



## HERMITAGE POLICE DEPARTMENT

<b>GENERAL ORDER:</b>	4.1.12
<b>SUBJECT:</b>	<b>PENNSYLVANIA RIGHT TO KNOW ACT</b>
<b>PLEAC Reference:</b>	4.1.12
<b>Date Issued:</b>	<b>January 1, 2008</b>
	<b>Date Amended:</b> <b>January 1, 2009</b>
<b>Date of Expiration:</b>	<b>Upon Rescinding or Amending</b>
<b>By Order of:</b> <b>Patrick B. McElhinny</b> <b>Chief of Police</b>	

### **PURPOSE**

According to the Pennsylvania Right to Know Act, public records are to be accessible for inspection and duplication by any person who is a legal resident of the United States, unless the record, information or access is otherwise limited or prohibited by law. This general order will provide guidelines and procedures to follow regarding this Act.

### **POLICY**

It shall be the policy of the Hermitage Police Department that all officers and personnel shall become familiar with and comply with the provisions of this general order.

#### **A. Pennsylvania Right to Know Law.**

In accordance with the provisions of 5 U.S.C. Section 552, the Freedom of Information Law (FOI); U.S.C. Section 552A, and the Pennsylvania Right to Know Law (RTK), Act 3 of 2008, the Hermitage Police Department will disclose all information legally accessible to any individual. The Department follows set procedures and criteria for the release of agency records as established by the City of Hermitage policy

on Open Records, effective January 1, 2009. The Right To Know Officer for the City of Hermitage will be the City Manager. He will be responsible for compliance with the Pennsylvania Right-to-Know Law while maintaining the confidentiality and integrity of criminal investigations. The Chief of Police will work closely with the Right To Know Officer regarding the dissemination of information. No person will have access to records deemed unaccessible as per the laws of the Commonwealth of Pennsylvania and the United States of America. Excluded from this act are reports such as intelligence or investigative reports, as well as personnel and or disciplinary records.

B. Guidelines and Procedures.

1. Members of the Department shall not divulge any restricted information and/or release Department records outside the Police Department, except in the performance of their duties or when required to do so by law.
2. Dissemination of Reports to Outside Parties.

A legal resident of the United States who desires access to a public record of the Hermitage Police Department, for inspection or duplication shall make that request either in person or in writing to the police department. The request shall include:

- a. The date of the request.
- b. The name and address of the requester for the purpose of responding to the request.
- c. A clear description of the records sought.
  - (1) There shall be no limitation on the number of public records sought. However, consideration regarding time to compile the records shall be taken with respect to the number of records sought.
  - (2) The requester is not required to disclose the purpose or motive in requesting access to the public records.
- d. Upon receipt of the request, the Chief of Police shall make a good faith effort to determine whether each record requested is a public record. Normally, if the record can be

disseminated, it will be done so while the requester is present. If more time is needed to compile the requested records, the police department shall notify the requester of the date and time the records will be available. As a general rule, the records will only be available during normal business hours excluding holidays or other days the business office of the police department is closed. The City of Hermitage/Hermitage Police Department shall respond to a request using the following criteria:

- (1) The City of Hermitage/Hermitage Police Department shall respond in writing to a right-to-know request within five working days.
- (2) Within five working days, the agency must respond in one of the following three ways:
  - i. Grant the request and provide the records.
  - ii. Deny the request in whole or in part, cite the reason for the denial and outline the appeals process for the requestor.
  - iii. Invoke a 30 calendar-day extension.
- (3) Within 30 calendar-days, the City of Hermitage/Hermitage Police Department shall:
  - i. Grant the request and provide the records.
  - ii. Deny the request in whole or in part: cite the reason for the denial and outline the appeals procedure for the requestor.

3. There will be a fee for any and all reports disseminated as established by the City of Hermitage Police Department not to exceed the maximum amount set by the Commonwealth of Pennsylvania. All requests for reports and applicable fees paid will be made/done at the Records Department.
4. Motor Vehicle Accident Reports. Accident reports that are either reportable by Penn Dot standards or non -reportable accidents may be released to anyone having an interest in the respective accident

by submitting a request. Accident reports may not be released until a supervisor approves it. Fee: \$10 per report; \$5 per report for Hermitage residents.

5. Incident Reports. Incident reports may be released to law enforcement agencies. A supervisor shall make approval of these releases and after the report itself has been approved. All supervisors shall adhere to the rules of the Criminal History Record Information Act.
6. The department realizes that citizens inquire about police reports and sometimes request copies for insurance or other documentation purposes. Reports documenting information for these purposes may be released as long as the reports don't contain information that fall under the exempt categories. In some cases these reports may contain redacted information. Also, in order to meet their demands and separate exempt data, the Department may draft a letter containing the information needed to assist them in their endeavors. The Department may issue a letter stating the incident report number, investigating officer, type of report, date of report, and pertinent details contained in the report to document that which was reported along with any police action if any. The Chief of Police or designee shall sign this letter. Fee: .25¢ per page.
7. The police department is not required to create a public record which does not currently exist. In like manner, the police department is not required to compile, maintain, or format a public record in a manner in which the police department does not currently maintain.
8. If the Right to Know Officer determines that the requested record contains information that is subject to access as well as information which is not subject to access, the Right To Know Officer shall grant access to the information which is subject to access and deny access to the information that is not subject to access. If the information that is not subject to access is an integral part of the public record and cannot be separated, the Chief of Police or his designee shall redact the non-accessible information from the record or provide a separate letter (if feasible). If however, the information which is not subject to access cannot be redacted from the public record then access to such public record shall be denied.

9. If access to a record is denied, whether in whole or in part, a written response shall be issued and include:
  - a. A description of the record requested.
  - b. The specific reasons for denial, including a citation of supporting legal authority. If the denial is the result of a determination that the record requested is not a public record, the specific reasons for the agency's determination that the record is not a public record shall be included.
  - c. The typed or printed name, title, business address, business telephone number and signature of the public official or public employee on whose authority the denial is issued.
  - d. The date of the response.
  - e. The procedure to appeal the denial of access under this act.
10. If the request for public records is denied or deemed denied, as provided in the Act, the requester may file exceptions with the designated appeals officer within (15) business days of the deemed denial. This will be the District Attorney or his designee in cases involving criminal investigative records. Appeals relating to all other categories will be through the Office of Open Records. Any exceptions filed shall:
  - a. Indicate the date of the original request.
  - b. Identify and describe the record(s) requested.
  - c. State the grounds upon which the requester asserts the record(s) is a public record.
  - d. Address any grounds stated by the Right to Know Officer for denying the request.
11. Unless the requester agrees otherwise, the appeals officer shall review the exception(s) and may conduct a hearing to assist in making a final determination. A final determination regarding such exception(s) shall be made within thirty (30) days of the mailing date of the exception(s) notice.

12. If the denial is upheld, the decision shall contain a written explanation of the reason for denial and an explanation of the process for further appeal if applicable.
13. Any requester, whose exceptions have been denied (by the District Attorney or designee) regarding criminal investigative records, may file a Petition for Review or other document as required by the court, with the Court of Common Pleas of Mercer County.
14. A record of all disseminated information shall be maintained by records personnel.
15. A request for records or documents other than police department records shall be directed to City of Hermitage administrative staff personnel.
16. For further information refer to [www.openrecordspa.org](http://www.openrecordspa.org).

C. Law Enforcement Records Deemed To Be Public Records.

The following are examples of law enforcement records that may be deemed a public record:

1. Police blotter - under Pa C.S.A. 9102 (definitions) a police blotter is a chronological listing of arrests, usually documented contemporaneous with the incident which may include, but is not limited to, the name and address of the individual charged and the alleged offenses. The Hermitage Police Department commonly refers to this as the docket book.
2. Incident reports - a report documenting the occurrence of an incident or event.
3. Traffic/Accident reports - a report documenting a vehicular accident.
4. Emergency time response logs - logs documenting emergency response times. The Hermitage Police Department does not maintain such logs.
5. Private criminal complaints - criminal complaints initiated privately by citizens.

D. Law Enforcement Records That Can Be Withheld.

The following are examples of law enforcement records that can be withheld:

1. Any investigative (not accident) reports or materials (closed or open cases).
2. Any confidential source of information.
3. Victim information.
4. 911 calls and transcripts.
5. Officer's field notes.
6. A record relating to or resulting in a criminal investigation, including:
  - a. Complaints of potential criminal conduct other than a private criminal complaint.
  - b. Investigative materials, notes, correspondence, videos and reports.
  - c. A record that includes the identity of a confidential source or the identity of a suspect who has not been charged with an offense to whom confidentially has been promised.
  - d. A record that includes information made confidential by law or court order.
  - e. Victim information, including any information that would jeopardize the safety of the victim.
  - f. A record that if disclosed would do any of the following:
    - i. Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.
    - ii. Deprive a person of the right to a fair trial or impartial adjudication.

- iii. Impair the ability to locate a defendant or co-defendant.
  - iv. Hinder the department's ability to secure an arrest, prosecution or conviction.
  - v. Endanger the life or physical safety of an individual.
- g. DNA and RNA records.
- h. Any record (audio or video, photographic, facsimile, etc.) of an autopsy or such record at the scene of death. The exception shall not limit the name of the deceased and the cause and manner of death.

7. A record relating to a noncriminal investigation including:

- a. Complaints submitted to an agency.
- b. Investigative materials, notes, correspondence and reports.
- c. A record that includes the identity of a confidential source including individuals subject to the act of December 12, 1986 (P.L. 1559, No. 169), known as the Whistleblower Law.
- d. A record that includes information made confidential by law.
- e. Work papers underlying an audit.
- f. A record that if disclosed, would do any of the following:
  - i. Reveal the institution, progress or result of an agency investigation, except the imposition of a fine or civil penalty, the suspension, modification or revocation of a license, permit, registration, certification or similar authorization issued by an agency or an executed settlement agreement unless the agreement is determined not to be confidential by a court.
  - ii. Deprive a person of the right to an impartial adjudication.
  - iii. Constitute an unwarranted invasion of privacy.

- iv. Hinder an agency's ability to secure an administrative or civil sanction.
- v. Endanger the life or physical safety of an individual.

8. Records or parts of records, except time response logs, pertaining to audio recordings, telephone or radio transmissions received by emergency dispatch personnel, including 911 recordings. This shall not apply to a 911 recording, or a transcript of a 911 recording if the police department or a court determines that the public interest in disclosure outweighs the interest in non-disclosure.

E. Posting of Policy.

This policy shall conspicuously posted at the Hermitage Police Department.