

RECORDS OF POLICE DEPARTMENTS

Executive Order No. 69

Issued May 1997(3/98)

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WHEREAS, Chapter 73, P.L. 1963, as amended, finds and declares it to be the public policy of this State that public records shall be readily accessible for examination by the citizens of this State for the protection of the public interest except as otherwise provided in said law; and

WHEREAS, some limitation upon the right to examine and copy records provided by Chapter 73 is essential and not detrimental to the public interest as recognized by existing statutory and common law; and

WHEREAS, disclosure of information must be consistent with existing statutory law regarding confidentiality in certain areas; and

WHEREAS, said Chapter 73 provides that records which would otherwise be deemed to be public records, subject to inspection and examination and available for copying, pursuant to the provisions of said law, may be excluded therefrom by Executive Order of the Governor or by any regulation promulgated under the authority of any Executive Order of the Governor; and

WHEREAS, Section 3(e) of Executive Order No. 9, issued by Governor Richard Hughes in 1963, and reaffirmed by Executive Order No. 123, issued by Governor Thomas H. Kean in 1983, states that fingerprint cards, plates and photographs and other similar criminal investigation records which are required to be made, maintained or kept by any State or local governmental agency shall not be deemed to be public records subject to inspection and examination and available for copying pursuant to the provisions of Chapter 73; and

WHEREAS, the Attorney General has undertaken a complete review of this subject area, seeking input from prosecutors, police, representatives of the news media, and victims' rights organizations, and has recommended that certain aspects of the system be clarified;

NOW, THEREFORE, I, Christine Todd Whitman, Governor of the State of New Jersey, by virtue of the authority vested in me by the Constitution and by the Statutes of this State, do hereby order and direct:

Executive Order No. 9 of Governor Richard J. Hughes and Executive Order No. 123 of Governor Thomas H. Kean are modified as hereinafter set forth, and any regulations adopted and promulgated under those prior Executive Orders shall be deemed null and void to the extent such regulations are inconsistent with the provisions of this Executive Order.

The following records shall not be deemed to be public records subject to inspection and examination and available for copying pursuant to the provisions of Chapter 73, P.L. 1963, as amended: fingerprint cards, plates and photographs and similar criminal investigation records that are required to be made, maintained or kept by any State or local governmental agency.

Notwithstanding the above section 2, the following information shall be available to the public within 24 hours, or sooner if practicable, of a request for such information:

where a crime has been reported but no arrest yet made, information as to the type of crime, time, location and type of weapon, if any;

if an arrest has been made, information as to the name, address and age of any victims, unless there has not been sufficient opportunity for notification of next of kin of any victims of injury and/or death to any such victim or where the release of the names of any victim would be contrary to existing law or court rule. In deciding on the release of information as to the identity of a victim, the safety of the victim and the victim's family, and the integrity of any ongoing investigation, shall be considered;

if an arrest has been made, information as to the defendant's name, age, residence, occupation, marital status and similar background information and the identity of the complaining party, unless the release of such information is contrary to existing law or court rule;

information as to the text of any charges, such as the complaint, accusation and indictment, unless sealed by the court or unless the release of such information is contrary to existing law or court rule;

information as to the identity of the investigating and arresting personnel and agency and the length of the investigation;

information of the circumstances immediately surrounding the arrest, including but not limited to the time and place of the arrest, resistance, if any, pursuit, possession and nature and use of weapons and ammunition by the suspect and by the police; and

information as to circumstances surrounding bail, whether it was posted and amount thereof.

The term "request" shall mean either a written or oral request; provided, however, that all requests are made with sufficient clarity so as to enable a reasonable person to understand the information that is being sought. The law enforcement official responding to oral requests should make best efforts to respond orally over the telephone; however, it shall not be unreasonable to require the requester to appear in person to receive the information. Unless the parties note otherwise, it shall be understood that there is no duty to release or obtain information that is not in the possession of the law enforcement agency at the time of request.

Notwithstanding any other provision of this Executive Order, where it shall appear that the information requested or to be examined will jeopardize the safety of any person or jeopardize any investigation in progress or may be otherwise inappropriate to release, such information may be withheld. This section is intended to be narrowly construed to prevent disclosure of information which would be truly harmful to a bona fide law enforcement purpose or public safety if released. It is also intended to prevent such release that would violate existing law regarding confidentiality in areas

including, but not limited to, domestic violence and juveniles.

Each county prosecutor shall prepare a plan outlining the procedures for providing and/or disseminating the information required by this Executive Order and shall submit same to the Division of Criminal Justice for its review and filing. Each prosecutor shall consult with the police departments within his or her county and to the extent possible, include within the prosecutor's plan the local procedures for responding to informational requests. The Division of State Police shall submit its plan to the Office of the Attorney General. Whenever any changes are made in any such plan, said changes shall immediately be forwarded to the appropriate county prosecutor and/or the Division of Criminal Justice or Office of the Attorney General for review and filing. In addition, each county prosecutor's office shall designate a person(s) who is(are) responsible for responding to requests for public information by the media on nights, weekends and holidays. The name of the person(s) so designated shall be available at the communication center in each county.

The Attorney General, as chief law enforcement officer of the State, or his designee, or where appropriate, the county prosecutor, as chief law enforcement officer of the county, shall promptly resolve all disputes as to whether or not the release of records would be "otherwise inappropriate" between the custodian of any records referred to herein and any person seeking access thereto or similar disputes. Where the Attorney General or the county prosecutor determines that the release of records would be "otherwise inappropriate," he or she shall issue a brief statement explaining the decision.

The terms of the Order shall be carried out in the spirit of Chapter 73, P.L. 1963, as amended, and shall not relate to requests pursuant to Chapter 60, Section 4, of P.L. 1994. It shall be carried out by keeping in mind the right of citizens to be aware of events occurring in their community.

This Order shall take effect immediately.

EXCEPTIONS TO PUBLIC ACCESS TO GOVERNMENT RECORDS

Privileged or Protected Category	Authority
Autopsy Reports	N.J.S.A. 47:1A-1.1, et seq.
Child abuse or sex assault victim name or address	N.J.S.A. 2A:82-46b
Court records sealed	Executive Order 69
Computer security information	N.J.S.A. 47:1A-1.1, et seq.
Criminal investigatory records	N.J.S.A. 47:1A-1.1, et seq.
Credit Card Numbers	N.J.S.A. 47:1A-1.1, et seq.
Grand Jury testimony, information	Court Rule 3:6-7
Grievance information with public employer	N.J.S.A. 47:1A-1.1, et seq.
Domestic Violence data	N.J.S.A. 2C:25-33
Driver`s license numbers	N.J.S.A. 47:1A-1.1, et seq.
DYFS information	N.J.S.A. 9:6-8.10
Electronic Surveillance Materials	N.J.S.A. 2A:156A-19
Emergency or security information or procedures	N.J.S.A. 47:1A-1.1, et seq.
Employee sexual harassment complaints	N.J.S.A. 47:1A-1.1, et seq.
Fingerprint cards	Executive Order 69
Inter-agency or intra-agency advisory communications	N.J.S.A. 47:1A-1.1, et seq.
Juvenile records	N.J.S.A. 2A:4A-60
Labor Negotiation information, strategy or positions	N.J.S.A. 47:1A-1.1, et seq.
Medical Examiner Photographs	N.J.S.A. 47:1A-1.1, et seq.
Otherwise inappropriate material	Executive Order 69
Pension and personnel records	N.J.S.A. 47:1A-1.1, et seq.
Photographs pertaining to a criminal investigation	N.J.S.A. 47:1A-1.1 et seq.; Exec. Order 69
Pre-Sentence Investigations	State v. DeGeorge, 113 NJ Super.542 (App. Div. 1971)
Public Agency insurance communications	N.J.S.A. 47:1A-1.1, et seq.
Safety of persons or public	N.J.S.A. 47:1A-1.1, et seq.;Exec. Order 69
Security measures and surveillance techniques	N.J.S.A. 47:1A-1.1, et seq.
Social Security Numbers	N.J.S.A. 47:1A-1.1, et seq.
Unlisted Telephone Numbers	N.J.S.A. 47:1A-1.1, et seq.
Victim locations (Domestic Violence)	N.J.S.A. 2C:25-26c.
Victim records	N.J.S.A. 47:1A-1.1, et seq.
Record has been destroyed/not retained pursuant to:	Records Retention and Disposition Schedule (NJ Dept. of State, Div. of Archives Mgmt.)



PIO Training: Strategies for Effective Law Enforcement Messaging to the Press and Public

September 12, 2023

Bergen County Law & Public Safety Institute, Mahwah, NJ

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What is the primary goal of law enforcement? Public Safety.

Public safety requires a positive **relationship** between law enforcement and the communities it serves. This relationship is important because it improves officer safety, helps with identifying and apprehending those responsible for crimes, makes residents more likely to report crime and cooperate with law enforcement, deters criminals, prevents crime from happening by informing potential victims of danger, and builds equity when there is a bad actor or negative event involving law enforcement.

This relationship is driven by personal interactions, but it is also influenced by other ways law enforcement **communicates** with the public. Public relations are as important to this relationship as interpersonal interactions. This includes:

- Press media
- Social media
- Literature
- Videos (YouTube)
- Website
- Email correspondence
- Formal/informal notes

Each form of communication has an audience, a purpose, and messaging that influences the relationship and ultimately public safety. The questions for each are:

Who is the audience?

What is the purpose of communicating with this audience?

What is the message to be shared with this audience?

Purposes include:

- (1) improving the reputation of law enforcement;
- (2) changing the perception of the work we do;
- (3) making the public aware of scams, frauds, and common criminal practices to empower them to avoid victimization;
- (4) making the public aware of resources that are available to stop cycles of violence, addiction, or trauma;
- (5) making the public aware of prevention programs, partnerships, and trainings;
- (6) notifying the public of changes in the law;
- (7) increasing the diversity of individuals who pursue a career in law enforcement; and
- (8) seeking the public's assistance in identifying or apprehending criminal actors.

How do we effectively communicate with the public?

#1. Be genuine, honest.

#2. Be prepared.

- I. Define your goals/have a plan.
 - a. Understand your return on engagement.
 - b. Determine how best to utilize your resources.
 - c. What does your community need?
- II. Humanize your agency/personnel.
 - a. Make sure it's your agency/your story.
- III. Build trust. Media is one tool; use other resources like clergy and community leaders.
 - a. Communicate directly with the public.
 - b. Use during emergencies.
 - c. Think customer service.
 - d. Build your team.
 - e. Select platforms.
 - f. Identify your audience(s)
 1. How to reach them?
 2. Audience voice?
 3. Your voice?
 - g. Know that people want to be heard.
 1. Are you listening?
 2. Are you letting them know that you're listening?
 3. Victims ask why me, who's responsible, and want you (authority) to hear and do something.
 4. Families, faith organizations, and advocacy groups are motivated after a crime, injustice, or crisis.
 5. Motivation: anger/betrayal/need for justice – media gives them a voice

- IV. Use humor ONLY when appropriate (rarely appropriate).
 - a. Little benefit, short memory v. long memory for faux pas.
 - b. Make sure you are actually funny.
- V. Be first reporter, not just responder.
 - a. Control the information.
 - b. Kill rumors and misinformation.
 - c. No comment doesn't stop the story.
 - d. Reassure and instill confidence in YOUR community.
 - e. Find ways to change the narrative.
- VI. Manage your relationship with the media.
 - a. Investment versus turnover in media.
 - b. No such thing as media partners.

Also consider:

What is your department's social media policy?

1. Do you delete comments? What about trolls?
2. Do you have a media manager?
3. How do you respond to OPRA requests?
4. Are you removing content as necessary/requested (e.g., expungements)?

What about your officers' personal social media accounts? Does your department have an SOP on what they can post?

1. Can they use the agency's name, logo, patch, badge, marked vehicle or other identifying symbol?
2. Can they post their own photograph while in uniform?
3. Can they post while on the job?
4. Can they use their agency email address to login to any SM accounts?
5. Do you require that they include a disclaimer if they maintain a personal blog/social media that identifies where they work?
6. Policy against posting false information about agency, superiors, coworkers, public officials, or other affiliations with the agency?
7. Can they post photos of or comments by other department employees without their permission?
8. Does your policy remind them to consider the adverse consequences of online activity, which includes future employment, cross-examination in criminal cases, and embarrassment?

Not permitted to release (per Court Rule 1:38; RPC 3.6; RPC 3.8; Executive Order 69):

1. Whether a suspect has given a confession or statement, its contents, or the suspect's unwillingness to give a statement.
2. Criminal histories.
3. Speculation on the suspect's state of mind.
4. Comments with no legitimate law enforcement purpose that only sensationalize or heighten public condemnation of the suspect.
5. Photos of juvenile suspects, victims, or witnesses.
6. Photos of evidence seized, e.g., drugs, guns, cash.
7. Information regarding death-related investigations, including fatal vehicle crashes or pedestrian deaths.
8. Information regarding sexual assault investigations or CART responses.
9. Information regarding officer-involved shootings.
10. Juvenile records.
11. Child abuse records.
12. Domestic violence records.
13. Names of victims of sex crimes.
14. Victim names prior to notification of next of kin.
15. Information that may compromise the safety of an individual or investigation.
16. Information regarding the identity of, statements, or expected testimony of witnesses or victims.
17. Performance on scientific exams or tests like polygraphs.
18. Results of investigative procedures like photo arrays or other identifying procedure.
19. Opinions as to guilt or innocence of the defendant.
20. Opinions, knowledge, speculation of potential for plea or other pretrial or judicial action.
21. Information received from another law enforcement agency without that agency's concurrence in releasing the information.
22. Information which, if prematurely released, may interfere with investigation or apprehension such as nature of investigative leads, modus operandi, details of crime known only to actor or law enforcement, or information that would cause suspect to flee or avoid detection.
23. Specific cause of death unless officially determined by medical examiner.
24. Any reference to charges without the caveat that defendants are presumed innocent unless and until proven guilty beyond a reasonable doubt.