

FREEDOM OF INFORMATION ACT POLICY

Rights & Responsibilities:

The Rights of Requesters and the Responsibilities of the Henry County Commonwealth's Attorney's Office under the Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), located § 2.2-3700 et seq. of the Code of Virginia, guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees. FOIA provides that, with some specific exemptions and exceptions, all meetings of public bodies shall be open to the public and all public records open for public inspection. All public meetings and records are presumed open unless an exemption is properly invoked.

This office complies with the Virginia Freedom of Information Act. There is no separate policy that addresses FOIA.

A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business. All public records are presumed to be open, and may only be withheld if a specific, statutory exemption applies.

Your FOIA Rights

- You have the right to request to inspect **or** receive copies of public records, or both.
- You have the right to request that any charges for the requested records be estimated in advance.
- If you believe that your FOIA rights have been violated, you may file a petition in district or circuit court to compel compliance with FOIA. Alternatively, you may contact the FOIA Council for a nonbinding advisory opinion.

Making a Request for records from the Henry County Sheriff's Office

You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. FOIA does not require that your request be in writing, nor do you need to specifically state that you are requesting records under FOIA. However, you must provide your name and legal address. It is recommended that prior to submitting a FOIA request for records you should review the remainder of Henry County's website and to use the site's search function. In many instances, the requester may find the information or records that he or she is looking for online.

Your request must identify the records you are seeking with "reasonable specificity." It does not refer to or limit the volume or number of records that you are requesting; instead,

it requires that you be specific enough so that this office can identify and locate the records that you are seeking.

Your request must ask for existing records or documents. FOIA gives you a right to inspect or copy **records**; it does not apply to a situation where you are asking general questions about the work of Henry County, nor does it require this office to create a record that does not exist.

If this office has questions about your request, please cooperate with staff's efforts to clarify the type of records that you are seeking, or to attempt to reach a reasonable agreement about a response to a large request. Making a FOIA request is not an adversarial process, but this office may need to discuss your request with you to ensure that we understand what records you are seeking.

To request records from Henry County Sheriff's Office, you may direct your request to Capt T. Hambrick. He can be reached by mail at: 3250 Kings Mountain Road, Martinsville, Virginia 24112, by email at: thambrick@henrycountyva.gov or by telephone at (276) 656-4210.

You may also contact him with questions you have concerning requesting records from Henry County Sheriff's Office. In addition, the Freedom of Information Advisory Council is available to answer any questions you may have about FOIA. The Council may be contacted by e-mail at foiacouncil@dls.virginia.gov or by phone at (804) 225-3056 or [toll-free] 1-866-448-4100.

Henry County Sheriff's Office's Responsibilities in Responding to Your Request

This office will respond to your request within five working days of receiving it. "Day One" is considered the day after your request is received. The five-day period does not include weekends or holidays.

The reason behind your request for public records from this office is irrelevant, and you do not have to state why you want the records before responding to your request.

FOIA requires that this office will make one of the following responses to your request within the five-day time period:

- Provide you with the records that you have requested in their entirety.
- Withhold all of the records that you have requested because all of the records are subject to a specific statutory exemption. If all of the records are being withheld, this office will send you a response identifying the volume and subject matter of the records being withheld and state the specific section of the Code of Virginia that allows us to withhold the records.
- Provide some of the records that you have requested, but withhold other records. This office cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, we may redact the portion of the record that may be withheld and will provide you with the remainder of the record. This office will provide

you with a response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.

- Inform you in writing that the requested records cannot be found or do not exist (we do not have the records you want). However, if we know that another public body has the requested records, this office will include contact information for the other public body in our response to you.
- If it is not practical for this office to respond to your request within the five-day period, we will notify you and explain the conditions that make the response not practical. This will allow seven additional working days to respond to your request, giving a total of 12 working days to respond to your request.

If you make a request for a very large number of records, and the records cannot be provided to you within 12 working days without disrupting other organizational responsibilities, this office may petition the court for additional time to respond to your request. However, this office will make a reasonable effort to reach an agreement with you concerning the production of the records before we go to court to ask for more time.

Costs

A public body may make reasonable charges not to exceed its actual cost incurred in accessing, duplicating, supplying, or searching for the requested records. No public body shall impose any extraneous, intermediary, or surplus fees or expenses to recoup the general costs associated with creating or maintaining records or transacting the general business of the public body. Any duplicating fee charged by a public body shall not exceed the actual cost of duplication. All charges for the supplying of requested records shall be estimated in advance at the request of the citizen as set forth in subsection F of § 2.2-3704 of the Code of Virginia.

- You may have to pay for the records that you request from this office. FOIA allows us to charge for the actual costs of responding to FOIA requests. This would include items such as staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It will not include general overhead costs.
- If the cost is expected to exceed \$200, this office may require you to pay a deposit, not to exceed the amount of the estimate, before proceeding with your request. The five days that we have to respond to your request does not include the time between when we ask for a deposit and when you respond.
- You may request that this office estimate in advance the charges for supplying the records that you have requested. This will allow you to know about any costs upfront, or give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe this office money from a previous FOIA request that has remained unpaid for more than 30 days, this office will require payment of the past-due bill before it will respond to your new FOIA request.

Commonly used exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. This office commonly withholds records subject to the following exemptions:

- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2)) or attorney work product (§ 2.2-3705.1 (3))
- Employment test or examination material (§ 2.2-3705.1(4))
- Closed meeting records (§ 2.2-3705.1(5))
- Vendor proprietary information (§ 2.2-3705.1 (6))
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12))
- Records relating to public safety (§ 2.2-3705.2)