

	Marquette University Police Department	
	Policy and Procedure Manual Open Records	
Policy: 10.2	Issued: May 1, 2015	Date Revised: N/A
WILEAG Standards: 10.1.1, 10.2.1		IACLEA Standards: 16.2.1

10.2.00 **Purpose**

The purpose of this Policy is to outline the proper procedure to be followed with respect to the handling of any and all open record requests made under the Wisconsin Public Record Law. Wis. Stat. § 19.31-39.

10.2.10 **Policy**

The Marquette University Police Department (MUPD) is an Authority under the Wisconsin Open Records Act, and the MUPD Chief of Police is the legal custodian of all Records of MUPD and has ultimate responsibility to keep, secure, and set policy for release and dissemination of all Records.

It shall be the policy of the Marquette University Police Department that all Records shall be maintained in an orderly manner and that MUPD shall take privacy and security precautions to assure protection of all Records and the confidentiality of citizens.

10.2.15 **Scope**

This Policy applies to all MUPD employees.

10.2.20 **Definitions**

A. AUTHORITY

Authority means the Marquette University Police Department (MUPD) and its designated employees. The colleges, departments, offices, and other functions of Marquette University outside MUPD are not an Authority.

B. REQUESTER

Requester means any person except a person committed to a mental facility or person incarcerated in a federal, state, county, or municipal correctional facility. However, committed or incarcerated people may receive records about themselves or records of their children. A Requester does not have to identify him/herself, does not have to state the purpose of the request. A requester has a greater right to access his or her own records than the general public does.

Marquette University Trustees and University employees not part of MUPD shall not be considered "Requesters" for purposes of this Policy, provided that such requests are made (1) in order to carry out activities that assist MUPD in discharging its responsibilities and (2) the request is made by a person acting within the scope of his or her appointment or employment. Any such disclosure of records shall not be considered a "public disclosure" for purposes of this Policy.

C. RECORD

Record means any material on which written, drawn, printed, spoken, visual, or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being stored by MUPD. University materials or information that is accessed by MUPD but not created or stored by MUPD are not Records and are not subject to the requirements of this Policy.

10.2.25 **Procedure**

- A. When determining whether or not it is proper to release a Record, MUPD must balance the public's right to know against the obligation to have the Record remain confidential. Prior to any denial, in whole or in part, of a request for Records, MUPD shall consult with the University's Office of General Counsel. If a request for Records is denied, the Requester shall be notified of the reason for denial. All denials must be in writing and must inform the Requester that the denial is subject to review in an action for mandamus pursuant to WI Stats. 19.37(1) or by application to the district attorney or the attorney general pursuant to WI Stats. 19.34(4)(b).
- B. Requests are not required to be in writing. Requests for Records may be made between 8:30 AM and 4:30 PM at the MUPD offices at Parking Structure 1, (North 16th Street between West Wells Street and

West Wisconsin Avenue), P.O. Box 1881, Milwaukee, Wisconsin, 53201-1881, ATTN: MUPD RECORDS.

- C. If the requested Record does not exist, the Requester shall be informed of that fact. MUPD is not required to create a new record by extracting or compiling information from other existing Records.
- D. The Requester must be reasonably specific concerning the subject matter of the Record or Records being requested.
- E. Generally, telephone requests for access to Records will not be honored, except that telephone requests from other law enforcement services, from social/human services departments, and from medical service providers may be honored.
- F. Continuing or ongoing requests for Records will not be honored.
- G. MUPD employees should instruct other Requesters to appear in person, mail, or send requests for access to Records by facsimile to the attention of Records Custodian, Marquette University Police Department, P.O. Box 1881 Milwaukee, WI, 53201-1881.

10.2.35 **Designated Authority to Release Records**

The Chief of Police delegates to the Marquette University Police Department Office Coordinator the authority to disseminate and to release Records to the public.

The Office Coordinator's authority and responsibility to release Records is limited to releases of a routine nature as directed by the Chief of Police.

10.2.40 **Release of Personnel Records**

Only the MUPD Chief of Police has the authority to release Records concerning personnel, after consultation with the Office of General Counsel and the University's Department of Human Resources.

10.2.45 **Confidential Records Not Subject to Release**

- A. Juvenile Records.
- B. Personnel Records.
- C. Records created by other law enforcement agencies, DCI, WSP, and the medical examiner.

- D. Personal notes created by MUPD employees that are not shared with others. Any notes that are a part of a case file or that are disseminated to other people are considered Records and are subject to request and release.
- E. Preliminary documents or draft copies in preparation for a finished product.
- F. Recorded material that is copyrighted and available for sale or common to a library.
- G. Purely personal property such as appointment books and calendars, as long as the property is intended solely for personal use.
- H. Documents containing personal data, such as home phone numbers, names of family members, and social security numbers.
- I. Information related to an ongoing investigation, if releasing information would reasonably divulge statements, specific information, investigative techniques, or any other information that would hinder the progress of the investigation. News releases that omit sensitive information may be issued from time to time.
- J. Records in matters forwarded to the Milwaukee County District Attorney's office will not be available until the day of the initial court proceedings. Copies will be available from the District Attorney on that day.
- K. All records involving confidential informants unless a balancing test would dictate otherwise. MUPD must delete any information that would identify an informant. Informant means any person giving information under circumstances in which a promise of confidentiality would reasonably be implied.
- L. Records relating to the Department's strategy or crime prevention.
- M. Records relating to pending or probable civil or criminal litigation, or containing requests for legal advice or providing legal advice.
- N. Records with information the release of which would violate the privacy rights of an individual. Section 895.50(2) (a) and (b), Wis.Stats., identify rights to privacy in certain circumstances. A right to privacy may exist if personal information and investigatory information, if discussed in public, would be likely to have a substantial adverse effect

upon the reputation of any person to whom reference is made. If the contents of any Record contain “highly offensive conduct,” caution must be exercised when considering public accessibility. Records such as this are subject to a balance test, considering the public’s right to know and the individual’s opposing privacy interest. It is not an invasion of privacy to communicate information normally available to the public as a matter of public record.

- O. Medical and mental health records.
- P. MUPD may delay the release of any Record for the purpose of consulting with a supervisor or to seek legal counsel regarding the appropriateness of the release.

10.2.50 **Redaction Requirements**

All redactions shall be in accordance with statutory, common law and public policy reasons under the balancing test. The balancing test must be conducted by the Record Custodian or designee.

10.2.55 **Juvenile Records**

- A. Chapter 48, Wis.Stats., referred to as the children’s code, and Chapter 938, Wis.Stats., referred to as the juvenile justice code, both mandate confidentiality of juvenile records. The Legislature concluded that the best interest of the child and the administration of juvenile justice requires protecting the confidentiality of juvenile records. However, the juvenile justice code authorizes several exceptions and establishes guidelines to the limited release of juvenile records. MUPD records of juveniles must be kept separate from adult records.
- B. A juvenile record is a record that identifies a suspect of a criminal act and that suspect has not yet attained the age of 17 years. Additionally, a juvenile record may include that portion of an adult report that identifies a juvenile as a witness, victim, or co-suspect.
- C. Runaway reports involving juveniles are considered a juvenile record. In general, any record or portion of any record that identifies personal data of a juvenile, whether or not the subject is currently a juvenile or an adult, is considered confidential and must not be released without a court order or unless the record is released under exceptions listed hereafter.
- D. The general rule of nondisclosure does not apply to the confidential exchange of information between law enforcement agencies,

social/human services, judicial services, attorneys acting under a court's authority, and mental or medical treatment facilities. The general rule of nondisclosure does not apply to children 10 years of age or older who have been waived and are now subject to the jurisdiction of an adult court.

- E. Pursuant to section 938.396, Wis.Stats., exceptions permitting the release of juvenile records are:
1. To the parent, legal guardian, or legal custodian of a juvenile, or to a juvenile who is 14 years of age or older. Upon written permission authorized by a parent, legal guardian or legal custodian, or juvenile of at least 14 years of age, MUPD will make available to the person named any reports in the written permission that are specifically identified. It is proper for MUPD to release juvenile records pertaining to the requester but created when the requester was a juvenile.
 2. To the victim-witness coordinator of Milwaukee County or another county.
 3. If requested, MUPD will disclose to the victim juvenile records relating to the injury, loss, or damage suffered by the victim; including the name and address of the juvenile and the name and address of the juvenile's parents. Further dissemination of the information is restricted to the purpose of recovering damages.
 4. To the victim's insurance company if the juvenile has been ordered to pay restitution and after one year of the order has failed to comply. Further dissemination of the information is restricted to the purpose of investigating a claim and recovering damages.
 5. To a fire investigator as identified in Sections 938.396(1t) and 165.55, Wis.Stats.
- F. MUPD may, on its own initiative or upon request of a school district administrator or the district administrator's designee, provide to the school any information in its records relating to the following:
1. The use, possession of, or distribution of alcohol or controlled substance by a juvenile enrolled in the public school.

2. The illegal possession of a dangerous weapon as defined in Sections 939.22 (10) or 948.295 (4), Wis.Stats.
 3. An act for which a juvenile was taken into custody under Section 938.19, Wis.Stats.
- G. Except as identified previously, juvenile records may not be disclosed to a person or entity that is not authorized by law to see or hear it.
- H. The lawful disclosure of a confidential record to any person does not result in the record losing its confidential status. The person who receives the confidential record may not further disclose the record unless authorized by law to do so. Therefore, MUPD will notify recipients of confidential records of their responsibility by stamping the face of all confidential documents with a disclaimer-notifying recipients of the documents limited use. The stamp will essentially state: "CONFIDENTIAL JUVENILE – the Marquette University Police Department in accordance with Chapter 938, Wisconsin Statutes, is releasing this information. Its use and dissemination beyond the person it was provided to may be a violation of law".

10.2.60 **Personnel Records**

- A. The University shall, upon request of a current MUPD employee, permit the employee to inspect any document contained in the employee's official personnel file pursuant to section 103.13, Wis.Stats.
- B. Pursuant to section 103.13 (6), Wis.Stats., the right of the employee or the employee's representative to inspect the official personnel file is limited.
- C. In the event that a request is made to view any MUPD employee's personnel records and the requester is someone other than a permitted requester under section 103.13, Wis.Stats., and if there is no other legal basis for denying access, the Records Custodian will give notice to the MUPD employee that a request has been made and of the intent to release the records. MUPD will allow a reasonable amount of time for the MUPD employee to appeal the decision to the circuit court based on reputation or privacy interests.
- D. Marquette University Police Officers must be included on a roster of those MUPD officers authorized by the Chief of Police, Marquette University, a copy of which shall be updated and communicated to the Milwaukee Police Department within twenty-four (24) hours of

any change and in such manner as the Chief of Police, Milwaukee Police Department, may prescribe from time to time.

10.2.65 **Fees and Costs**

- A. There is no fee or cost associated with an in-person inspection of requested Records.

- B. Fees for Record requests that have been fulfilled are:
 - 1. \$0.25 per copied page.
 - 2. Mailing/shipping charges.
 - 3. Audiotape or videotape copy charges.
 - 4. Photographic copy charges.
 - 5. Transcription of records charges.
 - 6. Costs of certification of records when requested.
 - 7. Computer programming costs.
 - 8. Other actual and direct costs allowed by statute and applicable court decisions.

- C. A separate fee may be imposed for staff time used to locate or assemble Records or both, or to create a computer program/query if the cost is \$50 or more. To determine the fee when reimbursement for staff time is allowed, multiply the hourly cost of the affected staff member by the time used to locate and assemble Records. MUPD shall document the time required for MUPD employees to fulfill a request. The location fee shall be charged in addition to the other fees listed above.

- D. MUPD shall require prepayment if the total costs are estimated to be more than \$5.00. For large public records requests, the Records Custodian shall establish a reasonable estimate of the total compliance costs and require prepayment.