
	<b>GAITHERSBURG POLICE DEPARTMENT</b>		
	<b>Public Access to Reports and Records</b>		
	<b>GENERAL ORDER</b>	<b>108.2</b>	
<b>Effective Date</b>	<b>10/01/2021</b>	<b>82.1.1, 82.2.5</b>	
<b>Authorized by:</b>	<b>Mark P. Sroka</b> CHIEF OF POLICE	SIGNATURE	DATE <b>09/27/2021</b>

## 1. PURPOSE

The purpose of this directive is to establish privacy and security precautions for the Department's central records, while at the same time honoring lawful requests for access to these files by elected and appointed officials, authorized governmental authorities and allied agencies, as well as members of the public having lawful interest in the content of these records.

## 2. POLICY

It is the policy of the Department to cooperate in the lawful dissemination of Department records, and information contained within Department records, to individuals and entities having a legal right to such information. In such instances when requests are made for documents and information, for which the Department is not the lawful custodian, members will make reasonable effort and attempt to provide the requestor with direction to the proper source for those records. Officers from other law enforcement agencies and representatives from the State's Attorney's Office, Department of Juvenile Justice, and court system(s) may obtain copies of reports and other necessary records from Department files, as needed for official purposes, in accordance with the provisions of this directive.

## 3. DEFINITIONS

**3.1. Collision Report:** Within the context of this directive, the term "collision report" refers to a document which captures the details of a vehicle collision, and is recorded in a format established by the Maryland State Police (MSP), which is uniform statewide. The record is maintained electronically by MSP, who is the official custodian of these records.

**3.2. Event Report:** Within the context of this directive, the term "event report" refers to an official police report which documents an incident other than those documented by a collision report. Event reports completed by officers of the Montgomery County Police Department (MCPD), and officers of municipal police departments within Montgomery County, are recorded in a format established by MCPD, which is uniform countywide. The record is maintained electronically by the MCPD Records Section, who is the official custodian of these records.

**3.3. Person in Interest:** Within the context of this directive, and consistent with §4-101(g) of the General Provisions Article of the Annotated Code of Maryland, the term “person in interest” means a person or governmental unit that is the subject of a public record or a designee of the person or governmental unit.

**3.4. Technical Infraction:** Within the context of this directive, and consistent with §4-101(l) of the General Provisions Article of the Annotated Code of Maryland, the term “technical infraction” means a minor rule violation by an individual solely related to the enforcement of administrative duties that does not involve an interaction between a member of the public and the individual, does not relate to the individual's investigative, enforcement, training, supervision, or reporting responsibilities, and is not otherwise a matter of public concern.

#### **4. PROCEDURE**

##### **4.1. Release of Reports and Report Information to Members of the Public**

4.1.1. Event reports will not be released directly to members of the public. Requestors will be referred to the MCPD Records Section, where the original record is maintained. Event reports authored by Department personnel may, under certain circumstances, be released by the City Attorney’s Office, in response to Maryland Public Information Act (MPIA) requests.

4.1.1.1. If the citizen requesting a copy of the report needs information from it (such as date reported or case number), that information will be made available so that the citizen can respond to MCPD Records Section to obtain a copy of the event report.

4.1.1.2. Members should advise the requesting party that a copy of the report may be obtained from the MCPD Records Section, at the following location, after the event report has been approved by a Department supervisor and processed by office staff:

Montgomery County Police Headquarters, Records Section  
100 Edison Park Drive  
Gaithersburg, Maryland 20878  
(240) 773-5330

4.1.2. Collision reports are maintained electronically by MSP, who authorizes their release to involved parties by the reporting agency. Requests for a copy of a collision report should be directed to administrative support staff.

4.1.2.1. Requestors should be advised that, due to the administrative review and approval process, collision reports are typically

not available until five business days after the incident.

4.1.2.2. Requests may be made in person, during lobby service hours, or by mail, and require completion of a Request for Motor Vehicle Accident Report form.

4.1.2.2.1. The requestor must be an involved party named in the collision report, or a legal representative of an involved party (e.g. attorney or insurance company).

4.1.2.2.2. Legal counsel and/or insurance companies must provide documentation of representation to obtain a copy of a collision report.

4.1.3. Information pertaining to juvenile arrests will not be released, except to other law enforcement officials, unless the juvenile has been charged as an adult and the release of the information has been approved by the Chief of Police and the State's Attorney's Office.

#### **4.2. Release of Reports to Other Government Agencies**

4.2.1. Members are authorized to give or transport copies of reports generated by Department personnel to MCPD investigators, other law enforcement officers, or State's Attorneys, prior to the report's supervisory review and approval, if the immediate release and distribution of would enhance the investigation, likelihood of apprehension, and/or prosecution. If a supervisor is available, he or she shall be consulted prior to the release.

4.2.2. Copies of collision reports and event reports will be provided to appropriate City officials (i.e., Human Resources Coordinator and Traffic Engineer) as soon as practical, if an event or collision of significance involves City property, or occurs on City property or on a roadway maintained by the City.

4.2.2.1. During report review, the supervisor shall ensure that a copy of all collision reports describing hazardous road conditions or possible engineering deficiencies are provided to the City's Traffic Engineer and/or other entities with jurisdiction.

4.2.2.2. Reports for collisions involving City fleet assets will be shared with the Department of Public Works once the report has been approved.

#### **4.3. Access Governed By State Law**

- 4.3.1. The release of, or the denial to release, records maintained by the Department will be in accordance with the State General Provisions Article, Title 4 – Public Information Act.
- 4.3.2. Requests received for any Department reports or records, pursuant to the Maryland Public Information Act (MPIA) or Freedom of Information Act (FOIA), are referred to the Office of the City Attorney.
- 4.3.3. The custodian may deny inspection of:
  - 4.3.3.1. Records of investigations conducted by the Attorney General, a State's Attorney, a municipal or county attorney, a police department, or a sheriff;
  - 4.3.3.2. An investigatory file compiled for any other law enforcement, judicial, correctional, or prosecution purpose;
  - 4.3.3.3. Records that contain intelligence information or security procedures of the Attorney General, a State's Attorney, a municipal or county attorney, a police department, a State or local correctional facility, or a sheriff; or
  - 4.3.3.4. Records, other than a record of a technical infraction, relating to an administrative or criminal investigation of misconduct by a police officer, including an internal affairs investigatory record, a hearing record, and records relating to a disciplinary decision.
    - 4.3.3.4.1. The passage of SB 178, during the 2021 legislative session, modified certain provisions of the Maryland Public Information Act (Md. Code, GP § 4-351).
    - 4.3.3.4.2. Previously, these records were considered personnel records and exempt from inspection; denial of inspection of these records is now discretionary, if based on certain grounds as outlined below in 4.3.4.
    - 4.3.3.4.3. The custodian shall allow inspection of these records by the United States Attorney, the Attorney General, the State Prosecutor, or the State's Attorney for the jurisdiction relevant to the record.
    - 4.3.3.4.4. For inspection of records by parties other than those listed in 4.3.3.4.3. above:

- 4.3.3.4.4.1. The custodian shall redact the portions of the record that reflect medical information of the person in interest, personal contact information of the person in interest or a witness, or information relating to the family of the person in interest.
      - 4.3.3.4.4.2. The custodian may redact the portions of the record that reflect witness information other than personal contact information.
    - 4.3.3.4.5. A record of a technical infraction is classified as a personnel record, and remains exempt from inspection.
    - 4.3.3.4.6. The custodian shall notify the person in interest when the record is inspected, but may not disclose the identity of the requestor.
  - 4.3.4. The custodian may deny inspection of a record by a person in interest only to the extent that the inspection would:
    - 4.3.4.1. Interfere with a valid and proper law enforcement proceeding;
    - 4.3.4.2. Deprive another person of a right to a fair trial or an impartial adjudication;
    - 4.3.4.3. Constitute an unwarranted invasion of personal privacy;
    - 4.3.4.4. Disclose the identity of a confidential source;
    - 4.3.4.5. Disclose an investigative technique or procedure;
    - 4.3.4.6. Prejudice an investigation; or
    - 4.3.4.7. Endanger the life or physical safety of an individual.
  - 4.3.5. Unless otherwise provided by law, if the custodian believes that inspection of a part of a public record by the applicant would be contrary to the public interest, the custodian may deny inspection by the applicant of that part of the record (Md. Code, GP § 4-343).