

LA MESA POLICE DEPARTMENT INSTRUCTION

ADMINISTRATION: CRIMINAL RECORDS PROCEDURES

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Ray Sweeney, Chief of Police

I. PURPOSE

To control the use and release of all criminal history and case records in the possession of or available to the department, prevent the misuse of information contained in these records, safeguard the privacy of individual citizens, and provide for essential law enforcement information needs.

II. DEFINITIONS

For the purposes of this instruction, the following definitions shall apply whenever the terms are used.

A. "Department Criminal Offender Record Information" means records and data compiled by the La Mesa Police Department for the purposes of identifying criminal offenders and maintaining as to each such offender a summary of arrests, pre-trial proceedings, the nature and disposition of criminal charges, sentencing, incarceration, rehabilitation, and release. Such information shall be restricted to that which is recorded as the result of an arrest, detention, or other initiation of criminal proceedings or of any consequent proceedings related thereto (11075 PC). This includes:

1. The La Mesa Police Department Alpha Records System.
2. The La Mesa Police Department Arrest Jacket Files.

Intelligence information, analytical and investigative reports, the Booking and Arrest logs, individual arrest, incident and crime reports, and records and data compiled by criminal justice agencies other than the La Mesa Police Department are not considered to be Department Criminal Offender Record information.

B. "Department Summary Criminal History Information" means a master record of information, compiled from La Mesa Police Department criminal offender records, and pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, date of arrests, arresting agencies, booking numbers, charges, dispositions, and similar data about such person (13300 PC).

- C. "State Summary Criminal History Information" means the master record of information compiled by the Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about such person (11105 PC). For the purposes of this instruction, this includes the Summary Criminal History Information obtained from other states.
- D. "Federal Summary Criminal History Information" means the master record of information compiled by authority of the United States Attorney General pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, fingerprints, date of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about any person.
- E. "Juvenile Record" is a record pertaining to the taking into custody of a person who has not attained the age of 18 years, except following a decision by the court that the person is not a proper subject for the Juvenile Court.
- F. "Law Enforcement Agencies" shall include all local, state and federal agencies with criminal law enforcement responsibilities.
- G. "Law Enforcement Purposes" are the prevention, detection and control of crime, and the identification, location and apprehension of criminals.
- H. "Criminal Justice Personnel" are peace officers, judges, clerks of the court, prosecutors, District Attorneys, correctional officers, (including juvenile institution officers), parole and probation officers, and employees of criminal justice agencies and licensing agencies whose specifically assigned duties include the handling of criminal history information.
- I. An "Arrest Report" is the report or form which contains certain information relating to the taking into custody of a person.
- J. A "Crime Report" is the report or form which contains certain information regarding the commission of a crime.
- K. A "Traffic Collision Report" is the report or form which contains certain information regarding a traffic accident event.
- L. "Official Department Case Records" are all of the reports or forms which contain information regarding any police incident for which a department case number has been assigned.

- M. "Police Communications Records" are the reports, forms, and storage media which contain data related to all dispatching functions of the police department, including but not limited to, call-cards, unit status-cards and radio tapes.
- N. "Computer Records" means all information sent or received via the department computer system relating to computerized department case records, department incident records, or computerized records accessible by telecommunications link whether displayed at a terminal, printed, or stored onto any other medium.
- O. "Right-to-Know" is the lawful authority, granted by statute or court order, for a person or agency to have access to Criminal Offender Record Information or the Summary Records produced therefrom.
- P. "Need-to-Know" is the official purpose for which the information requested will be used, and can be found for the various requestors in the Department of Justice Authorized Agencies List under the certification of compelling need found in each section.
- Q. "Record" shall mean any printed document or computer terminal display, reproduction by any method including magnetic storage media, or derived information whether whole or in part.

III. INFORMATION EXEMPT FROM DISCLOSURE

A. Witnesses, Involved Persons, On-going Investigations

The Department may withhold disclosure of that information which would endanger the safety of a witness or other person involved in the investigation, or withhold disclosure if it were to endanger the successful completion of the investigation or a related investigation (CAGC 6254(f)).

B. Investigative Analysis and Conclusions

Nothing in this instruction shall require the disclosure of that portion of those investigative files which reflect the analysis or conclusions of the investigative officer (CAGC 6254(f)).

C. Victims of Certain Crimes

The address of the victim, and/or the name of the victim at the request of the victim or the victim's guardian, of the crimes defined by sections 261, 264, 264.1, 273a, 273d, 286, 288, 288a, or 289 of the Penal Code shall not be disclosed to the public (CAGC 6254(f)).

D. Juvenile Records

Identifying information of persons taken into custody who are juveniles shall not be released under any circumstances except in compliance with the Superior Court Order issued 4/10/84 pursuant to the decision of the California Supreme Court in T.N.G. v. Superior Court 4 Cal. 3d 767. A copy of this order is on file with the Business Office Sergeant.

The department shall justify withholding any record by demonstrating that the record in question is exempt under express provisions of law, or that on the facts of the particular case the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record (CAGC 6255).

IV. RELEASE GUIDELINES

A. General

Unless otherwise specified by local, state or federal statute or a valid court order, information contained in all of the records referenced in this instruction, records of the same or similar nature obtained by any method from other government agencies, and records of the same or similar nature obtained by any method from non-governmental parties, shall not be released except as authorized by these instructions.

B. Department Records Release Agents

No Department member, except personnel specifically designated by the Chief of Police, may release information possessed by the department, or information obtained or accessible by any method to the department, related to cases reported by members of the department or other criminal justice agencies. The Services Division Commander or his alternate, the Business Office Sergeant, is the authorized releasing agent and records security officer.

Whenever there is a reasonable doubt whether or not information may be released in accordance with this policy, no authorization is required to withhold the requested information. Authorization to release information not strictly in accordance with department instructions must be obtained from the Services Commander or his alternate, the Business Office Sergeant.

C. Telecommunications Agreements

All Department members will comply with the information security regulations of the California Department of Justice and the United States Department of Justice regulating access to all State and Federal computerized data systems.

D. Release Documentation

All releases shall be documented in a manner and form approved by the Chief of Police.

E. Waiver of Confidentiality

Whenever the Department discloses a public record, which is otherwise by law exempt from disclosure, to any member of the public, this disclosure shall constitute a waiver of the exemptions specified in California Government Code sections 6254, 6254.7, or other similar provisions of law. This does not apply to disclosures made pursuant to discovery proceedings, other legal proceedings, or within the scope of disclosure of a statute which limits disclosure of specified writings to certain purposes (CAGC 254.5).

V. OFFICIAL DEPARTMENT CASE RECORD RELEASES

The Chief of Police, Records Security Officer and Business Office personnel trained for records releases, are the only persons authorized to release Official Department Case Record information:

- A. TO LAW ENFORCEMENT AGENCIES for law enforcement purposes.
- B. TO CRIMINAL JUSTICE PERSONNEL for the purpose of executing the responsibilities of their position in a matter relating to the individual whose record is requested.
- C. TO THE ATTORNEYS REPRESENTING THE CITY OF LA MESA or AGENTS OF THE CITY OF LA MESA authorized to receive criminal history information for employment or licensing purposes pursuant to section 2.90.020 of the La Mesa Municipal Code.
- D. TO THE VICTIMS of an incident or an AUTHORIZED REPRESENTATIVE thereof, an INSURANCE CARRIER against which a claim has been or might be made, and any PERSON SUFFERING BODILY INJURY or PROPERTY DAMAGE or LOSS, as the result of the incident caused by arson, burglary, fire, explosion, larceny, robbery, vandalism, vehicle theft, or a crime of violence as defined by subdivision (b) of section 13960 CAGC, the department shall disclose the names and addresses of persons involved in, or witnesses other than confidential informants to, the incident, the description of any property involved, the date, time, location of the incident, all diagrams, statements of the parties involved in the incident, and the statements of all witnesses, other than confidential informants (CAGC 6254(f)).
- E. TO ALL MEMBERS OF THE PUBLIC, including NEWS MEDIA REPRESENTATIVES, the department shall disclose upon request

ARREST INFORMATION: the full name, current address and occupation of every person arrested by the agency, the individual's physical description including date of birth, color of eyes and hair, sex, height and weight, the date and time of arrest, the date and time of booking, the location of the arrest, the factual circumstances surrounding the arrest, the amount of bail set, the time and manner of release or the location where the individual is currently being held, and all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds, and

CRIME/INCIDENT INFORMATION: the time, substance, and location of all complaints or requests for assistance received by the agency and the time and nature of the response thereto, including to the extent such information regarding crimes alleged or committed or any other incident investigated is recorded, the date, time and location of occurrence, the date and time of the report,

VICTIM INFORMATION: the name, age and current address of the victim (CAGC 6254(f)).

- F. FOR TRAFFIC COLLISION REPORTS to any person upon request who may have a proper interest therein (CVC 20012).
- G. TO VICTIM CENTERS upon request under the general public release guidelines of CAGC section 6254(f)(2) prior to a victim request for restitution. When the victim decides to file a restitution claim with the State Board of Control, a complete copy may be released on request of the Victim Center (CAGC 13968).
- H. FOR THE PURPOSE OF CRIMINAL JUSTICE RELATED RESEARCH to public agencies or bona fide research organizations upon request providing that material identifying individuals is not used for other purposes, and that derived reports or publications do not identify specific individuals (PC 13202).

VI. CRIMINAL OFFENDER AND SUMMARY CRIMINAL HISTORY INFORMATION

The Chief of Police, Records Security Officer and authorized Business Office Personnel are the only persons authorized to release Criminal Offender and Summary Criminal History record information.

- A. DEPARTMENT CRIMINAL OFFENDER RECORD INFORMATION shall not be released to the public.

Department Criminal Offender Record Information shall be released only to those persons or agencies authorized by section 13300 PC and the Department of Justice Authorized Agencies List when needed in the course of their official duties, and when both a right-to-know and a need-to-know has been established prior to the release.

Requests for information available to the department but contained in the criminal offender records of other agencies shall not be released, but shall be referred to the agency maintaining those records.

- B. DEPARTMENT SUMMARY CRIMINAL HISTORY INFORMATION shall not be released to the public.

Department Summary Criminal History Information shall be released to agencies or persons specifically authorized by section 13300 PC and the Department of Justice Authorized Agencies List when needed in the course of their official duties, and when both a right-to-know and a need-to-know has been established prior to the release.

A Department Summary Criminal History Record shall be made available to the subject of the record in compliance with sections 13320 - 13326 PC.

Requests for information available to the department but contained in the summary criminal offender records of other agencies shall not be released, but shall be referred to the agency maintaining those records.

- C. STATE SUMMARY CRIMINAL HISTORY INFORMATION shall not be released to the public.

State Summary Criminal History Information may be released only to agencies or persons specifically authorized by section 11105 PC and the Department of Justice Authorized Agencies List when needed in the course of their official duties, and when both a right-to-know and a need-to-know has been established prior to the release.

Requests for information related to a State Summary Criminal History Record by the subject of a record shall be referred to the California Department of Justice in compliance with sections 11120 - 11127 PC or the State that maintains such record. The department may furnish a BCID 8705 for application to the California Department of Justice.

- D. FEDERAL SUMMARY CRIMINAL HISTORY INFORMATION shall not be released to the public.

Federal Summary Criminal History Information releases shall be regulated in the same manner as the procedures for State Summary Criminal History Information releases.

Requests for information related to a Federal Summary Criminal History Record by the subject of a record shall be referred to the Federal Bureau of Investigation.

VII. POLICE COMMUNICATIONS RECORDS

Police Communications Records are operational records of the department and shall not be released to the public.

Information derived from department Police Communications Records may be released in so far as the release is in compliance with the provisions of this instruction.

VIII. COMPUTER RECORDS

Unless otherwise specified by statute or valid court order, Department Computer Records shall not be released to the public.

The following Department Computer Records may be released to Law Enforcement Agencies or Criminal Justice Personnel for law enforcement purposes, but only in compliance with the other provisions of this instruction relating to the type of information released.

- A. Department Criminal Record and Criminal History Information
- B. State Motor Vehicle Records
- C. State Summary Criminal History Information
- D. Federal Summary Criminal History Information
- E. Automated Regional Justice Information (ARJIS) Information

IX. DOCUMENTATION FOR RELEASES

All release documentation shall be approved by the Chief of Police and will include, but is not limited to:

- A. The identification of the requestor and the date of request,
- B. Information establishing a right-to-know,
- C. Information establishing a need-to-know for those records of a criminal history or summary criminal history type,
- D. The nature of the information released,
- E. The name of the department representative who releases the information and the date of release.

Release documentation shall be maintained by a method that is expeditious for audit purposes.

The department shall maintain records and release documentation for the minimum periods required by law, including but not limited to State and Department Summary Criminal Offender Record Releases (CAGC section 707), Department Criminal Offender Record Information (CAGC section 11078), Department Records (La Mesa Council Resolution 14555, dated 11/23/82), and Communications Tapes (CAGC section 26202.6).

X. COMPLIANCE TO RECORDS REQUESTS

Excepting public records exempt by express provisions of law from disclosure, the department shall review requests for a copy of records which reasonably describes an identifiable record, or information produced therefrom, and comply within 10 days in accordance with CAGC sections 6265, 6256.1, 6256.2, and 6257 and after payment of the statutory fees.

Upon request, an exact copy shall be provided unless impracticable to do so. Original documents shall not be delivered for these purposes. Computer data shall be provided in a form approved by the Chief of Police.

Any reasonably segregated portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt by law.

Under the circumstances specified by CAGC section 6256.1, the 10 day time limit may be extended by written notice from the Chief of Police to the person making the request.

Any notification of denial of any request for records shall set forth the names and titles or positions of each person responsible for the denial.

XI. RECORDS SECURITY

Only persons authorized by the Chief of Police may access the records specified in this instruction, including access via computer terminal, and then only those records as are necessary to perform their official department duties. All

personnel are to challenge unauthorized persons entering any area containing or having access to these records.

XII. RECORDS DESTRUCTION

Records specified in this instruction will be destroyed or sealed in compliance with applicable federal, state and local statutes, or a valid court order requiring mandatory destruction or sealing, and then under the supervision of the Records Security Officer. Other records, not required to be maintained by statute or valid court order, may be destroyed after the Records Security Officer determines they no longer serve a useful purpose to the department.

Records to be destroyed shall be obliterated (shredding, tearing, burning, magnetizing, etc.) in such a manner that subjects on the record can no longer be identified.

XIII. PENALTIES

Misuse of any Summary Criminal History Record is a misdemeanor. Violation of this instruction or the statutes and regulation dealing with records security may result in disciplinary action against the personnel involved, including suspension, dismissal and/or prosecution.