



Town of Lexington

Police Department

Subject: Public Information & the News Media Reference: 54.1.1, 54.1.3	
Effective Date: January 1, 2012	Review Date: Annually
By Order of: Mark J. Corr, Chief of Police	

Policy & Procedure

54A

The Municipal Police Institute, Inc. (MPI) is a private, nonprofit charitable affiliate of the Massachusetts Chiefs of Police Association. MPI provides training and model policies and procedures for police agencies. This policy is an edited version of past MPI Policy, previously incorporated by the Lexington Police.

GENERAL CONSIDERATIONS AND GUIDELINES

The news media, including newspapers, radio, television and the Internet – is one of the most effective tools by which citizens can learn about police activity in the community. Residents have a right to know and the media has a right to distribute news and information that help residents maintain their sense of safety and security.

It is difficult to define the relationship that should exist between members of the police department and representatives of the news media but it should include a spirit of cooperation and mutual respect. The Police Department should freely and openly provide all legitimate news items to the media and should expect in return a fair presentation of the facts. The openness with which the Department will provide information must be tempered by the legal responsibility to protect individual rights and the necessity to maintain confidentiality where appropriate.

Because of the nature of police service, there are times and circumstances when it is necessary to temporarily limit and control the flow of information to the public. Many criminal cases under investigation by the police are of such a nature and character that they must be kept confidential. Great care must also be taken to avoid prejudicial pre-trial publicity that could impede the prosecution of criminals. The responsibility for protecting the constitutional guarantees of both the accused and the community is shared equally by the police and the news media.

Because of its capability, the news media can be utilized by the police as a public service to dispel rumors and to calm community fears in the event of a major disaster, public disorder or serious crime

The news media is also the most effective channel available to the police to inform the public of community problems while enlisting the support of community members.

It is the policy of the Lexington Police Department to:

- Inform the community through the news media of events within the public domain that are handled by or involve the Department.
- Be committed to integrity and accuracy of all public statements.

PROCEDURES

A. Public Information Officer (PIO)

1. The Chief of Police, or a designee, will act as the official spokesman for the Department in conducting and maintaining an active liaison with the news media.
2. Under the general direction and control of the Chief of Police, a Public Information Officer (PIO) shall be appointed whose functional responsibilities will include:
 - a. Assisting news personnel in covering routine news stories,
 - b. Being available for on-call responses to the news media;
 - c. Preparing and distributing agency news releases;
 - d. Arranging for, and assisting at news conferences;
 - e. Coordinating and authorizing the release of information about victims and suspects;
 - f. Assisting in crisis situations within the agency;
 - g. Coordinating and authorizing the release of information concerning confidential agency investigations and operations.
 - h. Advising the news media of Departmental policies.

3. If at any time the PIO is not available, the Chief of Police, or his/her designee, may direct another command staff officer to release information or answer inquiries from the media. The officer releasing the information may present the information orally or in writing depending upon the situation.
4. All other persons are prohibited from releasing information to the press unless authorized by the Chief of Police or his/her designee.

B. Press Briefings & News Releases

1. **Day-to-Day Press Releases.** The PIO shall be responsible for the routine weekly release of information on crimes, incidents, emergencies and department operations and programs.
2. **News Releases.** When need arises and time permits during or after a major crime or incident the PIO, under the direction of the Chief of Police or his/her designee, will prepare and cause to be disseminated Department news releases. This information shall be made available at the police station to all of the various news outlets.
3. **News Conferences.** When beneficial to both the Department and the news media the PIO will arrange for, and assist at, any news conferences. The PIO, when authorized by the Chief or his/her designee, may also serve as the Department spokesperson at a news conference.
4. **Investigations.** The Chief of Police or PIO may release information concerning an ongoing criminal investigation. In their absence, the Detective Commander may release information in accordance with these guidelines and in conformance with guidelines established by the Office of the District Attorney.
5. **Public Information Officer.** The Public Information Officer (PIO) may release information contained in Department files to the news media on a case-by-case basis or per request under direction of the Chief of Police or his/her designee.
6. **Department Written Directives.** Statements regarding Department policies, procedures, regulations, personnel matters or official positions on any matter should not be made without the express authorization of the Chief of Police or his/her designee.
7. **Request for Public Information.** Copies of reports, records or other official departmental documents shall not be released without the authority of the Chief of Police or his/her designee.¹

C. Incident Scenes & the Media

1. **News Media Credentials.** The Lexington Police Department will not issue news media credentials but will recognize all media personnel issued "Press" credentials by the Commonwealth's Department of Public Safety/Public Relations Unit. These credentials should be checked and, if circumstances permit, a list of their names and professional affiliations kept.
2. **Access to Crime and Incident Scenes.** The commanding officer at any crime or incident scene will have the discretion to allow or restrict the news media's access to the scene. When making this decision, the commanding officer should consider the following:
 - a. Whenever possible, news media personnel displaying proper identification should be allowed greater access than the general public. This may include providing the news media with a vantage point (staging area) from which observations can be made while minimizing the danger and interference with police and/or emergency operations.
 - b. The degree of access will be unique to each scene based upon the nature, location and severity of the crime or incident.
 - c. Certain scenes (highly dangerous, volatile situations or where evidence can not be protected from destruction or contamination) may dictate no media access at all. This should be used as a last resort, but an option nonetheless.
 - d. During prolonged situations, the degree of access should change in a manner consistent with the improvement or deterioration of the crime or incident scene.
 - e. After a crime scene has been processed, only the owner, legal occupant, or their agents, may grant permission to news media personnel to enter private dwellings or the surrounding curtilage to gather news.
 - f. When in doubt, the commanding officer at the scene should not hesitate to ask for assistance from a superior officer, including the Chief of Police.
3. **General News Media Information.** Media representatives admitted inside police lines shall be permitted to make observations, take photos and interview persons not in police custody. Media representatives shall not be allowed to:

1. Come in direct contact with any physical evidence;
 2. Enter the actual crime scene;
 3. Interfere with or impede police interviews or any part of the investigation.
 4. **Police Information at Crime and Incident Scenes.** Police officers engaged in a police operation or investigation shall defer all inquiries for information from the news media to the Chief of Police or PIO. In the absence of the Chief of Police and the PIO, the police commander at the scene of an incident may release information in accordance with these written directives. In some cases inquiries will be referred to the Office of the District Attorney.
 5. **Mutual Effort Incident Scenes.** Police officers who are present at an incident scene where the primary command responsibility rests with another public service agency (example: major fires = Fire Department) should defer all news media inquiries to the incident commander at the scene.
 6. **Reporting News Media Infractions.** Any officer who observes a news media representative intentionally or unintentionally: 1) endangering another person; 2) compromising the integrity of a police investigation; or 3) violating the provisions of any information privacy law, shall stop such action immediately, notify the commanding officer of the infraction, and submit a written report to the Chief of Police. The Chief may notify the media representative's employer and the Department of Public Safety.
- D. The Law; Access to Information
1. Police departments are called upon by the media, other government agencies and private citizens to provide information and records. The way in which this Department maintains information and records, and to whom this information can be released, are matters governed by law:
 - a. The Massachusetts Freedom of Information Act (the "Public Records" Law) Chapter 4, section 7, paragraph 26 of the General Laws;
 - b. The Criminal Offender Record Information Act (CORI) Chapter 6, sections 167-178 of the General Laws;
 - c. The Fair Information Practices Act Chapter 66A of the General Laws;

- d. The Personal Data Systems Report Act Chapter 30, section 63 of the General Laws;
 - e. The Rape and Sexual Assault Reporting laws sections 97B, 97C, and 97D of Chapter 41 of the General Laws;
 - f. The Police Daily Log Law Chapter 41, section 98F of the General Laws;
 - i. Some daily log entries are prohibited by law from being released. Specifically, pursuant to Ch. 41 Sec. 98F, any log note that includes:

“...a handicapped individual who is physically or mentally incapacitated to the degree that said person is confined to a wheelchair or is bedridden or requires the use of a device designed to provide said person with mobility”
 - ii. The Lexington Police log system allows the exclusion of these log entries from the public log. By placing the code “A1” into the “Geo Code” field, the log entry is identified as an administrative note and will not be displayed in the public log. As required by Ch. 41, Sec. 98F, these entries ***“...shall be kept in a separate log and shall not be a public record nor shall such entry be disclosed to the public.”ⁱⁱ***
2. To ensure compliance with these and other laws and regulations, police personnel, both sworn and civilian, shall not disclose information automatically to the news media, a private citizen or another governmental agency. If any question should exist about the lawful release of information, that information shall not be released until the officer or employee has confirmed that he/she is acting in a lawful manner and in accordance with departmental policy.
3. Before providing information to the news media or responding to inquiries from media representatives, the following police requirements will be carefully considered:
- a. The need to prevent interference with, or the hampering of a police investigation;
 - b. The need to preserve evidence;
 - c. The need to protect the safety of the victims of the crime;

- d. The need to protect the identity of informants;
- e. The need to successfully apprehend the perpetrators of crime;
- f. The need to protect the constitutional rights of persons accused of crime; and
- g. The need to avoid prejudicial pre-trial publicity. When being interviewed by media representatives it may be advisable to refer to the suspect as "the subject" and refer to the offense as the "alleged crime."
- h. The necessity to protect the public; to alert them of potential dangers.

E. Information to Release to the Media

- 1. The identity of the following persons shall not be revealed to the news media except with the direct approval of the Chief:
 - a. Any person under 17 years of age taken into custody or accused of a crime;
 - b. Any complainant under 17 years of age;
 - c. Any victim under 17 years of age;
 - d. Any victim of rape or sexual assault or an attempt to commit rape or sexual assault (regardless of the victim's age). See Chapter 41, section 97D.
 - e. Any person taken into custody because of mental illness.
- 2. In the case of sudden or accidental death or serious injury, the identity of the victims will not be revealed to the news media until the next of kin are notified,
- 3. In addition to the previous two sections, the following information shall not be released to the news media:
 - a. The criminal record of any person;
 - b. The mug shot of an arrested person unless authorized by the District Attorney;
 - c. The character or reputation of an accused;

- d. The existence of, or the contents of any confession, admission or statement made by the accused or the failure or refusal of the accused to make any statement, (it may be stated that the accused denies the charges made against him/her);
 - e. The results of any examination or tests made or the failure or refusal of the accused to submit to any examination or test;
 - f. The identity, testimony or credibility of any prospective witness;
 - g. Any opinion as to the guilt or innocence of the accused or to the possibility that a plea of guilty may be made;
 - h. Any opinion as to the merits, evidence, argument, opinions or theories of the case;
 - i. The contents of any search warrant affidavit pertaining to a search warrant that has not yet been executed and returned to court; and
 - j. Any testimony given by an officer or any other person during any closed judicial proceeding (such as grand jury session, a juvenile court proceeding or any adult court proceeding) to which the public was excluded.
4. The following information may be released to the news media:
- a. The identity of the victim (after the notification of next of kin) unless the victim is under 17 years of age, or is the victim of rape or sexual assault, in which cases his or her name shall not be released;
 - b. The accused's name, age, residence, occupation, and marital status, unless the accused is under 17 years of age;
 - c. Any information necessary to aid the apprehension of the accused or to warn the public of any danger the accused may present;
 - d. The facts and circumstances of an arrest, including the time and place of arrest, any pursuit that took place, and resistance made and any weapons used;
 - e. With the exception of undercover operations the identity of the investigating or arresting officers and the length of the investigation;
 - f. The description of any evidence seized without further comment;

- g. The substance or text of the charge, such as is, or would be contained in a complaint, indictment, or information;
 - h. The time and place of any court hearing;
 - i. Whether the arrested person was bailed and the amount thereof.
5. Any media inquires regarding an on-going case in which the District Attorneys office is involved should be directed to them for comment.

F. Public Record Law

- 1. Any person requesting a public record is not required to identify themselves nor do they need to provide a written request. The person does not need to appear in person and may telephone, e-mail, text or write a letter requesting a release of information.
- 2. Forms are provided at the front desk if the person requesting the public record wishes to put the request in writing. If they choose not to, the officer or employee taking the request should write down the request to the best of their ability and submit the request to the Chief of Police.
- 3. The Department has 10-days to provide the requested material unless they are not within the Department's control, the record does not exist, or the request cannot be honored due to the volume of records or the nature of the material requested.
- 4. A representative of the Department will contact the person requesting the documents if for some reason the Department needs more time to honor the request.
- 5. Fees, as defined by Massachusetts law, will be charged for the public records.
- 6. Records that are excluded, or otherwise qualify as an exception to the public records law, will not be released without the permission of the Chief of Police.

ⁱ M.G.L. Chapter 66 Section 10

ⁱⁱ . M.G.L. Chapter 41 Section 98F