

Georgia Department of Public Safety

Policy Manual

SUBJECT OPEN RECORDS	POLICY NUMBER 13.01
DISTRIBUTION ALL EMPLOYEES	DATE REVISED 5/2/2012

13.01.1 Purpose

The purpose of this policy is to define and communicate the Department's obligations under Georgia's Open Records Act.

13.01.2 Policy

It is the policy of the Department to provide public records in accordance with the requirements of the Georgia Open Records Act and in a manner which fosters confidence in the Department.

13.01.3 Definitions

- A. Public Record – All documents, papers, letters, maps, books, tapes, photographs, computer based or generated information, data, data fields, or similar material prepared and maintained or received by an agency or by a private person or entity in the performance of a service or function for or on behalf of an agency or when such documents have been transferred to a private person or entity by an agency for storage or future governmental use.
- B. Public Employee – Any officer, employee, or former employee of:
 - 1. The State of Georgia or its agencies, departments, or commissions;
 - 2. Any county or municipality or its agencies, departments, or commissions;
 - 3. Other political subdivisions of this state;
 - 4. Teachers in public and charter schools and nonpublic schools; or
 - 5. Early care and education programs administered through the Department of Early Caring and Learning.
- C. Redacted - The deletion of information exempt from disclosure that is contained in a public record.
- D. Open Records Request - A written or verbal request to view or copy public records maintained by the Department of Public Safety. A subpoena or other discovery request is not an open record request.

- E. Business day - Mondays through Fridays from 8:00am to 4:30pm, unless the facility is closed to the public due to state holidays, natural disaster, or other extraordinary circumstances.

13.01.4 Procedures

A. Requests

1. It is every DPS employee's responsibility to:
 - a. Respond to Open Records requests within a reasonable amount of time not to exceed three business days. If responsive records are unavailable within three business days, the agency shall provide the requestor with the description of the records and a timeline for when the records will be available and shall provide the records as soon as possible. If some but not all records are available within three business days, available records shall be produced within three business days.”
 - 1) The response should include:
 - a) The records the Department possesses;
 - b) The code section relied upon to redact the records;
 - c) An invoice, if the fee incurred is greater than \$25, but less than \$500, the requester shall be sent an invoice and upon receipt of verbal or written consent to pay said fees, records will be mailed with a copy of the original invoice.
 - d) If the fee incurred for copying records is greater than \$500, the requester shall be sent an invoice and prepayment will be required prior to records being gathered and mailed.
 - b. Record verbal Open Records requests, including address and phone number, and forward to the custodian of records on the date received.
 - c. Open Records requests from the media should be sent directly to the Open Records Unit if assistance is needed. The Open Records Unit shall notify PIO.
 - d. Employees shall forward requests to the Open Records Unit at Headquarters as soon as possible, no later than the day after the request was received by the employee. The request shall be forwarded by facsimile, e-mail or personal delivery. The transmitting employee shall confirm receipt by telephone with an employee of the Open Records Unit.
 - 1) The Open Records Unit will handle responses for requests sent to them.
 - e. An employee who forwards an Open Records request to the Open Records Unit that relates to a criminal investigation or charge, shall indicate on the request whether the prosecution is pending or has been completed.
 - f. Requests for certified copies shall be forwarded to an official records custodian, so designated by the Commissioner. Record custodians will

certify that the document is a true and accurate copy of an official record of the agency.

- 1) The Open Records Unit shall prepare and maintain a list of departmental records custodians, so designated by the Commissioner.
 - g. All reports are provided only after the report is complete/approved. A report is considered complete/approved even if a supplemental report based on crime laboratory results is pending. Nothing in this policy prohibits the oral release of information which may be included in a report if the information would not otherwise be subject to redaction.
 - h. If a request is received with insufficient information to process, the requester shall be contacted promptly and notified that additional information is necessary to identify the requested records.
 - i. If an employee believes the information responsive to a request may jeopardize the safety of an officer, employee or citizen, the request shall be forwarded to the Open Records Unit. The Open Records Unit shall take appropriate steps to protect such information.
 - j. Post/Station Commanders may determine when reports will be available for inspection and/or release to the public from a particular Post/Station. Posts/Stations may close the office for purposes of inspecting and/or releasing records at a time needed to reconcile daily balances within a normal working day. These hours should be posted at each Post/Station for public knowledge.
 - k. A subpoena or formal "Request for Production of Documents" is not an Open Records request. Any questions regarding compliance with these requests shall be forwarded to the Open Records Unit.
 - l. Members who are engaged in law enforcement activities in the field when a written or verbal Open Records Request is made shall direct the requestor to the nearest Post/Station or the Open Records Unit at Headquarters.
- B. The Open Records Unit will distribute videotapes, audiotapes, photographs or other electronic media/data in accordance with the Open Records Act.
- C. The Department will not create a document(s) that does not exist at the time of the request. [O.C.G.A. § 50-18-70 (j)]
1. Requests for electronic records shall be forwarded to the Open Records Unit.
 2. The use of electronic record keeping must not erode the public's right of access to records under this article.
- D. Crash Reports
1. Requests for crash reports to a Post shall be processed at the Post whenever the request is made in person at the Post or mailed directly to the Post.
 2. Completed crash reports shall be provided within a reasonable amount of time not to exceed three business days of receipt of a request. If a crash report cannot

be provided within three business days, Open Records Unit shall be contacted for assistance.

3. If a request is received and there is reason to believe that the request is being made for purposes of soliciting business or for re-sale in violation of the Open Records Act, the Open Records Unit shall be contacted.
4. Georgia law requires that all requests for disclosure of traffic crash reports shall include a written statement of need which demonstrates the requester's need for the report in accordance with the Open Records Act. If the requestor appears in person at a Departmental facility, the requestor may complete a DPS-536 in order to satisfy this requirement.
5. Traffic crash reports may be disclosed, upon written showing of need, to the following:
 - a. Has a personal, professional, or business connection with a party to the accident. [O.C.G.A. 50-18-72 (a)(5)(A)]
 - b. Owns or leases an interest in property allegedly or actually damaged in the accident. [O.C.G.A. 50-18-72 (a)(5)(B)]
 - c. Was allegedly or actually injured by the accident. [O.C.G.A. 50-18-72 (a)(5)(C)]
 - d. Was a witness to the accident. [O.C.G.A. 50-18-72 (a)(5)(D)]
 - e. Is the actual or alleged insurer of a party to the accident or of property actually or allegedly damaged by the accident. [O.C.G.A. 50-18-72 (a)(5)(E)]
 - f. Is the prosecutor or a publicly employed law enforcement officer. [O.C.G.A. 50-18-72 (a)(5)(F)]
 - g. Is alleged to be liable to another party as a result of the accident. [O.C.G.A. 50-18-72 (a)(5)(G)]
 - h. Is an attorney stating that he or she needs the requested reports as part of a criminal case, or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe. [O.C.G.A. 50-18-72 (a)(5)(H)]
 - i. Is gathering information as a representative of a news media organization. [O.C.G.A. 50-18-72 (a)(5)(I)]
 - j. Is conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however, that this subparagraph shall apply only to accident reports on accidents that occurred more than 30 days prior to the request and which shall have name, street address, telephone number, and driver's license number redacted. [O.C.G.A. 50-18-72 (a)(5)(J)]

- k. Is a government official, entity, or agency, or an authorized agent thereof, requesting reports for the purpose of carrying out governmental functions or legitimate governmental duties. [O.C.G.A. 50-18-72 (a)(5)(K)]
6. While a crash report may not be released until it has been completed, certain basic preliminary information may be released prior to the completion of the crash report to persons who are statutorily authorized to receive a copy of the completed crash (accident) report. Such preliminary information is:
- a. Location of the crash;
 - b. Time and date of crash;
 - c. Type, make and model of vehicles involved;
 - d. Names, ages and hometowns of drivers (if there is a driver who is 16 years old or younger and who has charges pending from the crash, then that juvenile driver's name cannot be released, otherwise the names of minors may be released in the same fashion as the names of other persons);
 - e. Names, ages and hometowns of fatalities or injured parties (the names of fatalities may be released only after the next of kin has been notified);
 - f. Name of hospital where injured parties were taken;
 - g. Basic description of nature of crash (e.g. head on two car crash), and
 - h. If citations have been issued, the charges, if available.
7. This information may be released by the Communications Equipment Operator who is on duty or any other post personnel. Whoever releases such information should document, either in the Communications Log or elsewhere, who made the request and what information was released.

E. Initial Arrest Reports, Citations or Other Initial Incident Reports (Other than Crash Reports)

Anyone may obtain a properly redacted copy of a citation, initial incident or arrest report. Citations or initial incident/arrest reports may be obtained without a written request for need. The request does not have to be in writing. The request may be responded to by the Post/Station maintaining the record. Any response shall be done within three business days. If for any reason a response to a request for a citation or initial incident/arrest report cannot be made within three business days, Open Records Unit shall be contacted for assistance.

F. Other Reports

Requests for documents other than crash/incident reports or citations shall be responded to by the Open Records Unit to ensure that any privileged or protected information is redacted prior to release of the records.

G. Information to be Redacted

The appropriate code section shall be cited whenever information is redacted.

1. The month and day of birth shall be redacted when responding to Open Records Requests. The year of birth shall remain on the document. [O.C.G.A. § 50-18-72 (a)(20(A))]
 2. Records concerning public employees that reveal the public employee's home address, home telephone number, day and month of birth, social security number, insurance or medical information, mother's birth name, credit card information, debit card information, bank account information, account number, utility account number, password used to access his or her account, financial data or information other than compensation by a government agency, unlisted telephone number if so designated in a public record, and the identity of the public employee's immediate family members or dependents. [O.C.G.A. § 50-18-72 (a)(21)]
 - a. BAC is not medical treatment and may be released.
 - b. The exception only applies if the person is identified as a public employee in the report. The public employee may be identified by name, title or position/office.
 3. Identity and personal information of a juvenile shall be redacted if charged or under investigation with an offense. For this purpose, a person is a juvenile if less than seventeen years of age at the time charges were made. (Identities of juvenile fatalities and injured may be released upon notification of next of kin.) [O.C.G.A. § 15-11-82(b)]
- H. Employees may furnish copies of un-redacted traffic crash reports to prosecutors and law enforcement officers for use in carrying out their official duties. No information will be redacted from these reports; however, the custodian of records will attach a copy of DPS-539 to the report indicating that the recipient may not disclose the report except in compliance with Georgia law.
- I. Any questions regarding what should be redacted shall be directed to the Open Records Unit.
- J. Charging for Requests [O.C.G.A. § 50-18-72 (c)(1)]
1. If the fee incurred for copying records is less than \$25, the records will be provided at no charge.
 2. If the fee incurred for copying records is greater than \$25, the requester shall be sent an invoice and upon receipt of verbal or written consent to pay said fees, records will be mailed with a copy of the original invoice.
 3. If the fee incurred for copying records is greater than \$500, the requester shall be sent an invoice and prepayment will be required prior to records being gathered and mailed.
 4. Records may be provided to law enforcement or other public safety officials without charge.
 5. For a breakdown of the fees refer to Exhibit #13.01-1.

6. A requestor may view public records without copying charges; however, if the record contains information that is exempt from disclosure, the custodian of records will copy the record, redact the exempt information, and permit the requestor to view the redacted copy.
7. A reasonable charge may be imposed for the search, retrieval, redaction and production or copying costs at the prorated hourly salary of the lowest paid full-time employee who has the skill to perform the request. No Charge shall be made for the first quarter hour. This fee shall require pre-approval by the Manager of the Open Records Unit.