



Office Of The Sheriff
Allegany County
Maryland

GENERAL ORDER NO: **6-200.00**

TO: All Patrol and Judicial Personnel

RE: **PUBLIC ACCESS TO RECORDS**

PURPOSE: To establish rules pertaining to public access by entitled persons (persons-in-interest) of agency records without necessary interference of the regular duties of the Records Custodian or his/her designee.

EFFECTIVE DATE: 2004

REVISION DATE: 3/1/2016

The "Public Information Act" (Annotated Code of Maryland, State Government, Sections 10-611 to 10-0628) requires records be open for inspection by an "persons-in-interest" at a reasonable time. The official custodian of any public records shall make and publish rules and regulations setting forth the procedures for accessing public records, denying such access and preventing unnecessary interference with the regular duties of the custodian of his designee.

6-201.00 Definitions

- .01 Applicant - Any person or governmental unit requesting an inspection of a public record.
- .02 Custodian - The official custodian or other authorized individual who has physical custody and control of a public record.
- .03 Official Custodian - An officer or employee who is responsible for keeping the public record, whether or not he has physical control of the public record.
- .04 Person-In-Interest - A person or governmental unit that is the subject of a public records or his designee, or if the person has legal disability, the parent or legal representative of the person.

.05 Personal Information - Information that identifies an individual including address, driver ' s license number or other identification number, medical or disability information, name, photograph, computer generated image, social security number or telephone number.

Personal information does not include driver ' s status, driving offenses, five-digit zip code or information on vehicular accidents.

.06 Public Record - The original or copy of any documentary material that;

A. Is made by a unit or instrumentality of the Sheriff ' s Office or received by the unit or instrumentality in connection with the transaction of public business, and:

B. Is in any form, including:

1. A card
2. A computerized record
3. Correspondence
4. A drawing
5. Film, microfilm, digital image
6. A form
7. A map
8. A photograph or photostat
9. A recording
10. A tape
11. Digital Storage Devices

C. Public record includes a document that lists the salary of an employee of a unit or instrumentality of the Sheriff ' s Office.

.07 Administrative Records - Correspondence and reports which relate to the internal management and general administration of the Sheriff ' s Office.

- .08 Investigative Records - Correspondence and reports of a criminal and non-criminal investigation, laboratory records and records of impounded property, all pre-employment investigation records.
- .09 Work Days - Monday through Friday, not including Allegany County Government holidays.

6-202.00 Records Not Subject to Disclosure

- .01 Disclosure of certain classes of records is limited by law or statute. They are;
 - A. Juvenile records
 - B. Personnel file
 - 1. Such files should be available to the person-in-interest or appropriate administrative personnel.
 - 2. Certain portions of pre-employment information contained in any employee ' s personnel file may be kept confidential.
 - C. Physical and mental health records
 - 1. Any requests for disclosure of autopsy records will be referred to the Office of the Chief Medical Examiner.
 - D. All correspondence relating to matters in litigation by the Sheriff ' s Office.
 - E. Criminal records as defined by Article 27, Sections 742-755, Annotated Code of Maryland.
 - F. Home address and/or telephone number of any employee of the Sheriff ' s Office, except;
 - 1. When the employee gives permission for disclosure, or;
 - 2. The Sheriff or his designee determines disclosure is necessary to protect the public interest.

- G. On motor vehicle accident reports when a juvenile is charged with Homicide by Motor Vehicle in violation of Transportation Article or Article 27, all reference to the charge will be purged prior to release of the report.
- .02 Administrative reports maintained by the Sheriff ' s Office are generally available to the public; however, some administrative records should not be made available for public disclosure. For example, the identification numbers/license plate numbers of Sheriff ' s Office vehicles shall not be revealed since it could permit identification of vehicles used in covert or undercover operations.

All requests of this nature shall be denied and brought to the attention of the Sheriff.
- .03 Incident reports of an investigatory nature will be reviewed by the Sheriff prior to public release.

6-203.00 Procedures

In accordance with Section 10-612, of the State Government Article, of the Annotated Code of Maryland, all persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees. Unless an unwarranted invasion of privacy of a person-in-interest would result, the "Public Information Act" shall be construed in favor of permitting inspection of a public record, with the least cost and delay to the person or governmental unit that requests the inspection.

- .01 Requests for production or inspection of public records shall be submitted on a "Request for Access to Public Records" form which **will be reviewed/authorized/denied, by the Sheriff or his designee.**
- .02 The Sheriff or his designee shall consider all requests consistent with this order and will grant or deny the request within 30 days of receiving the request.
 - A. If the **Sheriff, or his designee**, is unable to determine whether the public record should be released, approval for the release or denial shall be obtained from the Sheriff or the County Attorney.
- .03 If the request is approved, the **Sheriff or his designee** shall produce the public record as soon as possible, but not later than 30 days after receipt of the application.
 - A. The records shall not be released until the applicant pays a specified fee to the Sheriff ' s Office unless payment is waived by the **Sheriff or his designee**.

.04 If the requested records are not immediately available; the applicant shall be notified and will be informed of a tentative date the records will be available.

6-204.00 Grounds for Denial of Access

.01 Requests for access to agency records may be handled differently. This depends on whether or not the applicant is a person-in-interest. Persons-in-interest may be denied access to those law enforcement records that are investigative in character. If a reason for denial exists, a determination must be made as to how much of the document need be denied. Access to a public record may be denied if such access to a public record would;

- A. Interfere with valid and proper law enforcement proceedings
- B. Deprive a person of the right to a fair trial or an impartial adjudication
- C. Constitute an unwarranted invasion of personal privacy
- D. Disclose the identity of a confidential source
- E. Disclose an investigative technique or procedure
- F. Prejudice an investigation
- G. Endanger the life or physical safety of any person

.02 The Sheriff's Office may deny access to investigatory records if disclosure is contrary to public interest. In order to restrict the disclosure of non-investigatory law enforcement records, the agency would need to obtain a determination from the Circuit Court.

.03 If the custodian denies a request, the reason (citing the law or regulation) will be stated in the "remarks" section and then forwarded to the agency legal advisor.

.04 The agency legal advisor will review the denial to ensure it complies with legal requirements and that the notice to the applicant contains the proper information. After completion of the review, the request will be forwarded to the Sheriff for final disposition.

6-205.00 Review of a Criminal History

- .01 A person-in-interest may review their criminal history maintained by a criminal justice agency, when the information, or any part of it, is relevant to a pending criminal proceeding. The person-in-interest may view and make notes from the record; however, copies will not be provided. If the person-in-interest wishes copies of his criminal record, he will be referred to the Maryland State Police, CRCR, at (410) 764-4501.
- .02 A person-in-interest will be required to provide photo identification and complete "Criminal History Request" form, prior to obtaining access to the file. The form will be held on file by the Sheriff. The person-in-interest may view only a list of criminal charge and their disposition.

6-206.00 Judicial Review

- .01 In accordance with Section 10-623, of the State Government Article of the Annotated Code of Maryland, when a person is denied access or inspection of a public record, the person may file a complaint with the Circuit Court of Allegany County.
- .02 The Sheriff's Office has the burden of proof in sustaining a decision to deny access or inspection of a public record. Unless good cause is shown by the agency or the court directs otherwise, and notwithstanding any other provisions of law, the agency will respond to the complaint within 30 days after receipt.

By Order Of:

Craig A., Sheriff