

The Virginia Freedom of Information Act and the records of the Lancaster Sheriff's Office

Purpose of The Act

The Virginia Freedom of Information Act (FOIA) is to ensure that the citizens of the Commonwealth and representatives of the media have ready access to public records that are under the control of this Office. The policy of the Act is to promote an increased awareness by all persons of governmental activities. In furthering this policy, the Act requires that the law be interpreted liberally, in favor of access, and that any exemption allowing public records to be withheld must be interpreted narrowly. The Act may be found at [§2.2-3700](#) et. seq. of the Code of Virginia.

What Are Public Records?

The public records of this office are 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 this office 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 or other law applies to those records. The Act requires that these records, unless specified as exempt, are available for inspection or copying during normal business hours. Records that are not prepared for or used in the normal course of public business are not public records.

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.

Requesting Records from this Office

You may request records by U.S. Mail, fax, e-mail, in person, or over the phone. The Act does not require that your request be in writing, nor do you need to specifically state that you are requesting records under the Act.

From a practical perspective, it may be helpful to both you and the person receiving your request to put your request in writing. This allows you to create a record of your request. It also gives the Office a clear statement of what records you are requesting, so that there are no misunderstandings over a verbal request. However, the Office cannot refuse to respond to your FOIA request if you decide not to put your request in writing.

You must provide your name and legal address. This enables the records to be mailed to you if necessary.

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. It requires that you be specific enough so that the Office can identify and locate the records you are seeking.

Your request must ask for records or documents. The Act 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 the Office.

You may choose to receive electronic records in any format used by the Office in the normal course of business. The records may be sent to you electronically in the same format. The Office is not required to convert the records to a different format of your choice.

You may choose to provide a portable storage device (cd-rom, dvd-rom, "flash drive," etc.) to receive the electronic records. Should you do so, the Office has the right to electronically scan your device for malware, viruses, and hidden programs that may infect the Office's computer system. The cost for the time to conduct such a scan will be included in the costs for providing the records. The Office reserves the right not to use your portable storage device, but may use its own writable cd-rom or dvd-rom, the cost of which will be charged as part of providing the records.

If the Office has questions about your request, please cooperate with the staff's efforts to clarify the type of records 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 the Office may need to discuss your request with you to ensure that it understands what records you are seeking.

Where to Send A FOIA Requests or Questions Regarding FOIA:

Lancaster County Sheriff's Office

Attention: FOIA

8293 Mary Ball Road

Lancaster, VA 22503

*FOIA Staff: Major William A. Webb, Jr.
Mr. Martin Shirilla, Records Analyst*

Telephone: 804-462-5111

Fax: 804-462-7046

E-mail: foia@lancastersheriff.net

The Office's Responsibilities in Responding to Your Request

The Office must respond to your request within five (5) working days of receiving it. "Day One" is the day after your request is received. The five-day period does not include weekends or holidays.

The reason for your request for public records is irrelevant. The Office cannot ask you why you want the records before responding to your request. The Act does allow the Office to ask you to provide your name and legal address.

The Act requires that the Office make one of the following responses to your request within the five-day time period:

- 1. Provide you with the records that you have requested in their entirety.*
- 2. 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, the Office must send to you a response in writing. That writing must identify the volume and subject matter of the records being withheld, and state the specific section of the Code of Virginia or other law that allows or requires the withholding of the records.*
- 3. Provide some of the records that you have requested, but withhold other records. The Office cannot withhold an entire record if only a portion of it is subject to an exemption. In that instance, the Office may redact (blank out or overwrite) the portion of the record that may be withheld, and must provide you with the remainder of the record. The Office must provide you with a written response stating the specific section of the Code of Virginia or other law that allows or requires portions of the requested records to be withheld.*
- 4. If it is practically impossible for the Office to respond to your request within the five-day period, the Office must state this in writing, explaining the conditions that make the response impossible. This provision will allow the Office seven (7) additional working days to respond to your request, giving the Office a total of twelve (12) working days to respond to your request.*
- 5. If you make a request for a very large number of records, and the Office believes that it cannot provide the records to you within 12 days without disrupting other organizational responsibilities, the Office may petition the court for additional time to respond to your request. However, the Act requires that the Office make a reasonable effort to reach an agreement with you concerning the production or the records before it goes to court to ask for more time.*

The Office is not required to create a record that does not already exist. However, the Office may abstract or summarize information under terms and conditions as agreed upon by the requester and the Office.

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. (This specific wording is required by law.)

The costs are at the hourly rate of the employee who is assigned to answer the request; photocopies are \$.50 per page. CD-R disk with case are \$1.10 each. If the estimated costs for answering a request for records are \$200 or more, the office may require the payment of the estimated costs before beginning any work to answer the request for records. Any balance unpaid after 30 days may prevent additional records from being released.

Additional Resource for Questions

The Freedom of Information Advisory Council is available to answer any questions you may have about the Act. 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.

Common Exemptions to FOIA Requests

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

- Requests by persons incarcerated in a state, local or federal correctional facility ([§ 2.2-3703\(C\)](#)).
- Personnel records ([§ 2.2-3705.1 \(1\)](#)).
- Records subject to attorney-client privilege ([§ 2.2-3705.1 \(2\)](#)) or attorney work product ([§ 2.2-3705.1 \(3\)](#)).
- Tests or examinations used, administered or prepared for purposes of evaluation of any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or qualifications for any license or certificate ([§ 2.2-3705.1 \(4\)](#)).
- Vendor proprietary information ([§ 2.2-3705.1 \(6\)](#)).
- Personal information including email addresses for the purpose of receiving emails from the Office ([§2.2-3705.1 \(10\)](#)).
- Records relating to the negotiation and award of a contract, prior to a contract being awarded ([§ 2.2-3705.1 \(12\)](#)).
- Account numbers or routing information for any credit card, debit card, or other account with a financial institution of any person or the Office ([§2.2-3705.1 \(13\)](#)).
- Information that describes the design, function, operation, or access control features of any security system, whether manual or automated, which is used to control access to our use of any automated data processing or telecommunications system ([§2.2-3705.2 \(3\)](#)).
- Plans and information to prevent or respond to terrorist activity, the disclosure of which would jeopardize the safety of any person . **Any request made for records excluded under this subdivision must be reported to the Secretary of Public Safety and Homeland Security.** ([§ 2.2-3705.2 \(4\)](#)).
- Information in drawings, plans, or training manuals, or staff meeting minutes if the disclosure of the information would reveal surveillance techniques, personnel deployments, alarm or security systems, or operational or transportation plans, or jeopardize the facility, building or structure, or the safety of any person using the facility, building, or structure ([§2.2-3705.2 \(6\)](#)).
- Subscriber data provided to the Office by a telecommunications carrier as part of the 911 emergency telephone system. However, such information shall be released in connection with specific calls to the 911 system in response to a specific crime, emergency, or the event when a citizen initiated the 911 call. ([§2.2-3705.2 \(9\)](#), [\(10\)](#)).
- Information relating to the public safety communications systems of the Office ([§2.2-3705.2 \(13\)](#)).
- Complaints, memoranda, correspondence and evidence relating to a criminal investigation or prosecution, other than criminal incident information; reports submitted in confidence to the Office; records of Neighborhood Watch programs; records of persons held in jail or prison that related to the imprisonment; records containing specific tactical plans, the disclosure of which would jeopardize the safety or security of law enforcement personnel or the general public; records of adults under pretrial services programs; records relating to numbers for cellular telephones, pagers, or other comparable portable communications devices provided to staff in for use in the performance of official duties;

portions of records relating to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of the operation or detail, however, information about the overall costs of such operation or detail shall be released; records of background investigations of applicants for employment by the Office, administrative investigations of complaints made against any staff member of the office, and all other administrative investigations made confidential by law; identity of any victim, witness, or undercover officer, investigative technique or procedures, but the identity of any witness or victim shall be withheld if disclosure is prohibited or restricted under [§19.2-11.1-2](#); sex offender registry information not subject to required posting on the Internet under [§9.1-913](#); identity of any person providing crime related information under a promise of anonymity ([§2.2-3706 \(A\)\(2\)\(a\)-\(l\)](#)).

The Federal Freedom of Information Act only applies to federal agencies and not to this Office or other local or state agencies.

Frequently Requested Records

Accident reports may be obtained through the [Virginia Department of Motor Vehicles](#).

Criminal history records are governed by the restrictions set forth under [§19.2-389](#). This Office does provide responses to local Criminal History Records (records of arrest made by a member of the Office) to the subject of the record in person or upon receipt of a signed notarized release by the record subject given permission to release the record to another specific person. That third party must provide a current government issued photo identification card in order to receive the criminal history record.

Sex Offender Registry information is governed by [§§ 9.1-900 et seq.](#) These records are maintained by the Virginia State Police.

The sheriff has decided not to release information from criminal investigative files under his discretionary authority set for under [§2.2-3706 2](#). This includes documents, information, complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information released as required.

General Summary of Records Maintained by the Sheriff's Office

Accident Reports (may be obtained through the [Virginia Department of Motor Vehicles](#))

Agency Policies & Procedures (see [Virginia Law Enforcement Professional Standards Commission](#))

Assets & Forfeitures

Budget & Financial

Cell Tower Access Logs

Civil & Criminal Process

Community Programs (DARE, Deputy Santa, Keep Safe, Neighborhood Watch)

Contracts

Correspondence

Court Dispositions & Orders

Court Security Plans

Criminal History Records & Requests

Criminal Incident Reports
Criminal Intelligence Files (see [Title 28 Code of Federal Regulations, Part 23](#))
Dispatch Telecommunications Records
Expunged Records
Extradition
Fireworks Permits
FOIA Requests
Food Services
Grant Programs
Inmate Incarceration Records
Inmate Telephone System
Inmate Work Release Program
Insurance
Interagency Agreements
Internal Affairs Investigations
Jail Audits, Logs, & Standards
Jail Food Service
Jury Lists (exempt under [§2.2-3703](#))
Juvenile Detention Center
Labor Laws
Leave Requests, Vacation & Work Schedules
Legal Update
Master Forms
NCIC/VCIN Records (Data Entries, Logbooks, Messages)
Personnel & Training
Pest Control Inspections & Treatments
Pharmacy
Planning & Research
Project Lifesaver
Property Receipts
SOP Manual
Surveillance Equipment Records
Traffic Crash Reports
Traffic Summons
Towed/Impounded Vehicles
Undercover Operations Records
Video Licensing
Workman's Compensation Injury Reporting