

	<p style="text-align: center;"><b>UPPER UWCHLAN TOWNSHIP POLICE DEPARTMENT POLICY MANUAL</b></p>
<b>Chapter</b>	<b>2</b>
<b>Policy Number</b>	<b>2.08</b>
<b>Subject</b>	<b>Records Management</b>
<b>Effective Date</b>	<b>October 15, 2012</b>
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<b>Approved by</b>	<b>Chief Thomas Jones</b>

## 1. PURPOSE

To establish guidelines for the safe keeping and releasing of all Police Department reports, records and information in compliance with the Pennsylvania Right to Know Law and other applicable laws; and to outline procedures for the release of these reports including what to do when required to do so by subpoena.

## 2. POLICY

The Upper Uwchlan Township Police Department shall comply with all laws that govern the storage, access and the dissemination of any information. In addition, The Pennsylvania “Right to Know” Law provides for the access to municipal records defined as “common public records” to any United States resident, regardless of interest in the incident. It shall be the policy of this Department to provide responsible disclosure of information and to be in compliance with the law.

## 3. DEFINITIONS

**Record:** Information, regardless of physical form or characteristics, that document a transaction or activity of an agency and that is created, received or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, photograph, film or sound recording, information stored or maintained electronically and a data-processed or image processed document.

**Open Records Officer:** The Chief of Police is designated as the Open Records Officer responsible for assuring compliance with the Pennsylvania Right-to-Know Law.

**Right to Know Law (RTKL):** The Act provides that any report, communication or other paper, which would disclose the institution, progress or result of an investigation, is not a

“public record.” It makes no difference whether the investigation is open or closed. It is the policy of the Department to release any such records only upon receipt of a properly executed subpoena. It is appropriate in some circumstances, and required by law in others, that certain records not otherwise required to be released under the “Right to Know” law be made available in specific situations where there is no foreseeable harm.

#### 4. PROCEDURE

##### A. Records Access and Security

1. All records and files shall be kept in locked filing cabinets. All files are considered confidential in nature. Only sworn members of the police department and police department personnel recognized by the Commonwealth of Pennsylvania, are the only ones permitted to have access and view any document.

##### B. Report Access:

The following are examples of some of the public records may be available for release by law enforcement agencies:

- Police blotters.
- Incident reports, that are not exempt.
- Traffic Reports.
- Emergency time response logs.
- The disclosure of the record is not prohibited by federal or state law or regulation, judicial order or decree.

All records in possession of a law enforcement agency shall be presumed to be public record unless:

- The record is exempt under the Right-To-Know Law.
- The record is protected by privilege.
- The record is exempt under any other federal or state law or judicial order or decree.
- Juvenile records.
- The Chief of Police determines that the public may favor restricting access.
- The disclosure of the record is prohibited by federal or state law or regulation, judicial order or decree.

The following are examples of records of a law enforcement agency that are exempt and can be withheld. RTKL allows agencies to withhold records “relating to or resulting in a criminal investigation” including, but not limited to:

- Complaints of potential criminal conduct other than a private criminal complaint.
- Investigative materials, notes, correspondence videos and reports.

- 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 confidentiality has been promised.
- A record that includes information made confidential by law or court order.
- Victim information, including information that would jeopardize the safety of the victim.

A record that if disclosed would do any of the following:

- Reveal the institution, progress or result of a criminal investigation, except the filing of criminal charges.
- Deprive a person of the right to a fair trial or an impartial adjudication.
- Impair the ability to locate a defendant or co-defendant.
- Hinder the agency's ability to secure an arrest, prosecution or conviction.
- Endanger the life or physical safety of an individual.

C. All Open Records requests for police records shall be submitted in writing. This request may be on the form provided by the State Office of Open Records on their website (<http://openrecords.state.pa.us>), or on a form provided by the Police Department at the Police Department, or on the Police Department's website. The Department's regulations, policies and procedures of the agency relating to this act will likewise be available at the Police Department and posted on the website. The form must be fully completed to be accepted and comply with the following regulations:

1. No verbal or anonymous Open Records requests will be accepted. Requests may be submitted in person, by mail, by e-mail, or by facsimile.
2. All requests must be answered within five (5) business days of receipt, or the request will be deemed denied, unless an extension is requested.
3. There shall be no limitation on the number of public records which may be requested or made available for inspection or duplication.
4. There shall be no requirement to disclose the purpose or motive in requesting access to records which are considered public.
5. This initial extension cannot exceed thirty (30) days. Extensions are appropriate only when one of the following criteria is met:
  - a. The record is in a remote location.
  - b. The Open Records Officer requires and has sought a legal opinion as to the request.
  - c. There is a bona-fide staffing issue that precludes filling the request within five days.
  - d. The size of the request is so large as to necessitate additional time to

- respond.
- e. The requester refuses to pay the applicable fees.
  - f. If the record is not complete.
- 6. Upon receipt of an open records request, it is to be date and time stamped. These forms will be tracked by the designated Records Section Personnel. These personnel shall forward an original copy to the Open Records
  - 7. In the event the Open Records Officer is off or unavailable to respond within the five (5) business day period, the Police Department's acting Officer in Charge is to be notified for proper handling of the request.
  - 8. A record request denial will be sent in writing to the requesting party, noting that any appeal shall be directed to the,

Chester County District Attorney's Office  
Open Records Officer  
201 W. Market St., Suite 4450  
West Chester, PA 19382  
610-344-6801

- 9. Criteria to be met for document release under subpoena:
  - Written proof of active litigation must be provided.
  - The original subpoena must be properly completed and presented, displaying an original seal. The process server will retain the original subpoena leaving a copy with the Township representative being served.
  - The appropriate subpoena surcharge fee along with all applicable document fees, payable to Upper Uwchlan Township, must accompany the subpoena.
- 10. Procedure for producing reports under subpoena:
  - a. All subpoenas for Police Department reports or documents shall be presented to the Records Personnel for proper review and disposition. Upon approval, the following procedure will be followed:
  - b. In honoring the request to produce copies of all approved documents and in lieu of having the Records Personnel appear in person with the documents, the Department will provide a Record of Certification with the released documents.
  - c. The certification shall verify that the documents being provided are a true and correct copy of the original. The certification shall be dated and signed by the

## Records Personnel.

### 11. Fee schedule for providing reports

The Records Personnel are responsible for ensuring that all established fees for the duplication and release of public records are properly charged and collected. The Records Personnel are also responsible for maintaining a list of such fees.

### 13. Right to Appeal

Any person who has submitted an Open Records request and been denied access to a Police Department report or other document has the right to appeal that denial. The appeals process information is provided with the denial notice.

### 14. Media Informational Releases

It will be the Police Department's policy to cooperate with the media with regard to releasing information concerning vehicle crashes, crime, critical incidents, or other requested information as long as it is in the public's interest and will not compromise an ongoing investigation or jeopardize someone's safety. Media information may only be released by the Chief of Police

## D. Employee Responsibilities

1. Records that are normally publicly accessible may contain non-disclosable information that shall be redacted. This includes all juvenile information, HIPAA-related information, driver's license number, DOB, Age, student information, personal financial information, social security numbers, and home, cellular or personal telephone numbers. In the event of an active PFA, the victim's address and related contact information shall also be redacted. Any questions should be directed to the Chief of Police. It is important that the redaction method used is visually obvious to the requestor and shows the specific location of any redacted material. If a report contains information that must be redacted, such as personal or confidential information, the employee will use the following method.
  - Make a paper copy of the original record and manually "black out" the information with a dark colored marker.
  - Then copy the "blackened out" version of the document and provide that copy to the requestor after ensuring that no redacted information is readable.
2. All documents retained by the Police Department, either written or electronically stored, shall be considered confidential in nature and are the property of the

Township of Upper Uwchlan. During the course of their employment, employees may have the occasion to read, copy, or become familiar with this confidential information. It is the duty of all employees to continue to keep all police documents and information confidential.

3. Any deliberate unauthorized or negligent release of police documents or information, in whatever format, whether original or a copy, or any unauthorized verbal release of confidential information will be considered a severe breach of discipline, which could result in suspension or termination of employment and/or criminal prosecution. It is the responsibility of all supervisory personnel to ensure that all personnel under their immediate supervision complies with this policy and all policies regarding the release of information.
4. The Township's policy on the "Right to Know Law", the contact information for the Open Records Officer, and appeals process shall be posted on the Township web site and in the lobby of the Police Department.

E. Correction of Inaccurate Information

- a. With the detection of inaccurate data, regardless of its discovery, the Department shall immediately comply with the following procedures to effect the corrections:
  - Correct its own records
  - Notify all recipients of the inaccurate data

F. Personal Background Checks

There are occasions when a background investigation inquiry may be received. Those who request this check are to submit a signed record of release/waiver from the person who the background check is being conducted on.

G. Record of Information Release or Removed from the Department

- a. Officers will fill out the Record Information Log (Attachment C) when removing any record or report from the record storage system and leaving the station with the document(s).
- b. When any portion of any record is released to the public or another law enforcement agency, it shall be indicated in the narrative of the report of who it was released to.

I. Summary Traffic Citation and Township Parking Tickets

- a. The Department will retain a copy of each citation issued. These citations will be stored in an appropriate manner within the Police Department. When obtaining new traffic citations and parking tickets, officers shall complete the log book of the citations and tickets that they remove. Upon issuing a citation to a defendant, a copy of the front of the citation will be copied and attached to the agency's copy.
- b. Parking tickets issued shall be returned to the Department for filing. The Records Department shall track each parking ticket to determine if it has been paid. The Records Department shall notify an officer in the event a parking ticket is not paid. The issuing officer shall then file a traffic summary citation with the District Magistrates office.
- c. The day shift shall no later than by 0930hrs of Monday, Wednesday and Friday deliver all items to the District Magistrates office for filing. If there are no deliveries, then the day shift shall contact the District Magistrates office to determine if there are any documents that need to be picked up for the Department.

J. Case Dispositions

All criminal, summary and non-summary cases that are conducted at the District Magistrates Office shall have a disposition of the case recorded on the reverse side of the court subpoena and filed with the case file.

K. Procedure for All Reports

No report is to be released without the authorization of the Chief of Police or designee. Reports are to be used only for official Department business. This policy does not apply when reports are being disseminated to other law enforcement agencies.

L. DISSEMINATION OF PROTECTED INFORMATION

Reference: 18 P.S. Subsection 9106 (C) (5) or (6)

DEFINITIONS:

Automated Systems – A computer or other internally programmed device capable of automatically accepting and processing data, including computer programs, data communication links input and output data and data storage devices.

Criminal History Agency – A court, including the minor judiciary with criminal jurisdiction or another governmental agency, or sub-unit thereof, created by statute or by the State or Federal Constitution, specifically authorized to perform as its principal function the administration of criminal justice, and which allocates a substantial portion of its annual budget to that function. The term includes organized state and municipal police departments, local detention facilities, county, regional and state correction facilities; probation agencies; district or prosecuting attorney's; parole boards, pardon patrol boards and agencies or sub-units thereof, as are declared by the Attorney General to be criminal justice agencies as determined by a review of applicable statutes and the State and Federal Constitution, or both.

1. Protected Information – intelligence, investigative or treatment information:
  - a. Intelligence information concerning the habits, practices, characteristics, possessions, associations or financial status of an individual compiled in an effort to anticipate, prevent, monitor, investigate or prosecute criminal history activity.
  - b. Investigative Information – Information assembled as a result of the performance of an 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 an individual charged with or convicted of a crime.
2. Repository – A location in which history record information is collected, compiled, maintained, and disseminated by a criminal justice agency.
3. Central Repository – The central location for the collection, compilation, maintenance and dissemination of criminal history record information by the State Police.
4. Criminal History Record Information – Information collected by criminal justice agencies concerning individuals and arising from the initiation of a criminal proceeding, consisting of identifiable, descriptions, dates and notations of arrests, indictments, information or other formal criminal charges and dispositions arising there from. The term does not include intelligence information, investigative information or treatment information, including medical and psychological information or information and records specified in 18 Pa. C.S. 9104 (relating to scope).

## II. PROCEDURES:



1. Intelligence Officer – The Chief of Police or his designee will be responsible for the classification, computerization and dissemination of all “protected information” classified in CHRIA.
2. Collection of protected information – The department will collect protective information in its automated system only when the following conditions are met:
  - a. The information concerns an individual or group which it reasonably suspects of criminal activity.
  - b. The information is related to criminal activity that would give rise to prosecution for a state offense graded a misdemeanor or felony or for a federal offense for which a penalty is imprisonment for more than one year.
  - c. The information is categorized based upon subject matter.
  - d. The information does not concern participation in a political, religious or social organization, or in the organization or support of a nonviolent demonstration, assembly, project, rally or similar form of public speech, unless there is a reasonable suspicion that the participation by the subject of the information is related to criminal activity or prison rule violation.
  - e. The intelligence information is not collected in violation of state law.
3. Protected information will not be collected for, or transferred to, the central repository maintained by the Pennsylvania State Police.
4. Security of Protected Information – The confidentiality of protected information will be provided for and securely maintained by:
  - a. Following department physical plant/maintained policy to reasonably protect repository from theft, sabotage and man-made or natural disasters.
  - b. Properly selecting, supervising and training personnel authorized to have access to protect information.
  - c. Insure that, where computerized data processing is employed, the equipment utilized for maintaining intelligence information, investigative information or treatment information is dedicated solely to purposes related to the administration of criminal justice.

- d. If the equipment is not used solely for the administration of criminal justice, the criminal justice agency is accorded equal management participation in computer operations used to maintain the intelligence information, investigative information or treatment information.
- e. Ensuring that only authorized personnel have access to protected information are electronically coded or otherwise designated to enter the automated system. The intelligence officer will maintain a copy of the authorization list.
- f. Three different levels of storage of protected information will be established for reliability and sensitivity:

Level I – Will include all information that has been received from a reliable source and is substantiated.

Level II. – Will include all information that has been received from a reliable source but is unsubstantiated.

Level III. – Will include all information that has been received from an unreliable source and is not and cannot be substantiated.

- 5. Dissemination of protected Information – This department's intelligence officer may only disseminate protected information if the following conditions are met:
  - a. The requesting criminal justice agency must certify that it has adopted policies and procedures consistent with this Act. This may be a verbal certification, if intelligence officer knows agency. In the event the agency is unknown, then a signed statement of certification will be required before release of information.
  - b. The intelligence officer records on the designated form the pertinent information for a proper audit trail of disseminated protected information. This record is to be maintained separate from the individual's file.
  - c. The protected information has been determined to be reliable.
  - d. The requesting criminal justice agency justifies its request based on name, fingerprints, modus operandi, genetic typing, voiceprint or other identifying characteristic.
  - e. The intelligence officer lists on the individuals file a date, the purpose and agency requesting the information.

- f. In the event the intelligence officer becomes aware of/by any means that previously disseminated information is misleading, obsolete and/or unreliable, the information is to be corrected and the recipient agencies notified of the change within a reasonable time period.
  - g. Protected information in department's possession but which was not obtained through our sources may not be disseminated to another agency except if requesting agency and our department are investigating or prosecuting a criminal matter jointly. The intelligence officer must, however, refer requesting agency to the agency, which was the source of the information.
  - h. This department's intelligence officer, when requesting protected information from another agency, must certify in writing that this department complies with CHRIA.
- 6. Retention of Records – Department's protected information will be maintained and will be purged only with the written approval from the Chief of Police and only under the following conditions:
  - a. The data is no longer relevant or necessary to meet the goals and objectives of this agency.
  - b. The data is obsolete; making it unreliable for present purposes and updating it would be worthless.
  - c. The data cannot be used for strategic or tactical purposes associated with the duties of this agency.