

CHARLOTTESVILLE POLICE DEPARTMENT



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Type of Directive: GENERAL ORDER	Number: 132-00
MAINTENANCE AND RELEASE OF CRIMINAL HISTORY, DMV, AND INCIDENT RECORDS	Date: June 18, 2018
VLEPSC Number: ADM.25.03, ADM.25.12	Manual Number: 562.05
	Effective Date: 08/19/20
Authorization: Chief R.M. Brackney	Follow-up Date: As Needed

I. POLICY

The department shall create and maintain a record of each arrest. The department shall maintain local criminal history information. The department will also contribute arrest information to the Central Criminal Records Exchange (CCRE) and Federal Bureau of Investigation (FBI) Criminal History Section. The department has access to automated criminal history files and will use these files appropriately to conduct police business and ensure public safety.

II. PURPOSE

The department must maintain accurate criminal history records and provide access to local, state and national criminal history records. This access is for the use of agents involved in the administration of justice. It will comply with all local, state and federal regulations regarding the keeping and dissemination of criminal history information.

III. DEFINITIONS

- A. VUS - Virginia Uniform Summons.
- B. RMS - Records Management System
- C. IMS – Information Management Services of the Charlottesville Police Department.
- D. III - The National Criminal Information Network Interstate Identification Index. This system makes available to criminal justice agencies, criminal history information contained in records of its thirty-eight participating states.

IV. PROCEDURE

- A. Records Section Access

1. Information Management Services will be the repository for and will ensure the safe keeping of all department records related to incident reports, calls for service, arrests, summons and warrants for both adults and juveniles.
2. No person shall have physical access to records maintained by IMS except for those authorized by the access list.
3. The IMS Supervisor will maintain the access list. Persons eligible for the list will include members of IMS, the Charlottesville Commonwealth Attorney's Office and members of the department who have a demonstrated need for regular access.
4. It will be the responsibility of each individual to familiarize themselves with the rules and regulations regarding the safekeeping of records. No access list member will disseminate information without approval of the IMS Supervisor.
5. The IMS Supervisor will review the access list on a quarterly basis.

B. Local Criminal History Security and Maintenance - Adult

1. Access to the paperwork files is limited to those people on the IMS Access list. The department's System Administrator controls access to the computerized records. It is generally limited to current department employees with valid computer accounts who can authenticate through the multi-step password procedure.
2. On arrests made by this department, data entry will be made from an Arrest Worksheet or a Virginia Uniform Summons. An arrest processing procedure describes the preparation of this worksheet and the other paperwork necessary to properly document arrests.
3. Data entry on arrests made by other jurisdictions for our department will be made from whatever forms and information are provided by the arresting agency. The arrest entry will be as complete as possible considering all information provided by the arresting agency.
4. The database created by this arrest data entry is the department's local criminal history information.
5. The department also has local criminal history information recorded in the old master name files.
6. Each charge in the arrest data will contain a document control number. This number corresponds to the summons serial number or the document control number on the CCRE Form SP-180 and SP-222 (Electronic Submission). This number insures the proper recording of disposition on each charge.

C. Local Criminal History Creation and Maintenance - Juvenile

1. IMS will create and maintain records of all detentions of juveniles made for or by the Charlottesville Police Department.

2. The department will comply with Virginia Code Section 16.1-299 through 16.1-309 when handling juvenile records.
3. Form SP-180's that document juvenile detentions will be handled separate from adult paperwork. The original (top) copy will be placed in the juvenile arrest file folder. These file folders are lavender in color and are located with the juvenile mug shots in the juvenile records file drawer in IMS. The remaining parts of the SP-180 will be sent to the Juvenile and Domestic Relations Court.
4. Upon notification by Juvenile and Domestic Relations Court the department will destroy all copies related to charges that receive other than delinquent dispositions.
5. Every detention for a charge that would be considered a criminal offense if committed by an adult, will be entered into the departments computerized Records Management System. Data entry will be done from an Arrest Worksheet or a Virginia Uniform Summons. The arrest processing procedure specific to juveniles will be followed. An incident report should also accompany all juvenile arrests. Special care will be taken to enter the correct data in the juvenile disposition field on these charges. This enables us to segregate these records from the adult records.

D. Local Criminal History Dissemination - Adult

1. Local criminal history information will be disseminated by IMS personnel only.
2. Local criminal histories currently exist in the computer RMS and the old card file. These old files (hard copy) are from the period prior to Jan. 1, 1997. A local criminal history check should include a query of both systems.
3. Local criminal history information will be disseminated to the following individuals in accordance with the guidelines set forth under each:
 - a. Sworn members of the Charlottesville Police Department;
 - i. A print out of all charges regardless of disposition.
 - ii. The computer dissemination log automatically records the identity of the staff member printing the record. The staff member will enter the rank, first name and last name of the requestor into the dissemination log.
 - b. Sworn members of other criminal justice agencies; and
 - i. A print out of all charges regardless of disposition.
 - ii. Proper identification will be required; this usually means badge and department identification.
 - iii. The computer dissemination log automatically records the identity of the staff member printing the record. The staff member will enter the rank, first name, last name and the complete name of the requestor's agency into the

dissemination log. The staff member will also note whether the criminal history request was for a criminal investigation or for employment background investigation.

iv. If an old file criminal history is found, the requestor should complete a Local Criminal History Request. It should contain the name, rank and agency of the requestor. This will be filed to serve as documentation of the history dissemination.

c. Subjects requesting a copy of their own criminal history or a person requesting a copy of a criminal history as the subject's agent.

i. IMS staff will not disseminate local criminal history information except as allowed in sections IV, D, 3, a) and b)

ii. Written instructions regarding the obtaining of criminal history information by citizens shall be available and disseminated by IMS staff upon request.

E. Local Criminal History Dissemination - Juvenile

1. Juvenile detention information will be released to appropriate criminal justice agencies only. The department will only provide juvenile detention history to those criminal justice agency personnel who have a demonstrated need for the information. The IMS Supervisor must approve release of this information. Examples of appropriate release are as follows:

a. Commonwealth's Attorney for prosecution of purposes.

b. Juvenile Court appointed caseworker conducting a social history investigation.

c. Sworn law enforcement officer conducting an investigation related to the juvenile offender.

F. Contribution to State and Federal Criminal History Records

1. The department will comply with Virginia Criminal Code Section 19.2-390 and other state and federal regulations regarding the submission of criminal history information.

2. The department will submit arrest information on Part A offenses, committed by adults, to the Central Criminal Records Exchange via the "Live Scan" processing unit or by the mailing of inked prints.

a. Exceptions to this procedure may occur in certain circumstances. In such cases arrangement for processing and records submission will be made as soon as practical. Such circumstances may include:

i. mass Arrest

ii. inoperative Live Scan System

3. Part B offenses, committed by adults will be reported to the Central Criminal Records Exchange after conviction. The departments Telephone Reporting Unit will process persons convicted and submit a CCRE Form SP-180. IMS will file the original (top) copy of the Form SP-180. The remainder of the form will be forwarded to the Central Criminal Records Exchange.

4. The Juvenile & Domestic Relations Court is responsible for forwarding all information on juvenile detentions and their dispositions to the CCRE and FBI.

G. Release of Criminal History Information from CCRE, FBI and III.

1. Release of criminal history information obtained through our VCIN terminal will comply with Virginia Code Section 19.2-389.

2. Release of information will be made to **criminal justice agency personnel only**.

3. Members of the Department, when necessary, may share criminal history information obtained from the Virginia Central Criminal Records Exchange, the Federal Bureau of Investigation or the Interstate Identification Index with any authorized members of the criminal justice system.

4. Officers who require a criminal history to further their investigation or arrest processing shall request a member of Information and Management Services to make an inquiry on the subject's name into the Virginia Crime Information Network (VCIN).

a. The resulting VCIN criminal history hard copy will be issued in the name of the officer requesting the criminal history.

b. Once the criminal history hard copy has been received by the requesting officer, that officer is responsible for its confidentiality and safekeeping.

5. Members of the Department shall be designated the primary recipient of criminal history information that is accessed by Information and Management Services. Other criminal justice agency members for whom an authorized inquiry can be made and a hard copy report generated will be considered secondary recipients of the criminal history information, which will be logged.

6. Officers sharing criminal history information with a Magistrate, or any other authorized person, shall not leave their hard copy report with the Magistrate or with any other person.

a. Should a Magistrate or any other authorized person with whom an officer has shared their criminal information history with requests to keep a hard copy of that criminal history report, the officer will inform that person that a new criminal history report can be generated in their name.

b. Any authorized person requesting that a secondary hard copy be issued in their name shall be informed that once he or she receives the hard copy he or she shall be responsible for the confidentiality and safekeeping of that secondary report.

7. Officers may assist a Magistrate in obtaining their hard copy of a criminal history information report by notifying Information and Management Services personnel to make a VCIN inquiry on the subject(s) in the Magistrates name. Other authorized persons shall be directed to appear at Information and Management Services to request a secondary criminal information report.

8. It shall be the responsibility of Information and Management Service personnel to log all secondary criminal history disseminations in accordance with VCIN regulations.

9. “ Criminal records must be destroyed (shredded or burned) when they have served the purposes for which they were requested. No personal file is kept for maintaining criminal records from the computerized files, as all criminal records are readily available from the computer when needed ”. (VCIN Regulation Manual Section II-9-27)

a. Criminal history printouts must not be crumpled and thrown into waist baskets or carelessly discarded.

b. Members will shred all hard copies of criminal history information reports after they have provided:

i. the necessary information;

ii. served their intended purpose ; and

iii. are no longer needed.

c. Shredders are available at the following locations:

i. Information Management Services ;

ii. Investigations Bureau ;

iii. Central Booking Center; and

iv. Magistrate’s Office

H. Penalties for Criminal Violations

1. Virginia Code § 9.1-136. Any person who willfully and intentionally requests, obtains, or seeks to obtain criminal history record information under false pretenses, or who willfully and intentionally disseminates or seeks to disseminate criminal history record information to any agency or person in violation of this article or Chapter 23 (§ [19.2-387](#) et seq.) of Title 19.2, shall be guilty of a Class 2 misdemeanor.

I. Dissemination of Incident Reports

1. Copies of an Incident Report that are released to the public will comply with the following guidelines. Information that meets the following criteria will be redacted from the report:

a. Information that would affect ongoing investigations;

b. information protected by the victim's privacy act;

c. Information related to juveniles that are victims, witnesses or arrestees.

2. Parties requesting summary reports must be the reporting party or victim listed in the report, the individual requesting the report must show a valid photo identification at the Information Management Services counter in the police department lobby. The individual must obtain the report summary during normal business hours (8 am to 4 pm) Individuals who are not involved in the police incident subject to the request are not eligible to obtain a summary of a police report.

3. There will be a ten-dollar (\$10.00) fee for copies of incident reports. Proper identification will be required to receive the report.

4. Copies of Incident Reports may be given to another criminal justice agency if the agency requesting the copy can demonstrate a need for the report. Need is generally defined as; the report is necessary for them to carry out their official duty. Reports that are part of an ongoing investigation should not be released until the assigned investigator has been consulted and approved the report release. Proper identification will be required (badge with I.D.).

5. Required Incident Based Report information shall be retrieved from the Records Management System on a monthly basis, reduced to computer diskette and forwarded to the Virginia Department of State Police by the 15th day of the month following the indexed month.

J. Dissemination of Accident Reports

1. Accident Reports (Virginia DMV Form FR-300) may be released to an interested party. Examples of persons allowed access to Accident Reports are insurance company representatives, parties involved in accidents and agents representing involved parties.

2. There is a fifteen-dollar (\$15.00) fee for copying of each accident report and/or accident photograph(s).

3. Copies of accident reports will be provided to persons listed on the accident report upon presentation of photo identification verifying identity.

4. Copies of accident reports will be provided to insurance company representatives or legal agents that present the policy declaration page or signed information release of one of the involved parties on company letterhead.

5. Mail requests for accident reports will be filled provided that the request comes from an involved party or is on letter head of the insurance company and cites the name of the insured and their policy number.

6. Information and Management Services is responsible for sending the original copy of the completed Police Accident Report (FR-300) to the Virginia Department of Motor Vehicles, Richmond, Virginia.

K. Release of information from Division of Motor Vehicle Files.

1. The release of vehicle registration and driver's license information maintained in the Department of Motor Vehicle files is governed by applicable VCIN

regulations as well as Virginia Code Section 46.2-208 and 46.2-210. Department personnel will only release information from DMV files to the following people.

- a. Sworn officers of this department or any other recognized law enforcement agency. (This includes Community Service Officers)
- b. Agencies clearly involved in the administration of justice, such as the Commonwealth's Attorney's Office, Magistrate, Judge, Court Clerk, Probation officer, etc.
- c. Towing companies may receive registration information on vehicles that they have towed at the direction of this department. No other information shall be released.

L. Internal/External Distribution of reports and statistical crime analysis.

1. IMS does not routinely distribute reports or records to component commands within the Charlottesville Police Department. All commands have access to the Department's Records Management System (RMS) through their individual computer workstations. Information necessary for the assignment of cases and investigative follow-ups is available through this system.
2. Requests from the public and media for Department data analysis or statistical reports will be forwarded to the RMS System Administrator and handled pursuant to General Order 50-99, Crime Analysis and the Release of Department Statistical Information.
3. Requests for statistical reports or crime analysis from City of Charlottesville agencies shall be forwarded directly to the RMS System Administrator and processed pursuant to General Order 50-99.

M. Expunging and sealing of criminal history information.

1. The department will expunge and seal all information related to criminal arrests based on court order. The following procedure will apply.
 - a. The department must be in receipt of a written request from the Virginia State Police. It must be accompanied by a petition and Court order. The IMS Supervisor will direct the compliance with this procedure and Virginia Code Section 19.2-392.2.
 - b. The subjects master name file information will be removed from all records related directly to the offense for which the expungement was ordered. This includes hard copies, computer files, fingerprints, photographs and any FBI or CCRE correspondence related to the charge. Neither the arrest record nor the report needs to be removed from the RMS. They must however be disconnected from the master name file and all references to the subject removed.
 - c. The expunged records will be placed in an envelope and sealed. Upon the front of the envelope will be written, "EXPUNGED RECORD TO BE UNSEALED ONLY BY _____ COURT ORDER.", as well as an assigned index number. An expungement logbook containing the name of

the sealed records and the corresponding assigned index number shall be maintained by the IMS Supervisor.

d. All sealed expungements, as well as the expungement logbook, will be stored in a locked filing cabinet located in the IMS Supervisor's Office designated for that purpose. The IMS Supervisor and their supervisor will maintain a key to the filing cabinet.

e) Once the expungement is complete, a letter will be forwarded to the Virginia State Police advising them that the expungement is complete and the record sealed.

f) In accordance with Virginia Code Section 19.2-392.3, an expunged record will not be opened without a court order, nor will any acknowledgement of a prior record be given to any requestor of such information.

N. Challenge to Criminal History Records

1. Individuals who desire to challenge their own CCH record information must complete documentation provided by the criminal justice agency maintaining the record and forward it to the CCRE or the agency maintaining the record.

- a. A duplicate copy of the form and the challenged record may be furnished to the individual initiating the challenge or review.
- b. The individual's record concerning arrests for felonies and Class 1 and 2 misdemeanors may be challenged at the CCRE or the agency maintaining the record. For offenses not required to be reported to the CCRE, the challenge shall be made at the arresting law enforcement agency or the agency maintaining the records.

2. If an individual raises a question as to the validity of his criminal history record, or particular piece of information on that record, the IMS Supervisor will be notified immediately.

- a. The IMS Supervisor will personally listen to the complaint and then examine the information at hand which led to the complaint.
- b. If the information in our files appears accurate and the subject of the record still complains there is an error, the complaint will be handled in accordance with Virginia Administrative Code - Rules and Regulations Relating to Criminal History Record Information Use and Security, §6VAC 20-120-70.
- c. If the problem lies with a record not held by the agency, the complaining subject will be directed to CCRE or the agency which holds the record.

3. Message Flags

- a. If an individual wishes to receive their "record check" before a dispute is settled on a record, the record check will have the words "RECORD CHALLENGED" typed next to the record.

- b. The Chief of Police or his designee is the only one authorized to sign a record being released that has been identified as a challenged record. The Chief of Police or designee will proceed as outlined in Virginia Administrative Code - Rules and Regulations Relating to Criminal History Record Information Use and Security, §6VAC 20-120-70.

OFFENSE GROUPS LISTING

The following is a list of Group A and Group B Offenses as defined by IBR Standards. Use this listing as a guideline to help you determine when an arrest or warrant should be linked to an incident report. Please remember that any warrant or arrest for Group A offenses require it to be linked to an incident report. Group B offenses do not require an IBR, but our Department has policy on writing reports for certain Group B Offenses. If the Group B arrest or warrant is linked to an incident report, you should note such when entering for department records.

GROUP A

Arson
Assault Offenses
 Aggravated Assault
 Simple Assault
 Intimidation
Bribery
Burglary/Breaking & Entering
Counterfeiting/Forgery
Destruction/Damage/Vandalism of Property
Drug/Narcotic Offenses
 Drug/Narcotic Violations
 Drug Equipment Violations
Embezzlement
Extortion/Blackmail
Fraud Offenses
 False Pretenses/Swindle/Confidence Game
 Credit Card/Automatic Teller Machine Fraud
 Impersonation
 Welfare Fraud
 Wire Fraud
Gambling Offenses
 Betting/Wagering
 Operating/Promoting/Assisting Gambling
 Gambling Equipment Violations
 Sports Tampering
Homicide Offenses
 Murder & Non-Negligent Manslaughter
 Negligent Manslaughter
 Justifiable Homicide
Kidnapping/Abduction
Larceny/Theft Offenses
 Pocket-Picking
 Purse-snatching
 Shoplifting
 Theft from Building
 Theft from Coin-Operated Machine or Device
 Theft from Motor Vehicle
 Theft of Motor Vehicle Parts or Accessories
Motor Vehicle Theft
Pornography/Obscene Material
Prostitution Offenses
 Assisting or Promoting Prostitution

Robbery
Sex Offenses, Forcible
 Forcible Rape
 Forcible Sodomy
 Sexual Assault with an Object
 Forcible Fondling
Sex Offenses, Non-Forcible
 Incest
 Statutory Rape
Stolen Property Offenses (Receiving., etc.)
Weapons Law Offenses

GROUP B

Bad Checks
Curfew/Loitering/Vagrancy Violations
Disorderly Conduct
Driving Under Influence
Drunkenness
Family Offenses, Non-violent
Liquor Law Violations
Peeping Tom
Runaway
Trespass on Real Property
All Other Offenses