



# KENOSHA POLICE DEPARTMENT

## POLICY AND PROCEDURE

### 54.2 Open Records

<b>Effective Date:</b>	10/20/2004	<b>Revision Date:</b>	8/5/2014
<b>Action:</b>		<b>Number of pages:</b>	4

#### I. PURPOSE

It is the purpose of this policy to establish uniform procedures for the handling of all requests for public records in accordance with Wisconsin State Statutes, Federal Law, current case law, and Wisconsin Attorney General Opinions.

#### II. POLICY

Consistent with applicable laws and good police practices in protecting investigations and prosecutions of alleged offenders, the Kenosha Police Department will make available to the public all possible information. This information will be made available in accordance with Wisconsin State Statutes, Federal Law and subject to statutory and common law exceptions and/or restrictions thereon. Because records requested must be reviewed pursuant to the considerations of this policy, no member of the department may divulge the contents of police records to anyone outside the department without permission from the Chief of Police or designee.

#### III. DEFINITION

Records as defined by WSS 19.32(2) means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristic, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, film, recordings, tapes (including computer tapes), computer printouts, and optical disks and material that are maintained by the department in a digital format. "Record" does not include drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working; materials which are purely the personal property of the custodian and have no relation to his or her office; materials to which access is limited by copyright, patent or bequest; and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

#### IV. PROCEDURE

1. The Chief of Police and the Deputy Chief of Police are the Legal Custodian or Deputy Legal Custodians, respectively, of Police Department records. The Chief of Police shall designate a member of the police department as the Public Information Officer (PIO) who shall have primary responsibility on behalf of the Chief of Police for receiving, reviewing, responding to, and fulfilling (as appropriate) requests for records maintained by the Kenosha Police Department.
2. All open records requests for a copy or inspection of records / documents in the custody of the department will be processed according to State Statutes. The request must

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reasonably describe the requested record; a request for a record without a reasonable limitation as to the subject matter or length of time represented does not constitute a valid request (see WSS 19.35 (1) (h)). The PIO shall be responsible for responding to open records requests and shall consult with the city attorney as may be required to ensure compliance with all applicable state and federal laws.

### **V. ACCESS TO POLICE RECORDS BY DEPARTMENT PERSONNEL**

Members of the police department, only when authorized for a specific purpose, shall have access to the official records maintained by the department. This regulation prohibits all unofficial use of police records. Tampering with records by members of the department is prohibited.

### **VI. CONSIDERATIONS WITH RESPECT TO GRANTING THE REQUEST**

1. Whenever inspection of any public records or documents is requested by a member of the public, the Chief of Police or designee shall first review the record and determine whether the release of the record is prohibited by law, contains privileged information, or the release of the record would result in harm to the public interest. If the requested record is not of the type the release of which is prohibited by State Statute, Federal Law, Current Case Law, then the record custodian must balance the strong public interest in disclosure of the record against the public interest favoring nondisclosure..

#### **A. The following information MAY NOT BE RELEASED:**

1. Hospital medical records- Does not include test results of Breathalyzer or blood alcohol testing at the request of law enforcement officers in connection with the operation of a motor vehicle.
2. Information obtained under a pledge of confidentiality, which information would not have been obtained without such a pledge.
3. Information identifying an informant (WSS 19.35 (1) (a) and 19.368 (b)) directs that identifying information be removed from the record).
4. Autopsy Reports. .
5. Records consisting of analysis of evidence obtained from law enforcement officers by the crime lab are privileged and is not available to persons other than law enforcement officers prior to trial. Upon termination or cessation of criminal proceedings, the privilege may be waived by the department of Justice and the prosecutor involved in the proceeding. Wis. Stat 165.79(2)
6. Carry Concealed Weapon Related Information- What CCW related information must be redacted will depend on what the information consist of and whether it was obtained from DOJ pursuant to Wis. Stat. 175.60(12g) If a report indicates that an officer requested information from the Time System to confirm the validity of a CCW license or certification card, any responsive information obtained from the Time System must be redacted. A law enforcement agency may share reports containing CCW information from DOJ with another law enforcement agency collaborating on a joint investigation, if necessary for conducting a joint investigation. .
7. References to the performance or result of investigative procedures or tests, such as fingerprints, polygraph examinations, ballistic tests, or other laboratory tests or to the refusal of the accused to take a test, except refusal to take a chemical test for alcohol impairment.
8. Reports which would disclose investigative strategies.
9. Employee personnel records, except as required by WSS 19.35 (10).

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10. Reports considering financial, medical, social or personal histories or disciplinary data of specific persons, preliminary consideration of specific personnel problems or the investigation of charges against specific persons which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such histories or data, or involved in such problems or investigations.
11. Medical information- medical diagnosis, treatment or prognosis
12. Social Security Number
13. Jail Medical Reports
14. ATF E-Trace Reports
15. Chapter 51 Reports- Chapter 51 reports are not releasable. If the report involves a Chapter 51, in addition to another offense or arrest, the entire report is not releasable. This applies to law enforcement and Probation and Parole. Officers assigned to the case, who need a copy of the report for court purposes, are exempt from this restriction. For any law enforcement requests made by an officer or department other than the reporting officer, the request must be reviewed by the PIO. The subject of a Chapter 51 may request a copy of their report, but it may only be released after review and redaction by the PIO.
16. State and Federal Criminal History Records.
17. Teletypes obtained from the Time System
18. Criminal history identification numbers
19. Driver's license numbers
20. Bank account numbers
21. Credit and Debit Card Numbers

### B. Records Involving Juveniles

Records involving juveniles shall not be released unless any of the following apply:

- a. the release is ordered by the Circuit Court according to State Statute 48.293;
- b. the release is ordered by Circuit Court or by Municipal Court having jurisdiction over the case pursuant to WSS 938.396;
- c. the release is to representatives of the media who wish to obtain information for the purpose of reporting news without revealing the identity of the child involved, or as otherwise authorized under State Statutes 938.396 or 48.396
- d. the release is subject to a confidential exchange of information between the Department and officials of the school attended by the juvenile, other law enforcement agencies, or social welfare agencies, pursuant to the requirements of State Statutes 938.396 or 48.396
- e. the release is made upon written authorization of the juvenile who is 14 years of age or older, subject to redaction of information within the report relating to other juveniles;
- f. the release is made upon written authorization of a parent, guardian or legal custodian of the juvenile, subject to redaction of information within the report relating to other juveniles; or
- g. the release is authorized by another specific subsection of State Statute 48.396 or 938.396 for less common requests (e.g., for restitution).

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h. Juvenile records that are otherwise confidential by law. If a citizen requests a copy of the Kenosha Police Department report which contains information where a juvenile is a suspect, arrested, or a victim, the citizen must complete the Kenosha Police Department Juvenile Records Request Form. Along with the form, the citizen must provide a valid photo ID and the necessary documentation to show that they are the parent guardian, or the involved juvenile.

Records not otherwise prohibited from release must still be reviewed to determine whether release of all or a portion of the record must be withheld. Concerns that must be taken into consideration include, but are not limited to:

22. Protection of the right to a fair trial. This would include cases that have been referred to the prosecutor but have not yet been adjudicated.
23. Protection of the victim.
24. Protection of the witness or witnesses.
25. Nondisclosure of hearsay, rumored information, or unsubstantiated accusations, which, if discussed in public, would be likely to have a substantial adverse affect upon the reputation of the person to whom such information pertains. This would include cases which are closed with no arrest made or no charges were filed by the prosecutor.
26. Reasonable belief in illegal purpose of the request for information.
27. Reasonable belief that the record is not a record of Department (e.g., release of Driver record information from Department of Transportation files).