



Kern County Sheriff's Office

Policies and Procedures

TITLE: PERSONNEL RECORDS CONFIDENTIALITY		NO: J-1600	
APPROVED: Donny Youngblood, Sheriff-Coroner			
EFFECTIVE: May 25, 1992	REVIEWED: 06/08/2018	REVISED: 03/01/2007	UPDATED: 06/08/2018

POLICY

The California Penal Code provides that peace officers' records are confidential. Further, for non-peace officer personnel of a department, personnel records are protected under Government Code 62548 and Code of Civil Procedure Section 1985.4 and 1985.6.

Thus, the personnel records of all members are deemed confidential and shall not be released or information disclosed therefrom except as prescribed below.

This policy and procedure will apply to all employees, past and current.

DEFINITIONS

PERSONNEL: All members of the Sheriff's Office, whether officers or employees, sworn or non-sworn, permanent, part-time, extra-help or volunteer.

PERSONNEL RECORDS: Any file maintained under that individual's name by his or her employing agency and containing records relating to any of the following:

- a) Personal data, including marital status, family members, educational and employment history, home addresses, or similar information;
- b) Medical or psychological history;
- c) Election of employee benefits or affiliations;
- d) Employee advancement, appraisal, discipline, training, or employee performance reports;
- e) Complaints or investigation of complaints against the employee alleging misconduct or performance deficiencies, whether filed by a citizen, another agency, or department. Any dispositions of such complaints.
- f) Any other information of which the disclosure would constitute an unwarranted invasion of personal privacy.

PROCEDURE

Information from personnel files may be released only by the following methods and the information released will be held strictly to that which is specified and nothing more.

- **For peace officers only:**
 - Pursuant to competent state court order under Evidence Code 1043 – 1047, or Federal Rules of Disclosure when appropriate;
 - Pursuant to any competent federal court order.
- **For non-peace officers only:**
 - Any order or deposition subpoena from a competent court done in compliance with the law as prescribed in the Code of Civil Procedure 1985.4.
- **For all members of the Sheriff's Office:**
 - Any employee files or records gathered during the course of an investigation may be made available to the employee after a finding is made in the investigation. Thereafter, all employee files concerning the investigation will be made available to the employee;
 - Upon signed waiver for release by the affected employee and if so approved by the Sheriff-Coroner, Undersheriff, or Chief Deputy of Support Services Bureau, or the Custodian of Personnel Records;
 - Upon written request of the concerned employee, the employee's representative may review said employee's personnel file with a signed waiver. Such waiver will be retained in the employee's file;
 - Employee file information may be released when and if an emergency is deemed to exist by the Sheriff-Coroner, Undersheriff, or the Chief Deputy of the Support Services Bureau. Information so released must be made pursuant to and/or in relation to the existence of an actual emergency. An emergency is defined as the existence of circumstances that might affect life or injury to persons or property;
 - Upon need of information for personnel appraisal or discipline, a sergeant or non-sworn equivalent supervisor responsible for said employee may review original relevant personnel material with the approval of the Custodian of Personnel Records, the Sheriff-Coroner, Undersheriff, or a Chief Deputy. No copies of the material shall be made for this purpose.
 - Any Commander or Chief Deputy, with an operational necessity may review any and all records;

J-1600-2

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- Personnel records may be released to County Counsel (including Risk Management) or other attorney representative of the Sheriff's Office upon a showing of legitimate business need to the Custodian of Personnel Records;
- Pursuant to the settlement of U.S. vs. County of Kern, the findings of "sustained", "not sustained", "exonerated", or "unfounded" in any racial or sexual discrimination or harassment complaint shall be released to any employee complainant as to each allegation. The disposition or any punitive steps shall not be divulged. Such release shall apply only to cases filed after the settlement date of October 1, 1991.
- Any matter deemed confidential under the attorney-client privilege shall not be released by any method;
- Any pre-employment letters of reference are protected and may not be released by any method;
- Pre-employment letters of reference are protected and may not be reviewed. (CLC 1198.5).
- Pending criminal investigations of an employee are protected and an employee has no right of access to the information in such cases until the investigation is completed. (CLC 1198.5).
- Certain medical or psychological information relevant to an employee's ability to perform their job may be classified confidential by the Sheriff's Office and may only be reviewed by the employee, the Sheriff-Coroner, Undersheriff, a Chief Deputy, or the Custodian of Records. Any employee wishing to review such information must specifically request the material. It will not be provided in a general records review.
- All lists of employees' home addresses and/or phone numbers compiled by the Sheriff's Office are considered personnel records and only those persons or work units approved by the Sheriff-Coroner, Undersheriff, or a Chief Deputy shall be given copies. No person shall make unauthorized copies of such lists.
- Any Federal, California State or Kern County auditor may review personnel files for the express purpose of examining for improprieties or proper records maintenance with the approval of the Sheriff-Coroner, Undersheriff, a Chief Deputy, or the Custodian of Personnel Records.
- Records requested by a District Attorney, the Attorney General, the U.S. Attorney or a Grand Jury conducting an official investigation into the conduct of the employee or the agency, pursuant to Penal Code Section 832.7 will be provided upon written request.

J-1600-3

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- Inquiries of news media about personnel information of members will be limited to:
 - Full name of employee;
 - Age or date of birth;
 - Duty Assignment;
 - Duty status (only “on duty” or “off duty”);
 - Employment status (employed, never employed or no longer employed);
 - Date of employment if ever employed and date of separation if no longer employed;
 - If separated, no reason for separation shall be given;
 - Otherwise as required by law.

DIRECTIVE “A”

Any member of the Sheriff’s Office who comes into possession of, or knowledge of contents of, any other member’s personnel files shall maintain the confidentiality of that information in accordance with the above procedures. Any release of personnel information by any other method will be considered a violation of the confidentiality provisions of D.P.P.M. C-100 and insubordination under B-100 and will subject violators to disciplinary action.

DIRECTIVE “B”

Requests for personnel records by legal process shall be forwarded to County Counsel for appropriate handling at the discretion of the Custodian of Personnel Records.

J-1600-4

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EXHIBIT A
KERN COUNTY SHERIFF'S OFFICE
EMPLOYEE STATEMENT FORM

As an employee of the Kern County Sheriff's Office you may have access to confidential information on individuals including, but not limited to; criminal records, Department of Motor Vehicle records, and law enforcement data which is controlled by statute and Sheriff's Office policy. Any misuse of such data or the authority to retrieve it may adversely affect an individual's civil rights and is a violation of the law.

Penal Code Section 502 prescribes felony and misdemeanor penalties relating to computer crimes.

Penal Code Section 11105 and 13300 identify who has access to criminal history information and under what circumstances it may be released. Penal Code Sections 11140-11144 and 13301-13305 prescribe penalties for misuse of criminal history information. Government Code Section 6200 prescribes the felony penalties for misuse of public record and CLETS information. Penal Code Sections 11142 and 13303 state:

“Any person authorized by law to receive a record or information obtained from a record who knowingly furnishes the record or information to a person not authorized by law to receive the record or information is guilty of a misdemeanor.”

California Vehicle Code Section 1808.45 prescribes the penalties relating to misuse of Department of Motor Vehicles record information.

Kern County Sheriff's Office Policies and Procedures Section J-1610 governs the use of computer systems and data.

YOUR RIGHT TO KNOW AND NEED TO KNOW MUST GOVERN YOUR ACCESS AND USE OF LAW ENFORCEMENT RELATED INFORMATION. ACCESSING ANY LAW ENFORCEMENT DATA AND/OR DISSEMINATING CONFIDENTIAL INFORMATION TO ANY UNAUTHORIZED PARTY IS A VIOLATION OF THE LAW. ANY EMPLOYEE WHO IS RESPONSIBLE FOR SUCH MISUSE IS SUBJECT TO IMMEDIATE SHERIFF'S OFFICE DISCIPLINARY ACTION UP TO AND INCLUDING DISMISSAL AND POSSIBLE CRIMINAL AND/OR CIVIL ACTION.

I have read the above paragraph and understand the policy regarding misuse of law enforcement data.

Signed _____

Date _____

Print Name _____

Social Security Number _____