

Rights & Responsibilities:

The Rights of Requesters and the Responsibilities of Bristol Virginia Sheriff's Office under the Virginia Freedom of Information Act

The Virginia Freedom of Information Act (FOIA), located at § 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.

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 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.

The policy of FOIA states that the purpose of FOIA is to promote an increased awareness by all persons of governmental activities. In furthering this policy, FOIA 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.

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 Bristol Virginia Sheriff's Office

- You may make a request for 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 cite FOIA when you request records.
 - 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 us a clear statement of what records you are requesting, so that there is no misunderstanding over a verbal request. We cannot refuse to respond to your FOIA request if you elect to not put it in writing; however, we may transcribe your verbal

request to written form.

- Your request must identify the records you are seeking with "reasonable specificity." This is a common-sense standard. 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 we 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 Bristol Virginia Sheriff's Office, nor does it require Bristol Virginia Sheriff's Office to create a record that does not exist.
- You may choose to receive electronic records in any format used by Bristol Virginia Sheriff's Office during the regular course of business.
 - For example, if you are requesting records routinely maintained in a standard electronic file format, you may elect to receive those records electronically, via e-mail, or on a computer disk, or to receive a printed copy of the records. However, the Bristol Virginia Sheriff's Office is not required to create a record, reformat information, or to compile a custom collection.
- If we have questions about your request, please cooperate with our efforts to clarify the type of records that you are seeking. If you are making a large request, please cooperate with our attempt to reach a reasonable agreement. Making a FOIA request is not an adversarial process, but we may need to discuss your request with you to ensure that we understand what records you are seeking.

To request records from Bristol Virginia Sheriff's Office, you may direct your request to Sheriff Jack Weisenburger. He can be reached at 417 Cumberland Street, Bristol Virginia, 24201, or by phone at (276) 645-7430, by fax at (276) 645-7428 or by e-mail at bvso@bvso.net. You may also contact him with questions concerning requesting records from the Bristol Virginia Sheriff's Office. In addition, the Freedom of Information Advisory Council is available to answer any questions you 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.

The Bristol Virginia Sheriff's Office Responsibilities in Responding to Your Request

- Bristol Virginia Sheriff's Office must 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 Bristol Virginia Sheriff's Office is irrelevant and you do not have to state why you want the records before we respond to your request. FOIA does, however, allow Bristol Virginia Sheriff's Office to require you to provide your name and legal address.
- FOIA requires that Bristol Virginia Sheriff's Office make one of the following responses to your request within the five-day time period:

- 1) We provide you with the records that you have requested in their entirety.
 - 2) We 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, we must send 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 that allows us to withhold the records.
 - 3) We provide some of the records that you have requested, but withhold other records. We 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 is exempt and provide you with the remainder of the record. We must provide you a written response stating the specific section of the Code of Virginia that allows portions of the requested records to be withheld.
 - 4) We inform you in writing that the requested records cannot be found, do not exist, or we do not have the records you seek. However, if we know that another public body has the requested records, we must include contact information for the other public body in our response to you.
 - 5) If it is practically impossible for Bristol Virginia Sheriff's Office to respond to your request within the five-day period, we must state this in writing, explaining the conditions that make the response impossible. This will allow us seven additional working days to respond to your request, giving us a total of 12 working days to respond to your request.
- If you make a request for a very large number of records, and we feel that we cannot provide the records to you within 12 working days without disrupting our other organizational responsibilities, we may petition the court for additional time to respond to your request. However, FOIA requires that we 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 the 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 supplying requested records shall be estimated in advance at the request of the requester 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 Bristol Virginia Sheriff's Office. FOIA allows us to charge for the actual costs of responding to record requests. This would include items like staff time spent searching for the requested records, copying costs, or any other costs directly related to supplying the requested records. It cannot include general overhead costs.
- If we estimate that it will cost more than \$200 to respond to your request, we 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 we estimate in advance the charges for supplying the records that you have requested. This will allow you to know about costs upfront, and give you the opportunity to modify your request in an attempt to lower the estimated costs.
- If you owe us money from a previous FOIA request that has remained unpaid for more than 30 days, Bristol Virginia Sheriff's Office may require payment of the past-due bill before responding to your new FOIA request.

Types of Records

The Bristol Virginia Sheriff's Office maintains records to support the administration and operation of the agency. The following is a general description of some types of the records held by Bristol Virginia Sheriff's Office:

- Personnel records concerning employees and officials of Bristol Virginia Sheriff's Office
- Arrest, booking, and institutional records of persons jailed in the Bristol Virginia Jail and other penal facilities
- Records of policy, procedure, and tactical plans for the operation of the Bristol Virginia Sheriff's Office
- Record of contracts which Bristol Virginia Sheriff's Office has entered into

If you are unsure whether the Bristol Virginia Sheriff's Office has the record(s) you seek, please contact Sheriff Jack Weisenburger directly at 417 Cumberland Street, Bristol, Virginia 24201, or by phone (276) 645-7430, by fax at (276) 645-7428 or by email at bvso@bvso.net

Commonly Used Exemptions

The Code of Virginia allows any public body to withhold certain records from public disclosure. The following list is not all-inclusive, but points out some statutory exemptions commonly used by Bristol Virginia Sheriff's Office:

- Complaints, memoranda, correspondence and evidence relating to a criminal investigation or prosecution, other than criminal incident information (§ 2.2-3706 of the Code of Virginia)
- Records of persons imprisoned in penal institutions in the Commonwealth provided such records relate to the imprisonment (§ 2.2-3706 (A)(2)(d) of the Code of Virginia)
- Records that may jeopardize public safety (§ 2.2-3705.2 of the Code of Virginia)
- Personnel records (§ 2.2-3705.1 (1) of the Code of Virginia)
- Records subject to attorney-client privilege (§ 2.2-3705.1 (2) of the Code of Virginia) or attorney work product (§ 2.2-3705.1 (3) of the Code of Virginia)

- Vendor proprietary information (§ 2.2-3705.1 (6) of the Code of Virginia)
- Records relating to the negotiation and award of a contract, prior to a contract being awarded (§ 2.2-3705.1 (12) of the Code of Virginia)
- Pursuant to § 19.2-389 of the Code of Virginia, requests for criminal history record information cannot be fulfilled by local agencies, including the Bristol Virginia Sheriff's Office. The requester will be directed to the Virginia State Police for criminal history records.

Central Criminal Records Exchange

Department of State Police

P.O. Box 85076

Richmond, VA 23285-5076

See http://www.vsp.state.va.us/CJIS_Criminal_Record_Check.shtm

Policy Regarding the Use of Exemptions

The Bristol Virginia Sheriff's Office may withhold records when specific statutory exemptions apply, such as:

- The general policy of Bristol Virginia Sheriff's Office is to use the criminal record exclusion when disclosure of the requested record is likely to jeopardize an ongoing investigation, prosecution, or safety of an individual.
- The general policy of Bristol Virginia Sheriff's Office is to use the discretionary release provision, of the criminal record exclusion, regarding requests for records of persons imprisoned, when such records relate to the imprisonment.
- The general policy of Bristol Virginia Sheriff's Office is to invoke the public safety exemption when disclosure of the requested information would jeopardize the safety or security of any government facility or persons using such government facility.
- The general policy of Bristol Virginia Sheriff's Office is to invoke the personnel records exemption, in those instances where it applies, in order to protect the privacy of employees and officials of Bristol Virginia Sheriff's Office.
- The general policy of Bristol Virginia Sheriff's Office is to invoke the contract negotiations exemption whenever it applies in order to protect the Bristol Virginia Sheriff's Office bargaining position and negotiating strategy.