

OFFICE OF THE STATE ATTORNEY
PUBLIC RECORDS DIVISION
POLICIES AND PROCEDURES



**RECORDS REQUESTS FROM LAW
ENFORCEMENT AGENCIES**

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PURPOSE

These Policies and Procedures for Requests for Records by Law Enforcement Agencies have been developed in order to allow our Office to meet its commitment to provide timely and accurate responses to requests for records received from law enforcement agencies pursuant to Florida Statutes, 790.065, 943.051(2), 943.051(3), 943.059, 394.913, and 119.071(2)(h)(2)(c), or for any other reason permissible by law.

Requests made from one law enforcement agency (“LEA”) to another require different treatment of the records than other agency or public requests for records. Therefore, these procedures have been developed to aid in the efficient and effective response by the SAO to requests made by other LEAs.

REQUIREMENTS FOR SUBMISSION OF REQUESTS FROM LAW ENFORCEMENT AGENCIES

Law Enforcement Agency:

A law enforcement agency as used in these policies and procedures is any agency that has a primary mission of preventing and detecting crime and enforcing the penal, criminal, traffic, and motor vehicle laws of the state or is otherwise statutorily authorized to receive records to assist any law enforcement agency.

Agencies that may submit requests for records through this policy in furtherance of their statutorily authorized duties are as follows:

- Florida Department of Law Enforcement
- Florida Highway Patrol
- Florida Department of Corrections
- Florida Department of Children and Families
- Florida Agency for Healthcare Administration
- Florida Department of Health
- Florida Commission on Offender Review / Florida Office of Executive Clemency
- Local, State, or County Police or Sheriff’s Offices
- U.S. Department of Justice
- Federal Bureau of Investigation
- United States Secret Service
- Other agencies with appropriate approval

Submission:

Requests from LEAs *may* be submitted in any manner; however, the SAO has provided an email address dedicated to the receipt of requests from LEAs. The email submission may be made through the Office website at: SAO4th@coj.net or directly to: SAO4LEA@coj.net.

In order to efficiently and accurately complete LEA requests, they should be submitted with as much detail as possible so that the Public Records Division can readily locate, identify, review, and produce the requested records. Including, but not limited to, full name, clerk and/or State

Attorney case number(s), date of birth, or other available identifying information, and the statutory authorization under which the agency is making its request.

Verification Required:

All LEA requests must be accompanied by sufficient information for the request to be verified as received from an agency with authority to make such requests. The following will be considered acceptable verification information:

- a. Any submission from a verified agency email address;
- b. Name, badge number, work address, and office phone number for agency requestor.

Failure to provide the required data will result in the LEA request being treated as a general public records request and it will be addressed pursuant to the General Policies and Procedures of the Public Records Division.

OPERATING PROCEDURES

Initial Request:

When a LEA request is received, personnel within the Public Records Division will:

- Verify that the request has been submitted from a LEA pursuant to Florida Statutes, 790.065, 943.051(2), 943.051(3), 943.059, and 119.071(2)(h)(2)(c), or for any other reason permissible by law.
- Provide acknowledgement to the requestor using the contact information provided.
- Determine if there is sufficient information in the request to identify the record(s) requested and respond:
 - a. If a request is unclear or there is insufficient information to determine what is being requested by the requestor, a notification will be sent to the requestor seeking clarification or further identification of what record(s) is being requested. If no response is received within thirty (30) days, the request will be closed without prejudice;
- Determine if the Office has custody or control of the requested record:
 - a. If it is determined that a request has been made for records or reports that do not exist or are not within the custody or control of the Office, a response will be sent to the requestor using the contact information provided, notifying the requestor that the record(s) or report(s) does not exist or is not within the custody or control of the Office and the request will be closed.

Review:

Any confidential information that is not permitted to be transferred between law enforcement agencies will be redacted or removed.

Fees and Costs:

No costs or fees will be assessed for records requested by LEAs.

Delivery:

The Public Records Division will deliver the requested records to a requestor by e-mail or Egnyte (or other internet file sharing program), where possible. Other delivery methods are by hand, if picked up from the Office by the requestor, or U.S. Mail.

STATUTORY AUTHORITY

Public Records, § 119.071(2)(h)(2), FS:

Criminal investigative information and criminal intelligence information made confidential and exempt under this paragraph may be disclosed by a law enforcement agency:

- a. In the furtherance of its official duties and responsibilities.
- c. To another governmental agency in the furtherance of its official duties and responsibilities.

Court-Ordered Sealing of Criminal History Records, § 943.059(4), FS:

A criminal history record of a minor or an adult which is ordered sealed by a court pursuant to this section is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution and is available only to the person who is the subject of the record, to the subject's attorney, **to criminal justice agencies for their respective criminal justice purposes**, which include conducting a criminal history background check for approval of firearms purchases or transfers as authorized by state or federal law...

Sale and Delivery of Firearms, § 790.065(2)(a), FS:

Upon receipt of a request for a criminal history record check, the Department of Law Enforcement shall:

Review any records available to determine if the potential buyer or transferee:

1. Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23;
2. Has been convicted of a misdemeanor crime of domestic violence, and therefore is prohibited from purchasing a firearm;
3. Has had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred; or
4. Has been adjudicated mentally defective or has been committed to a mental institution by a court or as provided in sub-sub-subparagraph b.(II), and as a result is prohibited by state or federal law from purchasing a firearm.

Criminal Justice Information, § 943.051(1), (2), (3), FS:

(1) The Criminal Justice Information Program, acting as the state's central criminal justice information repository, shall:

- (a) Collect, process, store, maintain, and disseminate criminal justice information and records necessary to the operation of the criminal justice information system of the department.
 - (b) Develop systems that inform one criminal justice agency of the criminal justice information held or maintained by other criminal justice agencies.
- (2) The fingerprints, palm prints, and facial images of each adult person charged with or convicted of a felony, misdemeanor, or violation of a comparable ordinance by a state, county, municipal, or other law enforcement agency shall be captured and electronically submitted to the department in the manner prescribed by rule. Exceptions to this requirement for specified misdemeanors or comparable ordinance violations may be made by the department by rule.
- (3) (a) The fingerprints, palm prints, and facial images of a minor who is charged with or found to have committed an offense that would be a felony if committed by an adult shall be captured and electronically submitted to the department in the manner prescribed by rule.
- (b) A minor who is charged with or found to have committed the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor is issued a civil citation pursuant to s. 985.12:

Notice to State Attorney and Multidisciplinary Team, § 394.913, FS:

Notice to state attorney and multidisciplinary team of release of sexually violent predator; establishing multidisciplinary teams; information to be provided to multidisciplinary teams.

- (1) The agency with jurisdiction over a person who has been convicted of a sexually violent offense shall give written notice to the multidisciplinary team and shall provide a copy of the notice to the state attorney of the circuit in which that person was last convicted of a sexually violent offense...
- (2) The agency having jurisdiction shall provide the multidisciplinary team with the following information:
 - a. The person's name; identifying characteristics; anticipated future residence; the type of supervision the person will receive in the community, if any; and the person's offense history;
 - b. The person's criminal history, including police reports, victim statements, presentence investigation reports, post-sentence investigation reports, if available, and any other documents containing facts of the person's criminal incidents or indicating whether the criminal incidents included sexual acts or were sexually motivated;
 - c. Mental health, mental status, and medical records, including all clinical records and notes concerning the person;
 - d. Documentation of institutional adjustment and any treatment received and, in the case of an adjudicated delinquent committed to the Department of Juvenile Justice, copies of the most recent performance plan and performance summary;