


YORK-POQUOSON SHERIFF'S OFFICE	RULES AND REGULATIONS
SUBJECT: Freedom of Information	NUMBER: RR 1-21
EFFECTIVE DATE: May 15, 2019	REVIEW DATE: March 7, 2019
AMENDS/SUPERSEDES: RR 1-21, January 1, 2002	APPROVED:  Sheriff
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1 **INDEX WORDS**

2
3 Code of Virginia, [Title 2.2, Chapter 37](#)
4 Information, Protected
5 Release of Records
6 Requirements, Time
7 Virginia Freedom of Information Act (FOIA)

8
9 **POLICY**

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11 In order to provide the public with certain entitled information, the York-Poquoson Sheriff's
12 Office will comply with the Freedom of Information Act. Because of the specific language in the
13 act and the broad discretion granted to law enforcement agencies in dealing with the
14 requirements of the act, not all personnel of the Sheriff's Office can nor should be expected to
15 respond to requests for information, whether made formally under FOIA or informally by a
16 citizen or reporter. The sheriff's office shall have one or more knowledgeable individuals
17 designated to respond to such requests. The identities of these persons shall be made known to
18 all employees.

19
20 **PURPOSE**

21
22 To establish procedures for the dissemination of information under the Virginia Freedom of
23 Information Act.

24
25 **PROCEDURES**

- 26
27 • Primary Responsibility
- 28 ○ The Sheriff or his designee shall be responsible for seeing that the following rules and
 - 29 regulations, and the contents of the Freedom of Information Act are adhered to.
 - 30 ▪ The Administrative Division Commander shall be the primary point of contact for
 - 31 all Freedom of Information act requests.
 - 32 ▪ The Administrative Division Commander may as necessary refer FOIA requests
 - 33 to the PIO or other Sheriff's Office personnel for processing and responses.
 - 34 ❖ The Administrative Division Commander or his designee shall confer with the
 - 35 Sheriff or Chief Deputy when a question arises regarding whether a specific
 - 36 record or records may be released under a FOIA request.

- 38 • FOIA Records Requests
- 39 ○ Formal
- 40 ▪ Formal requests under FOIA may come in the form of a formal request through
- 41 either:
- 42 ❖ Hand written request,
- 43 ❖ Email request, or
- 44 ❖ Other electronic request.
- 45
- 46 ○ Informal
- 47 ▪ Informal requests under FOIA may come in the form of a request through either:
- 48 ❖ A phone call requesting records, or
- 49 ❖ In-person request at the Sheriff's Office.
- 50
- 51 • Requests for Records
- 52 ○ Sheriff's Office Records
- 53 ▪ The Sheriff's Office shall provide those records, in response to a FOIA request,
- 54 which are under the control of the Sheriff's Office and the Sheriff's Office is the
- 55 keeper of those records requested.
- 56 ▪ Written requests for records under FOIA shall be processed as follows:
- 57 ❖ The designated individual receiving and responding to the request shall:
- 58 ➤ Date stamp or record the date the request was received,
- 59 ➤ Compile the requested records, or
- 60 ➤ Respond to the request within 5 business days, unless an extension has
- 61 been requested.
- 62
- 63 ❖ After the request has either been complied with or denied in whole or part in
- 64 writing the designated individual who complied with the request shall forward
- 65 all correspondence to the Sheriff's Office PIO for retention.
- 66 ❖ The following information shall be retained by the PIO:
- 67 ➤ Initial written FOIA request,
- 68 ➤ Copy of any document records provided,
- 69 ➤ List by file name of any video or audio files provided,
- 70 ➤ Copy of any emails sent or received in relation to the FOIA request,
- 71 ➤ Copy of any correspondence denying in whole or in part any portion of the
- 72 FOIA request.
- 73
- 74 ○ Sheriff's Office and other County Department Records
- 75 ▪ At times a FOIA request may be received for records under the control of the
- 76 Sheriff's Office and records under the control of other York County Departments.
- 77 In the event such a request received, the request will be handled as follows:
- 78 ❖ The records under the control of the Sheriff's Office shall be compiled.
- 79 ❖ The FOIA request shall be forwarded to the appropriate County Department
- 80 responsible for the other records.
- 81 ➤ The other County Department may either:

- 82 ✓ Provide the records or reason for denial of records to the Sheriff's
- 83 Office to forward to the requestor, or
- 84 ✓ Provide the records or reason for denial of records requested directly to
- 85 the requestor.
- 86
- 87 ■ In the event the Sheriff's Office receives a FOIA request for records solely under
- 88 the control of another County Department, the request shall be handled as follows:
- 89 ❖ The request shall be forwarded to the FOIA officer, if known, for the County
- 90 Department responsible for the records, or
- 91 ❖ Forwarded to the York County FOIA Officer if the FOIA officer is unknown.
- 92 ❖ The requestor shall be notified either verbally or in writing:
- 93 ➤ That the records requested are not under the control of the Sheriff's Office,
- 94 and
- 95 ➤ The request was forwarded to the appropriate County Department, and
- 96 ➤ The Department the request was forwarded to, and
- 97 ➤ The name of the person the request was forwarded to.
- 98

99 **PROCEDURE FOR REQUESTING INFORMATION**

- 100
- 101 • Verbal Requests
- 102 ○ Requests for information concerning a single incident, where the request is made by a
- 103 party to the incident such as the victim may be made verbally.
- 104 ○ Request for information concerning a single property or entity may be made verbally,
- 105 if the request originates from a property owner or person in charge of the property in
- 106 question.
- 107
- 108 • Written Requests
- 109 ○ Request for information regarding an incident not related to the requestor shall be
- 110 made in writing.
- 111 ○ Any request for more than ten pages of data shall be made in writing.
- 112 ■ A requestor has no obligation to state why the information is being sought, or for
- 113 what purpose it will be used.
- 114
- 115 • Charges for Records Requests
- 116 ○ The sheriff's office may charge actual costs for providing any information to a
- 117 requestor.
- 118 ○ The Cost shall include:
- 119 ■ Actual time spent by an employee to compile the data,
- 120 ■ Cost of paper, etc.
- 121
- 122 ○ Cost may not include overhead such as:
- 123 ■ Electricity,
- 124 ■ Building usage, or
- 125 ■ Maintenance.
- 126

- 127 ○ In accordance with Section [2.2-3704.H](#), Code of Virginia, if the estimated costs of
128 producing the requested records exceeds \$200.00 the sheriff's office may request the
129 payment of a deposit in advance, not to exceed the cost of the estimate prior to
130 processing the request.
131
- 132 ● Persons Prohibited from Obtaining Records under a FOIA Request
 - 133 ○ Persons incarcerated in a Federal or State correctional facility cannot request records
134 under FOIA, but do retain the right to call for evidence in their favor in a criminal
135 prosecution.
136
 - 137 ● Time Allowed for the Return of Requested Information under a FOIA Request
 - 138 ○ If a written request for information is received or a verbal request is treated as a
139 formal FOIA request, an initial response must be made within five (5) working days
140 after the request is received.
 - 141 ○ In responding to the request, one of the following actions must be made:
 - 142 ▪ Make the requested record(s) available,
 - 143 ▪ Decline in writing to furnish the requested records, citing the following:
 - 144 ❖ The specific part of FOIA which exempts them from release, or
 - 145 ❖ Citing any other statute which prohibits their release.
146
 - 147 ○ If only a portion of the records requested are exempt from disclosure:
 - 148 ▪ Delete or excise the portion which need not be disclosed, and
 - 149 ▪ Make the rest available accompanied by a written statement identifying that
150 portion of FOIA or other statute that allows the exemption.
151
 - 152 ○ Respond in writing that:
 - 153 ▪ The requested records cannot be identified within five working days, thereby
154 allowing an additional seven days to identify the records and respond to the
155 request.
 - 156 ❖ In highly unusual circumstances, a petition may be made to the Circuit Court
157 for even more time to respond.
158

160 **RECORDS WHICH MAY BE OBTAINED**

- 161
- 162 ● Except as otherwise specifically excluded by the Code of Virginia, all public records shall
163 be open to inspection and copying by any citizens of the Commonwealth during the
164 regular office hours of the custodian of such records.
 - 165 ● Requests for criminal incident information is only required for felonies, but may be
166 released for misdemeanors.
 - 167 ● The following information shall be released:
 - 168 ○ General description of the criminal activity reported,
 - 169 ○ Date the alleged crime was committed,
 - 170 ○ The general location the alleged crime was committed,
 - 171 ○ Identity of the investigating officer,

- 172 ▪ May be a general department contact unless specifically requested.
- 173
- 174 ○ General description of any injuries suffered, or
- 175 ○ General description of property damaged or stolen.
- 176 ○ Identity of persons arrested to include:
 - 177 ▪ Name,
 - 178 ▪ Age,
 - 179 ▪ Race, if requested,
 - 180 ▪ General location of arrest location,
 - 181 ▪ General location of last known address.
 - 182 ▪ Charges against them,
 - 183 ▪ Bond status, if known.
- 184
- 185 • Arrestee Photographs (Adults)
 - 186 ○ Photos of arrestees must be released, unless the release will jeopardize a felony
 - 187 investigation.
 - 188 ▪ Photos may only be withheld until such time that the release will no longer
 - 189 jeopardize an investigation.
 - 190 ▪ The York-Poquoson Sheriff’s Office does not do booking of arrestees; therefore
 - 191 those requesting photographs of arrestees shall be referred to the appropriate jail
 - 192 or correctional facility where the arrestee was booked.
- 193
- 194 • Personnel Records
 - 195 ○ Personnel records are generally protected from those other than the employee.
 - 196 ▪ The Sheriff may, at his discretion, release portions of personnel records as
 - 197 allowed by law.
 - 198 ▪ All requests for personnel information for records shall be forwarded to the Chief
 - 199 Deputy or Administrative Division Commander for processing.

200

201 **PROTECTED INFORMATION**

202

- 203 • FOIA provides law enforcement agencies considerable leeway in protecting the identities
- 204 of individuals with whom they may be involved in a variety of ways.
- 205 • The following is considered protected information and may be withheld from release in
- 206 response to a FOIA request:
 - 207 ○ Identity of Victims,
 - 208 ○ Identity of Witnesses,
 - 209 ○ Identity of Undercover officers,
 - 210 ○ Identities of persons providing information about a crime or criminal activity under a
 - 211 promise of anonymity such as:
 - 212 ▪ Crime line/Stoppers tipsters,
 - 213 ▪ Informants,
 - 214
 - 215 ○ Records pertaining to neighborhood watch programs and participants,
 - 216 ○ Information related to plans for or resources dedicated to undercover operations,

- 217 ○ Tactical operational plans which could jeopardize the safety of deputies or the general
- 218 public,
- 219 ○ Documentation or other information relating to the security of any data processing or
- 220 telecommunications system,
- 221 ○ Information or records acquired during the review of any child death by the State
- 222 Child Fatality Review Team,
- 223 ○ Confidential records, including victim identity provided to or obtained by staff in a
- 224 rape crisis center or a program for battered spouses,
- 225 ○ Computer software developed for or by York County,
- 226 ○ Criminal Incident Information may be withheld if:
 - 227 ■ It is likely to jeopardize an ongoing investigation or prosecution, or
 - 228 ■ For the safety of an individual,
 - 229 ■ May cause a suspect to flee or evade detection, or
 - 230 ■ Result in the destruction of evidence.
 - 231 ❖ This information may be held only until the above referenced damage is no
 - 232 longer likely to occur from such release.
 - 233
- 234 ● Juvenile Records
 - 235 ○ In accordance with Section [16.1-301](#), Code of Virginia the release of juvenile records
 - 236 is limited to specific individuals and are therefore restricted from release via a FOIA
 - 237 request.
 - 238

CRIMINAL INVESTIGATION INFORMATION

- 241 ● The following Criminal Investigative Information is Exempt from disclosure:
 - 242 ○ All complaints,
 - 243 ○ Memoranda,
 - 244 ○ Correspondence,
 - 245 ○ Evidence related to a criminal investigation to include:
 - 246 ■ Victim Statements and recordings,
 - 247 ■ Witness Statements and recordings,
 - 248 ■ Offender Statements and recordings,
 - 249 ■ Officer notes,
 - 250 ■ Crime scene photographs,
 - 251 ■ Crime scene sketches,
 - 252 ■ Mobile video and Body worn camera videos of officers responding to the scene.
 - 253

FURTHER GUIDANCE

- 254 ● For further guidance, consult [Title 2.2, Chapter 37](#), Code of Virginia.
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