Records Maintenance and Release

Effective Date:	02/04/2025
Revised Date:	02/04/2025
Issuing Authority: Chief Michael R. Wood	

804.1 PURPOSE AND SCOPE

This policy provides guidance on the maintenance and release of department records. Protected information is separately covered in the Protected Information Policy.

804.2 POLICY

The Greece Police Department is committed to providing public access to records in a manner that is consistent with the New York State Freedom of Information Law (Public Officers Law § 85 et seq.).

804.3 RECORDS ACCESS OFFICER

The Chief of Police shall designate a Records Access Officer. The responsibilities of the Records Access Officer include, but are not limited to:

(a) Managing the records management system for the Department, including the retention, archiving, release, and destruction of department public records.

(b) Maintaining and updating, and ensuring compliance with the department records retention schedule in accordance with Schedule LGS-1 for city, town, village, and county agencies, including:

1. Identifying the minimum length of time the Department must keep records.
2. Identifying the department bureau responsible for the original record.

(c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records, including (Public Officers Law § 87):

1. The times and places records are available.
2. The person/locations where records may be obtained.
3. Maintaining and ensuring the availability of a current schedule of fees as allowed by law.

(d) Identifying records or portions of records that are confidential under state or federal law and not open for inspection or copying.

(e) Establishing rules regarding the processing of subpoenas for the production of records.

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(f) Preparing and maintaining a record that identifies the name, public office address, title, and salary of every officer or employee of the Department (Public Officers Law § 87(3)).

(g) Preparing and maintaining a detailed list of the subject matter of all records in the possession of the Department whether or not available to the public. The list shall be reviewed and updated annually, and the date of the most recent update shall be conspicuously indicated on the list (Public Officers Law § 87(3)).

804.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for records shall route the request to the Administration Bureau if questions or concerns arise.

804.4.1 REQUESTS FOR RECORDS

The processing of requests for any record is subject to the following (Public Officers Law § 87; Public Officers Law § 89):

(a) A request for records shall be in writing and reasonably describe the records requested.

1. Requests shall also be accepted by electronic mail and responded to by electronic mail provided that the written request does not seek a response in some other form.

(b) The Department is not required to create records that do not exist.

(c) A request for records shall be responded to within five business days of receipt of the request by:

1. Making the record available.

2. Denying the request by written notice that includes the reason for denial.

   (a) Notice shall be promptly provided to the appropriate parties (e.g., the requester) when the basis of denial is that disclosure would interfere with a judicial proceeding or law enforcement investigation (Public Officers Law § 87).

3. Furnishing a written acknowledgement of the request and providing a reasonable date the request will be granted or denied, including, where appropriate, that access will be determined in accordance with Public Officers Law § 89(5).

   (a) If a request is to be granted in whole or in part and circumstances prevent disclosure of the record within 20 business days from the date of acknowledgement, the Department shall provide the requester a written statement of the reason for the inability to grant the request and a certain date within a reasonable period when the request will be granted in whole or in part.

(d) Requests that are not complied with in the described time limitations will be considered a denial and subject to an appeal.

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(e) When a record contains material with release restrictions and material that is not subject to release restrictions, the restricted material shall be redacted and the unrestricted material released.

1. A copy of the redacted release should be maintained in the case file for proof of what was actually released and as a place to document the reasons for the redactions. If the record is audio or video, a copy of the redacted audio/ video release should be maintained in the department-approved media storage system and a notation should be made in the case file to document the release and the reasons for the redacted portions.

(f) Records shall be provided on the medium requested by the requester if the Department can reasonably make a copy or a copy can be made by engaging an outside professional service.

(g) Upon request, certification shall be provided in the following circumstances:

1. The Department ensures that the copy of the record is correct.
2. The Department does not have possession of the record.
3. The record cannot be found after a diligent search.

804.4.2 APPEAL OF DENIALS

When a record request is denied, the requester may appeal the determination to the Town of Greece Attorney within 30 days. The notice of the appeal shall be routed to the Town of Greece Attorney . The Department shall have the burden of proving that the denial was subject to one of the exemptions pursuant to Public Officers Law § 87(2).

A detailed written response to the appeal shall be provided to the requester within 10 business days explaining the reasons for further denial or that access will be provided to the record. A copy of the appeal and written determination shall be immediately forwarded to the Committee on Open Government (Public Officers Law § 89(4)).

804.5 RELEASE RESTRICTIONS

Examples of release restrictions include (Public Officers Law § 87(2); Public Officers Law § 89(2)):

(a) Personal identifying information, including an individual’s photograph; Social Security and driver identification numbers; name, address, and telephone number; and medical or disability information that is contained in any driver license record, motor vehicle record, or any department record, including motor vehicle accident reports, are restricted except as authorized by the Department, and only when such use or disclosure is permitted or required by law to carry out a legitimate law enforcement purpose (18 USC § 2721; 18 USC § 2722).

(b) Information in personnel or similar files that would be an unwarranted invasion of personal privacy.

(c) Records that if disclosed would constitute an unwarranted invasion of personal privacy.

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(d) Records that are compiled for law enforcement purposes and which, if disclosed, would:

1. Interfere with law enforcement investigations or judicial proceedings.
2. Deprive a person of a right to a fair trial or impartial adjudication.
3. Identify a confidential source or disclose confidential information relating to a criminal investigation.
4. Reveal criminal investigative techniques or procedures (except routine techniques and procedures).

(e) Identities of victims of sex offenses (Civil Rights Law § 50-b).

(f) Records relating to a case involving a youth who has been adjudicated a youthful offender (CPL § 720.35).

(g) Records relating to the arrest and disposition of juvenile delinquents (Family Court Act § 381.3).

(h) Interagency or intra-agency memoranda that are not statistical or factual tabulations or data; instructions to members that affect the public; final agency policy or determinations; or external audits, including but not limited to audits performed by the comptroller and the federal government.

(i) Records that would jeopardize the security of the department computer systems.

(j) Records that would endanger the life or safety of any person.

(k) Records that would impair present or imminent contract awards or collective bargaining negotiations.

(l) Recordings of calls made to the E911 system (County Law § 308).

(m) Protected criminal history records.

(n) The addresses, personal telephone numbers, personal cell phone numbers, and personal email addresses of a member, unless required to do so under Article 14 of the Public Employees Fair Employment Act or compelled to do so by lawful process (e.g., a subpoena) (Civil Service Law § 209-a).

(o) Protected personal information contained in disciplinary records (Public Officers Law § 87(4-a); Public Officers Law § 87(4-b); Public Officers Law § 89(2-b); Public Officers Law § 89(2-c)).

(p) Any other information that may be specifically exempted from disclosure by state or federal statute.

804.6 SUBPOENAS AND DISCOVERY REQUESTS

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Administration Bureau Deputy Chief for review and processing. While a subpoena duces tecum may ultimately be subject to compliance, it is not an order from the court that will automatically require the release of the requested information.

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Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the Assistant District Attorney, Town Attorney or the courts.

All questions regarding compliance with any subpoena duces tecum or discovery request should be promptly referred to legal counsel for the Department so that a timely response can be prepared.

804.7 RELEASED RECORDS TO BE MARKED

Records released pursuant to this policy should be stamped in a colored ink or otherwise marked to indicate the department name and to whom the record was released.

804.8 SEALED RECORDS

Sealed records orders received by the Department shall be reviewed for appropriate action by the Staff Services supervisor or their designee. Staff Services shall seal such records as ordered by the court. Records may include, but are not limited to, a record of arrest, investigation, detention or conviction. Once sealed, members shall respond to any inquiry as though the record did not exist.

804.9 SECURITY BREACHES

Members who become aware that any Greece Police Department system containing private information may have been breached should notify the Administration Bureau as soon as practicable.

The Administration Bureau should provide notice in the form, manner, and to all entities as required by federal, state, and local law.

Notice should be given as soon as reasonably practicable.

Any determination to delay notification (e.g., notification will impede a criminal investigation, measures are being taken to determine the scope of the breach and restore the integrity of the system) and any determination that notice of the breach is not required (e.g., the exposure was an inadvertent disclosure by authorized persons and the Department determines that the exposure will not result in misuse or harm) should be documented. Such documentation should be retained in accordance with the records retention schedule and provided to the state attorney general when required by state or local law.

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Administration Bureau should promptly notify Town of Greece IT where applicable, and the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

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