

UPPER MERION TOWNSHIP POLICE DEPARTMENT
POLICY AND PROCEDURE

No. 1410

Supercedes: NA

Effective: December 1, 2016

Page: NA Section: NA

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Dated: November 4, 2003

RELEASE OF DOCUMENTS/MATERIALS

- I. **PURPOSE:** The purpose of this policy is to assure compliance with the Right to Know Law. It is the intent of this policy to carry out the Police Department's powers and obligations under the Right to Know Law and other applicable acts. Under the Right to Know Law, the Police Department as lawful custodian of records, may adopt reasonable rules governing the making of extracts, copies, photographs, or photostats of public information.
- II. **POLICY:** It is the policy of the Upper Merion Township Police Department to respond to requests for information and documents in compliance with Upper Merion Township Policy #A1-105.04, the Right to Know Law and other applicable statutes including the Criminal History Record Information Act, the Freedom of Information Act and the Pennsylvania Motor Vehicle Code. The Police Department will not release information or documents where such information or documents are exempt from disclosure under applicable statute or case law.
- III. **CROSS-REF:** Township Policy #A1-105.05, RIGHT TO KNOW POLICY
Township Policy #A1-120.02, SALE OF VEHICULAR ACCIDENT REPORTS, PHOTOS, VIDEOS, DIAGRAMS, ETC.
Township Policy #A1-122.03, PUBLIC INFORMATION
Policy #1400, RECORDS MANAGEMENT

IV. **DEFINITIONS:**

PROTECTED INFORMATION: Information collected as part of an investigation and prosecution of individuals engaged in criminal activity. Although it is protected by the Criminal History Record Information Act, Protected Information is not considered to be criminal history record information. Three types of Protected Information are covered by the Criminal History Record Information Act:

- A. Intelligence Information: Information concerning the habits, practices, characteristics, possessions, associations or financial status of any individual compiled in an effort to anticipate, prevent, monitor, investigate or prosecute criminal activity. Intelligence information may also include information on prescribing, dispensing, selling, obtaining or using a controlled substance as defined in the Controlled Substance, Drug Device and Cosmetic Act.
- B. Investigative Information: Information assembled as a result of the performance of any inquiry, formal or informal, into a criminal incident or an allegation of criminal wrongdoing and may include modus operandi information.
- C. Treatment Information: Information concerning medical, psychiatric, psychological or other rehabilitative treatment provided, suggested or prescribed for any individual charged with or convicted of a crime.

Also refer to Township Policy #A1-105.03 for additional definitions.

- V. **GENERAL RULE:** The Upper Merion Township Police Department shall comply with provisions of Township Policy #A1-105.05, RIGHT TO KNOW POLICY, with the following statutory exceptions:

A. CRIMINAL HISTORY RECORD INFORMATION ACT (Title 18, Chapter 91):

- 1. Applicability: This chapter shall apply to persons within this Commonwealth and to any agency of the Commonwealth or its political subdivisions which collects, maintains, disseminates or receives criminal history record information.
- 2. Scope: Except for the provisions of Subchapter B (relating to completeness and accuracy), Subchapter D (relating to security) and Subchapter F (relating to individual right of access and review), nothing in this chapter shall be construed to apply to:
 - a. Original records of entry compiled chronologically, including, but not limited to, police blotters and press releases that contain criminal history record information and are disseminated contemporaneous with the incident.
 - b. Posters, announcements, or lists for identifying or apprehending fugitives or wanted persons.

3. Other Criminal Justice Information: Nothing in this chapter shall be construed to apply to information concerning juveniles, except as provided in Section 9123 (relating to juvenile records), unless they have been adjudicated as adults, nor shall it apply to intelligence information, investigative information, treatment information, including medical and psychiatric information, caution indicator information, modus operandi information, wanted persons information, stolen property information, missing persons information, employment history information, personal history information, nor presentence investigation information. Criminal history record information maintained as part of these records shall not be disseminated unless in compliance with the provisions of this chapter.

4. Information in Automated Systems:
 - a. Intelligence information, investigative information and treatment information may be placed in an automated or electronic criminal justice system only if access to such information is restricted to authorized employees of the criminal justice agency and cannot be accessed by any other individuals inside or outside of the agency.

 - b. Dissemination of protected information:
 - (1) Intelligence information placed in an automated or electronic criminal justice information system may be disseminated only if the department, agency or individual requesting the information is a criminal justice agency which has policies and procedures adopted by the Office of the Attorney General in consultation with the Pennsylvania State Police which are consistent with this act (see Section 9106).

 - (2) Investigative and treatment information shall not be disseminated to any department, agency or individual unless the department, agency or individual requesting the information is a criminal justice agency which requests the information in connection with its duties, and the request is based upon a name, fingerprints, modus operandi, genetic typing, voice print or other identifying characteristic.

5. Dissemination of Criminal History Record Information:
 - a. Criminal history record information shall be disseminated by a State or local police department to any individual or noncriminal justice agency only upon request.

 - b. A fee may be charged by the Upper Merion Township Police Department for each request for criminal history record information by an individual or noncriminal justice agency with the exception of agencies cited in Section 9121(b)(1) of the Act.

- c. Before the Upper Merion Township Police Department disseminates criminal history record information to an individual or noncriminal justice agency, it shall extract from the record all notations of arrests, indictments or other information relating to the initiation of criminal proceedings where:
 - (1) Three years have elapsed from the date of arrest;
 - (2) No conviction has occurred; and
 - (3) No Proceedings are pending seeking a conviction.
 - d. Subsections V-A-5-(b & c) of this policy shall not apply if the request is made in accordance with Section 9121(b.1) of the Act.
 - e. When the Upper Merion Township Police Department disseminates criminal history record information, it must indicate to the recipient that the information disseminated is only that information contained in its own file, the date of the last entry, and that a summary of the statewide criminal history record information may be obtained from the central repository.
 - f. When criminal history record information is maintained by a criminal justice agency in records containing investigative information, intelligence information, treatment information or other nonpublic information, the agency may extract and disseminate only the criminal history record information if the dissemination is to be made to a noncriminal justice agency or individual.
 - g. Criminal justice agencies may establish reasonable procedure for the dissemination of criminal history record information.
 - h. Repositories must enter as a permanent part of an individual's criminal history record information file, a listing of all persons and agencies to whom they have disseminated that particular criminal history record information and the date and purpose for which the information was disseminated. Such listing shall be maintained separate from the record itself.
6. Individual Right to Access and Review:
- a. Any individual or his legal representative has the right to review, challenge, correct and appeal the accuracy and completeness of his/her criminal history record information. Persons incarcerated in correctional facilities and institutions may authorize a correctional employee to obtain a copy of their criminal history record information for the purpose of review, challenge and appeal.

- b. Any individual requesting to review his/her own criminal history record information shall submit proper identification to the criminal justice agency which maintains his/her record. Proper identification shall be determined by the officials of the repository where the request is made. If criminal history record information exists the individual may review a copy of such information without undue delay for the purpose of review and challenge.

7. Requirements of Repositories Relating to Public Notice:

- a. Repositories maintaining criminal history record information shall inform the public and post in a public place, notice of the existence, purpose, use and accessibility of the criminal history record information they maintain and the requirements of the repository for identification on individual access and review.

8. Security of Criminal History Records and Protected Information:

- a. The Police Communications Center and Records Room are designated as secure areas for the storage of criminal history records and protected information. Access to these areas is restricted to authorized police personnel only. Non-police personnel needing access to these secure areas for repairs and maintenance must be escorted at all times by an authorized police employee.
- b. Department personnel who are authorized to have criminal history records or protected information in their possession outside of the above designated secure areas shall secure those records and information so that they can't be viewed by unauthorized personnel. Criminal History and protected information shall not be left in places such as desktops and copying machines where unauthorized personnel could have access to them.
- c. A fingerprint based back ground investigation shall be conducted on all employees having access to the CLEAN system and all unescorted personnel who have access to where the CLEAN system or files are located.

B. PENNSYLVANIA VEHICLE CODE (Title 75, Chapter 37, Subchapter C, Accidents and Accident Reports):

- 1. The Upper Merion Township Police Department shall, upon request, furnish at a cost not to exceed \$15 a certified copy of the full report of the police investigation of any vehicle accident to any persons involved in the accident, his/her attorney or insurer, and to the Federal government, branches of the military service, Commonwealth agencies, and to officials of political subdivisions and to agencies of other states and nations and their political subdivisions.

2. The Upper Merion Township Police Department may refuse to furnish the complete copy of the investigation of the vehicle accident whenever there are criminal charges pending against any persons involved in the vehicle accident unless the Pennsylvania Rules of Criminal Procedure (Title 234) require the production of the documents.

APPROVED: _____
Chief Thomas M. Nolan

DATE: _____

APPROVED: _____
Captain James M. Early

DATE: _____

TO BE REVIEWED: ANNUALLY

DISTRIBUTION: All police officers
All records personnel
Township Manager
File