

<i>Jefferson County Policies &amp; Procedures</i>			
Policy Name:	FOIA Requests	Approved:	January 2015
Policy Number:		Author:	Keyser/Grove
Associated:	FOIA Request Form (attached)		

The West Virginia FOIA (Freedom of Information Act – WV Code 29B-1-1) requires public bodies to provide records in response to requests, unless those records are exempt from disclosure in accordance with the Act. Chapter 29B Article 1 exclaims “Public Records states 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 of this article. A request to inspect or copy any public record of a public body shall be made directly to the custodial of such public record. The custodian shall furnish proper and reasonable opportunities for inspection and examination of the records in his/her office and reasonable facilities for making memoranda or abstracts therefore, during the usual business hours to all person having occasion to make examination of them. If records requested exist in magnetic, electronic or computer form, the custodian of the records shall make such copies available on magnetic or electronic media, if so requested. All requests for information must state with reasonable specificity the information sought. The custodian, upon demand for records made under this statute”, shall as soon as practicable furnish copies or a time and place to inspect, “within a maximum of five days not including Saturdays, Sunday, or legal holidays. If a request is denied, it must state in writing the reason for the denial. The public body may establish fees reasonable calculated to reimburse it for its actual cost in making reproductions of such records.”

A requestor cannot require the County to create, maintain, or compile the information in a format in which the County does not create, maintain or compile that information. The requestor cannot require the County to create or compile a record that does not currently exist.

No particular form is required to submit a FOIA request, although one is attached to this policy and posted on our website for our citizens’ convenience and to assist us in supplying the appropriate requested information. To ensure we understand exactly what information is being requested, the request should always be in writing, and as such, you are authorized to request information to be submitted to you in writing from the citizen.

In the event the FOIA request is for documentation which is readily available on our Jefferson County website, the citizen should be directed to the website and the location on the website where the information can be obtained. The employee is responsible for submitting an email to Civil Counsel advising them of the citizen, the FOIA request, and what you advised the citizen regarding their FOIA request.

Our internal process:

--Immediately upon receipt, ALL requests for County information must be submitted to our internal Civil Counsel (our Legal Department) with a copy to the County Administrator. This

applies to all employees (including Elected Official employees), Commissioners and Elected Officials. (Civil Counsel will advise if you do not need to provide the documentation upon receipt of the FOIA request from the employee).

--Each department is responsible for providing the necessary information to our Civil Counsel regarding the citizen's specific request.

--Civil Counsel is required to prepare an appropriate response with required documentation as provided by our internal resources, and submit a response to the citizen. Civil Counsel is to provide a copy of all FOIA responses to the County Administrator. In addition, Civil Counsel should also copy the Commissioner(s), Elected Official or the department employees which produced the documentation so it is clear what an answer was provided. Civil Counsel will be responsible for maintaining records of all FOIA requests, responses and associated costs charged to the citizen. Civil Counsel will be responsible for assisting the citizen should they wish to inspect the document(s) instead of obtaining copies and apply charges, if applicable.

**--Under no circumstances should any response for a citizen FOIA request be provided without the review and approval of the Civil Counsel.**

--A response must occur within 5 days of the receipt of the request (excluding week-end and holidays) as required by State Code.

For searches where the information requires limited time and resources, the citizen is entitled to 10 free pages (paper or electronic) annually. On or after the 11<sup>th</sup> page, the citizen is required to pay \$1.00 per page whether paper or electronic. Civil Counsel should advise the citizen electronic copies cannot be guaranteed or verified, so the citizen will be responsible for advising us if the electronic copy is not delivered to their email address. . In the event the citizen does not wish to inspect, but requests documents to be mailed, the citizen will be responsible for postage above \$5.00.

For searches exceeding fifteen minutes, the County is authorized to charge \$12.00 per hour for its employees' time to search for and/or compile requested records, with a minimum charge of \$12.00 for the first hour and then prorated for each quarter hour thereafter. If IT personnel are required to complete searches or compile data exceeding fifteen minutes, the County is authorized to charge \$21.00 per hour, with a minimum charge of \$21.00 for the first hour and then prorated for each quarter hour thereafter.

In the event the request is so voluminous that special IT accessories are required such as a flash drive or a CD, the cost of the purchase of the storage device will also be included.

The citizen will be notified if the charge is anticipated to reach or exceed \$20.00, along with a listing of the associated costs. The citizen has the right to change or withdraw their request based on the associated fees, however, they should complete a new form with their revised request or the internal respondent should clearly document the conversation with the citizen and the new request and anticipated fees.

The appropriate fees are to be submitted to the County prior to ANY information being delivered. Checks should be made payable to the Sheriff of Jefferson County. Both checks and cash are to be sent to the Tax Office with a note identifying the citizen and the amount charged.

There are special requests for law enforcement and the Emergency 911 Center which involves the release of data/audio recordings which are a normal function of their business requirements (usually for court/legal purposes), which will be exempt from this policy. They should each follow their standard protocols, guidelines and policies. However, should law enforcement or the Emergency 911 Center receive a request outside their normal legal scope, such as personnel or budget information, the FOIA request shall follow these guidelines.

## FOIA Request Form

Date Submitted: \_\_\_\_\_ Citizen Name: \_\_\_\_\_

Best Phone # to reach you: \_\_\_\_\_

Request Submitted via:  Email  Website  US Mail  Fax  In-Person

Records Requested: (Provide as much detail as possible. Use additional sheets as necessary.)

Where/how do you want the information provided to you:

US Mail Address: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

Fax: \_\_\_\_\_

Inspect Records at 124 E. Washington Street, Charles Town, WV 25414

You will be notified in advance if the cost meets or exceeds \$20.00. Please retain a copy of this request for your files. You will need to pay for the cost in advance. Please see our policy to understand our cost structure for your request. Please bring your check or cash to the County Commission office at the address above when notified of the amount due. Checks should be made payable to the Sheriff of Jefferson County. Questions regarding your request should be addressed to Civil Counsel:

lcrowther@jeffersoncountywv.org. Internal Use Only:

Date Request Received: \_\_\_\_\_ Date Provided to Citizen: \_\_\_\_\_

Internal Respondent: \_\_\_\_\_ Total Amount Due: \$ \_\_\_\_\_

Calculation of individual costs: \_\_\_\_\_