of the Chief of Police or his designee.
  - b. Members of the Department shall not make recommendations to anyone regarding employment of any person as an attorney or counsel, nor shall employees suggest the name of any bail bondsmen or other business.
- 2. Information contained in police records, information routinely accessible only to members of the Department and names of informants, complainants, witnesses and other persons known to the Agency are considered confidential. Members of this Agency shall exercise silence so as to safeguard such information.
- 3. Allegations, gossip, hearsay, rumors and anonymous, uncorroborated information shall also be classified as confidential.
- 4. Under no circumstances will the file containing a felony case be removed and turned over to any person other than the Chief of Police, a Division Commander or a Detective of this Agency. No unauthorized person will remove any information from a felony case file to facilitate the copying of the material therein without first obtaining consent from the Chief of Police or his/her designee.
  - a. This section does not apply to copies of traffic accidents or photocopies of reports surrounding misdemeanor offenses. Members of this Agency will extend full cooperation with representatives of other local, state and federal law enforcement agencies, attorneys and insurance companies and their adjusters. In addition, this section does not apply to fingerprints or other physical evidence which must be sent to other law enforcement, investigative, insurance or adjustment agencies.
- 5. Violation of the security of releasing confidential information shall be cause for disciplinary action which may result in suspension up to and including termination of employment.

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