



# DEPARTMENT OF STATE POLICE

## RELEASE OF RECORDS AND INFORMATION

<b>Effective Date:</b> August 3, 2015	<b>Supersedes Date:</b> February 8, 2010	<b>Policy Number:</b> <b>201.3</b>
<b>Reference/Laws/Statutory Authority:</b> ORS ; OAR; Dept. Manual; Attorney General's Public Records and Meetings Manual; ORS 192.405-440, 192.501, 192.502 ; ORS 192.410(6) ORS 192.410(4)(a), ORS 192.502 and ORS 181.854 s		
<b>Applies to:</b> <input checked="" type="checkbox"/> All Personnel <input type="checkbox"/> All Management <input type="checkbox"/> Sworn Personnel <input type="checkbox"/> Non Sworn Personnel <input type="checkbox"/> Other <input style="width: 500px;" type="text"/>		
<b>Issuing Authority:</b> Superintendent of State Police		<b>No. Pages</b> <b>5</b>

### I. PURPOSE

The purpose of this policy is to outline appropriate handling and response to public record requests.

### II. POLICY

The Department of the State Police complies with all applicable laws and rules related to the right of the public to review or obtain public records maintained by the department. Upon request, the Department will provide and make available public records which are not exempt from disclosure. Each request for records or information will be forwarded to the appropriate bureau, division, section, unit, and/or business area and each bureau, division, section, unit, and/or business area is responsible to respond to requests for public records and information consistent with these policies and procedures.

### III. PROCEDURES

#### A. APPLICATION OF UNIQUE RELEASE RESTRICTIONS

1. Each bureau, division, section, unit, and/or business area within the Department of the Oregon State Police may create and maintain additional written procedures applicable to release of their unique area records supported by statutory regulations and requirements on confidentiality and exemption from

release. These procedures augment the Department's policies and must be approved by the department Risk Manager.

## B. LIMITATIONS

1. The Department will notify the affected officer whenever a request is received for release of materials in which there is a recognizable image of a current public safety officer of the department. A notice will be sent to current public safety officers of the department whenever a request is received for release of materials exempt from disclosure as specified under ORS 192.502 and ORS 181.854. The Department may not release the photograph (paper or digital) of the public safety officer without the officer's written consent. This requirement does not apply to the use by the Department of a photograph of a public safety officer.
2. The Department will contact and consult with professional employees prior to the release of recognizable images in response to public record requests.
3. The Department does not furnish copies of the DMV Oregon Police Traffic Crash Report, Form 735-46. A requestor may obtain a copy of a crash report from the Division of Motor Vehicles Accident Records Unit. Exceptions may be made at the discretion of local area commands for crash victims, depending on the availability of the information and workload of professional staff.

## C. SUBPOENA DUCES TECUM

1. Any subpoena *duces tecum* will be promptly provided to a supervisor for review and processing. While a subpoena *duces tecum* may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the required information.
2. All questions regarding compliance with any subpoena *duces tecum* will be promptly referred to legal counsel through the department Risk Manager so that a timely response can be prepared.

## D. REQUESTS FOR DISCOVERY

1. Under Oregon Revised Statutes discovery is the responsibility of the prosecuting attorney's office. The Department of the Oregon State Police will refer requests for discovery in such instances to the appropriate prosecuting attorney's office. If the prosecuting attorney's office is not going to participate in the court matter, OSP may release discovery at the direction of the prosecuting attorney's office.

## E. FEES

1. The Department charges all requestors actual costs to provide non-exempt public records. Actual costs may include, but are not limited to costs for:

2. Staff time spent to locate, review, segregate, and/or redact exempt materials from requested records.
3. Staff time spent to copy, certify, or mail records or supervise inspection of original documents.
4. Staff time spent to locate, download, format, copy, or transfer records that require electronic reproduction or conversion to an electronic format.
5. Staff time spent to search for and review records, even if the located records are subsequently determined to be exempt from disclosure or no records can be found.
6. Staff time and mileage (current state mileage rate) spent in traveling to pick up and deliver records or requests for record reproduction.
7. Time spent by legal counsel to review, segregate, or redacts exempt materials from requested records. The Department will not incorporate the cost of consultation with legal counsel in regard to the application of Oregon's public record law into the Department's fees.
8. Supplies and materials used to produce information on audio tapes, video tapes, microfilm, magnetic tape, photo paper, CD, DVD, or other media, unless the cost is included in the fee schedule.
9. Printing cost of manuals or other materials produced by outside sources, such as Publishing and Distribution, Enterprise Goods and Services, Department of Administrative Services.
10. Mailing or shipping requested records.
  - a) The Department will charge for staff time at the cost of current salaries, including other payroll expenses, unless otherwise stated in the fee schedule. Portions of hours will be pro-rated in intervals of 15 minutes. For any work requiring staff overtime, the Department may charge one and one half (1½) times actual staff time or staff time as specified in the fee schedule. Portions of hours will be pro-rated. The Department will not use overtime hours to respond to a record request or supervise record inspection unless the requestor approves this expenditure in advance.
  - b) The Department will charge for staff time for supervision of record inspection on an hourly basis for all time spent associated with the completion of the request. Portions of hours will be pro-rated in intervals of 15 minutes.
  - c) If, for operational or other reasons, the Department uses the services of an outside source to replicate or produce electronic copies of requested records, the department will charge the actual costs incurred.

- d) The Department will notify a requestor of the estimated costs to make records available for inspection or to provide copies of records to the requestor. If the estimated costs exceed \$25, the Department will provide written notice and will not act further to respond to the request until the requestor directs the department to proceed with making the public record available and pays the estimated fee.
- e) Generally, payment for charges for supplying records or information will be required before the Department provides requested records.
- f) The Department will not include charges for any additional costs incurred to provide records in an alternative format to individuals with vision or hearing impairments when required by the Americans with Disabilities Act.
- g) The Department charges all requestors as set forth above, but may waive fees in its discretion to:

11. Furnish copies to governmental entities.

12. Provide a closed and adjudicated investigative report to relatives of deceased person(s).

13. Furnish copies of closed and adjudicated investigative reports to victims named in crime reports.

14. Answer a request in which the cost of the record provided is *de minimis*.

15. Answer any other request in which the department chooses to waive fees.

- a.) The Department may refer persons interested in inspecting or obtaining copies of department records or viewing the fee schedule to:

Oregon State Police Web site  
<http://www.oregon.gov/OSP>  
Telephone 503-378-3720

#### **IV. Definitions**

ORS 192.410(4)(a) "Public records" includes any writing that contains information relating to the conduct of the public's business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.

ORS 192.410(6) "Writing" means handwriting, typewriting, printing, photographing and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles or electronic recordings.

## **V. Rules**

ORS 192.405-440, 192.501, 192.502 ; Attorney General's Public Records and Meetings Manual