



Apex Police Department General Order



<i>Title</i> Public Information and Media Relations		<i>Order Number</i> 406-20
<i>Effective Date:</i> August 20, 2020	<i>Amends:</i> General Order 406-17	
<i>CALEA Standard:</i> 54.1.1, 54.1.2, 54.1.3, 54.1.4	<i>Rescinds:</i>	
<i>Reference:</i> NCGS 132-1(a)(b)NCGS 13201.4(d)(e) NCGS 132-6 Freedom of Information Law (FOIL)	<i>Pages:</i> 11	
<i>Forms:</i>		

Public Information and Media Relations

Purpose

The purpose of this directive is to establish guidelines regarding the release of information by employees to the news media and the public.

Policy

It is the policy of the Apex Police Department to maintain an atmosphere of openness with both the public and news media outlets. The department recognizes that an informed, supportive, and cooperative public is essential to successful policing, and that public trust and confidence in law enforcement is enhanced when law enforcement is open and honest with the community. The news media can be an effective and efficient means of assisting in such communications.

The department recognizes the obligation of providing accurate and timely information concerning its activities. It is committed to doing so and welcomes public inquiries. All personnel, consistent with this policy, will cooperate with members of the media regarding official operations and activities, since they share in the responsibility of maintaining public trust. Members of the news media will be treated fairly, impartially, and with respect and honesty. Nonetheless, there may be times when information possessed by the department cannot be released, whether to protect the integrity of an ongoing investigation or because of other restrictions as provided by law.

Public Information and Media Relations

Definitions

Employee – Any full-time or part-time, paid personnel employed with the Apex Police Department. Volunteers, Explorers, and other non-paid personnel are not authorized to release information or records.

Public Agencies – Every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority, or other unit of government of the State or of any county, unit, special district, or other political subdivision of government. (SOURCE: NCGS 132-1(b))

Public Information Officer (PIO) – A sworn law enforcement officer appointed by the Chief of Police as the designated primary media contact and media liaison.

Public Record – All documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. (SOURCE: NCGS 132-1(a))

North Carolina General Statutes

1. Public Records – Access

- The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost, unless otherwise specifically provided by law. As used herein, "minimal cost" will mean the actual cost of reproducing the public record or public information. (SOURCE: NCGS 132-1(b))

➤ **NOTE:** The Town Council sets the fees for public records.

2. Criminal Investigations and Intelligence Information Records

- Records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information compiled by public law enforcement agencies are not public records as defined by NCGS 132-1. Records of criminal investigations conducted by public law enforcement agencies or records of criminal intelligence information may be released by order of a court of competent jurisdiction. (SOURCE: NCGS – 132–1.4)

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3. Court Orders

- If information has been withheld by the agency due to investigative necessity pursuant to Section 132-1.4, persons, corporations, or members of the media will be required to file for a court order compelling disclosure of the information. (SOURCE: NCGS 132-1.4 (d))
- If a public law enforcement agency believes that release of information that is public record under subdivisions C (1) through C (5) of NCGS 132-6 will jeopardize the right of the State to prosecute a defendant or the right of a defendant to receive a fair trial, or will undermine an ongoing or future investigation, it may seek an order from a court of competent jurisdiction to prevent disclosure of the information. (SOURCE: NCGS 132-1.4 (e))

Public Information Officer (PIO) Function

1. The Chief of Police will designate a Public Information Officer (PIO) to be the liaison with the media and the general public regarding information of public concern and other related issues.

- Generally the responsibilities and functions of the PIO will be assigned to the Deputy Chief of Police with the Administrative Division Commander serving as the supporting PIO, as needed.
- In the absence of the PIO, public information duties will be handled by the Chief of Police or his/her designee.

2. The PIO will:

- Understand and comply with North Carolina General Statutes (NCGS) Chapter 132 – Public Records
- Attend training related to the PIO function (54.1.4)
- Coordinate and authorize the release of information about victims, witnesses, and suspects (54.1.1 (d))
- Coordinate and authorize, with approval of the Chief of Police, the release of information concerning confidential agency investigations and operations (54.1.1 (e))
- Assist in preparing monthly, quarterly, and annual reports, as requested
- Prepare press releases regarding newsworthy events (e.g., major arrest, new programs, agency initiatives, etc.), as needs arise, and assist in delivering this information to the media (54.1.1 (b))
 - A copy of all press releases will be forwarded to the Chief of Police
- Schedule, arrange, and assist at news/media conferences (54.1.1 (c))
 - News conferences will be arranged and conducted only at the direction of the Chief of Police
- Respond to incidents where the media is likely to stage or when requested by the Chief of Police to act as the agency liaison to assist the news media (54.1.1 (a))

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- Periodically confer with media outlets to determine if there are any communication barriers or issues that may affect an open line of communication
 - Assist the Town's public information function and other public safety agencies during emergency, disaster, and crisis situations to release information as part of a mutual effort (54.1.1 (f))
 - Solicit input from the news media in the development and revision of policies relating to public information and news media relations
 - Ensure that the Chief of Police is informed of all newsworthy situations and approves all information released to the media
 - Be on-call and when possible or practical, respond to public information/media requests within a reasonable time period, based upon the gravity of the situation and the surrounding circumstances
3. Department employees will provide reasonable assistance to news media personnel in their coverage of routine news stories and at the scene of incidents. Such assistance will be secondary to duties and responsibilities required by an individual's position or assignment. (54.1.1 (a))
 4. During an on-going, emergency situation, the Incident Commander or designee will assist the PIO in his/her efforts to report the situation. The Incident Commander may request that the news media assist the department by providing information to the community regarding street closures, traffic rerouting, emergency notifications, or other information that is appropriate including alerts for missing or endangered persons.
 5. Employees must exercise care, common sense, and discretion to avoid rendering statements or disclosing information that may create a misunderstanding or compromise the effectiveness of service or negatively influence an ongoing investigation. Employees are not authorized to release any information without supervisory approval in compliance with this General Order. At no time will confidential information be released to the public without the approval of the Chief of Police.
 - Employees who provide assistance to news media personnel will provide the PIO with the information or assistance provided to ensure efficiency and consistency.
 6. On-duty supervisory personnel are authorized to provide limited responses to inquiries as part of the public information function.
 7. To ensure the timely release of information, the officer in charge at a scene will contact command personnel at the earliest possible opportunity with an oral summary of the incident.
 8. The Chief of Police will be notified as soon as possible as to the nature and content of any release of information to the media.

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9. Department employees who observe what they perceive to be inappropriate behavior on the part of news media personnel should inform their immediate supervisor at the time of occurrence, if possible. If the behavior is in violation of NCGS or the Town of Apex *Code of Ordinances*, appropriate legal action may be pursued. In all cases, the Chief of Police should be informed of the perceived inappropriate behavior of news media personnel, as soon as possible.

Inquiries

1. During business hours (Monday through Friday, 0800 to 1700 hours), public information and media requests should be directed to the PIO via the department's administrative numbers.
2. During non-business hours, or when the PIO is not available, requests will be referred to the Watch Commander or on-duty supervisor.
3. If the PIO, Watch Commander, and/or on-duty supervisor are not available, the Telecommunicator, or other employee receiving the inquiry, will advise that the inquiry will be forwarded appropriately and re-contact will be made.
 - Newsworthy events require the notification of the PIO and the Chief of Police as soon as practical by the on-duty supervisor, in accordance with *General Order 711 – Notification Matrix*.
4. Persons making inquiry or requesting public information will NOT be asked for their name, affiliation, relationship, reason, or purpose for the request.
 - If necessary to facilitate leaving a message for the PIO, Chief of Police, or other department employee, or to provide the report by US mail or email, the requester may be asked to provide a name, telephone number, email address, or other information to facilitate processing his/her request.
 - If the requester refuses, he/she will be advised of the best date and time to contact the PIO or other designated department employee.

Release of Information

1. When releasing public information, common sense must prevail.
 - The release of information is limited to facts only and must be conducted in accordance with *General Order 401 – Records Administration* and this directive.
2. The request for inspection and/or copies of records held by the department must be specific in nature.

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- Vague requests or requests based on incomplete data will not be honored.
 - Exceptions will be at the discretion of the PIO or at the direction of the Chief of Police.
3. The on-scene supervisor may answer general questions from the news media adhering to the guidelines in this General Order.
4. The following information **may** be released to the news media in criminal matters, unless such release would compromise the investigation: (54.1.1 (d))
- The charged person's name as provided by law (if 18 years of age or older), gender, residence, employment, marital status, and any similar biographical data
 - A brief synopsis of the charge (if any), complaint, indictment, or similar information
 - The identity of the investigating and arresting officers, investigating and arresting officers' agencies, and length of the investigation
 - The circumstances immediately surrounding the arrest, including the time and place of arrest, injuries sustained (to arrestee), resistance, pursuit, possession and use of weapons, and description of items seized at the time of arrest
 - The victim's name, address, age, gender, occupation, property involved, and injuries sustained as provided by law (if 18 years of age or older); in the event of a victim's death or serious injury, the victim's family will be notified prior to releasing information to the news media
 - Only the victim's age, gender, and general location, when the case involves a sex offense. Sex offenses include:
 - First Degree Forcible Rape
 - Second Degree Forcible Rape
 - First Degree Forcible Sexual Offense
 - Second Degree Forcible Sexual Offense
 - First Degree Statutory Sexual Offense
 - Sexual Activity by a Substitute Parent
 - Sexual Activity by a Custodian
 - Indecent Liberties with a Child
 - Crimes Against Nature
 - Incest Between Near Relatives
 - Incest Between Uncle and Niece or Aunt and Nephew
 - Fornication and Adultery
 - Indecent Exposure
 - Secretly Peeping into a Room Occupied by Another
 - Sexual Performance by a Child
 - Obscenity: Employing or Permitting Minor to Assist in Obscenity Offense
 - Obscenity: Dissemination to Minors Under 16
 - Obscenity: Dissemination of Sexually Oriented Material to Minors

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5. The following information **will not** be released to the news media or general public without a court order or approval of the Deputy Chief of Police or the Chief of Police:
(54.1.1 (d))

- Statements related to the prior criminal record, character, or reputation of any person involved in a case, including the victim, complainant, etc.
- Admissions, confessions, or contents of a statement or alibi attributable to an accused person
- The performance or results of any tests, the refusal of the accused to take a test, or to participate in a lineup, except those which are a matter of public record, such as Breathalyzer test results
- Statements concerning the credibility or anticipated testimony of prospective witnesses
- The possibility of a plea of guilty to charges or to a lesser offense, or any other disposition
- Opinions concerning the evidence or any argument in a case, regardless of whether or not it is anticipated that the evidence or argument will be used at trial
- Opinions of agency personnel regarding the guilt, innocence, character, or reputation of a suspect
- The name and address of any subject sought for a crime, but not yet formally charged, unless help is desired from the news media in an effort to locate the subject
- Personal information identifying any juvenile arrested, as provided by law
- Personal information identifying sexual assault victims
- Personal information identifying fatal accident victims or injured persons until every possible effort has been made to notify next of kin
 - When notifications have been made, names of victims should be released promptly, in accordance with applicable law and the provisions of this General Order
- The contents of any note or message left by the victim of a suicide
- Information received from other law enforcement agencies without their concurrence in the release of information
- Officer's investigative notes
- Facts that, if divulged, might adversely affect an investigation
- Criminal intelligence information
- Any information that is deemed or reasonably could be considered to be confidential
- Personal information and records regarding employees of the Apex Police Department or Town of Apex, unless proper permission is given by the Chief of Police, the Director of Human Resources, or other competent authority
 - NCGS 160A-168 governs release of employee records

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6. Victim/Witness Information:

- The name or address of a complaining witness or victim can be temporarily withheld if the release of information is reasonably and likely to pose a threat to the:
 - Mental health
 - Physical health
 - Personal safety of the person
 - Would materially compromise a continuing or future criminal investigation or criminal intelligence operation (SOURCE: NCGS 132-6)

7. Special Investigations Guidelines: (54.1.1 (e))

- Confidential intelligence or investigative information will not be disclosed, except with expressed authorization of the Chief of Police
- Information pertaining to internal affairs and internal investigations will not be disclosed, except with expressed authorization of the Chief of Police
 - When information is released on internal affairs or internal investigations, it will be consistent with policy and will conform to applicable personnel regulations

8. Photographs of a suspect may only be released to the media when a valid law enforcement function is served and only when authorized by the PIO or Chief of Police.

9. Photographs of agency employees will not be released unless approved by the Chief of Police.

10. Employees will not make a public statement concerning plans, policies, General Orders, written directives, tactics, or issues of the administration or operation of the agency, unless specifically authorized by the Deputy Chief of Police or the Chief of Police.

Critical Incident, Special Operations, Disaster, Crime or Incident Scenes (54.1.3)

1. Agency personnel assigned to a critical incident, special operations, disaster, crime, or incident scene will refer news media personnel to one source for information and media relations.

- When possible, and to ensure all news media personnel at a scene receive accurate and timely information, a media staging area should be designated, which will serve as the location for official release of incident specific information.
- In most cases, the PIO will assume responsibility for this function, in accordance with the provisions of this General Order.
- In the absence of the PIO, the highest-ranking officer at the scene of an incident will be responsible for assisting news media personnel in covering news stories at the scene, media relations, and release of information.
- When information is released from someone other than the PIO, the PIO will be notified as soon as is reasonable.

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2. Although the scene of a crime, tactical operation, emergency incident, major fire, natural disaster, or other catastrophic event may be closed to all unauthorized persons, the media, including photographers, may be allowed access at the best possible, safe location as determined by the on-duty supervisor, Watch Commander or Incident Commander. (54.1.3)
 - Upon presentation of proper press credentials, news media personnel may be allowed to cross police and fire perimeter lines, subject to restrictions of personnel in charge at the scene. News media personnel who are not known and cannot produce proper identification may be refused access.
 - News media personnel and the general public are not allowed to interfere with police or other emergency operations.
 - Access by news media personnel will be allowed only after all known evidence has been processed and an on-site investigation has been completed.
 - At incidents where perimeters are established, such as natural or manmade disasters, civil disturbances, mass arrests, and hostage/barricaded person situations, news media personnel and photographers will be given space to operate outside the outer perimeter, unless approved by the on-duty supervisor, Watch Commander or Incident Commander.
 - Media access to fire scenes and the release of information concerning fire scene operations will be controlled by the Fire official in charge.
 - Access may be denied if, in the opinion of the on-duty supervisor, Watch Commander, Incident Commander, or other command officer, allowing access may jeopardize the safety of news media personnel, officers, civilians, or anyone else involved in the incident.
3. Upon activation of the Town of Apex Emergency Operations Center (EOC), the public information function will be managed through the EOC.
4. In situations where more than one law enforcement agency is involved, the agency having primary jurisdiction is responsible for the release of information and/or coordinating the release of information. Information received from other law enforcement agencies should not be released without their concurrence. (54.1.1 (f))
5. If property owners object to the presence of news media personnel, those personnel will be instructed to leave the area unless it is open to the public.
6. All new media personnel will be given fair and equal access.

Photographing, Televising, or Recording by News Media Personnel or the General Public

1. In Public Places:
 - News media personnel and the general public will be allowed to freely photograph and film at the scene of any incident as long as their activity does not interfere with an investigation

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- Officers may take protective measures, such as covering a body, in order to prevent photographing or televising, if such actions are deemed necessary by the officer in charge
- There are no legal restrictions prohibiting news media personnel or the general public from photographing, videotaping, or recording police officers in the performance of their duties, as long as they do not resist, delay, obstruct, or otherwise interfere with an investigation

2. Suspects/Arrested Persons:

- Suspects or persons in custody will not be deliberately posed for photographs, telecasts, or interviews
- Department employees will not pose themselves with a suspect or arrested person, nor enter themselves into any agreement to have a suspect or person in custody at a prearranged time and place to be photographed, televised, or interviewed
- No action will be directed against the news media personnel to prevent or impede their lawful right to photograph such persons at incident scenes or other public places
- Under no circumstances will news media personnel be permitted to interview persons in the custody of the department

Policy Development (54.1.2)

1. The Apex Police Department encourages comment by the news media in the development of changes in department policy and procedures relating to the public information function.
 - The PIO will seek this input from representatives of local media prior to policy enactment or revision as needed (generally prior to the revision of this General Order).
 - A summary of this input will be provided to the Chief of Police for consideration of policy revisions, etc.

Freedom of Information Law (FOIL) Requests

1. The Freedom of Information Law (FOIL) provides that, if the federal law would prohibit the release of information and the NCGS would allow the release, the federal provisions would prevail.
2. Requests for release of records under the provisions of FOIL must be clear and concise, with specific information supplied.

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3. All public information requests will be reviewed by the Administrative Division Commander and forwarded to the Chief of Police as necessary. Types of requests include, but are not limited to:
 - Oral requests
 - Emailed requests
 - Requests received through the Town's website
 - Written requests

4. Staff will refrain from attempting to determine the reason the request is made and will not ask the requestor questions beyond those necessary to facilitate the ability to meet the request. Examples of questions which may assist in meeting a request may include but are not limited to:
 - Address
 - Associated name
 - Date/Time of occurrence
 - Vehicle information

5. The Administrative Division Commander will review the request, confer with the Deputy Chief of Police and the Chief of Police, and make a recommendation regarding the release of the record.
 - The Town Attorney may be asked to assist in making the final determination.
 - The requester will be notified, in writing, of the determination.
 - If a record is to be released, it will be in compliance with applicable federal and state law.
 - If the record contains both public and confidential information, the information that is deemed confidential and not subject to public release will be redacted.

Text in "Green" denotes a significant change in policy

BY ORDER OF:



John W. Letteney
Chief of Police