

**SAN MARCOS POLICE DEPARTMENT  
POLICIES AND PROCEDURES MANUAL**

**Section Title: Records**

**General Order: 401**

**Date Issued: January 17, 2004**

**Date Revised: January 1, 2006**

**Effective Date: January 14, 2006**

**Issuing Authority: *Howard E. Williams*  
Howard E. Williams, Chief of Police**

**I. POLICY**

In any government service, but especially in police work, it is critical that official actions of employees are documented. It is equally important that those reports and documents are maintained and released according to law. Case reports of criminal activity, requests for service, and self-initiated actions by sworn personnel shall be completed, reviewed and submitted in a timely manner and in compliance with all legal and Department reporting requirements.

**II. PURPOSE**

The purpose of General Order 401 is to specify guidelines for the creation, review, storage and dissemination of the records of the Department.

**III. DEFINITIONS**

- A. Bias – A pre-formed negative opinion or attitude toward a group of persons based on their race, religion, ethnicity, national origin or sexual orientation.
- B. Criminal Justice Records – All books, papers, cards, photographs, tapes, recordings, or other documentary materials, made, maintained, or kept by the Department for use in the exercise of its functions.
- C. Ethnic Group – A group of persons of the same race or national origin who share common or similar traits, languages, customs and traditions.
- D. Hate (Bias) Crime – An unlawful action designed to frighten, harm, injure, intimidate or harass an individual, in whole or in part, because of a bias motivation against the actual or perceived race, religion, ethnic background or sexual orientation of the victim. Hate crimes are not separate, distinct crimes, but rather traditional offenses motivated by the offender's bias.
- E. Person of Interest – The person who is the subject of a record, or any representative designated by power or attorney or notarized authorization by said person, or any other duly appointed legal representative, such as a conservator, legal guardian or the personal representative of the estate of the person in interest, or, in the case of a person under the age of 17, a parent.
- F. Public Records – All writings made, maintained, or kept by the Department for use in the exercise of functions required or authorized by law or administrative

rule, or involving the receipt or expenditure of public funds, except for criminal justice records.

- G. Race – A group of persons who possess common physical characteristics genetically transmitted by descent and heredity that distinguish them as a distinct division of humankind.
- H. Religious Group – A group of persons who share the same religious beliefs regarding the origin and purpose of the universe and the existence or nonexistence of a supreme being.
- I. Sexual Orientation – A sexual attraction toward or responsiveness to, one's own sex or of the opposite sex.

#### **IV. REPORTS**

- A. The following categories of incidents shall be reported:
  - 1. Any reported or observed crime.
  - 2. Criminal and non-criminal cases initiated by an officer.
  - 3. Incidents involving arrests, citations or traffic citations.
- B. Case Reports will contain at a minimum:
  - 1. The date, time, and incident number of the initial report,
  - 2. The name, if available, of the person requesting the service, or the victims or complainant's name,
  - 3. The nature of incident, and
  - 4. The nature, dates and time of any action taken by Department personnel.
- C. If more than one officer responds to, or is involved in an incident or call for service, supplemental reports as necessary shall be completed to ensure that all information and each officer's actions are fully reported.
- D. Any officer assigned further to investigate an already reported incident, or who obtains additional information to a report already submitted, shall complete and submit a supplemental report.
- E. Comprehensive reporting requirements and instructions for the completion of appropriate report forms are contained in the Patrol Operations Manual.
- F. A unique sequential case number shall be assigned to all incident and crime reports.
  - 1. The number is automatically generated by the Computer Aided Dispatch (CAD) system, and issued by Communications.
  - 2. The first two digits of the number signify the year; the remaining digits represent the sequential case number.
- G. All case reports shall be reviewed by a supervisor for accuracy, completeness and compliance with reporting requirements.
- H. The reviewing supervisor shall electronically sign the case report in the designated field, indicating the assignment was satisfactorily completed and reported.

- I. Insufficient or deficient reports shall be returned to the reporting officer for correction.
- J. Communications Division personnel shall be responsible for coding and entering reports in the State and Federal crime information centers (TCIC/NCIC).

**V. HATE CRIMES REPORTS**

- A. The Department is committed to observing and protecting the Constitutional rights of all persons under state and federal law regardless of their race, religion, ethnic background or sexual orientation. Any acts or threats of violence, property damage, harassment, intimidation or other crimes that infringe upon these rights shall be reported.
- B. Any officer assigned to investigate a potential hate crime shall make a determination as to the applicability of the hate crimes statutes, using the following factors:
  - 1. The motivation of the alleged offender is known.
  - 2. The incident is known to be motivated by racial, religious, ethnic or sexual orientation bias.
  - 3. There is no other clear motivation for the incident other than one that would indicate a hate crime.
  - 4. There were racial, religious, ethnic, or sexual orientation bias remarks made by the offender.
  - 5. There were offensive symbols, words, acts that are known to represent a hate group or other evidence of bias against the victims group.
  - 6. The incident occurred on a holiday or other day of significance to the victim's group or the offender's group.
- C. If factors known to the investigating officer indicate that the offense is a hate crime, the incident shall be classified as hate crime.
- D. If follow up investigation indicates that the incident is a hate crime and was not determined as such by the initial investigation, the investigator shall be responsible for notifying the Records Section by way of a supplemental report indicating the status change. The same applies should the original report indicate a hate crime and follow up investigation indicates that it is not.
- E. The Records Section Supervisor or designee shall review all reports flagged as hate crime reports for State and Federal reporting purposes.
- F. The Records Section shall be responsible for completing and submitting the Federal Hate Crime Incident Report and the Federal Quarterly Hate Crime Report.

**VI. MAINTENANCE AND CONTROL OF RECORDS**

- A. The Records/Communication Division Manager is designated by the Chief of Police as Records Custodian of the Department and is responsible for the maintenance and control of Department records, unless such record is specifically excepted.

- B. Only personnel assigned to the Records and Communications Division shall have direct access to the area(s) occupied by the Division and to the records maintained therein.
- C. Department personnel needing to see archived files will request Records Section personnel who will retrieve the records and sign them out to the employee.

**VII. DEPARTMENT RECORDS RELEASE POLICY**

- A. Release of any books, papers, cards, photographs, tapes, recordings or other documentary materials, regardless of form or characteristics, that are made, maintained or kept by the Department for use in the exercise of functions required by law or administrative rule are subject to the conditions of the Departments' General Orders.
- B. Specific rules and regulations concerning the release of Department records are contained in the Standard Operating Procedures manual for the Records Section.
- C. Inquiries by any person concerning the availability of a report or any Department record, other than employee records, shall be referred to the Records Section and released only via the Texas Public Information Act, or a subpoena.
- D. Inspection of the following may be denied as contrary to the public interest:
  - 1. Any records of criminal investigations;
  - 2. Any records of intelligence information or security procedures; and
  - 3. Any investigatory files compiled for any other law enforcement purposes, including internal affairs investigations.
- E. Inspection of the following Department records shall be denied, except that any of the following records, other than letters of reference, shall be available to the person of interest:
  - 1. Medical, psychological, sociological and scholastic achievement data on individuals;
  - 2. All information obtained and records prepared in the course of taking a person into custody on a 72-hour mental health evaluation;
  - 3. Personnel files, except as available to supervisors of the person of interest.
- E. The release of records relating to current or past employees shall be directly under the control of the Chief of Police. Only by the Chief of Police or his designee shall release such information.
  - 1. Without a signed and notarized authorization of the employee, only name, position, and dates of employment shall be released.
  - 2. With a signed and notarized authorization from the employee, the requestor shall be permitted to review the personnel file of the indicated employee in the office of the Police Administration and at Human Resources.

**VIII. CRIMINAL JUSTICE RECORDS**

- A. The release, dissemination or inspection of Department records shall be by the authorization of the Records Custodian or her designee.

- B. Public records shall be open for inspection by any person at reasonable time, except that inspection may be denied if:
  - 1. Inspection would be contrary to any state or federal law or regulation.
  - 2. Inspection is prohibited by any court or court order.
  - 3. Inspection is requested of any letters of reference concerning employment or licensing.
- C. Criminal Justice Records, including official actions, shall be withheld from inspection on the following grounds:
  - 1. Generally, no record may be inspected or released if it concerns child abuse or neglect, mistreatment or self-neglect of at-risk adults, or juvenile offenders. The Records Custodian shall determine access to such records.
  - 2. Records of wiretap information shall not be released.
  - 3. Records sealed or expunged by court order, or subject to a court order limiting access, shall not be inspected or released.
  - 4. No record shall be inspected or released when such inspection is to solicit business for pecuniary gain.
- D. Records shall not be released when such release is contrary to the public interest, and record consists of records of investigatory files, intelligence information, or security procedures of the Department.
- E. Factors to be considered in determining whether a particular disclosure of records is contrary to the public interest include, but are not limited to:
  - 1. Whether release would interfere with enforcement proceedings.
  - 2. Whether release could interfere with a person's right to a fair trial or impartial adjudication.
  - 3. Whether release would constitute an unwarranted invasion of personal privacy.
  - 4. Whether release would reveal the identity of confidential sources.
  - 5. Whether release would endanger the life, safety, or property of any person.

**IX. RETENTION AND DISPOSITION OF RECORDS**

- A Retention and disposition of Department records shall be governed by applicable state and federal law and the Department's policies and retention schedule.
- B The Records Retention Schedule, developed and administered by the Records Custodian, shall be maintained by the Records Section Supervisor.
- C No request to destroy records pertaining to any pending legal case, claim, action, or audit shall be submitted.
- D The Records Section Supervisor or her designee should destroy those records identified in a court ordered expungement.
- E Confidential records shall be destroyed in a manner that ensures information in the records is not released to the public.