

South Carolina Department of Public Safety



Office of the Director

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POLICY	500.06
EFFECTIVE DATE	MARCH 22, 2016
SUBJECT	RELEASE OF INFORMATION
REPLACES POLICY DATED	SEPTEMBER 6, 2001
APPLICABLE LEGAL AUTHORITIES	S.C. Code §§ 16-13-510, 30-2-10, et seq., and 30-4-10, et seq.; Rule 5, S.C. Rules of Criminal Procedure; Rule 45, S.C. Rules of Civil Procedure
APPLICABLE STANDARDS	54.1.1, 54.1.3, 82.1.1
APPLICABLE STANDARD OPERATING PROCEDURES (SOP)	N/A
FORMS	N/A
DISTRIBUTION	TO ALL EMPLOYEES

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I. PURPOSE

To set forth the manner in which the Department of Public Safety (SCDPS) will release information or agency records in response to subpoenas or requests under the Freedom of Information Act (FOIA).

II. POLICY

In an effort to provide the public with information, SCDPS provides access to its public records and responds to requests for information in an accurate, timely, and professional manner.

III. DEFINITIONS

For purposes of this policy, the following definition shall apply:

Division Director - Chief Financial Officer; Bureau of Protective Services Chief; Human Resources Director; Office of Professional Responsibility Chief; Office of Strategic Services, Accreditation, Policy and Inspections Commander; General Counsel; Communications Director; Office of Highway Safety and Justice Programs Director; Office of Information Technology Director; Legislative Liaison; Immigration Enforcement Unit Commander; Colonel for Highway Patrol; and Colonel for State Transport Police.

IV. RESPONDING TO A FOIA REQUEST

A. The SCDPS Communications Director will be responsible for the following:

1. Implementing and managing the SCDPS FOIA Program;
2. Designating a member of the Communications Office to serve as the primary FOIA coordinator (FOIA Coordinator);
3. Providing guidance, subject matter expertise, and team leadership to the Communications Office and FOIA liaisons within SCDPS; and

4. Preparing guidelines and procedures for handling routine FOIA requests, including: [82.1.1 (c)]
 - a. a list indicating information generally available under FOIA; [82.1.1 (c)]
 - b. a list indicating information not available under FOIA; [82.1.1 (c)]
 - c. processes for handling requests received directly by a division or office; and
 - d. procedures for handling "in person" requests.
- B. Each Division Director will assign at least one person the additional duty of FOIA liaison. The liaison(s) will review and respond to the FOIA Coordinator's requests for information in accordance with FOIA, applicable law, and this policy. The liaison(s) will process these requests in a timely manner.
- C. Information which does not meet the "public record" definition of FOIA must not be disclosed. [82.1.1 (c)] Any record that is confidential or disclosable only under specified circumstances shall not be released unless authorized by the Office of General Counsel (OGC). [82.1.1 (c)]
- D. SCDPS has the discretion to refrain from disclosing the information identified in the exemptions set forth in S.C. Code § 30-4-40. If SCDPS invokes such exemption(s), exempt information will be separated or otherwise redacted and the non-exempt portion will be provided to the requestor. [82.1.1 (c)]
- E. SCDPS shall charge reasonable costs for providing requested records. All requests for waiver or reduction of costs associated with FOIA requests must be reviewed by the Communications Director or OGC.

V. SUBPOENA COMPLIANCE [82.1.1 (c)]

- A. Any SCDPS employee who receives a subpoena shall promptly provide the original or a copy thereof to a supervisor and transmit a copy to OGC via e-mail or facsimile.
- B. Employees who are uncertain whether the document received is a subpoena or some other legal instrument should contact OGC for guidance. Division Directors shall have the authority to designate the supervisor(s) to whom employees must forward subpoenas as set forth herein.
- C. Each Division Director shall assign at least one employee the additional duty of subpoena liaison. The liaison shall assist OGC in gathering records responsive to subpoenas in accordance with the instructions of OGC, applicable court rules, statutory requirements, this policy, and any guidelines and procedures issued by SCDPS.
- D. OGC shall provide guidance and subject matter expertise to the subpoena liaisons and any other employees as may be requested by the Division Directors.
- E. SCDPS shall attempt to collect reasonable fees and costs for responding to and complying with subpoenas as permitted by law. OGC may follow up with the personnel to whom subpoenas are issued to obtain information necessary for assessing and attempting to collect such costs.
- F. The South Carolina Highway Patrol's Multidisciplinary Accident Investigation Team may adopt subpoena compliance procedures which depart from this policy, subject to the review and approval of OGC to ensure conformity with applicable law.

VI. RELEASABLE INFORMATION [82.1.1(c)]

- A. Generally
 1. Information about curriculum and/or instructional practices.

2. General information about grants and the grant process.
3. Information regarding SCDPS, its components, policies, procedures, or any statistical compilations, to include:
 - a. Numbers/types of citations issued by SCDPS law enforcement;
 - b. Collision data; and
 - c. Race/gender distribution of SCDPS personnel. [82.1.1(c)]
- B. Releasable Information in Criminal Matters [82.1.1(c)]
 1. The arrested person's name, sex, age, city or county of residence, and any similar biographical information, except in cases involving juveniles.
 2. The substance or text of the charge, complaint, indictment, or information.
 3. The identity of the investigating/arresting agency and the length of the investigation, if available.
 4. The circumstances immediately surrounding the arrest, including the time and place of the arrest.
 5. The general nature of any injuries to the victim or assailant. [54.1.1(d)]
 6. In matters involving sexual offenses, only the age, sex, and general location of the crime will be released.
 7. Alerts for people and vehicles will be released to assist in investigations.
 8. Breath alcohol and toxicology results and/or refusals. [82.1.1(c)]

VI. NON-RELEASABLE INFORMATION IN CRIMINAL MATTERS

- A. Statements, admissions, confessions, or alibis attributed to a defendant.
- B. Statements concerning anticipated testimony or credibility of prospective witnesses.
- C. Any opinions regarding the guilt or innocence of a defendant, the possibility of plea negotiations, the merits of the case, or the quality of evidence.
- D. Personal information identifying the victims of any sexual offenses or child abuse.
- E. Information identifying juvenile suspects or offenders.
- F. Names of informants.
- G. Personnel records of any SCDPS employees, except as may be required by law. Subpoenas or other written requests (including Rule 5 requests under the South Carolina Rules of Criminal Procedure and discovery requests in federal criminal cases) for personnel records in connection with pending criminal proceedings must be forwarded to OGC for review so that OGC can make a determination as to whether such records can be released. Until such time as OGC has made this determination, no personnel records or the information contained therein shall be released.

VII. SCDPS PERSONNEL INVOLVED IN CRIMES OR COLLISIONS

- A. Media inquiries will be deferred to the investigating agency having primary jurisdiction. The Communications Director or designee will confirm the person's status of employment and the person's length of employment with SCDPS.
- B. The Communications Director will work closely with the investigating agency to coordinate the release of accurate information.

VIII. MEDIA ACCESS/RESTRICTION TO CRIME SCENES [54.1.3]

- A. Official police lines may be established to prevent unauthorized entry into a dangerous area or police incident/crime scene. SCDPS officers do not have legal authority to prevent the media from taking photographs or video recording such an area or scene when such activities occur beyond the police lines. If no police line is established, the media may have access to the area or scene if authorized by the commanding officer as set forth in Section VIII(C) below.
- B. SCDPS law enforcement officers will not be responsible for the protection of media representatives who choose to cross police lines to enter a dangerous area or incident/crime scene without authorization to do so.
- C. The commanding officer on the scene will determine whether any member of the media has access to a dangerous area or incident/crime scene and, if so, under what circumstances, provided that:
 - 1. The media's presence would not jeopardize any police investigation or operation.
 - 2. The media's presence would not hinder the proper preservation of evidence.
 - 3. The scene is located on public property.
 - 4. The owner of private property or his agent consents to the presence of the news media on the property.
- D. SCDPS reserves the right to use a "pool" camera and/or reporter selected by the media on scene when the media must be restricted. [54.1.3]

IX. NEWS RELEASES/DISSEMINATION OF INFORMATION

- A. Only the SCDPS Communications Office is authorized to issue news releases on SCDPS matters.
- B. News releases and/or accompanying photos, breaking news, and media advisories will be posted on the SCDPS website and social media, if appropriate.

X. TRAINING

All SCDPS employees involved with FOIA, subpoenas, and the release of information will be initially and periodically trained on applicable law and procedures.

