

Records Maintenance and Release

802.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

802.2 POLICY

The Tumwater Police Department is committed to providing public access to records in a manner that is consistent with the Washington Public Records Act (RCW 42.56.001 et seq.)

802.3 PUBLIC RECORDS OFFICER

The Chief of Police shall designate a Public Records Officer (RCW 42.56.580). The responsibilities of the Public Records Officer include, but are not limited to:

- a. Managing a records management system for the Department, including the retention, archiving, release and destruction of department public records.
- b. Establish rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.
 1. Rules and procedures for public inspection and copying shall be prominently displayed and made available to the public for inspection and copying (RCW 42.56.040).
- c. Maintaining and making available for public inspection and copying an index of documents that provides identifying information of certain documents identified in RCW 42.56.070 that are maintained by the Department.
- d. Maintaining and updating the department records retention schedule including:
 1. Identifying the minimum length of time the department must keep records.
 2. Identifying the department division responsible for the original record.
- e. Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.
- f. Ensuring a current list containing every law that exempts or prohibits disclosure of specific information or records of the Department is available to the public (RCW 42.56.070).
- g. Establishing rules regarding the processing of subpoenas for the production of records.

Tumwater Police Department

Policy Manual

Records Maintenance & Release

- h. Ensuring a current schedule of fees for public records as allowed by law is available (RCW 42.56.070; RCW 42.56.120; RCW 42.56.130).
- i. Ensuring that the business hours for records inspection or copying are posted on the department's website and made known by other means designed to provide the public with notice (RCW 42.56.090).
- j. Ensuring that the name and contact information of the Public Records Officer is visible to the public, including the department website and appropriate department publications (RCW 42.56.580).

802.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for records shall route the request to the Public Records Officer or the authorized designee.

802.4.1 REQUESTS FOR RECORDS

The processing of requests for records is subject to the following:

- a. The Department is not required to create records that do not exist.
- b. When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted information shall be redacted and the unrestricted information released.
 - 1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions.
- c. Requests to inspect or copy records shall be responded to promptly. Within five business days of receiving the request, a response shall be made by either (RCW 42.56.520):
 - 1. Providing the record.
 - 2. Providing the Internet address and link of the department website to the specific record requested.
 - a. If the requestor notifies the Department that access cannot be obtained through the Internet, then copies of the record shall be provided or the requestor may view the records on the department computer.
 - 3. Acknowledging the receipt of the request and providing a reasonable estimate of time the Department will require to respond to the request. Additional time may be required to respond based upon:
 - a. The need to clarify the intent of the request.
 - b. The need to locate and assemble the information requested.

Tumwater Police Department

Policy Manual

Records Maintenance & Release

- c. Notification to third persons or agencies affected by the request.
 - d. Determination whether any of the information requested is exempt.
4. Denying the request.
- a. The denial shall be accompanied by a written statement that includes the specific exemption and a brief explanation of how the exemption applies to the withheld record (RCW 42.56.210).
 - b. Requests that are denied are subject to judicial review and the burden of proof is on the Department to show that the records requested are exempt or prohibited in whole or part by statute (RCW 42.56.550).

802.5 RELEASE RESTRICTIONS

Examples of release restrictions include:

- a. Personal identifying information, including an individual's photograph; Social Security and driver identification numbers; name, address and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record or any department record, including traffic collision reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).
- b. Personnel records that contain personal information to the extent that disclosure would violate the privacy rights (RCW 42.56.230; RCW 42.56.250).
- c. Specific intelligence and specific investigative records regarding the discipline of any profession where non-disclosure is essential for effective law enforcement or the protection of any person's right to privacy (RCW 42.56.240).
- d. Victim and witness information revealing the identity of persons who file complaints if disclosure would endanger the person's life, physical safety or property (RCW 42.56.240).
- e. Child victim and witness identity information including name, address and photographs (RCW 7.69A.030).
- f. Concealed pistol license applications or information on the applications unless release is to law enforcement or corrections agencies under RCW 9.41.070.
- g. Information revealing the identity of child victims of sexual assault who are under the age of 18. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator (RCW 10.97.130; RCW 42.56.240).

Tumwater Police Department

Policy Manual

Records Maintenance & Release

- h. Personal identifying information collected related to local security alarm system programs and vacation crime watch programs (RCW 42.56.240).
- i. Certain criminal history record information as restricted by the Criminal Records Privacy Act (RCW 10.97.040 et seq.).
- j. Traffic collision reports except for what is authorized by RCW 46.52.080 and 46.52.083.
- k. Preliminary drafts, notes, recommendations or intra-agency memorandums in which opinions are expressed or policies formulated or recommended (RCW 42.56.280).
- l. Records that are relevant to a controversy (threatened, actual or completed litigation) to which the Department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts (RCW 42.56.290).
- m. Security records including, but not limited to, records relating to preparing and responding to criminal terrorist acts; vulnerability assessments and emergency and escape plans of secured facilities; information regarding infrastructure and security of computer and telecommunications networks; system security and emergency preparedness plans; and as further defined in RCW
- n. Global positioning system data that indicates the location of a member's residence (RCW 42.56.240).
- o. Information contained in a local, regional or statewide gang database (RCW 42.56.240).
- p. Any other information that may be appropriately denied by Washington law.

802.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Public Records Officer for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require release of the requested information.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the District Attorney, City Attorney or the

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

802.7 RELEASED RECORDS TO BE MARKED

Each page of any record released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.