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**Dismantling the “Blue Wall” of Secrecy:
Experience with Public Access to Completed Police Internal Affairs
Investigation Files in Other States**

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I. Introduction

Police officers are public officials working for and with the public. Because of law enforcement's unique relationship with the public while on duty, the need for trust and accountability within the community is inherent. But over the years, mistrust of police has grown due to incidents of misconduct and, too often, a lack of transparency in the disciplinary process. Public access to records of internal affairs investigations resulting from complaints of officer misconduct builds trust and holds police accountable to the people they serve. Lack of access to these records fosters mistrust and maintains barriers between the public and police. The Colorado Criminal Justice Records Act (CCJRA) gives law enforcement agencies considerable discretion to withhold internal affairs reports under the "contrary to the public interest" standard. As a 2018 University of Denver Sturm College of Law study demonstrated,¹ many police departments in Colorado routinely deny access to completed internal affairs files, asserting that secrecy is necessary for effective self-regulation.

Experience from jurisdictions in other states proves otherwise. After reviewing open records laws in states across the nation, I identified 14 states with statutory, court-derived or constitutional schemes that provide for the public release of police internal affairs reports once an investigation is complete.² With the direction and assistance of staff within police departments and government offices, I requested and obtained internal affairs reports with few hurdles and without confrontation. My experience in securing these public records supports the view that public access to completed internal affairs files does not interfere with police efforts to serve the public and does not disrupt investigations into allegations of misconduct. Instead, the public release of completed internal affairs files builds public trust in law enforcement and the disciplinary process when officers are accused of wrongdoing.

II. Background

A. *The Existing State of Colorado Law*

Under the CCJRA, a custodian of criminal justice records "may allow" the inspection of records resulting from investigations unless the custodian determines that "disclosure of such records would be contrary to the public interest."³ This provision grants the custodian of records complete discretion with respect to the release of criminal justice records, including internal affairs files. In 2005, the Colorado

¹ MARGARET B. KWOKA ET AL., ACCESS DENIED: COLORADO LAW ENFORCEMENT REFUSES PUBLIC ACCESS TO RECORDS OF POLICE MISCONDUCT (Univ. of Denver Sturm Coll. of Law 2018), <https://www.law.du.edu/documents/news/Access-Denied-Kwoka.pdf>.

² Arizona, Connecticut, Florida, Georgia, Maine, Minnesota, Montana, North Dakota, Ohio, Tennessee, Utah, Washington, West Virginia, and Wisconsin. See Appendix A for statutory language.

³ Colo. Rev. Stat. §§ 24-72-305(1), (5) (2016).

Supreme Court ruled that a custodian, prior to making a “contrary to public interest” finding, must balance pertinent factors including, but not limited to: “privacy interests of individuals who may be impacted by a decision to allow inspection; the agency’s interest in keeping confidential information confidential; the agency’s interest in pursuing ongoing investigations without compromising them; the public purpose to be served in allowing inspection; and any other pertinent consideration relevant to the circumstances of the particular request.”⁴ In *Freedom Colorado Information, Inc. v. El Paso County Sheriff’s Department*, the Colorado Supreme Court directed custodians to “redact sparingly” to protect privacy interests while promoting the CCJRA’s “preference for public disclosure.”⁵

B. The Law in Practice and an Attempted Legislative Reform

In February 2018, the University of Denver Sturm College of Law published a research study that examined the willingness of law enforcement agencies to release internal affairs reports under the CCJRA.⁶ The study revealed a widespread practice of denying requests to inspect completed internal affairs files, and it concluded that “Coloradans remain largely in the dark with regard to allegations and investigations of police misconduct.”⁷ Withholding internal affairs records is contrary to the overarching goal of the open records law to promote public transparency and accountability of government actors.⁸ Furthermore, the categorical denial of requests by some agencies violates Colorado Supreme Court decisions that require records custodians to evaluate requests on a case-by-case basis.⁹

Following the DU Law study, House Bill 18-1404 was introduced in the Colorado House of Representatives. The bill, as originally proposed, required the public release of completed internal affairs investigation reports for in-uniform and on-duty conduct of peace officers.¹⁰ It also provided for the redaction of enumerated information to protect an officer’s private information and other information that could compromise the safety of officers, victims or informants.¹¹ Police unions and law enforcement agencies strongly opposed the bill during a hearing before the House Judiciary Committee,¹² arguing that it would have a “chilling effect” on the willingness of officers and civilian

⁴ *Harris v. Denver Post Corp.*, 123 P.3d 1166, 1175 (Colo. 2005).

⁵ *Freedom Colo. Information, Inc. v. El Paso Cty. Sheriff’s Dept.*, 196 P.3d 892, 895, 900 n. 3 (Colo. 2008).

⁶ KWOKA ET AL., *supra* note 1.

⁷ *Id.* at 5.

⁸ *Id.*

⁹ *Id.* at 9.

¹⁰ H.R. 18-1404, 71st Gen. Assemb., 2d Reg. Sess. (Colo. 2018), http://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a_1404_01.pdf.

¹¹ *Id.*

¹² *Peace Officer Internal Investigation Open Records: Hearing on H.R. 18-1404 Before the H. Comm. on the Judiciary*, 2018 Leg., 71st Sess. (Colo. 2018) [hereinafter *Hearings*].

witnesses to cooperate with internal affairs investigations.¹³ Those testifying for the Colorado Fraternal Order of Police (FOP) and the Colorado Association of Chiefs of Police said the bill would effectively eliminate Garrity advisements and confidentiality, creating fear among officers and witnesses that any statements made during the internal investigation process would be used against them in a criminal proceeding and/or lead to adverse public scrutiny.¹⁴ This fear, it was hypothesized, would cause witnesses to withhold information or refuse to cooperate, hindering an agency's ability to conduct effective investigations.¹⁵ Further, an FOP lawyer argued that the bill "guts police officers' right to privacy,"¹⁶ asserting that an officer's right to privacy is at least as important as the public's right to know.¹⁷ The bill presumed that the release of internal affairs files is in the public interest without considering confidentiality concerns, he said.¹⁸ Overall, law enforcement representatives espoused the view that the current process works and the legislature shouldn't fix what isn't broken.

The bill passed the House Judiciary Committee, but it was completely rewritten on the House floor. The amended version no longer *required* the release of internal affairs records. Instead, it merely encouraged their disclosure following the completion of an investigation and codified language from the 2005 Colorado Supreme Court decision.¹⁹ The amended bill passed the House but was postponed indefinitely in the Senate. Senate sponsor Kevin Lundberg agreed that there is a need for police accountability, but without "common ground" between opposing and supporting parties, the bill would not be successful.²⁰

C. *The Arguments in Favor of Transparency – As Improving the Quality of Internal Affairs Investigations*

Several years ago, in a highly publicized court case, Denver Police Commander John Lamb testified regarding the public release of internal affairs files.²¹ Commander Lamb described the

¹³ *Id.* (statement of Ronald Sloan, Colorado Association of Chiefs of Police, Colorado District Attorneys Council, Colorado Attorney General).

¹⁴ *Id.* (statement of Donald C. Sisson, General Counsel, Colorado Fraternal Order of the Police; statement of Michael Phibbs, Chair of the Legislative Committee; statement of Ronald Sloan, Colorado Association of Chiefs of Police, Colorado District Attorneys Council, Colorado Attorney General).

¹⁵ *Id.* (statement of Ronald Sloan, Colorado Association of Chiefs of Police, Colorado District Attorneys Council, Colorado Attorney General).

¹⁶ *Id.* (statement of Donald C. Sisson, General Counsel, Colorado Fraternal Order of the Police).

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ H.B. 18-1404, 71st Gen. Assemb., 2d Reg. Sess. (Co. 2018), http://leg.colorado.gov/sites/default/files/documents/2018A/bills/2018a_1404_ren.pdf.

²⁰ Jeffrey A. Roberts, *Internal Affairs Records Bill Dies in Colorado Senate Committee*, COLORADO FREEDOM OF INFORMATION COALITION (May 14, 2018), <http://coloradofoic.org/internal-affairs-records-bill-dies-in-colorado-senate-committee/>.

²¹ *Nash v. Whitman*, No. 05CV4500, 2005 WL 5168322, at *2-3 (Colo. Dist. Ct. Dec., 2005).

importance of cooperation by officers and civilians during the internal investigation process and how the release of the investigation findings would “chill” a witness’s willingness to cooperate.²² However, Commander Lamb also candidly admitted he would not be concerned about officers’ willingness to tell the truth during interviews and would not be concerned about retaliation, harassment, or ostracization of cooperating witnesses if the completed investigation file was later made available to the public.²³ Ruling in favor of the records requesters in that case, Denver District Judge Catherine Lemon concluded: “Internal affairs secrecy contributes to the ‘code of silence’ or ‘blue wall,’ by creating the expectation that things will be kept in house and away from objective outsiders. Open access to internal affairs files enhances the effectiveness of internal affairs investigations, rather than impairing them. Knowing that they will be scrutinized makes investigators do a better job and makes them and the department more accountable to the public. Transparency also enhances public confidence in the police department and is consistent with community policing concepts and represents the more modern and enlightened view of the relationship between police departments and the communities they serve.”²⁴

In an article on House Bill 18-1404, former Westminster Police Chief Dan Montgomery, who is now a consultant on police practices, policies and procedures, stated: “If a police department wants to be transparent, accountable and professional, they need to open up their internal affairs files. I think that’s what the public expects and it’s what the public demands.”²⁵ Knowing that completed internal affairs files will be open for inspection would incentivize investigators to “do a quality job,” Montgomery added.²⁶

D. Actual Experience in Denver and Elsewhere Confirms Judge Lemon’s Conclusion

More than a decade after Judge Lemon’s ruling, Denver is the rare law enforcement agency in Colorado willing to make files on completed internal investigations available to the public. It does so without affecting the recruitment of new officers or officers’ participation in internal affairs investigations, without officers misrepresenting the truth, without putting officers in danger, without compromising law enforcement investigations, and without raising any conflicts with Garrity.²⁷

²² *Id.* at *3.

²³ *Id.*

²⁴ *Id.* at *5.

²⁵ Jeffrey A. Roberts, *Colorado Bill Would Open Records on Completed Police Internal Affairs Investigations*, COLORADO FREEDOM OF INFORMATION COALITION (April 19, 2018), <http://coloradofoic.org/colorado-bill-would-open-records-on-completed-police-internal-affairs-investigations/>.

²⁶ *Id.*

²⁷ *Hearings*, *supra* note 6 (statement of Rebecca Wallace, Staff Attorney, American Civil Liberties Union, reading statement of Mary Dulacki).

As this study demonstrates, other states have enacted legislation that requires or supports the release of completed internal affairs files, and after decades of experience operating under such regimes, the sky hasn't fallen. Communities in these states benefit from increased government and public official transparency and accountability, which fosters increased public confidence in police departments and their ability to effectively investigate and address complaints about officer misconduct.

III. Research Methodology

A. State Case Law and Statute Review

In 2015, WNYC News in New York released a report that surveyed all 50 states and their relevant statutes and case law to determine which states supported the release of completed police internal affairs and disciplinary files.²⁸ The report revealed that more than half support some form of release of police disciplinary files, and it identified 12 states that make disciplinary files available for public release.²⁹ Using that report as a starting point, I identified 14 states whose statutes or constitutional amendments explicitly or broadly require law enforcement agencies to release internal affairs files to the public. The majority of these states require the investigation to be complete prior to public release, and each statute allows for the redaction of specific types of information.

Several state courts have been called upon to interpret their state's open records laws as they relate to the public release of internal affairs or personnel files of law enforcement. Like those opposed to House Bill 18-1404, the records custodians in those cases frequently argued that the privacy interests of the officer precluded the release of the records. These courts then balanced the officer's right to privacy against the public's interest in being informed about government matters. In each state and in each court decision, the public's right to know outweighed the harm to the police officer because the officer enjoys no reasonable expectation of privacy while acting in his/her official capacity.³⁰ The Court of Appeals of Wisconsin wrote: "When individuals become public employees, especially in a law enforcement capacity, they should expect closer public scrutiny, which includes the real possibility that disciplinary records may be released to the public."³¹ Montana courts have gone further to explicitly

²⁸ Robert Lewis, Noah Veltman, & Xander Landen, *Is Police Misconduct a Secret in Your State*, WNYC NEWS (Oct. 15, 2015), <https://www.wnyc.org/story/police-misconduct-records/>.

²⁹ *Id.*

³⁰ See *Perkins v. Freedom of Info. Comm'n*, 228 Conn. 158, 635 A.2d 783 (1993); *The Billings Gazette v. City of Billings*, 267 P.3d 11, 13 (Mont. 2011); *Charleston Gazette v. Smithers*, 752 S.E.2d 603 (2013); *Kroeplin v. Wis. Dep't of Nat. Res.*, 725 N.W.2d 286, 301 (Wis. Ct. App. 2006).

³¹ *Kroeplin v. Wis. Dep't of Nat. Res.*, 725 N.W.2d 286, 301 (Wis. Ct. App. 2006).

state that public employees in positions of trust do not have a legitimate right to privacy in investigations of their conduct.³²

B. Requests for Internal Affairs Files

After I had identified relevant states, I chose one city police department in each state from which to request internal affairs files. Most police department websites were easy to navigate, and it was easy to find the contact information for requesting public records. The records and internal affairs departments were helpful in guiding me to the correct procedures for requesting reports. Most records custodians permitted electronic requests via email or an online portal; only the Mesa Police Department in Arizona required a request sent by U.S. mail.

My initial requests asked for two types of documents: (a) a ledger or list of all internal affairs investigations completed in July 2018, and (b) the internal affairs investigation report for a specific incident that had been covered by the news media. A few of the requests for reports on a specific incident were denied because the investigations had not been completed or a juvenile was involved, making the report exempt from disclosure. After reviewing the ledgers, I submitted secondary requests based on the report numbers and complaints indicated in them.

IV. Findings

A. Ledgers or Lists of Closed Internal Affairs Investigations

Not every police department was able to provide a ledger of investigations completed in July 2018, either because it would be a new document the department was not required to generate or there was only one completed investigation during that month. However, most departments provided me with ledgers of closed internal affairs investigations in a timely manner. Each ledger from the different jurisdictions varied in the information that was provided. The Mesa Police Department only provided the case number and the date the investigation was closed, while the Milwaukee Police Department provided the investigation number, incident status, status date, allegation, investigation finding, and disciplinary action taken, if any. Most ledgers included the allegation of officer misconduct and the investigation's finding (e.g. substantiated, unsubstantiated). Other ledgers also included the officer's name and precinct information, as well as contact information. Each ledger provided sufficient information to submit a secondary request for specific internal affairs files.

³² *The Billings Gazette v. City of Billings*, 267 P.3d 11, 13 (Mont. 2011).

B. Internal Affairs Investigation Files

By far, the Seattle Police Department had the most transparent policies with respect to open records and their release. The Office of Police Accountability publishes all closed case summaries on a website for public review after an investigation has been completed.³³ The case summaries include the allegations against the employee, a detailed statement of the facts, a summary of the relevant policy and application of the policy to the facts, the findings of the investigation (sustained or not sustained), and the recommended disciplinary action. The published summaries do not provide the date of the incident, the officers involved, or the victims involved. However, after requesting the additional information from the police department through its online portal, I was provided a “Director’s Certificate Memo,” which lists the date of the incident, the location of the incident, the officers involved, and the witnesses interviewed. The remainder of the report was identical to the case summary provided online. Beyond internal affairs files, the city of Seattle produces a data set that lists all instances in which force was used including: incident number; incident type (Level 1, Level 2, or Level 3); the date and time of the incident; the officer’s badge number, precinct, sector, and beat; and additional information regarding the victim.³⁴ I used these case number to successfully request additional reports from Seattle, including a “Disciplinary Action Report.” The records custodian did redact the name of the victim, per the victim’s request during the investigation proceedings.

Although the Seattle Police Department has the best *processes* for accessing completed internal affairs investigation files, the Atlanta and Milwaukee police departments were willing to give me more documentation within the internal affairs files. The Atlanta Police Department provided me with a complete internal affairs file that included interoffice memos and emails, transcripts of interviews, documents related to civil litigation, investigation notes, dispositions, and recommendations. (Georgia law explicitly permits the release of internal affairs records once an investigation is complete.³⁵) The Milwaukee Police Department was willing to provide me with video footage, audio, transcripts, and other information received during the investigation; however, I limited my request to the summary report. This report was similar to the reports I received from the Seattle Police Department, but it was prepared by the investigating officer and detailed the steps the officer took during the investigation.

³³ *Office of Police Accountability Reports*, OFFICE OF POLICE ACCOUNTABILITY, <https://www.seattle.gov/opa/opa-reports> (last visited Nov. 9, 2018).

³⁴ *Use of Force*, CITY OF SEATTLE, <https://data.seattle.gov/Public-Safety/Use-Of-Force/ppi5-g2bj> (last updated Nov. 8, 2018).

³⁵ GA. Code Ann. § 50-18-72(a)(8) (LexisNexis 2018).

The Hartford Police Department provided inter-office memoranda detailing investigative steps, actions taken and a comprehensive explanation of information gathered through witness interviews and the review of evidence. The investigating officer summarized the incident, listing the allegations along with the recommended disposition and the reason for each recommendation. The records custodian redacted the names of witnesses but did not redact the accused officers' names. One of the Hartford reports involved an investigation initiated by the chief of police, rather than a civilian. The chief's actions indicate a police department that values accountability and effective investigation practices without fear of turmoil within the police force and the community. Similarly, a Minneapolis internal investigation involved a police sergeant who reported herself for failing to mention a use-of-force incident.

In addition to the above-described internal affairs files, most police departments provided me with a detailed summary of the event, the allegations, the names of the accused officer(s), a summary of the investigation, the recommended or final disposition, and the recommended or final disciplinary action. Only two departments, Mesa (Arizona) and Salt Lake City, provided minimal information in response to my requests for internal affairs investigation files. Even though I was not provided with the case summary or the details of the investigation, I was still provided with a brief summary of the allegation, the location and date of the incident, the final disposition, and the final disciplinary action taken, if any.

C. Time

Timing was the biggest obstacle I encountered in the processing of my requests. Some states such as Washington have statutory guidelines as to when a request must be fulfilled: "Within five business days of receiving a public record request, an agency ... must respond ..."³⁶ However, not all states follow that model. Many records departments forwarded my requests to an internal affairs or professional standards office for review before the requested documents were returned to the records department. The records department then had the responsibility of assessing charges and completing redactions permitted by statute before the records were provided. In Washington and Wisconsin, an officer who is the subject of the complaint must be notified of the request and given a reasonable amount of time to respond if he or she opposes the release. In each instance, my request was not denied because of an officer's objection. Because of the time-consuming nature of these internal processes, the release of the documents was often delayed. However, my continued follow-up calls and emails were never met with frustration or irritation.

³⁶ WASH. REV. CODE ANN. § 42.56.520(1) (LexisNexis 2018).

D. Costs

The fees associated with the processing and copying of the requested documents were not unreasonable and were not significant barriers to access. I did not receive any charges for the ledger requests, and in some states, I was not charged for requested internal affairs files.³⁷ The Milwaukee Police Department provided an initial invoice with a total cost of \$701.25. But this was the cost for all information gathered during the investigation – 1,125 pages and 37 discs that included videos, witness interviews, and interoffice memos. I spoke with the records custodian and he provided me with a copy of the detailed case summary for a fraction of the initial cost (\$26.16). When I received final invoices for records from the police departments, the charges ranged from \$1.25 to \$30 per request.³⁸

V. Conclusion

The argument advanced by opponents of House Bill 18-1404 – that releasing internal affairs files to the public will make internal affairs investigations ineffectual – is belied by the experience of several states where police departments operate under a regime of transparency. A highly publicized fatal shooting committed by Milwaukee police officer Dominique Heaggan-Brown in August 2016, which resulted in criminal proceedings and Heaggan-Brown’s acquittal, incited two days of riots and protests in the Sherman Park neighborhood.³⁹ I received the internal affairs investigation case summary, but the Milwaukee Police Department also was willing to release a complete internal affairs file that included photos, videos, transcripts of interviews, and additional information collected during the investigation. Officer Quinton Green of the Atlanta Police Department was caught on video punching a man while holding him down.⁴⁰ The video was posted on social media and publicized by local press and Black Lives Matter.⁴¹ I received the complete internal affairs file. Seattle police officers Kenneth Martin and Tabitha

³⁷ Mesa Police Department, Miami Police Department, Minneapolis Police Department, and Salt Lake City Police Department.

³⁸ See Appendix B for exact list of charges for each police department.

³⁹ Bruce Vielmetti, *State Rests in Trial of Ex-Cop in Fatal Shooting that Set Off Sherman Park Unrest*, MILWAUKEE JOURNAL SENTINEL (June 16, 2017, 6:30 PM), <https://www.jsonline.com/story/news/crime/2017/06/16/state-rests-trial-ex-cop-fatal-shooting-set-off-sherman-park-unrest/404929001/>.

⁴⁰ *Police Release Photo of Man Accusing Officer of Excessive Force*, WSB-TV ATLANTA (June 28, 2017, 6:54 PM), <https://www.wsbtv.com/news/local/atlanta/police-release-photo-of-man-accusing-officer-of-excessive-force/543886425>.

⁴¹ *Id.* *Black Lives Matter Greater Atlanta Holds Joint Press Conference with Attorney Jonathan Broderick & APD Victim Rickey Williams*, BLACK LIVES MATTER OF GREATER ATLANTA (July 6, 2017), <https://www.facebook.com/notes/black-lives-matter-of-greater-atlanta/black-lives-matter-greater-atlanta-holds-joint-press-conference-with-attorney-jo/1765984223694177/>.

Sexton opened fire on a fleeing vehicle in the city's Eastlake neighborhood.⁴² Dashboard and body-worn camera footage was released to the press. I received the internal affairs files for each officer.⁴³

In my research and communications with police departments, requesting internal affairs files seemed almost as routine as requesting a traffic accident report, irrespective of prior criminal proceedings or press coverage. The custodians of record generally weren't concerned about privacy issues and public scrutiny. The reports I received substantiate officer and witness compliance and truthfulness throughout the internal investigation process, as well as heightened accountability by the disciplinary agencies. Redactions were used sparingly to protect the identities of civilian witnesses and victims. Removing bricks from the "blue wall" of secrecy by releasing internal affairs files in these states has not caused social unrest or mistrust between police officials and the public, nor does it seem to have created fear in officers.

While these 14 states promote government transparency and accountability through the release of completed police internal affairs files, most agencies in Colorado deny public access. It is unreasonable, costly, and burdensome to require Colorado citizens to use the courts each time a request for an internal affairs file is denied. Without legislative reform of the CCJRA, the public will continue to be denied access and mistrust with law enforcement will continue to grow. It is well past time to dismantle the "blue wall" and allow the disinfecting power of sunshine into Colorado's internal affairs investigations.

⁴² Steve Miletich & Paige Cornwell, *Police Open Criminal Investigation into Officers Who Fired on Car in Eastlake*, THE SEATTLE TIMES (Oct. 11, 2017, 11:45 AM), <https://www.seattletimes.com/seattle-news/crime/seattle-police-release-video-of-officers-shooting-at-car-in-eastlake/>.

⁴³ *Id.*

Appendix A – Open Records Statutes

Arizona:

Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours. Ariz. Rev. Stat. § 39-121.

A public body shall maintain all records that are reasonably necessary or appropriate to maintain an accurate knowledge of disciplinary actions, including the employee responses to all disciplinary actions, involving public officers or employees of the public body. The records shall be open to inspection and copying pursuant to this article, unless inspection or disclosure of the records or information in the records is contrary to law. This section does not: (1) require disclosure of the home address, home telephone number or photograph of any person who is protected pursuant to sections 39-123 and 39-124; (2) limit the duty of a public body or officer to make public records open to inspection and copying pursuant to this article. Ariz. Rev. Stat. §§ 39-128(A), (B).

An employer shall not include in that portion of the personnel file of a law enforcement officer that is available for public inspection and copying any information about an investigation until the investigation is complete or the employer has discontinued the investigation. Ariz. Rev. Stat. § 38-1109(A).

Connecticut:

Except as otherwise provided by any federal law or state statute, all records maintained or kept on file by any public agency, whether or not such records are required by any law or by any rule or regulation, shall be public records and every person shall have the right to (1) inspect such records promptly during regular office or business hours, (2) copy such records in accordance with subsection (g) of section 1-212, or (3) receive a copy of such records in accordance with section 1-212. Any agency rule or regulation, or part thereof, that conflicts with the provisions of this subsection or diminishes or curtails in any way the rights granted by this subsection shall be void. Each such agency shall keep and maintain all public records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the public records pertaining to such agency shall be kept in the office of the clerk of the political subdivision in which such public agency is located or of the Secretary of the State, as the case may be. Any certified record hereunder attested as a true copy by the clerk, chief or deputy of such agency or by such other person designated or empowered by law to so act, shall be competent evidence in any court of this state of the facts contained therein. Conn. Gen. Stat. § 1-210(a).

Nothing in the Freedom of Information Act shall be construed to require disclosure of personnel or medical files and similar files the disclosure of which would constitute an invasion of personal privacy. Conn. Gen. Stat. § 1-210(b)(2).

Florida:

Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records. Fla. Stat. Ann. § 119.07(1)(a).

A complaint filed against a law enforcement officer or correctional officer with a law enforcement agency or correctional agency and all information obtained pursuant to the investigation by the agency of the complaint is confidential and exempt from the provisions of s. 119.07(1) until the investigation ceases to be active, or until the agency head or the agency head's designee provides written notice to the officer who is the subject of the complaint, either personally or by mail, that the agency has either: (1) concluded the investigation with a finding not to proceed with disciplinary action or to file charges; or (2) concluded the investigation with a finding to proceed with disciplinary action or to file charges. Fla. Stat. Ann. § 112.533(2)(a).

Georgia:

All public records shall be open for personal inspection and copying, except those which by order of a court of this state or by law are specifically exempted from disclosure. Records shall be maintained by agencies to the extent and in the manner required by Article 5 of this chapter. Ga. Code Ann. § 50-18-71(a).

Public disclosure shall not be required for records that are records consisting of material obtained in investigations related to the suspension, firing, or investigation of complaints against public officers or employees until ten days after the same has been presented to the agency or an officer for action or the investigation is otherwise concluded or terminated, provided that this paragraph shall not be interpreted to make such investigatory records privileged. Ga. Code Ann. § 50-18-72(a)(8).

Maine:

1-A. Investigations of Deadly Force or Physical Force by Law Enforcement Officer. The name of a law enforcement officer is not confidential under subsection 1, paragraph B, subparagraph (5) in cases involving: (A) the use of deadly force by a law enforcement officer; or (B) The use of physical force by a law enforcement officer resulting in death or serious bodily injury.

In cases specified in paragraphs A and B, regardless of whether disciplinary action is taken, the findings of any investigation into the officer's conduct are no longer confidential when the investigation is completed and a decision on whether to bring criminal charges has been made, except that if criminal charges are brought, the findings of the investigation remain confidential until the conclusion of the criminal case. Me. Rev. Stat. tit. 30-A, § 503(1-A)

Minnesota:

Except for employees described in subdivision 5 and subject to the limitations described in subdivision 5a, the following personnel data on current and former employees, volunteers, and independent contractors of a government entity is public: (4) the existence and status of any complaints or charges against the employee, regardless of whether the complaint or charge resulted in a disciplinary action; (5) the final disposition of any disciplinary action together with the specific reasons for the action and data documenting the basis of the action, excluding data that would identify confidential sources who are employees of the public body. Minn. Stat. Ann. § 13.43(2)(a).

Montana:

No person shall be deprived of the right to examine documents or to observe the deliberations of all public bodies or agencies of state government and its subdivisions, except in cases in which the demand of individual privacy clearly exceeds the merits of public disclosure. Mont. Const., Art. II § 9.

North Dakota:

Except as otherwise specifically provided by law, all records of a public entity are public records, open and accessible for inspection during reasonable office hours... N.D. Cent. Code § 44-04-18(1).

Except as otherwise specifically provided by law, personal information regarding a public employee contained in an employee's personnel record or given to the state or a political subdivision by the employee in the course of employment is exempt. As used in this section, "personal information" means a person's month and day of birth; home address; home telephone number or personal cell phone number; photograph; medical information; motor vehicle operator's identification number; public employee identification number; payroll deduction information; the name, address, telephone number, and date of birth of any dependent or emergency contact; any credit, debit, or electronic fund transfer card number; and any account number at a bank or other financial institution. Information regarding the type of leave taken by an employee is exempt, although the amount of leave taken or accrued, and the dates of the leave taken, is public record. Information regarding leave applied for but not yet taken is exempt until the leave is taken. N.D. Cent. Code § 44-04-18.1(2).

Records relating to a public entity's internal investigation of a complaint against a public entity or employee for misconduct are exempt until the investigation of the complaint is complete, but no longer than seventy-five calendar days from the date of the complaint. N.D. Cent. Code § 44-04-18.1(6).

Ohio:

"Public record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following... Confidential law enforcement investigatory records. Ohio Rev. Code Ann. § 149.43(A)(1)(h). "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following: (a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised; (b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity; (c) Specific confidential investigatory techniques or procedures or specific investigatory work product; (d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source. Ohio Rev. Code Ann. § 149.43(A)(2).

Tennessee:

Except as provided in § 10-7-504(g), all law enforcement personnel records shall be open for inspection as provided in subsection (a); however, whenever the personnel records of a law enforcement officer are inspected as provided in subsection (a), the custodian shall make a record of such inspection and

provide notice, within three (3) days from the date of the inspection, to the officer whose personnel records have been inspected: (A) That such inspection has taken place; (B) The name, address and telephone number of the person making such inspection; (C) For whom the inspection was made; and (D) The date of such inspection. Tenn. Code Ann. § 10-7-503(c)(1).

All law enforcement personnel information in the possession of any entity or agency in its capacity as an employer, including officers commissioned pursuant to § 49-7-118, shall be open for inspection as provided in § 10-7-503(a), except personal information shall be redacted where there is a reason not to disclose as determined by the chief law enforcement officer or the chief law enforcement officer's designee. Tenn. Code Ann. § 10-7-504(g)(1)(A)(i).

Utah:

The following records are normally public, but to the extent that a record is expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b), Section 63G-2-302, 63G-2-304, or 63G-2-305 records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if: (i) the disciplinary action has been completed and all time periods for administrative appeal have expired; and (ii) the charges on which the disciplinary action was based were sustained. Utah Code Ann. § 63G-2-301(3)(o).

The following records are protected if properly classified by a governmental entity records created or maintained for civil, criminal, or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records: (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes; (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings; (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing; (d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or (e) reasonably could be expected to disclose investigative or audit techniques, procedures, policies, or orders not generally known outside of government if disclosure would interfere with enforcement or audit efforts. Utah Code Ann. § 63G-2-305(10).

Washington:

“Public record” includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. Wash. Rev. Code Ann. § 42.56.010(3).

A person’s “right to privacy,” “right of privacy,” “privacy,” or “personal privacy,” as these terms are used in this chapter, is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public. The provisions of this chapter dealing with the right to privacy in certain public records do not create any right of privacy beyond those rights that are specified in this chapter as express exemptions from the public’s right to inspect, examine, or copy public records. Wash. Rev. Code Ann. § 42.56.050.

West Virginia:

Every person has a right to inspect or copy any public record of a public body in this state, except as otherwise expressly provided by section four [§ 29B-1-4] of this article. W. Va. Code § 29B-1-3(a).

There is a presumption of public accessibility to all public records, subject only to the following categories of information which are specifically exempt from disclosure under this article information of a personal nature such as that kept in a personal, medical, or similar file, if the public disclosure of the information would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in this particular instance: Provided, That this article does not preclude an individual from inspecting or copying his or her own personal, medical, or similar file. W. Va. Code § 29B-1-4(a)(2).

Wisconsin:

Except as otherwise provided by law, any requester has a right to inspect any record. Substantive common law principles construing the right to inspect, copy or receive copies of records shall remain in effect. The exemptions to the requirement of a governmental body to meet in open session under s. 19.85 are indicative of public policy, but may be used as grounds for denying public access to a record only if the authority or legal custodian under s. 19.33 makes a specific demonstration that there is a need to restrict public access at the time that the request to inspect or copy the record is made. Wis. Stat. Ann. § 19.35(a).

Unless access is specifically authorized or required by statute, an authority shall not provide access under s. 19.35 (1) to records containing the following information, except to an employee or the employee's representative to the extent required under s. 103.13 or to a recognized or certified collective bargaining representative to the extent required to fulfill a duty to bargain under ch. 111 or pursuant to a collective bargaining agreement under ch. 111 information relating to the current investigation of a possible criminal offense or possible misconduct connected with employment by an employee prior to disposition of the investigation. Wis. Stat. Ann. § 19.36(10)(b).