



HENRICO COUNTY POLICE DIVISION POLICY | Freedom of Information

Line Procedure (LP-20-26), effective 04/17/26 (rescinds LP-20-25)

PURPOSE

To establish procedures for handling Virginia Freedom of Information Act ("FOIA" at VA. Code § 2.2-3700 et. seq.) requests. FOIA was enacted by the General Assembly to ensure citizens of the Commonwealth and representatives of the media access to public records held by public bodies or its officers and employees. FOIA requests can be made verbally, electronically or in writing to any Police Division member.

DEFINITIONS

- Ongoing Criminal Investigation - a case in which the prosecution has not been finally adjudicated, the investigation continues to gather evidence for a possible future criminal case, and such case would be jeopardized by the premature release of evidence.
- Public Records - all writings and recordings that consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photography, magnetic impulse, optical or magneto-optical form, mechanical or electronic recording, or other form of data compilation, however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of the Police Division or its officers, employees, or agents in the transaction of public business.
- Working Days - Monday through Friday, 8:00 am – 4:30 pm, excluding weekends, County holidays and County closures (i.e., inclement weather). Working days are counted starting on the first full Working Day after the request is received.

PROCEDURES

I. FOIA REQUESTS

Any Freedom of Information Act (FOIA) request received by a member of the Police Division, regardless of format, should be immediately routed to the Division's FOIA Team for processing.

A. Citizens should request public records:

1. By telephone (804-501-4809);
2. By mail (Henrico Police Division, Attn. FOIA, PO Box 90775, Henrico, VA 23273);
3. By email (hpdfiorequests@henrico.gov); or
4. In person at the Records Management Section window at the Public Safety Building (available 24/7).

B. When any Division member receives a FOIA request, the member should collect records relevant to the request and immediately forward the request and related records to the FOIA Team at hpdfiorequests@henrico.gov.

II. RESPONSES TO RECORDS REQUESTS

- A. The FOIA Coordinator shall review the request to determine what documents are required to fulfill the request.
- B. Generally, a response to the requester must be made within five (5) working days from the receipt of the request.
 - 1. In the event the records cannot be obtained within the five (5) working days, the FOIA Coordinator will notify the requester of the delay and the need for additional time to process the request.
 - 2. An additional seven (7) working days will be allowed to obtain non-criminal information and up to an additional sixty (60) working days will be allowed to obtain criminal information.

III. VICTIM NOTIFICATION

No criminal investigative file, or portion thereof, containing a victim may be disclosed to a requester until the Police Division has determined that the requester is permitted to receive the records without victim notification under VA. Code § 2.2-3706.1 or the Police Division makes reasonable efforts to notify the victim or their immediate family member, as required by VA. Code § 2.2-3706.1, and waited 14 days from the time of notice for the victim or their immediate family member to have time to file a petition for injunction with the court to prevent disclosure of the records. If the victim or their family member waive the 14-day period or the 14-day period passes without a petition for injunction being filed, the Police Division will proceed with releasing the records to the requester as otherwise required under FOIA.

IV. ATTORNEY'S OFFICE NOTICE

The FOIA Coordinator should confer with the Henrico County Attorney's Office for clarification and assistance with interpreting the Code of Virginia, Title 2.2, Chapter 37 if necessary.

V. OUT OF STATE REQUESTS

- A. The Police Division must fulfill requests from representatives of newspapers and magazines with circulation in the Commonwealth and representatives of radio and television stations broadcasting in or into the Commonwealth.
- B. Unless an exemption applies, pursuant to VA. Code § 2.2-3706.1(D), the Police Division must provide criminal investigative files that are not ongoing to the following persons regardless of whether they are a citizen of the Commonwealth of Virginia:
 - 1. The victim;
 - 2. The victim's immediate family members, if the victim is deceased and the immediate family member to which the records are to be disclosed is not a person of interest or a suspect in the criminal investigation or proceeding;
 - 3. The parent or guardian of the victim, if the victim is a minor and the parent or guardian is not a person of interest or a suspect in the criminal investigation or proceeding;

4. An attorney representing a petitioner in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon; and
5. For the sole purpose of inspection at the location where such records are maintained by the public body that is the custodian of the records, (i) an attorney or his agent when such attorney is considering representing a petitioner in a post-conviction proceeding or pardon, (ii) an attorney who provides a sworn declaration that the attorney has been retained by an individual for purposes of pursuing a civil or criminal action and has a good faith basis to believe that the records being requested are material to such action, or (iii) a person who is proceeding pro se in a petition for a writ of habeas corpus or writ of actual innocence pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) of Title 19.2 or any other federal or state post-conviction proceeding or pardon, who provides a sworn affidavit that the records being requested are material to such action.

C. All other out-of-state requests will be processed at the discretion of the Police Division.

VI. ONGOING CRIMINAL INVESTIGATIONS

Criminal investigative files relating to ongoing criminal investigations are exempt from mandatory disclosure under FOIA. Unless disclosure is prohibited by law, the Division has the discretion to disclose records relating to an ongoing criminal investigation.

VII. RECORDS AND INFORMATION REQUIRED TO BE RELEASED RELATING TO FELONY OFFENSES

- A. Pursuant to VA. Code § 2.2-3706.1(B), the Police Division will make available to the public the following information as it relates to felony offenses:
 1. A general description of the criminal activity reported;
 2. The date and time the alleged crime was committed;
 3. The general location where the alleged crime was committed;
 4. The identity of the investigating officer or other point of contact; and
 5. The description of any injury suffered, or property damaged or stolen.
- B. If a report notating the offense information above is available, that may be provided to the requester. If such report is not available, if agreed to by the requester and the Police Division, a verbal response is sufficient to satisfy the requirements of VA. Code § 2.2-3706.1(B).

VIII. JUVENILE RECORDS

- A. The Police Division will ensure that law enforcement records concerning a juvenile are protected against disclosure to unauthorized persons in accordance with VA. Code § 16.1-301.
- B. Records concerning juveniles 14 years of age or older charged with a violent juvenile felony (as specified in subsections B and C of VA. Code § 16.1-269.1) will be released in accordance with VA Code § 16.1-301(A).

IX. ASSESSMENT OF FEES (§ 2.2-3704)

FOIA allows a reasonable fee to be charged to the requester. This fee will not exceed the actual cost incurred in accessing, duplicating, supplying, or searching for the requested records.

- A. The FOIA Coordinator must first ask the requester if they would like to receive a cost estimate for the request.
 - 1. If a cost estimate is requested, the FOIA Coordinator will notify the requester before processing the request for records. If the requester wishes to proceed, the FOIA Coordinator will process the request for records and bill the requester.
 - 2. If a cost estimate is not requested, the FOIA Coordinator will process the request and bill the requester the appropriate cost.
- B. The Police Division may choose to waive the associated fees at the discretion of the Chief of Police.
- C. In any case where the Police Division determines in advance that charges for producing the requested records are likely to exceed \$200, the Police Division may, before continuing to process the request, require the requester to pay a deposit not to exceed the amount of the advance determination. The deposit will be credited toward the final cost of supplying the requested records. If it becomes known that the requester has paid a deposit amount which exceeds the actual cost incurred in accessing, duplicating, supplying, or searching for the requested records, the Police Division will issue an appropriate refund.

X. MAINTENANCE OF FOIA RECORDS

The FOIA Coordinator will maintain and update an electronic file for each FOIA request in accordance with the applicable Library of Virginia retention schedule which contains the following information:

- A. A copy of the request;
- B. All supporting records and materials related to the request;
- C. A copy of the response to the request; and
- D. Any internal and external communication relating to the request.

XI. TRAINING

All members of the Police Division who receive, handle, or manage FOIA requests will receive appropriate training to ensure the law and procedures are clearly understood. Such training shall be documented by the Police Training Unit.

By Order of: Eric D. English, Chief of Police

References: Title 2.2, Chapter 37, Code of Virginia