

Whereupon, Council member Jergens moved that the following resolution be adopted:

**RESOLUTION 2023-67**

**RESOLUTION ADOPTING A VIDEO AND RECORDS RETENTION POLICY**

Whereas, Iowa Code § 22. 1(2) provides each governmental body shall delegate to particular officials and employees the responsibility for implementing the requirements of Chapter 22 regarding the examination of public records and the governmental body shall publicly announce the particular officials or employees to whom responsibility to implement the requirements of Chapter 22 has been delegated; and

Whereas, Iowa Code §22.1(3) defines public records as "all records, documents, tape, or other information stored or preserved in any medium, or belonging" to the City of Eagle Grove; and

Whereas, it is in the best interest of the public and City staff to have a single, uniform video and record retention policy applicable; and

Whereas, the City Council finds that the attached Video and Record Retention Policy of the Eagle Grove Police Department should be adopted.

Now, therefore, be it resolved by the City Council of the City of Eagle Grove, Iowa:

Section 1. The attached Video and Records Retention Policy of the Eagle Grove Police Department is adopted as the policy of the City of Eagle Grove, Iowa for the examination and copying of public records.

Section 2. This Resolution shall not hinder the City Council and Staff from complying with the Code of Iowa, judicial decrees, or other requirements to comply with current law.

The motion was seconded by Council member Pamperin and after due consideration thereof, the roll was called and the following Council members voted:

AYES: Pamperin, Weland, Urickwater, Limerick, Jergens

NAYS:

Whereupon, the Mayor declared said Resolution duly passed and adopted this 7<sup>th</sup> day of August, 2023.

Sandra McGrath

Sandra McGrath, Mayor

ATTEST:

Bryce Davis

Bryce Davis, City Administrator/Clerk

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## Records Maintenance and Release

### 803.1 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.

### 803.2 POLICY

The Eagle Grove Police Department is committed to providing public access to records in a manner that is consistent with the Iowa Open Records Law (Iowa Code § 22.1 et seq.).

### 803.3 CUSTODIAN OF RECORDS

The Chief of Police shall designate a Custodian of Records and make available to the public the identity of the person by prominently posting for public view (Iowa Code § 22.1).

The responsibilities of the Custodian of Records 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 the department records retention schedule, including:
  - 1. Identifying the minimum length of time the Department must keep records (180 days).
- (c) Establishing rules regarding the inspection and copying of department public records as reasonably necessary for the protection of such records.
- (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.
- (f) Ensuring the availability of a current schedule of fees for public records as allowed by law.
- (g) Being familiar with the Iowa Open Records Law.

### 803.4 PROCESSING REQUESTS FOR PUBLIC RECORDS

Any department member who receives a request for records shall route the request to the Custodian of Records or the authorized designee.

#### 803.4.1 REQUESTS FOR PUBLIC RECORDS

The processing of requests for public records is subject to the following:

- (a) Records shall be made available during customary business hours (Iowa Code § 22.2).
- (b) A request for access to records may be made in person, in writing, by telephone, or electronically, and should reasonably describe the records sought (Iowa Code § 22.4).

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- (c) The requester is not required to identify themselves or give a reason for requesting a record.
- (d) Access and copies to a request for records should be provided promptly, but no longer than 10 business days. Good-faith, reasonable delays are permitted for examination and copying if it should become necessary to seek an injunction to restrain a record from being examined or copied or if time is needed to determine if the record is a public or confidential record (Iowa Code § 22.8).
- (e) Record requests that are denied should be responded to promptly. The denial should be in writing, signed by the Custodian of Records, and include:
  - 1. The name and title or position of the custodian responsible for the denial.
  - 2. The citation to law that is the authority to deny disclosure and a brief statement of the reasons for the denial.
- (f) The Department is not required to create records that do not exist.
- (g) 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.
- (h) A record shall be made available in the format readily accessible to the requester. The record may also be made available in a specific format requested by the requester and a fee charged for reasonable costs of any required processing (Iowa Code § 22.3A).
- (i) Costs for records shall be communicated to the requester upon receipt of a request (Iowa Code § 22.3).
- (j) The fee schedule shall be prominently posted for public view (661 IAC 80.3).

#### 803.4.2 INJUNCTIONS

The Custodian of Records should consult with city legal counsel to determine if an injunction to restrain examination or copy records is appropriate (Iowa Code § 22.8).

#### 803.5 RELEASE RESTRICTIONS

Examples of release restrictions include (Iowa Code § 22.7):

- (a) Any 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's license record, motor vehicle record, or any department record, including traffic accident reports, is 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) Personal information in confidential personnel records except for name, compensation, dates employed, positions held, educational institutions attended, degrees earned, previous employers, positions previously held, dates of previous

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employment, and the fact that a member resigned in lieu of termination, was discharged or demoted as the result of a final disciplinary action, and the documented reasons and rationale for the resignation in lieu of termination, discharge, or demotion (Iowa Code § 80F.1).

- (c) Medical information.
- (d) Examinations, including but not limited to cognitive and psychological examinations for law enforcement officer candidates.
- (e) Information concerning the procedures used to control disturbances at adult correctional institutions.
- (f) Records regarding the issuance of a driver's license under Iowa Code § 321.189A (driver's licensed for undercover law enforcement officers).
- (g) Medical examiner authored records and reports, including preliminary reports, investigative reports, and autopsy reports.
- (h) Victim information that may be protected by statutes relating to child victims or victim compensation (Iowa Code § 915.36; Iowa Code § 915.90).
- (i) Certain juvenile-related information (Iowa Code § 232.149).
- (j) Ongoing investigative and crisis intervention reports and specific portions of electronic mail and telephone billing records of the Department where part of an ongoing investigation except where authorized by law. The date, time, specific location, and immediate facts and circumstances surrounding a crime or incident is not confidential except in those unusual circumstances where disclosure would plainly and seriously jeopardize an investigation or pose a clear and present danger to the safety of an individual (Iowa Code § 22.7).
- (k) Criminal identification files except records of current and prior arrests and criminal history data.
- (l) An intelligence assessment and intelligence data under Iowa Code § 692.2 et seq. except as allowed by law.
- (m) Identity of a child victim (Iowa Code § 915.36).
- (n) Confidential information (as defined in Iowa Code § 86.45) filed with workers' compensation as a result of an employee's injury or death.
- (o) Information and records concerning physical infrastructure, cyber security, critical infrastructure, security procedures, or emergency preparedness developed, maintained, or held by the Department for the protection of members and visitors to the Eagle Grove Police Department, if disclosure could reasonably be expected to jeopardize members, visitors, persons, or property.
- (p) Information related to undercover law enforcement officers and personal information regarding law enforcement officers (Iowa Code § 80G.2; Iowa Code § 80G.3).
- (q) Any other information that may be appropriately denied by Iowa law.

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#### **803.6 SUBPOENAS AND DISCOVERY REQUESTS**

Any member who receives a subpoena duces tecum or discovery request for records should promptly contact a supervisor and the Custodian of Records 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.

Generally, discovery requests and subpoenas from criminal defendants and their authorized representatives (including attorneys) should be referred to the County Attorney, City 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.

#### **803.7 RELEASED RECORDS TO BE MARKED**

Each page of any record 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.

Each audio/video recording released should include the department name and to whom the record was released.

#### **803.8 SECURITY BREACHES**

Members who become aware that any Eagle Grove Police Department system containing personal information may have been breached should notify the Supervisor as soon as practicable.

The Supervisor shall ensure the required notice is given to any resident of this state whose personal information was subject to a breach of security (Iowa Code § 715C.2).

Notice shall be made in the most expeditious manner possible and without unreasonable delay, however, notice may be delayed if notification will impede a criminal investigation (Iowa Code § 715C.2).

For the purposes of the notice requirement, personal information includes an individual's first name or first initial and last name in combination with any one or more of the following (Iowa Code § 715C.1):

- (a) Social Security number
- (b) Driver's license number or unique identification number created or collected by a government body
- (c) Financial account number, credit or debit card number in combination with any required expiration date, or any required security code, access code, or password that would permit access to an individual's financial account
- (d) Unique electronic identifier or routing code, in combination with any required security code, access code or password that would permit access to an individual's financial account

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- (e) Unique biometric data, such as a fingerprint, retina or iris image or other unique physical representation or digital representation of biometric data

If the breach reasonably appears to have been made to protected information covered in the Protected Information Policy, the Supervisor should promptly notify the appropriate member designated to oversee the security of protected information (see the Protected Information Policy).

### **803.9 EXPUNGEMENT/SEALED RECORDS**

Expungement/sealed orders received by the Department shall be reviewed for appropriate action by the Custodian of Records. The Custodian of Records shall expunge/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 a record is expunged/sealed, members shall respond to any inquiry as though the record did not exist.

### **803.10 DIGITAL EVIDENCE RETENTION PERIODS**

Audio and video recordings created by members in the course of their duties be retained based on the categorization and for the time periods specified as listed in this policy.

ARREST	24 MONTHS
ASSAULT	24 MONTHS
FIGHT	12 MONTHS
CITIZEN CONTACT	6 MONTHS
CRISIS INTERVENTION/ MENTAL HEALTH	6 MONTHS
DOCUMENTATION	3 MONTHS
UNATTENDED DEATH	12 MONTHS
SUICIDE	60 MONTHS
HOMICIDE	INDEFINITE
INVESTIGATION/INTERVIEW	24 MONTHS
DOMESTIC	24 MONTHS
MOTORIST ASSISTANCE	6 MONTHS
MOTOR VEHICLE ACCIDENT 10-50PD	6 MONTHS
MOTOR VEHICLE ACCIDENT 10-50 PI/F	24 MONTHS
OWI	12 MONTHS
TRAFFIC STOP	12 MONTHS
PUBLIC INTOX	12 MONTHS
DELETE	1 MONTH
OTHER	6 MONTHS
EMS/FIRE	30 DAYS
UNASSIGNED	12 MONTHS

