



# POLICY & PROCEDURE

## HOLMEN POLICE DEPARTMENT

<b>SUBJECT:</b>	<b>OPEN RECORDS</b>	<b>NUMBER:</b>	11.1
		<b>ISSUED:</b>	03/01/2012
<b>SCOPE:</b>	All Sworn Personnel	<b>REVIEWED:</b>	01/31/2017
<b>DISTRIBUTION:</b>	Policy & Procedure Manual	<input type="checkbox"/> <b>RESCINDS</b>	
		<input type="checkbox"/> <b>AMENDS</b>	
<b>REFERENCE:</b>	WI Stats 19.34(1)-(2); 19.35; DPPA 18 USC §2721 – 2725	<b>WILEAG 4<sup>TH</sup> EDITION STANDARDS:</b> 10.2.1	

**INDEX AS:** Open Records  
Release of Information

**PURPOSE:** The purpose of this Policy & Procedure is to provide guidance to employees of the Holmen Police Department (HPD) on the proper procedures to release information collected by the HPD to ensure compliance with Wisconsin State Statutes and the Driver’s Privacy Protection Act (DPPA).

This Policy consists of the following numbered sections:

- I. POLICY
- II. DEFINITIONS
- III. RELEASE OF INFORMATION BY PERMISSION OF POLICE CHIEF ONLY
- IV. PROCEDURES
- V. RECORDS ACCESSIBILITY

### I. POLICY

It is the policy of the Holmen Police Department (HPD) that all persons are entitled to reasonable access to information regarding the affairs of the HPD. Records are presumed to be open to inspection and copying with few exceptions and that requirements of the public records law apply to records that exist at the time a public records request is made.

### II. DEFINITIONS

**AUTHORITY:** Has the meaning specified in WI §19.32(1)

**EMPLOYEE:** Has the meaning specified in WI §19.32(1bg)

RECORD: Has the meaning specified in WI §19.32(2) Records do not include drafts, notes, preliminary computations, and like materials as stated in WI §19.32(2).

REQUESTOR: Has the meaning specified in WI §19.32(2)

### **III. RELEASE OF INFORMATION BY POLICE CHIEF ONLY**

- A. The police chief is designated as the legal custodian of all Departmental records.
  - 1. Generally, the Holmen Police Department will accept release of information requests in person or by telephone during regular business hours specified in the “Department Notice”.
  - 2. Faxed or on-line requests will be addressed the next business day.
  - 3. The “Open Records Request” form should be completed in its entirety, if possible, by the requestor or an employee taking the request.
    - a. The requestor does not have to provide their identity when making the request, unless the record has restricted access and may only be released to someone statutorily authorized to obtain the information. (e.g. custodial parent for juvenile information)
    - b. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under WI §19.37
  
- B. Since the police chief bears the full responsibility for the lawful and orderly operation of the Holmen Police Department, any and all information will only be released by the police chief, Lieutenant or his/her authorized designee. Furthermore, information relating to cases which may involve potential civil liability for the Department shall not be released before being approved for release by the Village’s legal counsel.
  
- C. No official document and/or report, handwritten documentation, or verbal information pertaining to juveniles, driving records and criminal histories shall be released by any employee of this Department to any party without expressed permission of the police chief. The only exception is a request from another law enforcement agency. This shall apply to either juvenile or adult information release requests.

### **IV. PROCEDURES**

- A. In accordance with WI §19.34(1) the following notice will be prominently displayed at the front window of the HPD. This notice has been adopted by this authority and is available for public inspection and/or copying upon request.

*The authority which has adopted this notice is described as follows:*  
**HOLMEN POLICE DEPARTMENT.**

*Records of this authority shall be available at the following times and places: Holmen Police Dept., 119 Wall Street W., from 8:00 a.m. to 4:30 p.m. Monday – Friday, excluding Holidays. Records can be requested on the Holmen Police Department web page. On-line records will be processed during normal business hours.*

*The legal custodian of the records for this authority is: POLICE CHIEF or his/her designee in his absence.*

*Any member of the public who desires to obtain information and access to the records in the custody of this department, or who desires to make a request for records or obtain copies of records, or obtain information regarding the costs thereof, should contact the legal custodian named above.*

- B. The following steps will be followed for all release of information requests:
1. Request received. The Department form needs to be completed for tracking of date/time received; time to process; response to requestor; reason if denied or items redacted and reasonable fee charged.
  2. Review the form for the information being requested.
    - a. Determine if the record actually exists.
    - b. What type of format is the information in? Formats include but are not limited to incident report, audio and/or video recording.
    - c. Is the requester prohibited from accessing the record pursuant to statute or court decision?
    - d. Does the balancing test compel access to the record?
  3. Respond to the request within a reasonable time limit letting the requestor know approximately how long it will take to fulfill the request if the information is not readily available.
  4. Retrieve the requested information and review the contents to determine if the information can/should be released.
  5. Redact exempted information, if appropriate.
  6. Explain basis for denial of release or exempted information through a letter to the requestor that will be filed with the Department form.
  7. Calculate reasonable fee and contact the requestor. Copies will be made available after the requestor has paid a reasonable fee as authorized under WI §19.35(3)

8. Inform the requestor of the right to appeal if the information was denied.
9. File completed request form as this is a record

### C. Media Relations

1. Information will generally be released to the media in one of three fashions; review of daily reports, distribution of a formal news release or personal interview.
  - a. Media representatives will have access to report summaries on a daily basis. These summaries will be maintained in the front office.
  - b. For events of a significant nature, a formal news release will be drafted. A copy of the release will be included with the daily summaries and a copy will be faxed to dispatch and the media.
  - c. During normal business hours, the Chief or his/her designee will complete the media release. In the absence of the Chief, the Lieutenant will assume responsibility for the release.
  - d. After normal business hours and on weekends, the on-duty or on-call supervisor will complete a formal news release, if necessary.
  - f. In certain instances, media representatives may request to speak with department members who possess specific knowledge about a particular newsworthy topic. The Chief of Police or the officer's supervisor must approve such interviews. Release of information during an interview should follow guidelines established in this policy.
  - g. Upon the occurrence of a major event, the Chief (or his/her designee) will contact the local media representatives to arrange a news conference.
  - h. As a general rule, employees are discouraged from releasing information over the telephone. However, recognizing the need to maintain a good working relationship with the media, the following guidelines shall be established for limited telephonic release of information.
    - (1) Only the Chief or Lieutenant will release information over the telephone.
    - (2) Front office personnel may release information as to the nature of the event, general location (i.e. north side) and name of supervisor in charge.
    - (3) When telephones have been transferred to La Crosse County Dispatch (i.e. after business hours), dispatchers may release information as to the nature of the event, general location and the name of the supervisor in charge.
    - (4) The person releasing the information shall ascertain the caller's name and news organization.

5. In the case of major fires, natural disasters, major crime scenes, etc., the department will make every effort to allow media access for photographs and video tapes within the limitations of public safety and crime scene integrity.
6. During such situations, a single designated area will be established at which media representatives will be provided information. All inquiring media representatives will be directed to that location.
7. The Chief will designate a media liaison who will be assigned to the scene of such emergencies to handle matters related to the media, and all media requests for information should be directed to the media liaison.

#### IV. RECORDS ACCESSIBILITY

- A. Except as otherwise provided by law, any requestor has a right to inspect any record. Exceptions are provided in WI §19.35(1)(am) and WI §19.36(2)-(13).
- B. The following are potential reasons for justification of the denial to release information: (Note the list is not all inclusive).
  1. The case is still under investigation and release of information may jeopardize the investigation.
  2. Juvenile police records. Law enforcement records relating to juveniles are controlled by State Statute 938.396(1), which generally says, subject to exceptions, juvenile police records are to be confidential.
  3. Information relating to confidential police informants.
  4. Reports concerning reference to polygraph examinations.
  5. When information in the report could endanger an individual's life or safety.
  6. Personnel files of any department employee internal investigation documents.
  7. Materials prepared for the originator's personal use or prepared by the originator in the name of the person for whom the originator is working.
  8. The Chief of Police or his/her designee shall act upon requests for information regarding department policies and/or procedures
9. Protection of informant.
  - a. If the Department receives a request for information that contains specific information including but not limited to a name, address, telephone number, voice recording, or handwriting sample, which, if disclosed, would identify an informant, the Department, in accordance with WI §19.36(8)(b), shall delete the portion of the record in which the information is contained,

or if no portion of the record can be inspected or copied without identifying the informant, the department shall withhold the record unless the police chief makes a determination, at the time that the request is made, that the public interest in allowing a person to inspect, copy or receive a copy of such identifying information outweighs the harm done to the public interest by providing such access.

- b. "Informant" means an individual who requests confidentiality in conjunction with providing information, or pursuant to an express promise of confidentiality, or under circumstances in which a promise of confidentiality would be reasonably implied, provides information or is working with the Department to obtain information related in any case to any of the following:
    - 1) Another person who the individual or the Department suspects has violated, is violating, or will violate a federal law, a law of any state, or an ordinance of any local government.
    - 2) Past, present, or future activities that the individual or the Department believes may violate a federal law, a law of any state, or an ordinance of any local government.
10. Confidential status of children's records under Wisconsin Statute 938.396 or as amended.
  11. Statutory confidential status of record.
  12. Nondisclosure of hearsay or rumored information which, if discussed in public, would be likely to have a substantial adverse effect upon the reputation of the person to whom such information pertains.
  13. Nondisclosure of law enforcement investigative techniques or procedures.
  14. Reasonable belief in illegal purpose of the request for information.
  15. Pupil records shared by the Holmen Community School District specified in the Memorandum of Understanding with the School District.
  16. Release of Driver Record information as prescribed in the DPPA, 18 U.S.C. §2721-2725. (see WI §343.24 for information on how Department of Transportation file may be obtained)
    - a. Requests for accident reports will require a "DRIVER'S PRIVACY PROTECTION ACT CERTIFICATION" to be completed prior to an un-redacted release of an accident report as required in the DPPA

C. Facilities

1. A requester must be provided facilities for inspection and copying of requested records comparable to those used by the authority's employees.
2. The police chief may impose reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

**VII. Personal Records**

1. Any electronic device, such as a computer or phone with correspondents from a work related issue (may be subject to an open records request)
  - a. An officer on personal time using texts or emails on his/her personal device, could have the device subpoenaed according to open records law by an attorney, if the text or emails were pertaining to an incident while the officer was on duty.
  - b. An officer on duty using his/hers personal device for text or emails may have the device subpoenaed from an attorney pertaining to open records law.

Shane Collins  
Police Chief

This Policy cancels and supersedes any and all previous Policies and Directives relative to the subject matter contained herein.

Initial 10/20/2016