

	<i>COOKEVILLE POLICE DEPARTMENT</i> GENERAL ORDER	POLICY NUMBER 205-1
	SUBJECT Public Access to Police Records	ISSUE DATE 06/15/98
		REVISION DATE 10/30/23
		TOTAL PAGES 8

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

205-1.1 PURPOSE [CALEA 82.1.1c]

The purpose of this general order is to establish guidelines to ensure the security, privacy, and proper dissemination of records subject to public inspection by all personnel of the Cookeville Police Department.

205-1.2 POLICY

The Cookeville Police Department's Central Records Section is responsible for the maintenance and security of certain departmental records. This general order establishes privacy and security precautions for the Central Records Section. The department shall comply with state law regarding public access to police records.

205-1.3 PROCEDURES

Tennessee Public Records Act [CALEA 82.1.1c]

The City of Cookeville is a publicly funded government agency. As such, the department's records fall within the scope of the Tennessee Public Records Act (TPRA). Additional discussion of the provisions of the law and its language follow.

- The TPRA, Tennessee Code Annotated (TCA) 10-7-503, reads in part as follows: All state, county, and municipal records... shall at all times, during business hours, be open for personal inspection by any citizen of Tennessee and those in charge of such records shall not refuse such right of inspection to any citizen, unless otherwise provided by state law.
- "Public records" are defined in TCA 10-7-301 as "any documents, papers, maps, letters, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency."
- "Confidential public records" are defined in TCA 10-7-301 as "any public record which has been designated confidential by statute and includes information or matters or records considered to be privileged and any aspect of which access by the general public has been generally denied."

- "Any citizen" applies to corporations, partnerships, citizen groups, and other associations as well as individual persons.
- "Business hours" for the Department are Monday through Friday from 8:00 AM to 4:00 PM.
- Compliance with the TPRA is encouraged in that the statute provides relief from liability: "Any public official required to produce records pursuant to this part shall not be found criminally or civilly liable for the release of such records nor shall a public official required to release records in his custody or under his control be found responsible for any damages caused, directly or indirectly, by the release of such information."
- Tennessee statute further provides that civil penalties may be assessed against those agencies/individuals who do not comply with the provisions of the TPRA.
- The records custodian is the office, official, or employee lawfully responsible for the direct custody and care of a public record as referred to in TCA 10-7-503. The records custodian is not necessarily the original preparer or receiver of the record.
- A "treatment resource" means any public or private facility, service, or program providing treatment or rehabilitation services for mental illness or serious emotional disturbance (including, but not limited to, detoxification centers, hospitals, community mental health centers, clinics or programs, halfway houses, and rehabilitation centers).
- "Medical care" and "medical service," as used in this part, are intended to describe and define care or services rendered an individual for the relief of some disease or abnormality, and are intended to be distinguished from the services customarily rendered by health departments. "Medical service" includes all legally authorized branches of healing as exist by any statute of Tennessee.

Public Record Request Coordinator

All requests for information made to the Cookeville Police Department under the TPRA will be directed the Public Record Request Coordinator (PRRC). The departmental PRRC shall be appointed by the Chief of Police as an extra duty function. The PRRC shall review public record requests and make an initial determination if the requestor provided evidence of Tennessee citizenship, if the records requested are described with sufficient specificity to identify them, and if the Cookeville Police Department is the custodian of the records in question.

The PRRC shall acknowledge receipt of the request and take any of the following appropriate action(s):

- Advise the requestor of this Policy and the elections made regarding proof of Tennessee citizenship, form(s) required for copies, applicable fees (and labor threshold and waivers, if applicable), and aggregation of multiple or frequent requests.
- If appropriate, deny the request in writing providing the appropriate ground such as one of the following:
 - The requestor is not, or has not presented evidence of being, a Tennessee citizen.

- The request lacks specificity. (Offer to assist in clarification)
 - An exemption makes the record not subject to disclosure under the TPRA. The specific exemption will be noted in the written denial.
 - The Cookeville Police Department is not the custodian of the requested records.
 - The records do not exist.
- If appropriate, contact the requestor to see if the request can be narrowed.
 - Forward the records request to the appropriate records custodian.
 - If requested records are in the custody of a different governmental entity, and the PRRC knows the correct governmental entity, advise the requestor of the correct governmental entity and PRRC for that entity if known.

The designated departmental PRRC is the Support Services Bureau (SSB) Commander. The SSB Commander's office is located at 1019 Neal Street, Cookeville, TN 38501. They can be contacted by phone at (931) 526-2125, by FAX at (931) 520-5263, or by email at cpd_records@cookeville-tn.gov.

The departmental PRRC shall ensure that the PRRC for the City of Cookeville is made aware of departmental public record request activity to facilitate the City PRRC's annual report to the Cookeville City Council about the City's compliance with the TPRA. The departmental PRRC shall annually review this policy to determine if any improvement or changes need to be recommended.

Public Records Request Procedures

Any citizen of Tennessee wishing to inspect or obtain a copy of a departmental public record not deemed confidential by state law will be required to make such request in person at the Central Records Section in the Cookeville Police Department at 1019 Neal Street, Cookeville, TN 38501. On the rare occasion where a requestor cannot make such a request in person (e.g., while secured in a detention facility, etc.), the departmental PRRC will ensure that citizenship can be verified and applicable fees collected in order to comply with a request consistent with the provision of this policy and state law.

All record being inspected by a citizen shall not leave the custody and control of a representative of the Central Records Section.

Citizens have the right to take extracts or to make copies, photographs, or Photostats of public records. However according to TCA 10-7-505, the custodian of such records shall have the right to adopt and enforce reasonable rules governing the making of such extracts, copies, photographs, or Photostats.

Citizens requesting a copy of a public record will be required to show proof of Tennessee citizenship, complete a Public Records Request Form A, and provide any required payment before such copies will be provided. In an effort to expedite the process, an electronic version of the form can be downloaded at www.cookeville-tn.gov/police to be completed before the citizen visits the police department.

Citizens specifically wishing to obtain a copy of an accident report may alternatively go to www.crashdocs.org to obtain a copy directly online.

The department may require that requests for records reasonably describe the information sought. There are two types of requests: requests for specific information and requests that require research. Any person making a research request will be charged a reasonable fee and will be required to complete a request form as required by Cookeville City Ordinance 097-09-23. Depending upon the nature of the information sought, research requests may require the attention of the Data Analyst.

Requests that require significant research, redaction, or duplication of video or audio recordings will require the PRRC, or designee, to complete an attachment for the Public Record Request Form B to provide an itemized estimate prior to any redaction or duplication of video or audio recordings. If the requested video requires redaction, it will normally be performed by departmental personnel onsite unless the complexity of redaction requires the use of an outside vendor.

As specified in General Order 75-1 General Communication Procedures, recordings captured by the digital audio recording system in the Communications Center will not be monitored by any member of the department or public without the permission of the Chief of Police or designee [CALEA 81.2.7c]. IT Managers will facilitate and monitor the inspection of such recordings or provide copies once approved by the Chief of Police.

According to TCA 10-7-507, the department is authorized to charge a reasonable charge or fee per copy that would reasonably defray the cost of producing and delivering such copies.

Any person who requests an arrest record check on him/herself must sign a release form giving his or her permission for the arrest information to be released. These release forms will be filed in the Central Records Section with a copy of the records check.

Aggregation of Frequent and Multiple Requests

The Cookeville Police Department will aggregate record requests in accordance with the Frequent and Multiple Request Policy promulgated by the Office of Open Records Counsel (OORC) when more than four requests are received within a calendar month from a single individual or from a group of individuals deemed to be working in concert. The level at which records requests will be aggregated is by office (one mailing address/location). The PRRC is responsible for making the determination that a group of individuals are working in concert. The PRRC or the records custodian must inform the individuals that they have been deemed to be working in concert and that they have the right to appeal the decision to the OORC.

Businesses that have a recurring need to request records from the Cookeville Police Department (e.g., insurance companies) will have the option to complete a Public Records Request Form C for aggregate records requests that lists the names of employees authorized to make requests for the business along with the necessary contact information to allow the records to be sent by mail, email, or FAX as specified by the requestor. Employees authorized by the business will then have the option to submit requests by calling the Central Records Section at (931) 526-2125 or by sending an email to cpd_records@cookeville-tn.gov. The business will agree to pay for the total costs of the multiple requests on a monthly basis once the total bill for a specific business exceeds \$5.00. If a business fails to accrue a \$5.00 balance in one month, the fees will continue to increase each month until it surpasses \$5.00 when the business will be billed by the Central Records Section. Fees will be assessed in accordance with the fee schedule listed below.

While these requests will typically be simple requests that can easily be transmitted by email, more complex requests that require significant research, redaction, or duplication of video or audio recordings will be evaluated and fulfilled in the manner described above. Only press releases and records readily accessible on the City's website will be excluded from aggregation.

Confidential Public Records [CALEA 82.1.1c]

While the TPRA may be described as "very broad," it does provide that records shall be open "unless provided otherwise by state law." From this passage in TCA 10-7-503, it is clear that the Tennessee legislature has retained the capacity to designate certain records as "confidential public records."

An enforcement provision for maintaining the confidentiality of certain records is stated in TCA 10-7-504(b): "Any record designated 'confidential' shall be so treated by agencies in the maintenance, storage, and disposition of such confidential records."

Special attention should also be given in regard to the requirements of the Victims of Crime Act (VOCA), as referenced in GO 85-1 Victim Witness Assistance.

The following is a list that calls for certain records to remain confidential:

- Tennessee Rules of Criminal Procedure, Rule 16 (a) (2): "reports, memoranda, or other internal state documents made by the District Attorney General or other state agents or law enforcement officers in connection with the investigation or prosecution of the case, or of statements made by state witnesses or prospective state witnesses."
- Arrest histories, investigative reports, and intelligence information relating to an arrest that has been expunged pursuant to TCA 40-32-101.
- Juvenile records other than records of traffic violations according to TCA 37-1-154 and TCA 37-1-146 [CALEA 82.1.2c].
- Reports of child abuse and the identity of the complainant according to TCA 37-1-409.
- Reports of child sexual abuse and all records generated as a result of such reports pursuant to TCA 37-1-612.
- The results of blood tests ordered by the District Attorney General on fire death victims who are police officers, firefighters, and emergency medical technicians (whether they are on or off duty) according to TCA 38-7-116.
- Records obtained by law enforcement officers during official polygraph examinations as stated in TCA 62-27-124(c).
- The identity of a person reporting abuse or neglect under the Adult Protection Act under TCA 71-6-118.
- In accordance with TCA 10-7-504, video taken by a law enforcement body camera that depicts the following shall be treated as confidential and not subject to public inspection:

- Minors, when taken within a school that serves any grades from kindergarten through grade twelve (K-12).
- The interior of a facility licensed as a treatment center under Title 33 or providing medical care or medical service under Title 68.
- The interior of a private residence that is not being investigated as a crime scene.

It shall be the policy of the Cookeville Police Department that witness statements, autopsy reports, and officer notes will not be released without approval from the District Attorney General or direction from a court order.

Records Access Policy

In all situations where the legal status of the proper release of reports or information is in question, the District Attorney General will be consulted before the information is made available.

The Criminal Investigation Division (CID) Commander or designee will be responsible for determining the record class of each report including incidents, supplements, and case folders as part of the intake procedure [CALEA 82.1.1c]. The record class of supplemental reports will be determined by the investigator who writes the report or by the CID Commander or designee.

Assigned case officers are responsible for completing and forwarding to the Central Records Section a supplemental report that documents final case disposition. This would be either the assigned investigator or (if not assigned) the original reporting officer.

Three classes of records are defined [CALEA 82.1.1c]:

- Public Records
 - Incident/Investigation reports in the current report management system (RMS) that are labeled "Accessible From P2C" under Tab 3 may be released to the public. Generally, a report released to the media should be considered a public record. However, the complainant and witness information will not be released without approval from the District Attorney General or direction from a court order.
 - If a report is considered to be a public record, the accompanying computer aided dispatch (CAD) entry will also be considered a public record. However, complainant and witness information will not be released without approval from the District Attorney General or direction from a court order.
 - If a CAD entry indicates that there is no report to follow, the case is closed indicating that the CAD entry is a public record. However, complainant and witness information will not be released without approval from the District Attorney General or direction from a court order.
 - Even though the CAD entry may be considered an open record, any copies of the entry provided will have all information not directly related to the specific information request redacted along with any complainant and witness information.

- Limited Access Records
 - Incident/Investigation reports in the current RMS that are labeled “Blocked From P2C” under Tab 3 will indicate that the records clerk must check with an investigator before releasing it to the public. However, the public narrative of the Incident/Investigation report will be released without the authorization of an investigator. All closed investigative files are generally public record but will be reviewed by the CID Commander or designee to ensure that content not subject to release is not released.
- Restricted or Confidential Records
 - Because juvenile records are highly confidential, extraordinary precautions must be taken to ensure the information is safeguarded. Central Records Section personnel will indicate that a report including juvenile information is confidential and secure by marking the “Security Flag” field displays the letter “C” under Tab 1 of the Incident/Investigation report. This procedure will display “Confidential” in red font that will be viewable on all tabs of the report. Physical case folders will be similarly marked with a red “JUVENILE” stamp [CALEA 82.1.2a].
 - If a juvenile is involved in an incident that is considered a public record, the juvenile’s identity (name, address, etc.) must be redacted.
 - If a case involves both a juvenile and an adult the documents will be classified “JUVENILE” and handled accordingly.
 - Crashes involving juveniles may be released without restriction.

Fees and Charges and Procedures for Billing and Payment

Fees and charges for copies of public records should not be used to hinder access to public records. Fees and charges for copies are as follows:

- \$0.15 per page for letter- and legal-size black and white copies.
- \$0.50 per page for letter- and legal-size color copies.
- \$5.00 for each compact disc containing digital data.
- Labor when research or redaction time exceeds one hour.
- The actual costs assessed by an outside vendor if such a vendor is needed to provide the research or redaction services necessary to provide the record requested.

For requests requiring significant research or redaction, the departmental PRRC shall provide requestors with an itemized estimate of the charges attached to the Public Records Request Form B prior to producing copies of records and require pre-payment of such charges before producing requested records.

Payment in advance will be required except for businesses operating with an aggregate request for public records (Form C) in effect. Payment is to be made in cash or by personal check payable to the City of Cookeville presented to the records custodian.

If a request is made to waive applicable fees, the departmental PRRC will determine if such a waiver is in the best interest of the Cookeville Police Department and the public good. However, fees associated with aggregated records requests or requests requiring significant research or redaction will not be waived.