

**PRINCE WILLIAM COUNTY POLICE DEPARTMENT
MANUAL OF GENERAL ORDERS**

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RECORDS CONTROL: CRIMINAL HISTORY CHECK GUIDELINES

A. The agencies or individuals listed below will be granted criminal history information from adult arrest files (but only to the extent indicated). A record of any such dissemination made outside the Department will be made by means of a Record of Dissemination (PD-96) form. No criminal arrest history information shall be released by anyone other than a member of the Records Section.

1. Sworn members of the Prince William County Police Department:
 - a. Such members will have access to a complete record check.
 - b. Any record dissemination to such members will not require that a record of dissemination be made.
 - c. Other members of the Department who, by virtue of their position and when expressly authorized, need access to such information.

2. Members of other criminal justice agencies:
 - a. Such members of other criminal justice agencies will have access to a complete record check.
 - b. Any such dissemination to members of other criminal justice agencies will require that a record of dissemination be made.
 - c. Computerized Criminal History requests for Criminal Justice Employment purposes should be sent to the Teletype Unit at Communications. They must be clearly marked as "Request Purpose: Background Investigation for Employment."

3. In accordance with State and Federal law, individuals and agencies which require criminal history information to implement a state or federal statute or executive order.
 - a. Such individuals and agencies will be given all arrest information.
 - b. Any record dissemination made under this section will be recorded via the PD-96.
 - c. Examples of persons or agencies entitled to records information under this heading are:
 - 1) Department of Defense.
 - 2) Department of State
 - 3) Department of Transportation
 - 4) Office of Personnel Management
 - 5) Central Intelligence Agency
 - 6) Federal Bureau of Investigations
 - 7) Department of Homeland Security
 - 8) Office of the Director of National Intelligence

- 9) An Executive agency that is authorized to conduct background investigations under a Federal statute or is delegated authority to conduct background investigations in accordance with procedures established by the Security Executive Agent or the Suitability Executive Agent or any successor thereto.
 - 10) A contractor that conducts a background investigation on behalf of an agency described in examples 1-9.
 - 11) Any other federal agency that would not be classified as a criminal justice agency.
4. Individuals and agencies for the express purpose of research, evaluative, or statistical activities:
 - a. Such individuals will have access to the complete file. They will not have access to individual cases, but may use the entire file for statistical purposes. There must be a written contract between the researchers and the Department stating just what the researchers are searching and how they will use the information.
 - b. The contract will function as the record of dissemination under this heading.
 - c. An example of an agency entitled to information under this heading is:
 - Alcohol Safety Action Project (ASAP) personnel.
 5. Licensing and General Employment.

CCH requests for non-criminal justice agency pre-employment checks are not permitted. The Department will not run CCH checks for these purposes.
 6. Appropriate authority for purposes of granting citizenship or visas and passports:
 - a. Such authority will have access to a local record check. The reply will be given to the requesting authority directly and not to the individual on whom the record check was made.
 - b. Any such dissemination made under this section will be recorded via the PD-96.
 - c. Examples of agencies entitled to records information under this heading are:
 - 1) U.S. State Department.
 - 2) U.S. Immigration and Naturalization Service.
 7. Individuals and agencies authorized by court order or court rule:
 - a. Such individuals and agencies will have access to local records information in accordance with the directions specified in the court order.
 - b. Any such dissemination made under a court order will be recorded via the PD-96.
 - c. An example of a person entitled to records information under this heading is anyone the court directs to have the information, but usually we will turn the requested information over to the clerk of the concerned court.
 8. A person requesting to review their own arrest file:

- a. The requester will be allowed to review and receive a copy of only those arrests made by members of this Department (local check).
- b. Any such dissemination made under this section will be recorded via the PD-96.
- c. An example of a person entitled to records information under this heading is a private citizen who can provide the proper identification.

9. Non-Criminal Justice Agencies and individuals.

When an individual requests the record of another person, such as when an attorney requests to see the record of a client, the requesting individual will provide a sworn written request from the subject on whom the record is being sought. The sworn request will name the person who is seeking to obtain the record. Unless this person is known to the member, proper identification will be provided prior to dissemination of the information.

The record information provided to such non-criminal justice agencies or individuals will include data on only those arrests made by members of the Department (local check).

B. Members will comply with the following guidelines:

1. All record checks to non-criminal justice agencies or individuals will be handled by the Department's Records Section.
2. A record of dissemination will be made anytime criminal history information is released, or a negative response is made, to someone not employed by the Prince William County Police Department. Records of dissemination will be maintained by the Records Section for a period of two (2) years.
3. Because of the sensitivity of criminal history record information, telephone requests for an "arrest check" will be accepted only from personnel of the Department and other law enforcement agencies. A telephone response will only be given to Department personnel. The response to other agencies will be by mail and a record of dissemination will be made.
4. Our records control procedures also control the dissemination of "Rap Sheets" received from either the CCRE or FBI, or both.
5. Our records control procedures also regulate the dissemination of CCH records:
 - a. Any sworn member, or other member who, by virtue of their position are authorized, may request a CCH check.
 - b. Only those members that are VCIN-certified to run CCH checks will have the authority to do so.
 - c. CCH replies will not be forwarded through the mail or through the in-house mail system.
 - d. CCH check information will not be relayed to members by means of the radio system. The member requesting a CCH by radio will merely be advised "positive" or "negative" as to whether or not the subject does or does not have a CCH record.

The information from a CCH check may be given to an authorized member by telephone as long as the member giving out the CCH information is satisfied as to the identity of the individual to whom they are talking.

CCH check information will not be given out to persons not employed by the Department except as specified by VCIN and NCIC regulations.

6. Members shall properly destroy the CCH record upon completion of the investigation or prosecution for which it had been obtained. A record of the destruction, including the manner and date, will be made a part of the case file.
7. A record of CCH or NCIC III secondary dissemination must be made in the terminal's log for all inquiries.

C. Expunging and sealing of arrest records – Based on a court order.

The following procedure will be utilized by the Records Section Manager or designee, to ensure the expungement order is complied with:

1. Based upon a written request from the Department of State Police, and accompanied by a petition and Court order, the Records Section Manager will immediately follow the procedures set forth in § 19.2-392.2, *Code of Virginia*, relating to the expungement of records.
2. The Records Section Manager or designee will take action to remove the expunged record from the records system. This is to include hard copies, computer entries, fingerprints, photographs, and any FBI or CCRE correspondence concerning the expungement.
3. The Records Section Manager or designee will place all the expunged records in an envelope and seal it. Upon the front of the envelope will be written, "*Expunged Record to be Unsealed Only by Court Order.*"
4. All completed/sealed expungements will be stored in locked cabinets under the control of the Records Section. The Records Section Manager or designee will maintain control of all keys to the cabinet. In accordance with § 19.2-392.3, *Code of Virginia*, no expunged record will be opened without a court order; nor will any acknowledgment of a prior record be given to any requester regarding information concerning an expunged record.

D. Specific Guidelines for Performing the Criminal History Record Checks.

Criminal history files (Arrest Records) are not open to review by the general public. Criminal history information will be given out only in accordance with guidelines specified in Virginia and Federal Law. In performing record checks, departmental personnel will be governed by the following guidelines:

1. When an agency or individual is checking on another individual:

- a. **Step One** – Determine if the requesting agency or individual is authorized access to criminal history information.

Is the requesting agency a criminal justice agency? If not, does the requesting party or agency have the right to access by virtue of one of the following:

- 1) Executive Order.
- 2) Court order or court rule.
- 3) State or federal law.
- 4) Local ordinance such as the Massage Parlor or Taxicab Ordinance.

- b. **Step Two** – Have the requesting agency representative or individual complete and sign a Record Check Request (PD-96) form.
- c. **Step Three** – Check the local arrest file to determine if there is a record on file for the individual in question.

If there is a record on file, the searcher will write the date of arrest, charge, and disposition on the record request check form. The searcher will note on the record request check form if no record was found.

2. For individuals requesting to see their own record, these steps will be followed:

- a. **Step One** – Have subject complete a record request check form.
- b. **Step Two** – Determine identification of subject making the request.

When an individual requests his or her own record and the requester is not known to the member receiving the request, the requester must provide proper identification. If there are multiple name matches, the individual shall provide at least two of the following (one which must be photo identification):

- 1) Valid passport.
- 2) Valid Driver's License with a photo (with current address).
- 3) Valid Social Security Card.
- 4) Birth Certificate.
- 5) Military Identification Card.
- 6) Commonwealth of Virginia Identification (Military Veterans)

Fingerprints or other additional information will be requested if the disseminating member deems it appropriate or necessary to ensure a match between the record and the requester. This will be established by fingerprint comparison against the fingerprint file of the Department, the CCRE, or FBI.

- c. **Step Three** – Check the local files. If there is a conviction, it may be shown to the requester and a copy disseminated to the requester. If the requester disagrees with the file, he or she may challenge it. A challenge is defined as a request from an individual to

the agency to purge, modify, or supplement the records which the individual in question has reviewed and found to be inaccurate in their opinion. All challenges will be referred to a Records Section supervisor.

3. All record check requests from outside non-criminal justice agencies will be handled through the Records Section. Any member releasing a record check must make a record of the transaction by completing and filing a Records Request Check (PD-96) form.
- E. The requirements for providing a magistrate or court CCH information at bail hearings is addressed in General Order 40 (Prisoners).