

## UNITED STATES CAPITOL POLICE

### PUBLIC AVAILABILITY OF RECORDS: REQUESTS FOR INFORMATION

**Note: The Department will begin accepting requests on February 1, 2024**

**Section 1. Purpose:** Pursuant to HR 117-80, the United States Capitol Police (USCP) has established a policy and procedure for sharing information with the public. While the USCP is not subject to the Freedom of Information Act (FOIA)<sup>1</sup>, the USCP's disclosure policy reflects its commitment to transparency and is "consistent with, and not interfere with, USCP's primary function of protecting the Congress."

#### **Section 2. USCP Mission:**

The USCP's mission is to protect the Congress—its Members, employees, visitors, and facilities—so it can fulfill its constitutional and legislative responsibilities in a safe, secure, and open environment.<sup>2</sup> The USCP mission also includes providing safety and security to Members of Congress, Officers of Congress, and their immediate family in any area of the United States.<sup>3</sup> To fulfill its mission, the USCP must regularly coordinate and cooperate with other federal law enforcement and intelligence agencies on public safety, national security, and other law enforcement-related matters.

The USCP is exclusively authorized to police the United States Capitol Buildings and Grounds under the direction of the Capitol Police Board.<sup>4</sup> The USCP has the power to enforce laws and make arrests that fall within the USCP's jurisdiction, and has exclusive responsibility for the physical, technical, protective, and security functions of the legislative branch.<sup>5</sup>

#### **Section 3. Definitions:**

As used in this document:

- (a) **Identifiable** means a reasonably specific description of a record sought, such as a date, subject matter, person involved, etc., regardless of physical form, that will permit location or retrieval of the record.
- (b) **Requester** means a natural or legal person who submits a request for information.
- (c) **Records** means papers, manuals, photographs, reports, and other documentary materials that are a part of USCP law enforcement holdings. USCP closed circuit television videos and Body Worn camera footage are not Records.

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<sup>1</sup> 5 U.S.C. § 552.

<sup>2</sup> See 2 U.S.C. § 1967.

<sup>3</sup> See 2 U.S.C. § 1966(a).

<sup>4</sup> See 2 U.S.C. §§ 1901, 1961. The Capitol Police Board is comprised of the Sergeant-at-Arms of the United States Senate, the Sergeant-at-Arms of the House of Representatives, the Architect of the Capitol, and the Chief of the United States Capitol Police, who serves as an *ex officio* member.

<sup>5</sup> See 2 U.S.C. § 1961 *et. seq.*

(d) **Exempt from Disclosure** means the Records requested are exempt or protected from public disclosure.

(e) **Security Information** is information that:

- (i) is sensitive with respect to the policing, protection, physical security, intelligence, counterterrorism action, or emergency preparedness and response relating to Congress, any statutory protectee of the Capitol Police, and the Capitol buildings and grounds; and
- (ii) is obtained by, on behalf of, or concerning the Capitol Police Board, the Capitol Police, or any incident command relating to emergency response.<sup>6</sup>

**Section 4. General Provision:** The USCP will process requests that meet the criteria for disclosure provided in this document. The Chief of the USCP or designee shall have the discretion to approve or deny requests according to the mission interests of the Department.

- (a) A request for Identifiable Records must be submitted, in writing by e-mail, to the U.S. Capitol Police, Office of the General Counsel, at AskOGC@uscg.gov.
- (b) A request for Identifiable Records must include an explanation of the Requester's need for the information.
- (c) The USCP will not provide Records in its possession that originated in or contain information from another agency or organization, including the Capitol Police Board.
- (d) The Requester will receive a response from the Office of the General Counsel within sixty (60) days with the following information:
  - 1. The response contains insufficient detail or is overly broad, such that retrieval of responsive Records is not possible;
  - 2. There are no responsive Records;
  - 3. Responsive Records are Exempt from Disclosure for a specified reason;
  - 4. An additional thirty (30) days are needed to adequately process and respond to the request; or
  - 5. The responsive Records or information on how to obtain the responsive Records through an existing USCP process or procedure.
- (e) A person whose request is denied in whole or part may administratively appeal the denial within seven (7) days after the date of the denial by submitting a letter via U.S. Mail to the Assistant Chief of Police for Standards and Training Operations, Re: Request for Information Appeal, 119 D Street, NE, Washington, D.C. 20510. All appeal decisions by the Department are final.

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<sup>6</sup> See 2 U.S.C. § 1979.

**Section 5. *Information Exempt from Disclosure:***

- (a) Security Information shall not be released or disclosed unless the Capitol Police Board, in consultation with other appropriate law enforcement officials, experts in security preparedness, and committees of Congress, determines that the release of the security information will not compromise the security and safety of the Capitol buildings and grounds or any individuals whose protection and safety is under the jurisdiction of the Capitol Police.<sup>7</sup> Documents containing Security Information will not be redacted for the purposes of release or disclosure.
- (b) Any other Identifiable Record(s) Exempted from Disclosure by statute, regulation, or other legal authority may not be subject to disclosure. Examples of Records Exempt from Disclosure, also include, but are not limited to:
- (1) Records related solely to the internal personnel rules and practices of an agency.
  - (2) Records that include trade secrets; or privileged or confidential commercial or financial information.
  - (3) Privileged communications within or between agencies, including those protected by the:
    - a. Deliberative Process Privilege (provided the Records were created less than 25 years before the date on which they were requested);
    - b. Attorney-Work Product Privilege; and
    - c. Attorney-Client Privilege.
  - (4) Records that, if disclosed, would invade another individual's personal privacy, including but not limited to personally identifiable information.
  - (5) Records compiled for law enforcement purposes that:
    - a. Could reasonably be expected to interfere with law enforcement proceedings;
    - b. Would deprive a person of a right to a fair trial or an impartial adjudication;
    - c. Could reasonably be expected to constitute an unwarranted invasion of personal privacy;
    - d. Could reasonably be expected to disclose the identity of a confidential source;
    - e. Would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law;

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<sup>7</sup> *Id.*

- f. Could reasonably be expected to endanger the life or physical safety of any individual.
- (6) Records that are currently the subject of any ongoing or expected litigation with respect to the Department or the Department's mission.<sup>8</sup>
- (7) Records related to the Capitol Police Board, such as decision papers, correspondence with the Board including with counsel and internal USCP documents discussing Board matters.
- (8) Records related to correspondence or other information requests from Committees or Members of Congress.

**Section 6. Notices:**

- (a) Nothing contained in this document shall be construed to create any additional legal rights or remedies not already contained in existing applicable law, regulations, policies, directives, and orders.
- (b) This process does not increase, decrease, or otherwise modify the rights and responsibilities or processes of any Collective Bargaining Agreement.

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<sup>8</sup> At this time, given the continuing prosecutions, all information related to the events of January 6, 2021 are Exempt from Disclosure through this process.