

NUMBER:	4.2
SUBJECT:	RELEASE OF ARREST/CRIME REPORTS
CATEGORY:	GENERAL OPERATIONS
DATE:	JUNE 15, 2007
RELATED SECTIONS:	RELEASE OF CORI (2.4.1), RELEASE OF PUBLIC RECORDS INFORMATION(1.7), COMPLYING WITH SUBPOENAS (1.6)
IN COMPLIANCE WITH:	GOVERNMENT CODE 6254(f), WELFARE & INSTITUTIONS CODE 827-828 & 15633, PENAL CODE 11167.5, VEHICLE CODE 20012

POLICY:

It is the policy of the Sheriff's Records & ID Division to control the release and dissemination of arrest reports / crime reports in order to prevent the improper disclosure of criminal information.

TABLE OF CONTENTS:

Responsibility of Records & ID Division Staff.....2-3

General Information – Concerning the Release of Information.....3-5

Accepting Requests.....5-8

Sorting Requests.....8-9

Processing Requests.....9-13

Requests for Arrest Reports.....14-16

Requests for Child Abuse / Child Neglect Reports.....17-19

Requests for Domestic Violence Reports.....20-22

SAN DIEGO SHERIFF'S RECORDS & ID DIVISION - POLICIES & PROCEDURES MANUAL

Requests for Elder & Dependant Adult Abuse Reports.....23-26

Requests for General Criminal Reports.....27-29

Requests for Homicide / Death Reports.....30-31

Requests for Identity Theft Reports.....32-33

Requests for Juvenile Reports.....34-35

Requests for Sex Offense Related Reports.....36-38

Requests for Traffic Accident Reports.....39-41

Requests for 5150 (Involuntary Psychiatric Hold) Reports.....42-46

Sample Forms.....47-54

RESPONSIBILITY OF RECORDS & ID DIVISION STAFF:

- A. Records & ID Division staff who are in possession of criminal / confidential records, including arrest / crime reports, shall be responsible for the physical security of these records. Employees shall not disclose the contents of any criminal / confidential record to any person except as provided by in this order. Information shall not be released for use other than in the official performance of duties.
- B. Releasing criminal information to an unauthorized person or agency is a crime pursuant to Penal Code Sections 502 and 13303.
- C. All arrest / crime reports shall be stored in secure designated areas of the Division. Criminal records will not be placed in desk drawers, lockers, or other personal storage areas.
- D. Unauthorized persons shall not be allowed to view criminal / confidential information contained in records or located on computer screens.

- E. All employees shall complete a "Release of Copies" cover sheet (see sample – page 47) prior to releasing a copy of any arrest / crime report. This form will be filed with the original case after it has been completed.
- F. When no longer needed, duplicate copies of criminal / confidential documents shall be disposed of by placing the duplicate document in the designated shred bins. In no case, will criminal / confidential information be placed in regular trash cans or bins. Note that duplicate in this case refers to instances where we receive multiple, identical copies of the same document.
- G. Original arrest / crime reports will be maintained and purged in accordance with the Division's formal retention policy.
- H. All requests for individual summary criminal history information or CORI will be forwarded to the Division's Booking Section which will be governed by Division Policy & Procedure titled "Release of Criminal Offender Record Information (CORI)."
- I. All requests for criminal records that are submitted via Subpoena will be governed by Division Policy & Procedure titled "Complying with Subpoenas, Subpoena Duces Tecum, and Deposition Subpoenas."

GENERAL INFORMATION – CONCERNING THE RELEASE OF INFORMATION:

- A. **Release Criteria Basics:** Copies of arrest / crime reports may be released only when BOTH the "right to know" and the "need to know" have been established.
 - 1. **Right to know:**
 - a. Copies of arrest / crime reports will be released only to persons or agencies authorized by court order, statute, or decisional law to receive such information.
 - b. Primary reference sources for determining the "right to know" include Government Code 6254(f), the Department of Justice's "California Criminal Offender Record Information Authorized Agencies List," and pertinent sections of this P&P.

- c. References governing the release of information are also contained in various other statutes including the Evidence Code, Family Code, Penal Code, Vehicle Code, and the Welfare and Institutions Code.

2. Need to know:

- a. Basis – The “need to know” is based on the necessity to obtain criminal information in order to execute official responsibilities, or for specific purposes that have been approved by statute.
- b. Criteria – The “need to know” is established when the requestor certifies that a specific official need exists for the information (i.e., needed for criminal investigation, etc.), or requests the records for an otherwise sanctioned purpose (i.e., a victim is authorized to receive certain info from their crime report by virtue of statute).

B. **Release Criteria Application:** The information below explains in more detail how the “right to know” and “need to know” criteria will be used in screening requests:

1. In large part, the criteria for releasing reports will be determined by the type of report that is being requested. Many of our reports including child abuse reports, domestic violence reports, traffic accident reports, etc. are governed by specific statutes that list the authorized parties who are entitled to receive a copy of the report and often the circumstances under which they can receive it. To the degree possible, we have tried to include this information within the body of this policy and procedure.
2. When processing requests for copies of reports, staff will refer to the appropriate section within this policy and procedure for guidance in determining who is entitled to receive copies of specific types of reports (i.e., child abuse, juvenile, etc.), and to determine whether any special provisions must be met before a copy of the report may be released.
3. The DOJ's CORI Authorized Agencies List will serve as a screening tool in evaluating whether an agency meets the “Right to Know” criteria. However, it is important to realize that the fact that an agency is authorized to receive summary criminal history information does not automatically entitle them to receive a copy of the arrest / crime

report that the history may be based upon. The final decision of whether the report will be released or not will always be based on a combined evaluation of the "Right to Know," "Need to Know," and the underlying statute that applies to the report in question.

4. Many times the "Need to Know" will be apparent in the body of the request (e.g., the request may plainly state that the purpose is for a law enforcement investigation, or for a subject who was involved in a traffic accident). However, if the reason for the request is absent or vague (i.e., agency states that the report is needed for an investigation without providing specific information about the case type or #), then steps will be taken to obtain the missing information.
5. If there is any doubt about whether an agency is entitled to receive either a complete copy or a redacted copy of a report, staff will seek guidance through the chain of command.
6. In cases where the requestor is not able to properly demonstrate the required "Right to Know" and "Need to Know", the request will be denied. The onerous will then be on the requestor to either cite another local, state, or federal statute that authorizes them to have access to the report or to present a subpoena or court order for the records. Questions concerning this should be referred up the chain of command.

C. **Cases Section Responsibility:** Within the Records & ID Division, the Cases Section shall have primary responsibility for the release of copies of criminal information contained in Sheriff's arrest / crime reports. In addition to a copy of this policy and procedure, the section shall maintain:

1. An up-to-date hard copy of the Department of Justice's "California Criminal Offender Record Information Authorized Agencies List." Note also that an electronic copy of this list is available at the CLEW (California Law Enforcement Web) web-site.
2. A binder that contains a copy of any special instructions or pertinent documents concerning the release of information to include copies of: Memorandum of Agreements between the Sheriff's Department and other agencies; Department of Justice Information Bulletins; and pertinent Department/County regulations and policies.

ACCEPTING REQUESTS:

- A. Requests may be received from multiple sources including fax, mail, interoffice mail, e-mail, and in person at the front counter. Although staff may provide information concerning the request process to customers over the telephone, the request itself will need to be submitted via one of the other options listed above.
- B. **Request Forms** - Generally, requests for copies of arrest / crime reports must be accompanied by a Records Service Request Form (SO-110) (see sample – page 48). However, requests will also be accepted if submitted on other forms that contain all information needed to process the request.

Note that requests that are presented at the front counter will receive a cursory review to ensure that it contains all needed information prior to it being officially accepted from the customer.

- C. **Identification Requirements** - Requests must include appropriate proof to establish the identity of the requestor and in certain circumstances their relationship to interested parties as follows:
1. Requests from private citizens must be accompanied by a copy of a valid government issued photo ID card (i.e., driver's license, military ID, passport, etc.). For a detailed listing of acceptable forms of personal identification, see instructions provided on pages 49-50.
 2. Requests from insurance companies or their authorized representatives must include documentation that establishes the relationship between the company and the insured party to include the policy number and claim number.
 3. Requests from attorneys must include documentation that establishes the relationship between the attorney and the client. This may take the form of a signed letter from the client stating that they are being represented by the attorney, or a signed letter from the attorney attesting to that fact under penalty of perjury.
 4. Requests received from others who claim to represent an interested party must present

appropriate documentation that establishes this relationship. Examples include proof that the person is the parent or legal guardian of a juvenile (e.g., birth certificate, official school records, etc.); or proof that the person has been appointed as the executor for a deceased victim's estate (e.g., death certificate, will; etc.).

5. Requests received from government employees/agencies must include proof that helps validate the official status of the person/agency. This may take the form of requests that are submitted on the agency's official letterhead, or are called in using the appropriate "password" code for San Diego agencies, or the agent may show their identification card if dropping the request off at the front counter.

D. **Fees** - Ensure that the appropriate fee has been submitted for requests that require payment. The following provisions apply:

1. No fee will be charged to law enforcement and other government agencies.
2. No fee will be charged to victims or their representatives under the following circumstances:
 - a. The first copy of the crime report will be provided free of charge to the victim or their representative (insurance company, lawyer), but not to both. For the purpose of this section, a victim would include anyone who is listed as the victim on the report, or anyone who suffers injury or property damage / loss.
 - b. The first copy of a traffic accident report that involves drugs or alcohol will be provided free of charge to the victim or their representative, but not to both. A victim in this case would include any party that suffered injury or property damage / loss except for that party who was under the influence of drugs or alcohol.
 - c. If there are multiple victims in the cases above, each victim (or their representative) would be entitled to one free copy of the report.
 - d. In any case where a free copy of a report is provided to a victim (or their representative), a "Crime Report Fee Waiver to Victim" form (see sample – **page 51**) will be completed and submitted to the District Attorney's office.

3. The standard fee of \$20 per report will be paid by all other non-government agencies and members of the public who may be entitled to a copy of the crime report or traffic accident report.
 4. Employees do not have the discretion of waiving fees for "hardship" cases unless the customer is able to present official documentation that shows that he/she has been certified by the County as an indigent.
 5. The customer will be presented with a receipt at the time of acceptance when presenting requests at the front counter that are accompanied by a fee. A customer receipt will be prepared later in the process for fees that accompany requests that are received through the mail.
- E. Once accepted, all requests will be date stamped and placed in the designated incoming basket on the Cases Section's Q&A desk.

SORTING REQUESTS:

- A. All requests will be logged into the electronic cases correspondence log located at <V:\Records\Electronic Log\Case Correspondence Log.mdb>.
- B. Requests will be run through the appropriate computer screen/system to determine whether a report is available and to ensure that the case is a San Diego Sheriff's case versus that of another agency. Staff will search the following computer screens/systems as appropriate: MOI11, Case Tracking, CAD, E-Sun, and ARJIS. An appropriate annotation or a copy of the screen print will be attached to the request to show the results of the search (i.e., no record found, case # _____ found, etc.).
- C. Based on the results of the search, staff will sort the cases into designated slots as follows:
 1. Requests where a San Diego Sheriff's case is found will be placed in the appropriate brown accordion file on the Correspondence Desk.
 2. Requests where only another agency's case (e.g., SDPD, DA, etc.) is found will be placed in the "Reject" slot.

Other requests that will be placed in the "Reject" slot include those where insufficient information exists to process the transaction, those where it is determined that the requestor is not entitled to receive the information, etc.

3. Requests where no record is found will be placed in the "No Record" slot.
4. Requests where the case is located off-site will be placed in the "Iron Mountain" slot.
5. Requests that asks for information that is controlled by other Divisions/Units (Communications Center, Booking Section, etc.) will be forwarded to the proper unit as appropriate. If the request asks for information that is maintained both within the Cases Section and by another Division/Unit, then a copy of the request will be forwarded to the other unit.

Note that care should be taken to ensure that customers/requests are not needlessly bounced back and forth between units to obtain information. For example, copies of crime reports that are less than one year old can be obtained at the Sheriff's Station or Sub Station that wrote the report. However, in situations where the customer has already physically traveled to our office, we should provide the customer with options rather than merely turning him/her away. For example, we could accept the request, process it, and then mail it to the person's home address or call to let them know that it's ready for pickup. If we haven't received the case from the station yet, we could offer to fax the form to the station.

PROCESSING REQUESTS:

- A. Requests should normally be processed in a "first in, first out" manner unless a valid reason exists (i.e., court date approaching, time sensitive investigation, etc.) for expediting a particular request. The Division's goal is to process all requests within three (3) business days of receipt. However, in no case should requests be processed in more than ten (10) calendar days unless extenuating circumstances exist that are beyond our control (i.e., we are waiting for the customer to submit missing information).
- B. When processing requests, staff will refer to the section within this policy and procedure that

pertains to the type of report that is being requested (i.e., juvenile, domestic violence, etc.). Within each section, staff will find the following information concerning the report in question:

1. A list of statutes, court decisions, and other background information that control the release of the report.
 2. A list of "Authorized Parties" who are authorized to receive the report or information from the report.
 3. A list of "Information to Release" when the governing statute provides specific information as to what information from the report must be released.
 4. A list of "Exceptions to Release" when the governing statute provides unique limitations or restrictions concerning the release of the report.
 5. A list of "Special Screening Instructions" when special provisions exist that may differ from the procedures that generally apply to the release of other types of reports.
 6. A "Contact Information" section that provides pertinent information concerning the key point of contact for the report type in question.
- C. If it is determined that the requestor is not authorized to have a copy of the report, then an appropriate "Reject" letter (see sample – pages 52-53) will need to be prepared.
- D. Staff will determine the status of the case before releasing a copy of reports. Based on the status of the case, staff will proceed as follows:
1. If the case has been fully adjudicated (case has gone to trial and has been settled), a copy of the report may be released to authorized parties without the need to check with the investigating officer unless the case file contains a special flag to the contrary. However, staff will ensure that they redact non-releasable information prior to releasing a copy of the report.
 2. If the case is still under investigation or is not otherwise closed, it will be necessary to contact the investigating officer (or his/her unit) to verify whether releasing the report

will jeopardize the case or not. Staff will work with the investigating officer to determine whether to release a complete copy, a redacted copy, or no copy of the report in question. Specific criteria that should be applied in making this decision include:

- a. Do NOT release information that would jeopardize the investigation.
 - b. Do NOT release information that would jeopardize the successful prosecution of a criminal case.
 - c. Do NOT release information that could possibly affect the outcome of a civil case involving the Sheriff's Department or the County of San Diego.
 - d. Do NOT release facts concerning the crime which could only be known by the perpetrator, or which could be utilized as polygraph keys.
3. Although it is imperative to withhold information to the extent that it might jeopardize an ongoing investigation, there is no desire to unnecessarily deny authorized parties access to records that they are otherwise entitled to receive. Questions concerning what information should be released on specific cases should be brought up the chain of command, or to legal, as appropriate.
- E. If it is determined that the requestor is authorized to have a copy of the report, then a redacted or full copy of the report will be prepared as appropriate. Key points that must be kept in mind while making copies of the report:

Exceptions to Release – Applies to All Reports

1. Do NOT release information concerning confidential informants.
2. Do NOT release copies of documents that originate from other agencies.
3. Do NOT release the names, addresses, or other personal identifying information of juveniles listed in the reports except as authorized in the section of the P&P that covers juvenile reports.
4. Do NOT release the victim's or witness' name, address, or other personal information

directly to suspects (PC 841.5(a)). However, in accordance with PC 841.5(d), this does not “preclude a law enforcement agency from releasing the entire contents of an accident report.”

In most cases, the suspect will not be entitled to a copy of the arrest or crime report without a subpoena or court order. However, in the rare instance where release of the report is authorized, it will be necessary to redact the victim's/witness' personal information.

5. Do NOT release that portion of the report that reflects the analysis and conclusions of the investigating officer.
6. Do NOT release information that would endanger the safety of a witness or other person involved in the investigation.
7. Do NOT release information that would endanger the successful completion of the investigation or a related investigation.
8. Do NOT release the names and addresses of victims of sex related offenses except to the extent allowed under the P&P section that pertains to sex offense related reports.
9. Do NOT release information from supplemental reports that exceeds that which the requestor is otherwise entitled to receive. For example, we could release a copy of a supplemental report that contains a later witness statement. However, we wouldn't release supplemental reports concerning the investigator's final analysis and conclusions to non law enforcement agencies.
10. Do NOT release a copy of the report to the witness of a crime unless he/she also suffered an injury or property damage / loss during the incident. The one exception to this rule is that a copy of the witness' own statement may be released to him/her.
11. Do NOT release a copy of the report to the media or to any other person or agency that is not specifically entitled to receive the report. Requests from the media will be forwarded to the Public Affairs Office.

F. When redacting reports, staff will:

1. First, make a copy of the original report.
 2. Second, use a black marker to redact the necessary information from the copy.
 3. Third, make a copy of this new "highlighted" copy.
 4. Finally, dispose of the "highlighted" copy and prepare the final redacted copy for delivery to the customer.
- G. Once copies of the report have been made, staff will stamp each page of the report with the "confidential" stamp. However, if the report contains numerous pages, then staff may stamp the first & last page of the report with the "confidential" stamp, and attach an appropriate cover letter to the front of the package.
- H. A "Release of Copies" form will be prepared and inserted in the case file the first time that a copy of a report is released. Additional releases of the report may be annotated on the same form as long as space permits.
- I. Staff will prepare the request for delivery or pick-up in the manner requested by the customer (i.e., mail, fax, pick-up box, etc.).
- J. Staff will update the electronic log to show the date the request was completed, and what information, if any, was released.
- K. Staff will file the original request form and a copy of the completed reply letter in the designated filing area.
1. Note that in accordance with Government Code 13954(d-e), the California Victim Compensation and Government Claims Board is entitled to receive a copy of the crime report upon request.

REQUESTS FOR ARREST REPORTS:

- A. Government Code 6254(f)(1) states that law enforcement agencies must release certain information regarding its arrests including: the arrestee's full name, occupation, date of birth, color of eyes and hair, sex, and height and weight; the time, date, and location of arrest; the time and date of booking; the factual circumstances surrounding the arrest; the amount of bail set; the time and manner of release or the location where the individual is currently held; all charges the individual is being held upon, including any outstanding warrants from other jurisdictions and parole or probation holds.
- B. The preceding information is releasable except to the extent that disclosure would endanger the safety of a person involved in an investigation or the successful completion of an investigation or related investigation. Sheriff's P&P section 7.3 also states that "the names of individuals arrested and released pursuant to 849 PC [detained vs. arrested] shall not routinely be released unless an inquiry and specific request is made.
- C. In *County of Los Angeles v. Superior Court (Kusar)*, 18 Cal. App. 4th 588 (1993), the courts ruled that the provisions of Government Code 6254(f) apply only to arrest information that is classified as "contemporaneous" (i.e., originating, existing, or happening during the same period of time). Although, the court did not attempt to define the exact point at which arrest information converts from "contemporaneous" information to criminal history, they made it clear that once a record is classified as summary criminal history information, it is then shielded from release to the general public.
- D. Within the Records & ID Division, the Cases Section will rarely release any information from arrest reports in order to comply with the provisions of GC 6254(f)(1). Instead, much of this information is available to the public on the "Who's in Jail" page of the Sheriff's internet site, or can be obtained by contacting the detention facility where the subject is incarcerated, or by contacting the Records & ID Division's Booking Section.
- E. **Authorized Parties** - Unlike the situation that exists with our crime reports and traffic accident reports, there are actually very few persons/parties that are authorized by statute to receive a copy of an arrest report. Key points that must be kept in mind when evaluating whether a copy of an arrest report may be released:

1. Although victims (and their representatives) are entitled to a copy of crime reports, they are not entitled to a copy of an arrest report without a subpoena or court order.
 2. The suspect (and their representative) is not entitled to a copy of the arrest report without a subpoena or court order.
 3. Witnesses and general members of the public are not entitled to a copy of the arrest report without a subpoena or court order.
 4. For juvenile arrest reports, it will be necessary to refer to the section of this P&P that pertains to juvenile reports. If the requestor is not listed as an authorized party to receive the report, then a copy will not be released without an order from the juvenile court.
 5. As long as the proper “right to know” and the “need to know” have been demonstrated, a copy of an arrest report may be given to authorized law enforcement and government agencies when needed for official investigative purposes.
 6. When requested for licensing, employment or certification purposes, copies of arrest reports will not be given to non law enforcement agencies unless:
 - a. The case in question ended in a conviction, and
 - b. A signed authorization form from the subject is included with the request.
- F. **Exceptions to Release** – Ensure that all privileged information (i.e., confidential informant information, etc.) are redacted from the report per the instructions that are contained in the “PROCESSING REQUESTS” section of this policy & procedure.
- G. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of arrest reports:
1. Care must be taken when processing requests for cases that involve multiple types of reports (i.e., traffic accident, crime, juvenile, etc.) in addition to an arrest report. In most instances, it will be necessary to withhold the information concerning the arrest while still releasing the portions of the file that the requestor is otherwise entitled to. For instance,

if the case involves a traffic accident where one party is arrested for DUI, we could release a copy of the traffic accident report to the other party, but not a copy of the arrest report or arrest information concerning the DUI.

H. **Contact Information** – Primary Sheriff's points of contacts for questions regarding arrest reports:

1. Arresting Officer/Arresting Unit
2. Chain of Command
3. Legal Affairs

REQUESTS FOR CHILD ABUSE AND CHILD NEGLECT REPORTS:

- A. Child Abuse / Child Neglect reports are protected by the “Child Abuse and Neglect Reporting Act” which is controlled by the provisions of Penal Code 11164-11174.3.
- B. Penal Code 11165.6 provides that “child abuse or neglect” includes: Physical injury inflicted by other than accidental means upon a child by another person; Sexual abuse (PC 11165.1); Neglect (PC 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (PC 11165.3); and unlawful corporal punishment or injury (PC 11165.4). It further states that child abuse or neglect does not include a mutual affray between minors, or an injury caused by reasonable and necessary force use by a peace officer acting within the course and scope of his/her employment as a peace officer.
- C. **Authorized Parties** - Penal Code 11167.5 provides that “Reports of suspected child abuse or neglect and information contained therein” may only be disclosed to the following:
1. Persons/agencies permitted under PC 11167 (investigator from investigating agency; licensing agency when investigating case; prosecutor/county counsel in proceedings.).
 2. Persons/agencies permitted under PC 11170(b) or PC 11170.5(a):
 - a. PC 11170(b) - Persons or agencies investigating a case of known or suspected child abuse / neglect, the State Department of Social Services or any county licensing agency or an investigative agency, probation officer, or court investigator responsible for placing children or assessing the possible placement of children, or a government agency conducting a background investigation of an applicant seeking employment as a peace officer.
 - b. PC 11170.5(a) – Licensed adoption agency concerning any person who has submitted to the agency an application for adoption.
 3. Persons/agencies with whom investigation of child abuse / neglect are coordinated under regulations contained in PC 11174.

4. Multidisciplinary personnel teams as defined in WIC 18951(d).
5. Persons/agencies responsible for licensing child care facilities as specified in PC 11165.7.
6. The State Department of Social Services or any county licensing agency for purposes specified in PC 11170(b)(4).
7. Hospital Scan Teams.
8. Coroners and medical examiners when conducting a post mortem examination of a child.
9. The Board of Prison Terms for purposes specified in PC 11165.12.
10. Personnel from an agency responsible for making a placement of a child pursuant to WIC 305 & 361.3.
11. Persons who have been identified by DOJ as "listed in the Child Abuse Central Index" pursuant to PC 11170(b)(6), PC 11170(c), or PC 11170(e).
12. Out-of-state law enforcement agencies conducting an investigation of child abuse or neglect only when the agency makes the request for reports in writing and on official letterhead, identifying the suspected abuser or victim by name.
13. Each chairperson of a county child death review team.

D. **Exceptions to Release** –

1. Note that neither the victim nor the victim's parents are included on the authorized list in PC 11167.5 above.
2. Ensure that all privileged information (i.e., confidential informant information, etc.) are redacted from the report per the instructions that are contained in the "PROCESSING REQUESTS" section of this P&P.

E. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of Child Abuse / Child Neglect reports:

1. If the requestor is not listed as an authorized party, a copy of the report will not be released without a court order.
2. Note that since these records are “absolutely privileged,” they will also not be released to unauthorized parties who request them via subpoena duces tecum or deposition subpoena.

F. **Contact Information** – Primary Sheriff’s points of contacts for questions regarding Child Abuse / Child Neglect reports:

1. Child Abuse Unit - (858) 974-2310
2. Chain of Command
3. Legal Affairs

REQUESTS FOR DOMESTIC VIOLENCE REPORTS:

- A. Domestic Violence Reports are protected by the “Access to Domestic Violence Reports Act of 1999” which is controlled by the provisions of Family Code 6228.
- B. Family Code 6211 defines Domestic Violence as abuse perpetrated against any of the following persons:
1. A spouse or former spouse.
 2. A cohabitant or former cohabitant.
 3. A person with whom the respondent is having or has had a dating or engagement relationship.
 4. A person with whom the respondent has had a child, where the presumption applies that the male parent is the father of the child of the female parent under the Uniform Parentage Act.
 5. A child of a party or a child who is the subject of an action under the Uniform Parentage Act, where the presumption applies that the male parent is the father of the child to be protected.
 6. Any other person related by consanguinity [blood] or affinity [marriage] within the second degree [parents, children, siblings, grandparents, grandchildren].
- C. **Authorized Parties** – The release of Domestic Violence reports and information is authorized to parties as follows:
1. Family Code 6228 (a) states that law enforcement agencies shall provide (without charge), one copy of all DV incident report face sheets, one copy of all DV incident reports, or both to a victim of DV, or to his or her representative if the victim is deceased.
 2. Family Code 6228 (g)(1) defines a “representative of the victim” as any of the following:

- a. The surviving spouse.
 - b. A surviving child of the decedent who has attained 18 years of age.
 - c. A domestic partner, as defined in subdivision (a) of Section 297.
 - d. A surviving parent of the decedent.
 - e. A surviving adult relative.
 - f. The public administrator if one has been appointed.
3. As long as the proper “right to know” and the “need to know” have been demonstrated, a copy of a domestic violence report may be given to authorized law enforcement and government agencies when needed for official investigative purposes.
 4. When requested for licensing, employment or certification purposes, copies of domestic violence reports will not be given to non law enforcement government agencies unless:
 - a. The case in question ended in a conviction, and
 - b. A signed authorization form from the subject is included with the request.

D. **Exceptions to Release** –

1. Family Code 6228 (g)(2) states that the “representative of the victim does not include any person who has been convicted of murder in the first degree” of the victim, or “any person identified in the incident report face sheet as a suspect.”
2. Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the “PROCESSING REQUESTS” section of this policy & procedure.

E. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of Domestic Violence reports:

1. FC 6228 (b) states that the DV report face sheet shall be made available no later than 48 hours after the victim or his/her representative requests it, unless the law enforcement agency states reason why, for good cause, it is not available. In that event, the face sheet shall be made available no later than five (5) working days after the request is made.
2. FC 6228 (c) states that the DV incident report shall be made available no later than five working days after the victim or his/her representative requests it, unless the law enforcement agency states reason why, for good cause, it is not available. In that event, the face sheet shall be made available no later than ten (10) working days after the request is made.
3. Family Code 6228 (d) states that any person requesting copies of DV reports under these statutes must present proper identification to law enforcement and, if the person is a representative of the victim, must present a certified copy of the death certificate or other satisfactory evidence of the death of the victim at the time a request is made.

F. **Contact Information** – Primary Sheriff's points of contacts for questions regarding Domestic Violence reports are as follows:

- | | |
|--------------------------|---------------------------------------------------------|
| 1. Unit: | Domestic Violence Unit, Central Investigations Division |
| 2. Primary POC: | Sgt. Mary Helmen or Sgt Mark Manriques |
| 3. Primary Telephone#: | (858) 974-2496 |
| 4. Secondary POC: | Cynthia Wright, Secretary |
| 5. Secondary Telephone#: | (858) 974-2617 |

Comment:

REQUESTS FOR ELDER & DEPENDENT ADULT ABUSE REPORTS:

- A. Elder Abuse reports are protected by the “Elder Abuse and Dependent Adult Civil Protection Act” which is controlled by the provisions of Welfare & Institutions Code 15633-15637.
- B. WIC 15610.23(a) states that a Dependent Adult means “any person between the ages of 18 and 64 who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities or whose physical or mental abilities have diminished because of age.”
- C. WIC 15610.23(b) states that a Dependent Adult also includes “any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility as defined in H&S Code 1250, 1250.2, and 1250.3.”
- D. WIC 15610.27 states that an Elder means “any person residing in this state, 65 years of age or older.”
- E. WIC 15610.07 provides that “Abuse of an elder or a dependent adult” means either of the following:
 - 1. Physical abuse, neglect, financial abuse, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering. Note that these terms (physical abuse, neglect, etc.) are further defined in WIC 15610-15610.65.
 - 2. The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.
- F. **Authorized Parties** – The release of Elder Abuse and Dependent Adult Abuse reports and information is authorized to parties as follows:
 - 1. WIC 15633(b) provides that REPORTS of suspected abuse of an elder or dependent adult and information contained therein may only be disclosed to the following:

SAN DIEGO SHERIFF'S RECORDS & ID DIVISION - POLICIES & PROCEDURES MANUAL

- a. Persons/agencies to which disclosure of information or the identity of the reporting party is permitted under WIC 15633.5.
 - b. Persons who are trained and qualified to serve on multidisciplinary personnel teams.
2. WIC 15633.5(a) provides that INFORMATION relevant to the incident of elder or dependent adult abuse may be given to:
- a. An adult protective services agency.
 - b. A local law enforcement agency.
 - c. The office of the district attorney.
 - d. The office of the public guardian.
 - e. The probate court.
 - f. The Bureau.
 - g. An investigator of the Department of Consumer Affairs, Investigation Division who is investigating a known or suspected case of elder or dependent adult abuse.
3. WIC 15633.5 (b) provides that the IDENTITY of any person who reports shall be confidential and disclosed only to the following persons/agencies:
- a. An adult protective services agency.
 - b. A long-term care ombudsperson program.
 - c. A licensing agency.
 - d. A local law enforcement agency.
 - e. The office of the district attorney.

- f. The office of the public guardian.
 - g. The probate court.
 - h. The Bureau.
 - i. The Department of Consumer Affairs.
 - j. The Division of Investigation.
 - k. Counsel representing an adult protective services agency.
4. WIC 15633.5 (c) provides that the IDENTITY of a person who reports may also be released under the following circumstances:
- a. To the district attorney in a criminal prosecution.
 - b. When a person reporting waives confidentiality.
 - c. By court order.

G. Exceptions to Release –

- 1. Note that neither the victim, the victim's family, nor the victim's representative are included on the authorized lists above.
- 2. Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the "PROCESSING REQUESTS" section of this policy & procedure

H. Special Screening Instructions – Staff will be guided by these additional instructions when screening requests for copies of Elder Abuse and Dependent Adult Abuse reports:

- 1. If the requestor is not listed as an authorized party, a copy of the report will not be released without a court order.

2. Note that since these records are “absolutely privileged,” they will also not be released to unauthorized parties who request them via subpoena duces tecum or deposition subpoena.

I. **Contact Information** – Primary Sheriff’s points of contacts for questions regarding Elder & Dependent Adult Abuse reports are as follows:

1. Unit: Financial Crimes / Elder Abuse, Central Operations Detail
2. Primary POC: Ms. Leslie Spath, Admin Secretary
3. Primary Telephone#: (858) 974-2322
4. Secondary POC: Sgt. Dave Van Nyhuis
5. Secondary Telephone#:
6. Comment: Admin Secretary will generally be the first person called. He/She will be able to check status of case and assist in contacting the assigned detective or supervisor, as appropriate.

REQUESTS FOR GENERAL CRIME REPORTS:

***Does NOT Include the following types of reports: Arrest, Child Abuse / Child Neglect, Domestic Violence, Elder & Dependant Adult Abuse, Homicide/Death Investigation, Identity Theft, Juvenile, Sex Offense, Traffic Accident, or 5150 Reports. These reports are covered by separate sections within this policy and procedure.

A. Government Code 6254(f) exempts “records of complaints to, or investigations conducted by” law enforcement agencies and “records of intelligence information or security procedures” from release. This protects our crime reports from general release to the public. However, the section goes on to state that certain information from the reports must be released to specific persons unless certain conditions exist to justify non-disclosure.

B. **Information to Release** - Government Code 6254(f) states that law enforcement agencies must release the following information from its criminal reports:

1. The Names and Addresses of Persons Involved in the Incident.
2. The Names and Addresses of Witnesses (other than Confidential Informants) to the Incident.
3. The Description of any Property Involved.
4. The Date, Time, and Location of the Incident.
5. All Diagrams (includes traffic collision scene photographs).
6. The Statements of the Parties Involved in the Incident.
7. The Statements of all Witnesses, other than Confidential Informants.

C. **Authorized Parties** - GC 6254(f) goes on to state that the following persons are authorized to receive this information:

1. The Victims of an Incident, or their Authorized Representative.
2. An Insurance Carrier against which a Claim has been or might be made.
3. Any Person suffering Bodily Injury or Property Damage or Loss, as the result of an incident caused by arson, burglary, fire, explosion, larceny, robbery, carjacking, vandalism, vehicle theft, or a crime* as defined by subdivision (b) of Section 13951.

*Note that "Crime" in this instance means "a crime or public offense that would constitute a misdemeanor or a felony if committed in California by a competent adult."

4. As long as the proper "right to know" and the "need to know" have been demonstrated, a copy of the crime report may be given to authorized law enforcement and government agencies when needed for official investigative purposes.
5. When requested for licensing, employment or certification purposes, copies of crime reports will not be given to non law enforcement agencies unless:
 - a. The case in question ended in a conviction, and
 - b. A signed authorization form from the subject is included with the request.

D. **Exceptions to Release** – Ensure that all privileged information (i.e., confidential informant information, juvenile names, names of victims of certain sex related offenses, etc.) are redacted from the report per the instructions that are contained in the "PROCESSING REQUESTS" section of this policy & procedure.

The suspect (and their representative) is not entitled to a copy of the crime report without a subpoena or court order

E. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of general crime reports: If the case has not been adjudicated, staff will contact the Investigating Officer prior to releasing a copy of the report.

F. **Contact Information** – Primary Sheriff's points of contacts for questions regarding general crime reports:

1. Investigating Officer/Investigating Unit
2. Chain of Command
3. Legal Affairs

REQUESTS FOR HOMICIDE / DEATH REPORTS:

- A. Homicide is defined within the provisions of Penal Code Sections 187-199.
- B. **Authorized Parties** – The release of Homicide / Death reports and information is authorized to parties as follows:
1. Parties of Proper Interest (Victim's Relatives, Victim's Representative, Insurance Company)
 2. As long as the proper "right to know" and the "need to know" have been demonstrated, a copy of a homicide / death report may be given to authorized law enforcement and government agencies when needed for official investigative purposes.
- C. **Exceptions to Release** –
1. Due to the highly sensitive nature of cases involving homicides or deaths, staff will take great care in handling requests for information regarding these cases. It is imperative to ensure that information from these reports is not released to unauthorized persons and that the release does not compromise an ongoing investigation.
 2. Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the "PROCESSING REQUESTS" section of this policy & procedure. If the case has not been adjudicated, staff will contact the Homicide Detail or the Investigating Officer prior to releasing a copy of the report
- D. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of reports that involve death, injury, or homicide:
1. Death Releases – In cases involving death, the victim's name will not be released until the next of kin has been notified.
 2. Injury Release – In cases involving serious injury, the victim's name will not be released

until the next of kin has been notified.

3. Suicide Notes – Contents of suicide notes will not be released, but the existence of a suicidal note may be acknowledged.

E. **Contact Information** – Primary Sheriff's points of contacts for questions regarding Homicide reports are as follows:

1. Homicide Detail, CID - (858) 974-2321
2. Chain of Command
3. Legal Affairs

REQUESTS FOR IDENTITY THEFT REPORTS:

- A. Penal Code 530.6(a) states that “A person who has learned or reasonably suspects that his or her personal identifying information has been unlawfully used by another, as described in subdivision (a) of Section 530.5, may initiate a law enforcement investigation by contacting the local law enforcement agency that has jurisdiction over his or her actual residence or place of business, which shall take a police report of the matter, provide the complainant with a copy of that report, and begin an investigation of the facts.”
- B. **Authorized Parties** – The release of Identity Theft reports and information is authorized to parties as follows:
1. Parties of Proper Interest (Victim, Victim’s Representative, Insurance Company)
 2. As long as the proper “right to know” and the “need to know” have been demonstrated, a copy of an Identity Theft report may be given to authorized law enforcement and government agencies when needed for official investigative purposes.
 3. When requested for licensing, employment or certification purposes, copies of Identity Theft reports will not be given to non law enforcement agencies unless:
 - a. The case in question ended in a conviction, and
 - b. A signed authorization form from the subject is included with the request.
- C. **Exceptions to Release** – Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the “PROCESSING REQUESTS” section of this policy & procedure.

The suspect (and their representative) is not entitled to a copy of the report without a subpoena or court order.

- D. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of Identity Theft reports: If the case has not been adjudicated,

staff will contact the Financial Crimes Unit prior to releasing a copy of the report.

E. **Contact Information** – Primary Sheriff's points of contacts for questions regarding Identity Theft reports are as follows:

1. Unit: Financial Crimes / Elder Abuse, Central Operations Detail
2. Primary POC: Ms. Leslie Spath, Admin Secretary
3. Primary Telephone#: (858) 974-2322
4. Secondary POC: Sgt. Dave Van Nyhuis
5. Secondary Telephone#:
6. Comment: Admin Secretary will generally be the first person called. He/She will be able to check status of case and assist in contacting the assigned detective or supervisor, as appropriate.

REQUESTS FOR JUVENILE REPORTS:

- A. San Diego County Superior Court Rule 6.6.7 governs the release of juvenile reports that are held by San Diego County law enforcement agencies and reads as follows:

Rule 6.6.7 Disclosure of Law Enforcement Reports Regarding Juveniles to Persons and Agencies not Designated in WIC § 828

If a person or agency not designated in WIC § 828 seeks access to unsealed records held by a law enforcement agency, including reports regarding children who are the subject of juvenile court proceedings, that person or agency must file a Petition to Obtain Report of Law Enforcement Agency/Juvenile (Judicial Council form JV-575) with the clerk in the Juvenile Court Business Office or other clerk designated to receive such petitions. The petition must set forth with specificity the reasons for the request, the information sought, and its relevancy to the proceeding or purpose for which petitioner seeks the information.

- B. In *T.N.G. v. Superior Court* (1971) 4 Cal. 3d 762, 778, the courts held that law enforcement records pertaining to juveniles are generally confidential. In *Westcott v. Yuba County* (1980) 104 Cal. App. 3d 103, the court held that “access to confidential juvenile records, including law enforcement reports, is governed by section 827” of the WIC. In *re Gina S.* (2005) 133 Cal App 4th 1075, the court held that “what section 827 provides for and protects is a parent’s right of inspection only. It does not include the right to copy the documents.”

- C. Note that the above WIC sections and those that follow do not pertain to records involving a minor who is the witness to or victim of a crime. These situations are controlled by other statutes including Penal Code 841.5, Penal Code 11167, and Government Code 6254.

D. **Authorized Parties** –

1. Welfare & Institutions Code 828(a) states that “any information gathered by a law enforcement agency, including the Department of Justice, relating to the taking of a minor into custody may be disclosed” to:
 - Another law enforcement agency, including a school district police or security department.

- Any person or agency which has a legitimate need for the information for purposes of official disposition of a case.

*Note that when the disposition of the case is available, it shall be included with any information that is disclosed.

2. Welfare & Institutions Code 828(b) provides instructions for releasing information in situations where a minor has escaped from a secure detention facility and the release of information would either assist in recapturing the minor, or help protect the public from substantial physical harm.

G. **Exceptions to Release** - Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the "PROCESSING REQUESTS" section of this policy & procedure.

H. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of juvenile reports:

1. If the requestor is a law enforcement or government agency, a copy of the report may be released if the agency demonstrates a proper "right to know" and "need to know" when needed for official investigative purposes.
2. If the requestor is not listed as an authorized person or agency, they must petition the juvenile court to obtain a copy of the report using a "Petition to Obtain Report of Law Enforcement Agency" form (JV-575) (see sample – page 54). In this instance, a copy of the report will not be released unless the court grants approval for the release.

I. **Contact Information** – Primary Sheriff's points of contacts for questions regarding juvenile reports:

1. Investigating Officer/Investigating Unit
2. Chain of Command
3. Legal Affairs

REQUESTS FOR SEX OFFENSE RELATED REPORTS:

- A. Penal Code 293(e) states that “sex offense means any crime listed in paragraph (2) of subdivision (f) of Section 6254 of the Government Code.”
- B. Government Code 6254(f)(2) states that “the name of a victim of any crime defined by Section 220, 261, 261.5, 262, 264, 264.1, 273a, 273d, 273.5, 286, 288, 288a, 289, 422.6, 422.7, 422.75, or 646.9 of the Penal Code may be withheld at the victim's request, or at the request of the victim's parent or guardian if the victim is a minor.”
- C. **Authorized Parties** – The release of sex offense related reports and information is authorized to parties as follows:
1. In accordance with Penal Code 293(c), the address of a person who alleges to be the victim of a sex offense may only be disclosed to:
 - a. The prosecutor
 - b. Parole officers of the Department of Corrections
 - c. Hearing officers of the parole authority
 - d. Probation officers of county probation departments, or
 - e. Other persons or public agencies where authorized or required by law
 2. In accordance with Penal Code 293(d), the name of a person who alleges to be the victim of a sex offense, and who elects to have his/her name withheld pursuant to GC 6254(f), may only be released to:
 - a. The prosecutor
 - b. Parole officers of the Department of Corrections

- c. Hearing officers of the parole authority
 - d. Probation offices of county probation departments, or
 - e. Other persons or public agencies where authorized or required by law
3. Parties of Proper Interest (Victim, Victim's Representative, Insurance Company)
 4. As long as the proper "right to know" and the "need to know" have been demonstrated, a copy of an sex offense related report may be given to authorized law enforcement and government agencies when needed for official investigative purposes. However, the names and addresses of the victim will be redacted unless the agency is listed above.
 5. When requested for licensing, employment or certification purposes, copies of sex offense related reports will not be given to non law enforcement agencies unless:
 - a. The case in question ended in a conviction, and
 - b. A signed authorization form from the subject is included with the request.
- D. **Exceptions to Release** – Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the "PROCESSING REQUESTS" section of this policy & procedure.
- The suspect (and their representative) is not entitled to a copy of the report without a subpoena or court order.
- E. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of reports that involve sex related offenses: Care will be taken to closely review the authorized parties list above to ensure that the requestor is actually authorized to receive a copy of the report. If the case has not been adjudicated, staff will contact the Investigating Officer prior to releasing a copy of the report
- F. **Contact Information** – Primary Sheriff's points of contacts for questions regarding sex offense related reports:

SAN DIEGO SHERIFF'S RECORDS & ID DIVISION - POLICIES & PROCEDURES MANUAL

1. Investigating Officer/Investigating Unit
2. Chain of Command
3. Legal Affairs

REQUESTS FOR TRAFFIC ACCIDENT REPORTS:

- A. Vehicle Code 20008 provides that the driver of any vehicle that is involved in “any accident resulting in injuries to or death of a person” shall within 24 hours after the accident make or cause a written report to be made.”
- B. Vehicle Code 20012 provides that law enforcement agencies shall disclose the entire content of these accident reports to “any person who may have a proper interest” in the report. It goes on to list specific parties (driver, parent of minor driver, any person injured, etc.) who may receive the report, and it lists specific information/documents (statements, diagrams, etc.) that may be released. However, the lists are not all inclusive as the section states “including, but not limited to.”
- C. Vehicle Code 20013 provides that “No such accident report shall be used as evidence in any trial, civil or criminal, arising out of an accident...” At one time, the court held a very strict interpretation of this section. However, later courts provided a less restrictive interpretation as follows:
1. In *Davies v. Superior Court (1984) 36 C3d 291*, the court concluded that “information about other accidents which discloses neither the identity of the reporting party nor identifying material, although generated from accident reports, is not made confidential by sections 20012 and 20014.” The court went on to state that “this information is subject to discovery because it is related to the subject matter of a lawsuit arising out of an accident on a public highway and may lead to discovery of admissible evidence.”
 2. In *State of California ex. Rel Dept. of Transportation v. Superior Court (1985) 37 C3d 847*, the court addressed the question of whether “an accused facing criminal charges arising out of an automobile collision have a “proper interest” under Vehicle Code section 20012 in discovering reports of other accidents at the same location?” They held that the defendant was a person of “proper interest” and was entitled to a copy of the reports albeit with personal identifying data deleted.
- D. Vehicle Code 20015 provides instructions to traffic/police officers concerning when they are authorized to include a determination of fault in an accident report, and when they are

prohibited from doing so.

E. **Authorized Parties** - Based on the provisions above, Records & ID Division staff are authorized to release information to the following persons/agencies:

1. The driver or drivers involved, or the guardian or conservator thereof.
2. The parent of a minor driver.
3. The authorized representative of a driver or to any named person injured therein.
4. The owners of vehicles or property damaged thereby.
5. Persons who may incur civil liability, including liability based upon a breach of warranty arising out of the accident.
6. Any attorney who declares under penalty of perjury that he/she represents any of the above persons.
7. As long as the proper "right to know" and the "need to know" have been demonstrated, a copy of an accident report may be given to authorized law enforcement and government agencies when needed for official investigative purposes.

F. **Information to Release** - Records & ID Division staff are authorized to release the following information to the above parties:

1. Names and addresses of persons involved or injured in, or witnesses to, an accident.
2. Registration numbers and descriptions of vehicles involved.
3. Date, time and location of accident.
4. All diagrams.
5. Statements of the drivers involved or occupants injured in the accident.

6. Statements of all witnesses.

G. **Exceptions to Release** - Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the "PROCESSING REQUESTS" section of this policy & procedure.

H. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of traffic accident reports: Care will be taken to closely review the authorized parties list above to ensure that the requestor is actually authorized to receive a copy of the report. If the case involves a death or serious injury, ensure that the next of kin has been notified before releasing the name of victim.

I. **Contact Information** – Primary Sheriff's points of contacts for questions regarding traffic accident reports:

1. Investigating Officer/Investigating Unit
2. Chain of Command
3. Legal Affairs

REQUESTS FOR 5150
(INVOLUNTARY PSYCHIATRIC HOLD) REPORTS:

- A. 5150 Reports are protected by the “Lanterman-Petris-Short Act” which is controlled by the provisions of Welfare & Institutions Code 5000-5550.
- B. Welfare & Institutions Code 5150 states that “When any person, as a result of mental disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer... may, upon probable cause, take, or cause to be taken, the person into custody and place him or her in a facility designated by the county and approved by the State Department of Mental Health as a facility for 72-hour treatment and evaluation.”
- C. **Authorized Parties** – The release of 5150 (Involuntary Psychiatric Hold) reports and information is authorized to parties as follows:
1. Welfare & Institutions Code 5328 states that all information and records obtained in the course of providing mental health services (to include those allowed in WIC 5150) shall be confidential. Information and records shall be disclosed only in the following cases:
 - a. Between qualified professional persons in the provision of services/referrals, or in the course of conservatorship proceedings. The consent of the patient or his/her guardian/conservator shall be obtained before information/records may be disclosed.
 - b. When the patient, with the approval of the professional who is in charge of the patient, designates persons to whom information/records may be released. Except that information given in confidence by members of a patient’s family shall not be revealed.
 - c. To the extent necessary for a recipient to make a claim, or for a claim to be made on behalf of a recipient for aid, insurance, or medical assistance to which he/she may be entitled.
 - d. If the recipient of services is a minor/ward/conservatee, and his/her parent/guardian/conservator designates, in writing, persons to whom records/information may be

- disclosed. Except that information given in confidence by members of a patient's family shall not be revealed.
- e. For research, under specifically designated conditions.
 - f. To the courts, as necessary to the administration of justice.
 - g. To governmental law enforcement agencies as needed for the protection of federal and state elective constitutional officers and their families.
 - h. If the recipient of services who applies for life or disability insurance designates in writing the insurer to which records or information may be disclosed.
 - i. To the attorney for the patient in any and all proceedings upon presentation of a release of information signed by the patient, except that information that has been provided in confidence by members of a patient's family will not be revealed.
 - j. Upon written agreement by a person previously confined in or treated by a facility, the professional person in charge of the facility may release any information (except that given in confidence by a family member), requested by a probation officer charged with the evaluation of the person after his or her conviction of a crime.
 - k. Between persons who are trained and qualified to serve on multidisciplinary personnel teams. The information/records sought shall be relevant to the prevention, identification, management, or treatment of an abused child and his/her parents.
 - l. To county patients' rights advocates who have been given knowing voluntary authorization by a client or a guardian ad litem. The client or guardian ad litem may revoke the authorization at any time.
 - m. To a committee established in compliance with Section 4070.
 - n. To the county mental health director or the director's designee, or to a law enforcement officer, or to the person designated by a law enforcement agency, pursuant to Sections 5152.1 and 5250.1.

- o. If the patient gives his/her consent, information pertaining to the existence of genetically handicapping conditions may be released to qualified professional persons for purposes of genetic counseling for blood relatives upon request of the blood relative.
 - p. When the patient, in the opinion of his/her psychotherapist, presents a serious danger of violence to a reasonably foreseeable victim(s), then any of the information or records specified in this section may be released to that person(s) and to law enforcement agencies as the psychotherapist determines is needed for the protection of that person(s).
 - q. To the designated officer of an emergency response employee, and from that designated officer to an emergency response employee regarding possible exposure to HIV or AIDS.
 - r. To a law enforcement officer who personally lodges with a facility, a warrant of arrest or an abstract of such a warrant showing that the person sought is wanted for a serious felony, or a violent felony. The information sought and released shall be limited to whether the named person is presently confined in the facility.
 - s. Between persons who are trained and qualified to serve on multidisciplinary personnel teams. The information/records sought shall be relevant to the prevention, identification, management, or treatment of an abused elder or dependent adult.
 - t. There are provisions for requesting records when an employee is served with a notice of adverse action, as defined in Section 19570 of the Government Code.
2. WIC 5328.01 states that "All information and records made confidential under the first paragraph of Section 5328 shall also be disclosed to governmental law enforcement agencies investigating evidence of a crime where the records relate to a patient who is confined or has been confined as a mentally disordered sex offender."
 3. WIC 5328.02 states that "All information and records made confidential under the first paragraph of Section 5328 shall also be disclosed to the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice."

4. WIC 5328.05 states that "Information and records may be disclosed when an older adult client, in the opinion of a designee of a human service agency serving older adults through an established multidisciplinary team, presents signs or symptoms of elder abuse or neglect."
5. WIC 5328.06 states that "Notwithstanding Section 5328, information and records shall be disclosed to the protection and advocacy agency established in this state to fulfill the requirements and assurances of the federal Protection and Advocacy for the Mentally Ill Individuals Amendments Act of 1991."
6. WIC 5328.1(a) states that "Upon request of a family member, or other person designated by the patient, a public or private treatment facility shall give the family member or the designee notification of the patient's diagnosis, the prognosis, the medications prescribed, the side effects of medications prescribed, if any, and the progress of the patient, if, after notification of the patient that this information is requested, the patient authorizes its disclosure."
7. WIC 5328.15 states that "All information and records obtained in the course of providing services under Division 5 – 7 to either voluntary or involuntary recipients of services shall be confidential. Information and records may be disclosed, however, notwithstanding any other provision of law, as follows:
 - a. To authorized licensing personnel...
 - b. To any board which licenses and certifies professionals in the fields of mental health pursuant...
8. WIC 5328.2 states that "Notwithstanding Section 5328, movement and identification information and records regarding a patient who is committed for observation as a mentally disordered sex offender, or for a person who is civilly committed as a sexually violent predator, shall be forwarded immediately without prior request to the Department of Justice. Except as otherwise provided by law, information automatically reported under this section shall be restricted to name, address, fingerprints, date of admission, date of discharge, date of escape or return from escape, date of any home leave, parole or leave of absence and, if known, the county in which the person will reside upon release."

9. WIC 5328.3 states that “When a voluntary patient would otherwise be subject to the provisions of Section 5150 of this part and disclosure is necessary for the protection of the patient or others due to the patient's disappearance from, without prior notice to, a designated facility and his or her whereabouts is unknown, notice of the disappearance may be made to relatives and governmental law enforcement agencies designated by the physician in charge of the patient or the professional person in charge of the facility or his or her designee.”

10. WIC 5328.5 states that “Information and records described in Section 5328 may be disclosed in communications relating to the prevention, investigation, or treatment of elder abuse or dependent adult abuse.”

D. **Exceptions to Release** - Ensure that all privileged information (i.e., confidential informant information, juvenile names, etc.) are redacted from the report per the instructions that are contained in the “PROCESSING REQUESTS” section of this policy & procedure.

E. **Special Screening Instructions** – Staff will be guided by these additional instructions when screening requests for copies of 5150 (Involuntary Psychiatric Hold) reports: Care will be taken to closely review the authorized parties list above to ensure that the requestor is actually authorized to receive a copy of the report.

F. **Contact Information** – Primary Sheriff's points of contacts for questions regarding 5150 reports:

1. Investigating Officer/Investigating Unit
2. Chain of Command
3. Legal Affairs

Sample "Release of Copies" Cover Sheet




San Diego County
SHERIFF'S DEPARTMENT

REPORT NUMBER: _____

RELEASE OF COPIES

DATE RELEASED	REQUESTOR'S NAME / AGENCY ADDRESS / TELEPHONE #	REASON / COMMENTS	EMPLOYEE ARJIS #/ LAST NAME

Sample "Records Service Request" Form



**San Diego County
SHERIFF'S DEPARTMENT**

RECORDS SERVICE REQUEST FORM
P.O. Box 939062, San Diego, CA 92193-9062

California Penal Code sections 13300 through 13329 authorize the release of local summary criminal history information to the subject of the criminal history, and to other authorized persons and agencies, under specified conditions. Local summary criminal history refers only to those arrests compiled by the San Diego County Sheriff, Government Code (GCP&I) provides a list of authorized persons who are authorized to receive information from law enforcement police records. Applicable fees, if any, will be paid before any information is released.

**THE FOLLOWING INFORMATION IS NECESSARY TO PROCESS YOUR REQUEST
(PLEASE PRINT)**

REQUESTOR'S IDENTIFYING INFORMATION			
REQUESTOR'S NAME: <input style="width: 80%;" type="text"/>	AGENCY: <input style="width: 20%;" type="text"/>		
ADDRESS: <input style="width: 100%;" type="text"/>			
TELEPHONE #: <input style="width: 50%;" type="text"/>	FAX #: <input style="width: 50%;" type="text"/>		
DRIVERS LICENSE OR ID#: <input style="width: 50%;" type="text"/>	ID EXPIRATION DATE: <input style="width: 50%;" type="text"/>		
REASON FOR REQUEST: <input style="width: 100%;" type="text"/>			
REQUESTOR'S CLASSIFICATION (CHECK ONE)			
SUBJECT: <input type="checkbox"/>	LEGAL REP. OF SUBJECT/MOIM: <input type="checkbox"/>	INSURANCE COMPANY: <input type="checkbox"/>	BAIL BONDSMAN: <input type="checkbox"/>
VICTIM: <input type="checkbox"/>	PARTY INVOLVED IN ACCIDENT: <input type="checkbox"/>	LAW ENFORCEMENT AGENCY: <input type="checkbox"/>	GOVT. AGENCY: <input type="checkbox"/>
WITNESS: <input type="checkbox"/>	OWNER OF DAMAGED PROPERTY: <input type="checkbox"/>	OTHER: <input style="width: 50%;" type="text"/>	
SUBJECT/CASE INFORMATION (May write "Same" if the subject and requestor are the same person)			
SUBJECT NAME: <input style="width: 50%;" type="text"/>	ALIAS OR MAIDEN NAME: <input style="width: 50%;" type="text"/>		
DOB/AGE: <input style="width: 50%;" type="text"/>	SSN#: <input style="width: 50%;" type="text"/>		
MALE: <input type="checkbox"/> FEMALE: <input type="checkbox"/>	DRIVERS LICENSE #: <input style="width: 50%;" type="text"/>		
CASE #: <input style="width: 50%;" type="text"/>	BOOKING #: <input style="width: 50%;" type="text"/>		
ARRESTING AGENCY: <input style="width: 50%;" type="text"/>	OCURRENCE DATE: <input style="width: 50%;" type="text"/>		
SERVICE OPTIONS (CHECK THE BOX THAT APPLIES)			
LOCAL CRIMINAL HISTORY REQUEST: <input type="checkbox"/>	CASE COPY REQUEST: <input type="checkbox"/>		
OTHER: <input style="width: 100%;" type="text"/>			
DELIVERY OPTIONS (CHECK THE BOX THAT APPLIES)			
(NOTE THAT REQUESTS WILL NORMALLY BE PROCESSED WITHIN 10 CALENDAR DAYS)			
PICK UP: <input type="checkbox"/>	MAIL TO ABOVE ADDRESS: <input type="checkbox"/>		
SEND TO ABOVE FAX: <input type="checkbox"/>	SEND TO: <input style="width: 50%;" type="text"/>		

I DECLARE UNDER PENALTY OF PERJURY THAT THE INFORMATION PROVIDED IS TRUE AND CORRECT:

SIGNATURE OF REQUESTOR: <input style="width: 95%;" type="text"/>	DATE: <input style="width: 95%;" type="text"/>
-------------------------------------------------------------------------	-------------------------------------------------------

SHERIFF'S DEPARTMENT (PERSONNEL USE ONLY)

Fee COLLECTED: <input style="width: 20%;" type="text"/>	CHECK: <input type="checkbox"/>	CASH: <input type="checkbox"/>	DEBIT: <input type="checkbox"/>	RECEIPT #: <input style="width: 20%;" type="text"/>
INFO RELEASED: NONE: <input type="checkbox"/>	CRIMINAL HISTORY: <input type="checkbox"/>	ARREST RPT: <input type="checkbox"/>	CRIME RPT: <input type="checkbox"/>	VEHICLE RPT: <input type="checkbox"/>
TRAFFIC ACCIDENT RPT: <input type="checkbox"/>	OTHER: <input style="width: 80%;" type="text"/>			
RECEIVED BY INITIALS: <input style="width: 30%;" type="text"/>	COMMENT: <input style="width: 70%;" type="text"/>			
COMM. FLEET/MAN/VAULT FUND: <input style="width: 30%;" type="text"/>	DATE COMPLETED: <input style="width: 70%;" type="text"/>			

SD-110 (Rev. 7/07) MS-048

ACCEPTABLE FORMS OF PERSONAL IDENTIFICATION

1. **Primary Identification** - Members of the public will have to positively identify themselves before we can provide them with certain services (criminal history checks, crime report copy requests, etc.). The preferred form of identification will be a government issued photo ID card. All identification must be current, valid, and unexpired. The list of acceptable cards include the following:
 - a. State Issued Driver's License
 - b. State Issued Identification Card (if the state's identification card standards are the same as for the driver's license)
 - c. Federal Issued Government Identification Card
 - d. US Military Identification
 - e. US Passport
 - f. Foreign Passport Stamped "Processed for I-551", or Accompanied by Valid I-94 Form
 - g. US Immigration Issued Identification (Border Crossing Cards, Resident Alien Cards, etc.)
 - h. Matricula Consular Card (issued after 04/22/02 by the Consul General of Mexico)
2. **Secondary Identification** - If the subject does not possess a government issued photo ID card, he/she may present one of the items from the "Secondary Identification List" **IF** he/she also presents at least two (2) separate items from the "Supporting Documents List" below. For example, if a birth certificate is accompanied by a voter registration card and a pay stub, it would be acceptable. However, if the birth certificate was accompanied by two monthly mortgage statements, that would not be enough (i.e., the person would still need to provide an additional item from the "Supporting Documents List").

Secondary Identification List*

- a. State Issued Birth Certificate
- b. Government Issued Marriage Certificate

c. Social Security Card

*Note that these items will not serve as valid ID unless also accompanied by at least two (2) separate items from the "Supporting Documents List" below.

Supporting Documents List**

a. Utility Bill (must show name and address)

b. Voter Registration Card

c. Vehicle Registration Card/Title

d. Paycheck Stub

e. Public Assistance Card

f. Cancelled Check or Bank Statement

g. Mortgage Documents

**Note that each of these items must show the subject's name

3. If the subject presents an expired identification card, he/she would either have to take steps to renew the card, or present two items from the "Supporting Documents List" above before receiving service. Note that any discrepancies in the name that the subject presents and that which is listed on the ID must be reconciled with appropriate documentation (marriage certificate, court order for name change/gender change/adoption/divorce, etc.).

Sample "Crime Report Fee Waiver to Victim" Form

To: District Attorney's Office
Superior Court (Juvenile) - MS P280

From: Cases Unit
Records & Identification Division Mail Stop: O-41

Re: Crime Report Fee Waiver to Victim

Pursuant to Section 445.3 of the County Administrative Code, we are notifying your office that we have released a copy of crime report number Case # to Victim's Name who is listed as the victim.

The suspect named in the crime report is Suspect's Name.

Respectfully,

Name:

Title:

Sample "Reject" Letter

DATE:

TO:

RE: REQUEST FOR CRIMINAL RECORDS -

The California Public Records Act mandates that government agencies make certain information available for inspection and release to the public. However the act includes many exemptions and exceptions related to the release of criminal information. This includes specific provisions concerning what information may be released, and who is entitled to receive it.

We have received your request for criminal information, but are unable to process it for the reason or reasons listed below:

- The requested information is exempted from release under the California Public Records Act (Government Code Sections 6254(f) and 6254(k)). Release is not authorized without a court order or subpoena.
- The requestor must demonstrate a proper "Right to Know" by citing a specific order, statute, or court decision that authorizes the requestor to receive the requested information.
- The requestor must demonstrate a proper "Need to Know" by citing an official purpose for requesting the criminal information (i.e., specific case #, if it involves an investigation).
- A signed authorization form from the subject of the criminal history must be submitted prior to the release of any information.
- Proper identification must be established by providing a photocopy of a government issued photo ID card (i.e., Driver's License, Military ID, Passport, etc.).
- A fee of \$ must be paid PRIOR to the release of information – please submit

SAN DIEGO SHERIFF'S RECORDS & ID DIVISION - POLICIES & PROCEDURES MANUAL

money order, certified check, or personal check (if issued by a California bank). Checks shall be made payable to the "San Diego County Sheriff." Cash is accepted if presented in person.

The following information must be provided before your request can be processed:

Other:

Your request should be directed to:

To resubmit your request, please return this form along with the missing information to the address listed below:

SHERIFF'S RECORDS & ID DIVISION
ATTN: CASES SECTION
PO BOX 939063
SAN DIEGO CA 92193-9063

If you have questions concerning your request please contact one of our representatives at (858) 974-2110.

Sincerely,

WILLIAM B. KOLENDER, Sheriff

By:

Title:

Sheriff's Records & ID Division

Sample "Petition to Obtain Report of Law Enforcement Agency" Form (JV-575)

JV-575

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, title, telephone, and address) TELEPHONE NO.: _____ FAX NO. (OPTIONAL) _____ EMAIL ADDRESS (OPTIONAL) _____ ATTORNEY FOR (NAME) _____	<div style="border: 2px solid red; padding: 5px; color: red; text-align: center;"> To keep other people from seeing what you entered on your form, please press the Clear This Form button at the end of the form when finished. </div>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF _____ STREET ADDRESS: _____ MAILING ADDRESS: _____ CITY AND ZIP CODE: _____ BRANCH NAME: _____	CASE NUMBER: _____
CHILD'S NAME: _____ CHILD'S DATE OF BIRTH: _____	RELATED CASES (if any): _____
PETITION TO OBTAIN REPORT OF LAW ENFORCEMENT AGENCY	
1. Petitioner's name and address (if representing another person, organization, or agency, provide names and addresses): _____	
2. Petitioner's relationship to child (if any): _____	
3. Police department or law enforcement agency possessing records: Report number: _____	
4. The reasons for this request are: (Describe in detail. Attach additional pages if necessary.) <div style="background-color: yellow; height: 100px; width: 100%;"></div> <input type="checkbox"/> Continued in Attachment 4.	
5. <input type="checkbox"/> The Notice to Child and Parent/Guardian Re: Release of Juvenile Police Records and Objections (form JV-580) was served on the <input type="checkbox"/> child or <input type="checkbox"/> parent on (date): _____	

I declare under penalty of perjury under the laws of the State of California that the foregoing and all attachments are true and correct.

Date: _____

(TYPE OR PRINT NAME)

(SIGNATURE OF PETITIONER)

Number of pages attached: _____

PETITION GRANTED PETITION DENIED

ADDITIONAL ORDERS: _____

Date: _____

JUDICIAL OFFICER

Page 1 of 1

Form Adopted by Mandatory Use Judicial Council of California
 JV-575 (Rev. January 1, 2005)

PETITION TO OBTAIN REPORT OF LAW ENFORCEMENT AGENCY

Welfare and Institutions Code, §§ 827.8, 828;
 Cal. Rules of Court, rules 5.504, 5.505
www.courtinfo.ca.gov
 eServices LegalNet, Inc.
www.PostalBoxOnline.com

Print This Form

For your protection and privacy, please press the Clear This Form button after you have printed the form.

Clear This Form