

Virginia Police Department
Reports and Records- Access and Confidentiality Policy

The Minnesota Data Practices Act imposes on an employee a criminal (misdemeanor) and civil penalty (suspension/termination) for willful violations of the law. This penalty may be for either wrongful dissemination or withholding of information. Every member of the department must be aware of the significance of this Act and the procedures established to assure proper compliance.

All Virginia Police Department policies and practices respecting data collection (Minnesota Statute 13.02 Subd. 7) and dissemination are based on the Minnesota Data Practices Act, Minnesota Statute 13.82. Any and all questions will be directed to the department's data compliance personnel and/ or Records Management. The city attorney is also available to respond to data practices inquiries.

The Virginia Police Department follows the City's record retention schedule on file. All records collected by the Department are retained, stored and destroyed in accordance with the schedule.

Government Data:

"Government data" means all data collected, created, received, maintained or disseminated by the department regardless of its physical form, storage media or conditions of use.

All records related to calls for service, arrests, investigations, etc. are available to officers and Records Manager. These records can only be accessed by department employees for legitimate law enforcement purposes. The electronic records system serves multiple counties and allows agencies to restrict information availability on a case-by-case basis.

It is the policy of this department that all private, confidential or non-public government data shall be accessed for official purposes only. Internal requests for such information shall be made only by members whose official police business necessitates having access to such information. Under no circumstances will this information be disseminated outside the agency, other than through approved procedures and in accordance with the Minnesota Data Practices Act.

Police Data for Private Use:

- No employee will view or obtain data for private use while on duty. All information obtained while on duty status must be for official department use.
- Employees seeking information for private use shall conduct their business at the public counter of the Records Manager, on their own time, and shall pay for all fees, as any other private citizen.
- Obtaining copies of information intended for private use without paying the normal fees constitutes theft.

Confidential Criminal Data:

All criminal data gathered as a part of an ongoing investigation is confidential while the investigation is active and/or the case is pending in the court system.

An investigation becomes inactive upon the occurrence of any of the following events:

1. A decision by the department to close the investigation and no longer pursue the case.
2. The statute of limitations has run to its limits.
3. The prosecution has declined to prosecute.
4. The case is dismissed, or the defendant is found not guilty in court.
5. Exhaustion of or expiration of all rights of appeal by an individual convicted on the basis of the investigative data.

Cases determined to be inactive will become active and confidential upon a departmental determination to reopen the investigation.

The Records Manager or Public Information Officer in responding to all requests for criminal data, must be able to rely on the present information in the record unit's files. The department policy of all reports being processed, catalogued and stored within the records unit, is essential.

ACCESS PROCEDURES:

Requests for information can typically be classified into two types:

1. Requests from the media.
2. Requests for information from the general public (citizens, victims, witnesses, attorneys, etc.)

The general intake point for all requests, except media, will be handled by the Records Manager. Due to the varied circumstances that can occur concerning dissemination of information, it is the intent of this policy that the records manager works closely to ensure an appropriate response within the policies, federal and state laws.

MEDIA REQUESTS:

The Chief of Police or designated Public Information Officer is the first point of contact for all media requests. The department will provide information on significant law enforcement activities upon request through the Chief of Police. In the event that the Chief is unavailable, the Deputy Chief or

Detective may handle the request. The data released will be classified as public and should generally contain the following information (Minnesota Statute 13.82 Subds. 2, 3, and 6.)

- a) The date, time, location, case number, type of crime, extent of injury or loss and names of individuals (except confidential informants) involved in crimes occurring within this jurisdiction, unless the release of such information would endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- b) The time and location of other significant law enforcement activities or requests for service with a brief summary of the incident subject to the restrictions of this policy and applicable law.
- c) At no time shall identifying information pertaining to a juvenile arrestee be publicly released without prior approval of a competent court or as permitted by state law (Minn. Stat. § 260B.171 Subd. 5.)

At no time shall identifying information pertaining to a juvenile victim be publicly released without prior approval of a competent court when access to the data would reveal the identity of a victim or alleged victim of criminal sexual conduct or would be a violation of Minn. Stat. § 617.246 Subd. 2 (Minn. Stat. § 13.82 Subd. 17 (b)).

At no time shall identifying information pertaining to a juvenile witness be publicly released without the prior approval of a competent court when this department has determined that the identity of a juvenile witness reasonably requires protection (Minn. Stat. § 13.82 Subd. 17 (g)).

- d) Information concerning incidents involving persons whose identities are classified as private data under Minn. Stat. § 13.82 Subd. 17, shall be restricted from disclosure in accordance with that statute.
- e) Identifying information concerning deceased individuals should only be released to the media when the decedent's identity has been verified and the release is approved by a supervisor.
- f) No member of this department shall be required to submit to media visits or interviews without the consent of the involved employee.
- g) Media interviews with individuals who are in custody shall not be permitted unless in compliance with a jail facility policy. Exceptions are only permitted with the approval of the Chief of Police and the express written consent of the person in custody.
- h) A tactical operation should be handled in the same manner as a crime scene, except the news media shall be permitted within the outer perimeter of the scene, subject to any restrictions as determined by the supervisor in charge. Department members shall not jeopardize a tactical operation in order to accommodate the news media. All comments to the media shall be coordinated through the Chief of Police or person designated by the Chief.

- i) To protect the safety and rights of officers and other persons, advance information about planned actions by law enforcement personnel, such as movement of persons in custody or the execution of an arrest or search warrant, should not be disclosed to the news media nor should media representatives be invited to be present at such actions except with the prior approval of the Chief of Police.
- j) Any exceptions to the above should only be considered for the furtherance of legitimate law enforcement purposes. Prior to approving any exception, the Chief of Police will consider, at minimum, whether the release of information or presence of the media would unreasonably endanger any individual, prejudice the rights of any person or is otherwise prohibited by law.
- k) Members of the news media and the public may inspect police records as allowed by law. These records are available only during regular business hours in the Records Management area.

Any media requests for copies of related reports or additional information shall be referred to the Chief of Police or Records Manager. Such requests will generally be processed in accordance with the provisions of the Minnesota Data Practices Act (Minn. Stat. § 13.03).

It shall be the responsibility of the authorized employee dealing with media requests to ensure that restricted information is not inappropriately released to the media by this department. When in doubt, authorized and available legal counsel should be obtained. Examples of such restricted information include, but are not limited to:

- (1.) The identities of involved officers only when the release hinders a law enforcement purpose or reveals the identity of an undercover law enforcement officer and as otherwise required by law (Minn. Stat. § 13.82).
- (2.) Photographs of an officer without his/her permission except as provided in Minn. Stat. § 626.89 Subd. 12.
- (3.) Copies of traffic collision reports except to those authorized pursuant to Minn. Stat. § 169.09 Subd. 13.
- (4.) Information that would tend to endanger the safety of any individual or jeopardize the successful completion of any ongoing investigation.
- (5.) Information pertaining to pending litigation involving this department.
- (6.) Information that uniquely describes stolen, lost, confiscated or recovered property (Minn. Stat. § 13.82 Subd. 20).
- (7.) Any information that is otherwise privileged or restricted under state or federal law.

Access to Criminal Records/ Data Requests

In compliance with the Minnesota Department of Administration, the Virginia Police Department has established a policy for the release of information. In compliance with Minnesota Government Data Practices Act, the Department carefully controls access to all information. In general, information about law enforcement activities is public unless restricted by statute, and information about personnel issues is private unless reclassified by statute.

Due to the complexity of the release of information, and the severe penalties imposed for improper release of information, Department personnel must refer all requests for information release to Records Manager. All data requests not mentioned in this policy need to be made in written form and delivered to Chief of Police or Records Manager.

The Department has access to records created by multiple counties. The Department is prohibited from releasing other agencies' records and may not divulge the fact that other agencies have records related to the citizen or media request.

However, if the request is for 100 or fewer pages of black and white, letter or legal size paper, and the requestor is not the subject of the data, the maximum allowable charge is 25 cents for each page copied (or 50 cents for two-sided copies). Actual costs may not be charged for requests of this size. A receipt is issued any time money is received. Collected monies are turned over monthly to the City Clerk's Office for auditing.

A responsible authority may charge a reasonable fee, in addition to the costs of making and certifying copies, when the public government data has commercial value and is a substantial and discrete portion of an entire formula, pattern, compilation, program, device, method, technique, process, database, or system developed with a significant expenditure of public funds by the city. Any fee charged must be clearly demonstrated by the city to relate to the actual development costs of the information. Upon request, the responsible authority must provide sufficient documentation to explain and justify the fee being charged.

Requests for government data must be responded to in an "appropriate and prompt manner." If the responsible authority or designee is unable to provide copies at the time a request is made, they must be supplied as "soon as reasonably possible." Because there is no specific number of days for responding to all requests for public data, the responsible authority has some discretion, based on the scope of the request and the time it will take to respond.

There is a specific time limit when the request comes from the data subject. If an immediate response is not possible, the responsible authority must respond within 10 business days of the request.

If a request for data is denied or redacted based on the data classification, the responsible authority or designee must inform the requesting person of the determination either orally at the time of the request, or in writing as soon as possible, providing specific statutory section, temporary classification, or specific provision of federal law on which the determination is based.

Upon the request of the person denied access, the responsible authority or designee must certify the denial (citing the basis for the denial) in writing.

ACCESS TO CRIMINAL HISTORY CHECKS

Employees conducting criminal history checks shall disclose restricted or privileged information and data in accordance with established data practices and other statutes governing such disclosure. Any VPD case supplements or summaries should include the following information regarding criminal history data:

- Purpose of the investigation and reason for the criminal history check;
- Identity of the source of the data or information; and
- Disposition of criminal history data.

LEGAL PROCESS INVOLVING THE PRODUCTION OR INSPECTION OF EVIDENCE OR RECORDS IN COURT

The Records Manager and Property and Evidence Units are responsible for coordinating activities concerning the production or inspection of criminal evidence or records in court as required by legal process. In any case involving criminal evidence or other records in custody of other divisions, the supervisor's shall:

- In criminal matters, confer with the appropriate prosecuting attorney if there are doubts about confidentiality.
- In civil matters, determine the confidentiality of the items requested. If in doubt, contact the City Attorney's Office for advice.
- Arrange for transportation of records or criminal evidence to court when compliance is ordered or deemed advisable.

USE OF VICTIM PHOTOGRAPHS/VIDEOS

Photographs and videos that are part of an active case investigation are not public and shall not be released to any individual or agency. Photographs and videos, which are part of an inactive case investigation involving one or more of the following situations, are private and may not be released to any individual or agency except as provided by state law:

- Sexual assault victim
- Child abuse victim
- Juvenile
- Depiction of images which are clearly offensive to the common sensibility

- Police personnel involved in inter-departmental or intra-departmental instruction on law enforcement-related issues who desire use of photographs or videos involving the above situations shall obtain permission from the bureau head in charge of the case. In all cases, the identity of the subjects of such photographs or videos shall be concealed. Employees shall not use photographs or videos for private purposes or enterprises.

In addition, photographs and videos that reveal the identity of any of the following individuals are private and shall not be released to any individual or agency:

- Undercover law enforcement personnel;
- Paid or unpaid informants; and/or
- Victim or witness of a crime, if the victim/witness specifically requests that their identity not be revealed, and it has reasonably been determined by the agency that the release of such information may in fact pose a risk of threat to the victim or individual.

DEPARTMENT PERSONNEL RECORDS

The City of Virginia Human Resources maintains a personnel file on all police department employees. Each personnel file is divided into six categories containing the following information:

1. The EMPLOYMENT SECTION contains the employee's Civil Service certification including promotions, suspensions, information regarding disciplinary actions against the employee, and personal data such as home address and phone.
2. The ASSIGNMENT SECTION contains a record of the employee's assignment during their career with the VPD.
3. The COMMENDATIONS SECTION contains a record of any awards received by the employee during their career with the VPD.
4. The TRAINING SECTION contains the employee's training records.
5. The MEDICAL SECTION contains medical information about the employee such as sick leave, injury reports, and physician(s) reports.
6. The PERFORMANCE SECTION contains copies of the employee's performance evaluations.

The Chief of Police is allowed access to an employee's personnel file. All employees are allowed access to their own personnel file as per City of Virginia "Policy on Subject Rights".

All data practices requests shall be handled in accordance with the Minnesota Government Data Practices Act (MGDPA).