Kenosha Police Department Policy and Procedure Manual

Subject: OPEN RECORDS

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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, current court cases, and Wisconsin Attorney General Opinions and current cases.

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 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.

IV. PROCEDURE
1. The Chief of Police and the Assistant Chiefs 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 must be submitted in writing to the PIO. The request must 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. 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 determine whether the requested record is of the type (listed in subsection V.1.A.) the release of which is prohibited by law. If the requested record is not of the type the release of which is prohibited by law, then the record should further be reviewed (subject to the balancing of considerations of subsection V.1.B.) to be assured that no information within the record is privileged.

A. The following information MAY NOT BE RELEASED:

1. Information which might hamper the investigation of a crime or suspected crime or prosecution of a crime.
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. Opinions or other statements as to the character, reputation, guilt or innocence of individuals named in the records.
5. Opinions or other statements as to the character or reputation of a prospective witness, opinion, speculation, or other statements concerning the credibility or anticipated testimony of prospective witnesses.
6. Alleged admissions, confessions or the contents of statements or alibis attributed or attributable to the accused.
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).
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. Records involving juveniles, unless any of the following apply:
   a. the release is ordered by the Circuit Court according to WSS 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 WSS 938.396;
   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 WSS 938.396;
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 WSS 938.396 for less common requests (e.g., for restitution).

12. Records that are otherwise confidential by law.

B. Records not otherwise prohibited from release by Section V.1A. 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:

1. Protection of the right to a fair trial.
2. Protection of the victim.
3. Protection of the witness or witnesses.
4. Nondisclosure of hearsay or rumored information, 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.
5. Reasonable belief in illegal purpose of the request for information.
6. Reasonable belief that the record is not a record of Department (e.g., release of Driver record information from Department of Transportation files).

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