


<p>RABUN COUNTY SHERIFF'S OFFICE</p>  <p>General Order Number: 11.03</p>	<p>Date of Issue</p> <p>02/23/2016</p>	<p>Effective Date</p> <p>02/23/2016</p>	<p>Revision Date</p>
<p>Subject: Open Records</p>	<p>Amends:</p>	<p>Rescinds:</p>	
<p>Index as:</p>	<p>State Certification Standards:</p>		

PURPOSE

The purpose of this General Order is to prescribe the policies and procedures of the Rabun County Sheriff's Office regarding the management and release of Sheriff's Office Information.

STATEMENT OF POLICY

It shall be the policy of the Rabun County Sheriff's Office that requests for public records and Rabun County Sheriff's Office's responses to those requests be maintained in the Records Section for the purpose of documenting receipt of requests, report control, records management, and Rabun County Sheriff's Office's responses.

DISCUSSION

The Records Section is a component of Administrative Services. The Records Section is responsible for the records functions that are basic to meeting the management, information, and operational needs of the Habersham County Sheriff's Office.

DEFINITIONS

Open Records Act – (O.C.G.A. 50-18-70) "Open Records Act", and related subtitles of Georgia law, with certain exceptions, authorizes a personal inspection of public records at a reasonable time and place by any citizen of this state. Generally, both open and closed administrative files as well as closed investigative case files and case reports fall within the definition of public records.

O.C.G.A. – The Official Code of Georgia Annotated

Any open records request for personnel records will be directed to the Human Resources Director per Rabun County Rules and Regulations.

RELEASE OF SHERIFF'S OFFICE INFORMATION

1. The "Open Records Act" (O.C.G.A. 50-18-70), and related subtitles of Georgia law, with certain exceptions, authorizes the inspection of public records at a reasonable time and place by any citizen of this state.
2. Generally, both open and closed administrative files as well as closed investigative case files and case reports fall within the definition of public records. Only victims of a Family Violence Crime can have access to a report of Family Violence. An individual who has been arrested may review and copy a Family Violence incident report.
3. No public officer or agency is required to prepare reports, summaries, or compilations not in existence at the time of an Open Records request.
4. When an Open Records request is received for a closed case involving a court disposition, the investigating deputy will notify his supervisor and together they will query the appropriate District Attorney's office to determine if a direct appeal is pending, before making a response to the requester. If a direct appeal is pending, the case will be moved from a closed to an open-pending appeal status.
5. The release of cases under the Open Records Act to defendants is, in fact, discovery, and may not be appropriate should they be granted a new trial.
6. The improper release of documents is minimized until all direct appeal processes have been completed.
7. All requests for inspection of records under the Open Records Act must be made in writing or verbally to the Rabun County Sheriff's Office Records Division Supervisor.
8. The Records Supervisor must respond to all Open Records requests in writing within three (3) business days. This does not mean that the individual must be allowed to inspect the records within three (3) days unless it is appropriate. The law indicates that a response to the individual must be made within three (3) days and an appropriate time and place established for the review.
9. On many of the requests received under the Open Records Act, it may not be clear as to the specific record that is being requested. It is entirely appropriate to ask the individual making the request for specific information regarding the subject or case.
10. To prevent mishandling, loss or destruction of records and files, the Records Supervisor or designee, will monitor each inspection of original case files and related materials.
11. The requester will not be charged a fee associated with the monitoring of these inspections.
12. A copy of all open records requests, along with any supporting documentation, will be placed in the case file, which was requested. Additionally, a memorandum of record detailing the response to the request, either the denial or the processing of the request, will be placed in the case file. If copies of the documents are released, a listing of those documents should be incorporated in the memorandum.

13. The Records Supervisor or Records Clerk will handle requests that are denied. If access to a record is denied in whole or in part, the specific legal authority exempting such records will be provided to the requester in writing.
14. Georgia law and applicable court decisions provide exemptions to the public inspection and copying of records and files. Such exempted records, information and material are not to be released for public inspection without the expressed authorization of the Sheriff.
15. Prior to opening records for inspection the Records Supervisor or designee will personally review each record being requested under the Open Records Act to determine that the following exempted material is removed or deleted in compliance with Georgia law:
 - a) Any record or related material in a pending investigation or prosecution of criminal or unlawful activity;
 - b) A prosecution is deemed to be pending until such time as all direct appeals of conviction, including Writs of Certiorari to the U.S. Supreme Court have been exhausted. Habeas Corpus actions are not considered a part of the direct appeal process;
 - c) Initial arrest reports and incident reports are subject to public disclosure even if they are part of an active or pending investigation. Exempted information contained in the reports is not subject to release. Individual Georgia Uniform Motor Vehicle Accident Reports are only releasable to individuals or entities who are named or whose identifying information is contained on the accident report. All others are required to submit a "Statement of Need," which will be evaluated according to the standards in O.C.G.A. 50-18-72 sub. 4.1;
 - d) Criminal history record information of persons not the subject of the investigation (i.e., witnesses, interviewees.) Criminal history record information pertaining to the subject of the investigation is to be released only when the record information directly relates to the activity under investigation. For example, Criminal history information concerning a child molestation arrest for a subject investigated by the Habersham County Sheriff's Office for burglary is not to be released. Information pertaining to a prior burglary arrest would be releasable;
 - e) Any record or related material that identifies or tends to identify any confidential source;
 - f) Any record or related material that would disclose the existence of a confidential surveillance or investigation;
 - g) Any record or data that identifies investigative techniques, which, if released, might jeopardize the safety of law enforcement personnel or future investigations;
 - h) Any record or related material that would endanger the life or physical safety of any person or persons;
 - i) Any record or related material that would divulge technical data related to the description or application of electronic devices used in the interception of wire or oral transmissions (O.C.G.A. 16-11-64);

- j) Any recording, transcript, report or synopsis containing testimony or information presented before any State or Federal Grand Jury or other court proceeding closed to the general public;
- k) Any record or related material concerning reports of child abuse or controlled substance/marijuana abuse (O.C.G.A. 15-11-59);
- l) Any law enforcement record or related material concerning a juvenile unless a charge of delinquency is transferred for criminal prosecution under Georgia Code Section 15-11-39 , or the court otherwise orders in the interest of the child. Information will only be released upon written court order authorizing disclosure. (O.C.G.A. 15-11-59); ;
- m) Any portion of a record or related material containing information which invades the personal privacy of a person, i.e., information which is unsubstantiated and based on hearsay; information which relates only incidentally to the subject matter of the public record or is remote in time to the events referred to;
- n) Any record or related material containing personal or medical information, the disclosure of which would constitute an invasion of personal privacy of a person;
- o) Information which identifies individuals who were investigated but not charged with or prosecuted for a crime, as well as information which would prove personally embarrassing to individuals who were not the targets of the investigation. (Napper v. Georgia Television Company 256 GA 156, 356 S.E. 2d 640 (1987));
- p) Records or related material which were received from a federal agency unless the principal legal advisor for the federal agency authorizes the disclosure;
- q) Any patient information or clinical records received from the Division of Mental Health of the Department of Human Resources (O.C.G.A. 37-3-166). Requesters of these records will be referred to the Department of Human Resources facility which provided the records/information to the Rabun County Sheriff's Office;
- r) The name or identity of any female who may have been raped or upon whom an assault to commit the offense of rape may have been made;
- s) The personal identifying data, excluding names, of witnesses in closed investigations. The names and occupations of witnesses documented in an investigation are subject to disclosure, but not addresses, phone numbers, dates of birth, social security numbers or other personal ID information;
- t) All institutional inmate files and central office files of the Department of Corrections as well as investigative reports and intelligence data prepared by that agency's Internal Investigations Unit. These records are classified as confidential state secrets unless declassified in writing by the Department of Corrections Commissioner (O.C.G.A. 25-2-33);
- u) Information received by Rabun County Sheriff's Office personnel and officials from any insurance company investigating a fire loss of real or personal property (O.C.G.A. 25-2-33) are confidential until such time as civil or criminal proceedings are complete;
- v) Individual Georgia Uniform Motor Vehicle Accident Reports, except upon the submission of a written "Statement of Need" by the requesting party. Such statement must be provided to the

custodian of records and must set forth the need for the report. However, any person or entity whose name or identifying information is contained in an accident report shall be entitled, either personally or through a lawyer or other representative, to receive a copy of such report. Accident reports will not be released in bulk for inspection or copying by any person without a written statement of need, which indicates that they:

- i. Have a personal, professional, or business connection with a party to the accident;
 - ii. Own or lease an interest in property allegedly or actually damaged in the accident;
 - iii. Have been or allege to have been injured by the accident (personal injury or property damage);
 - iv. Were a witness to the accident;
 - v. Are the actual or alleged insurer of a party to the accident or if property actually or allegedly damaged by the accident;
 - vi. Are a prosecutor or a publicly employed law enforcement deputy;
 - vii. Are alleged to be liable to another party as a result of the accident;
 - viii. Are an attorney stating that he or she needs the requested reports as part of a criminal case, or an investigation of a potential claim involving contentions that a roadway, railroad crossing, or intersection is unsafe;
 - ix. Are gathering information as a representative of a news media organization; or
 - x. Are conducting research in the public interest for such purposes as accident prevention, prevention of injuries or damages in accidents, determination of fault in an accident or accidents, or other similar purposes; provided, however this will only apply to accident reports on accidents that occurred more than 30 days prior to the request and which shall have the name, street address, telephone number and driver's license number redacted.
 - xi. Records that consist of confidential evaluations submitted to, or examinations prepared by, a governmental agency and prepared in connection with the appointment of hiring of a deputy or employee;
 - xii. Records that reveal the home address or telephone number, social security number, or insurance or medical information of any law enforcement Deputy, or records that identify immediate family members or dependents of any law enforcement Deputy.
16. Many documents/materials are exempted from release in their entirety and these items may be completely removed from the record. Other documents/materials contain only specific information, which is exempt from release. In these instances a photocopy of the document will be made and the specific exempted information will be blackened out with a heavy ink marker and re-copied.
 17. After the supervisory review and, if appropriate, the removal or deletion of exempted material, the case file may be released pursuant to the Open Records request;
 18. Questions by personnel concerning the appropriateness of disclosing records or related materials under the Open Records Act will be directed to the Records Supervisor.

19. The Criminal Investigations Division Commander will be responsible for monitoring the preparation of the Rabun County Sheriff's Office Criminal Investigations Division documents and case files under division control for release under the Open Records Act. The Records Supervisor will review all records prior to release to ensure conformity with division and agency guidelines.
20. Open Records requests will be handled by the Records Section Clerk or forwarded to the appropriate Rabun County personnel responsible to comply with the request. Open records requests will be handled in the following manner:
 - a) When the requester obtains copies of records, all administrative costs associated with the search, retrieval, preparation and reproduction of the records will be charged to the requester. If a requester initially reviews records at no charge but later requests copies, this is to be treated as a single transaction and the requester be charged all search, retrieval, preparation and reproduction costs upon receiving the copies;
 - b) When a request for public records is received, the Sheriff's Office must notify the party making the request of the estimated cost of the copying, search, retrieval, and other administrative fees authorized, prior to fulfilling the request as a condition for the assessment for any fee. (O.C.G.A. 50-18-71.2);
 - c) If requests are received to view records which are not routinely inspected and substantial time will be required to accommodate the inspection, fees associated with preparation, retrieval, and redaction of the requested material will be charged;
 - d) The cost of this time will be calculated at the rate of the lowest salaried permanent employee capable of performing the required retrieval and reproduction;
 - e) The charge for photocopies shall be in compliance with the uniform copying fee specified in O.C.G.A. 50-18-71.
 - f) The charge for video tapes and CD's (digital photos) is \$15.00 per copy;
 - g) The charge for audio tapes is \$10.00 per copy;
 - h) The charge for photographs are \$10.00 per photograph;
 - i) The charge for a complete copy of an incident or accident report only is \$5.00 per copy.
21. Payment for all costs must be made by check or money order payable to Rabun County Sheriff's Office. The Records Section will notate the receipt of payment in the Open Records Requests/Payment log.



By Order of the Sheriff: Chad K. Nichols
Sheriff, Rabun County