

**WEST VIRGINIA  
SECRETARY OF STATE**

**KEN HECHLER**

**ADMINISTRATIVE LAW DIVISION**

Form #5

**FILED**

JUL 26 10 23 AM '94

OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

**NOTICE OF AGENCY ADOPTION OF A PROCEDURAL OR INTERPRETIVE RULE  
OR A LEGISLATIVE RULE EXEMPT FROM LEGISLATIVE REVIEW**

AGENCY: DIVISION OF PUBLIC SAFETY TITLE NUMBER: 81

CITE AUTHORITY: WV CODE 29B-1-3

RULE TYPE: PROCEDURAL X INTERPRETIVE \_\_\_\_\_

EXEMPT LEGISLATIVE RULE X

CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

WV CODE 29A-3-B

AMENDMENT TO AN EXISTING RULE: YES \_\_\_\_\_, NO X


IF YES, SERIES NUMBER OF RULE BEING AMENDED: \_\_\_\_\_

TITLE OF RULE BEING AMENDED: \_\_\_\_\_

IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: SERIES VII

TITLE OF RULE BEING ADOPTED: RULES AND REGULATIONS GOVERNING  
REQUESTS FOR INFORMATION (FREEDOM OF INFORMATION ACT)

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE  
EFFECTIVE DATE OF THIS RULE IS SEPTEMBER 1, 1994

  
Authorized Signature

5.40



Joseph J. Skaff  
SECRETARY  
(304) 558-2930

State of West Virginia  
OFFICE OF THE SECRETARY  
DEPARTMENT OF MILITARY AFFAIRS  
AND PUBLIC SAFETY  
P. O. Box 50155  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0155

July 25, 1994

Division of Corrections  
Adjutant General's Office:  
Division of Engineering & Facilities/  
State Armory Board  
Military Awards Board  
Division of Public Safety - WV State Police:  
Commission on Drunk Driving Prevention  
Office of Emergency Services:  
Emergency Services Advisory Council  
Disaster Recovery Board  
Emergency Response Commission  
State Fire Commission/State Fire Marshal  
Board of Probation and Parole  
Regional Jail and Correctional Facility Authority  
Office of Veterans' Affairs

TO: Ken Hechler  
Secretary of State

FROM: Joseph J. Skaff, Secretary

RE: Administrative Regulation Dealing with Freedom of  
Information Act Requests to the Division of  
Public Safety

Pursuant to W. Va. Code Sec. 5F-2-2(a)(12), I have reviewed West Virginia Legislative Rule, Department of Military Affairs and Public Safety, Division of Public Safety, Title 81, Series VII, concerning rules and regulations governing Freedom of Information Act requests to the Division of Public Safety, as proposed by the Division of Public Safety. I hereby approve the agency adopted regulation for filing with the Secretary of State.

S/b

FILED

WEST VIRGINIA LEGISLATIVE RULE  
DEPARTMENT OF MILITARY AFFAIRS AND PUBLIC SAFETY  
DIVISION OF PUBLIC SAFETY  
TITLE 81  
SERIES VII

JUL 26 10 23 AM '94  
OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

Title: Rules and Regulations Governing Requests for Information  
(Freedom of Information Act).

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Section 1. General

1.1 Scope - These rules and regulations establish procedures whereby any person may inspect and copy any public record prepared, owned, and retained by the West Virginia Division of Public Safety, except as provided in Section 4, Article 1, Chapter 29B of the Code of West Virginia.

1.2 Authority - W. Va. Code §29B-1-3

1.3 Filing Date - June 8, 1994

1.4 Effective Date - September 1, 1994

Section 2. Purpose

2.1 To establish procedures for the orderly dissemination of public records pursuant to the Freedom of Information Act by the West Virginia Division of Public Safety.

Section 3. Definitions

As used in these regulations, unless used in a context that clearly requires a different meaning, the term:

3.1 "Act" means the "Freedom of Information Act" Chapter 29B-1-1 et. seq.

3.2 "Superintendent" means the Superintendent of the West Virginia Division of Public Safety.

3.3 "Division" means the West Virginia Division of Public Safety.

Department of Military Affairs and Public Safety  
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Title 81  
Series VIII

3.4 "Public records" means any books, papers, maps, photographs, cards, tapes, recordings, and other documentary materials, regardless of physical forms or characteristics, containing information relating to the conduct of the public's business which are proposed, owned, and retained by the West Virginia Division of Public Safety, and which are not held in confidence pursuant to federal or state laws.

Section 4. Form of Request

4.1 Each request to inspect or copy any public record of the Division shall be made, in writing, directly to the Superintendent and shall include the following:

- (a) The name of the person making the request,
- (b) The person's interest or affiliation,
- (c) The address and telephone number where the person may be contacted,
- (d) A statement describing, with reasonable specificity, the information sought and whether or not the person will be requiring reproductions of the public record. If possible, the statement should include a description of each document sought and if available, the title, date, and author of each such document, and
- (e) A statement that the person is prepared to pay any fees covering the actual cost to the Division for making reproductions of the public record.

4.2 Requests may be filed either in person, by U. S. Mail, fax, computer modem, or private courier, at the Office of the Superintendent, 725 Jefferson Road, South Charleston, West Virginia, 25309-1698. Requests made in person shall only be made during the Division's regular business hours.

Section 5. Responsibilities of the Division.

Department of Military Affairs and Public Safety  
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5.1 The Division shall, upon receipt of a properly filed request, affix the date of receipt and initiate a search for the requested information.

5.2 The Division shall respond to each request, in writing, as soon as practicable, but within a maximum of five (5) working days of receipt of the request. Such response shall:

(a) Provide requested information,

(b) Advise the requestor of the time and place at which he/she may inspect and/or copy the information,

(c) Advise the requestor that the description of the information sought is not sufficient to allow the Division to identify and locate the information and that the request cannot be further processed until additional information is made available to the Division. Upon receipt by the Division of additional information, the five (5) day time limit shall begin anew; or

(d) Deny the request stating in writing the reason for such denial and informing the requestor that he/she may appeal the Division's action in accordance with W. Va. Code §29B-1-5. The basis for denial shall include, but not be limited to, the following:

(1) The requested record is not known to exist,

(2) The record is not in the Division's possession,  
and/or

(3) The record is exempt from disclosure under Section 4 of the Act or other provisions of federal or state law.

5.3 The Division may decline to honor requests which require the creation of a record containing a compilation of records, extraction of information from other records, or any statistical analysis of records.

Department of Military Affairs and Public Safety  
Division of Public Safety  
Title 81  
Series VII

5.4 The Division will not honor requests received by Division offices other than that of the Superintendent. The five (5) day time limit shall not begin until the request is properly filed with the Office of the Superintendent as detailed in §4.2 above.

Section 6. Fees.

6.1 The Division shall establish fixed rate fees for reproduction of documents, records, and files.

6.2 All fees shall be paid in advance of receipt of the requested information by certified check, cashier's check, or money order made payable to the Superintendent, Division of Public Safety.

Department of Public Safety and Military Affairs  
Division of Public Safety  
Title 81  
Series VII

Fee Schedule of Information Release

Copying (per page)	\$ 1.00
Criminal Report	15.00
Accident Report	10.00
Background Check (Non-Criminal Justice)	10.00
Set of Photos (12)	20.00
Fax (Accident Only)	15.00
Certified Copy (Accident Only)	15.00
*Magnetic Media (First Disk or Tape)	10.00
*Magnetic Media (Second Disk/Tape- Same Subject/Case)	5.00
Magnetic Media via Computer Modem (Per Subject/Case)	15.00

\*Requestor must furnish compatible disk, tape, or other magnetic media.

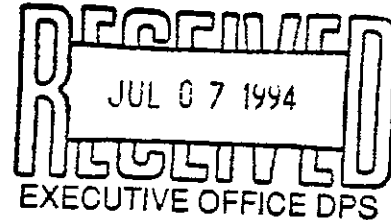
**West Virginia Department of Public Safety and Military Affairs  
Division of Public Safety  
Title 81  
Series VII**

**Comments & Responses to Comments on Proposed Rule**

# WEST VIRGINIA PRESS ASSOCIATION

3422 Pennsylvania Avenue  
Charleston, West Virginia 25302  
Voice: (304) 342-1011 • FAX: (304) 343-5879

July 7, 1994



Office of the Superintendent  
725 Jefferson Road  
South Charleston, WV 25309-1698

## RE: Comments on Proposed Procedural Rule, Series VII - FOIA Requests

Submitted by William F. Childress, Executive Director, West Virginia Press Association

1. The West Virginia Press Association is a trade association representing the daily and weekly newspapers of West Virginia.
2. One of the primary functions of the West Virginia Press Association is to provide assistance and guidance to the state's newspapers in gaining access to public information. In this role the Press Association has become familiar with the recurring problems encountered by working journalists in their efforts to report the news.
3. The West Virginia Press Association objects to the proposed rule, Title 81, Series VII on several grounds:
  - a. The proposed rule exceeds the rule-making authority granted in § 29B-1-3(3).
  - b. The proposed rule is in conflict with specific provisions of §29B-1-1 et seq.
  - c. The proposed rule places undue and unnecessary hardship on news organizations and individual citizens which are located or who reside outside the vicinity of Charleston, West Virginia.
  - d. When divested of the provisions which are in conflict with § 29B-1-1 et seq., the proposed rule is merely a restatement of § 29B-1-1 et seq. and, therefore, is unnecessary.
  - e. The proposed rule, if implemented to the letter, invites abuse by the Division of Public Safety and, thereby, poses the prospect of continuous litigation and/or recurring delays in obtaining even accident reports or routine information.
  - f. The proposed rule would allow division personnel to selectively favor certain individuals, types of media or certain media organizations and to delay provision of information to others.
4. Specific comments:
  - a. In §29B-1-1, the states "... it is hereby declared to be the public policy of the state of West Virginia that all persons are, unless otherwise expressly provided by law, entitled to full and complete information regarding the affairs of government and the

William F. Childress, Executive Director

officials acts of those who represent them as public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know . . . To that end, the provisions of this article shall be liberally construed with the view of carrying out the above declaration of public policy."

Nowhere in the chapter is it suggested that any one seeking information from a public body should be required to state, as condition of gaining access to information, "the person's interest or affiliation" as prescribed in the proposed rule.

Nowhere in the chapter is it specified that requests for information be written or be delivered in any particular manner. By limiting the filing of requests to personal appearance or "by U.S. mail," the division rules out the delivery of such requests through more rapid and more reliable means, including U.S. Parcel Service (or other courier/delivery services), FAX, computer modem, etc.

b. The chapter grants limited rule-making authority to custodians of public records - ". . . for the protection of the records and to prevent interference with the regular discharge of his or her duties. . ." The proposed rule, according to the summary, is designed to correct the "problem" of "diverse release policies" among "division offices." Nothing in the statute suggests that this limited rule-making authority is to be used to address internal problems of communication, supervision or management.

c. While the proposed rule would establish as grounds for denial of access to public information the reason that the request would "require the creation of a record containing a compilation of records, extraction of information from other records, or any statistical analysis of records," neither the statute nor case law establish any such criteria for denial of access.

d. The proposed rule would establish the superintendent as the custodian of every record existing within the division, whereas the actual and true custodian may be any one of several appointed officials at various locations around the state.

e. While the § 29B-1-3 (4) requires that FOIA requests state with "reasonable specificity the information sought," the proposed rule would require that such requests shall include "a description of each document sought. . ." In effect, those who were not intimately familiar with division procedures and documents or who did not have personal guidance from division personnel could be denied access to information to which they otherwise would be entitled.

f. Unlike other rules issued by other agencies - both state and federal - the proposed rule does not include provisions to inform the requester of the costs of copying or reproducing the requested material nor any provision for waiving the fees for individuals who cannot afford such costs. This deficiency not only violates federal law; it also effectively denies access to public information on the basis of economic circumstance.

5. In summary, the proposed rule is excessively restrictive, vaguely worded and generally designed to impede access to public information. The proposed rule should be withdrawn and rewritten to bring it into conformance with § 29B-1-1 et seq.

Comments submitted: July 7, 1994.

Signed: 



**West Virginia State Police**  
725 Jefferson Road  
South Charleston, West Virginia 25309-1698  
**Executive Office**

**Gaston Caperton**  
Governor

**Colonel Thomas L. Kirk**  
Superintendent

July 19, 1994

**West Virginia Press Association**  
Attention: William F. Childress  
3422 Pennsylvania Avenue  
Charleston, West Virginia 25302

Dear Mr. Childress:

Thank you for your letter and comments dated July 7, 1994, concerning the Division's proposed administrative regulation dealing with requests for information and records pursuant to the West Virginia Freedom of Information Act [hereinafter "the Act"]. The Division's intent in filing this regulation is to assist the Superintendent, as custodian of all Division records, in providing an efficient and lawful response to such requests. With this base proposition in mind, the Division has the following responses to your comments:

1) The proposed regulation is promulgated pursuant to W. Va. Code § 29B-1-3(3), which allows the Superintendent to "...make reasonable rules and regulations necessary for the protection of the records and to prevent interference with the regular discharge of his/her duties." By providing an orderly and centralized conduit for the consideration and granting of requests pursuant to the Act, the regulation facilitates the Superintendent in performing his duties under the Act without the undue interference attendant to verbal, non-specific requests. Incomplete or vague requests routinely require multiple contacts with the requestor by Division employees in order to procure additional information. As a result, time is wasted by Division employees and/or delays occur in processing the request. Further, the majority of requests are directed to Division offices that do not maintain or possess the requested records, which causes the Superintendent to experience difficulty in meeting his statutory duty to respond to such requests in a timely fashion. Finally, the Superintendent, under federal and state law as well as constitutional and other provisions relating to individual privacy, has an absolute legal duty to protect the confidentiality of certain records. In order to ensure that these protected records are properly identified and "protected" as envisioned by the statute, the requests must be directed to the Superintendent. The Superintendent will then be able to determine the status of the information specified in the request and advise the requestor.

2) The Division submits that the proposed regulation is in conformity to the provisions of the Act. Again, the statute allows the Superintendent, as custodian, to make "reasonable rules and regulations." The requirement in the proposed regulation that requestors list their interest or affiliation is solely intended to expedite the consideration of the request. In dealing with requests involving individual privacy issues, knowledge of the requestor's interest or affiliation may assist the Superintendent in quickly and efficiently determining the status of the request. For example, if an individual is requesting his/her own records, then inspection and copying would be permitted, whereas, an individual requesting records impacting on another individual's right to privacy would be refused access absent a showing of "...clear and convincing evidence that the public interest under the circumstances requires disclosure." Hechler v. Casey, 175 W. Va. 434, 333 S.E.2d at 799 (1985). By requiring this information, the proposed rule seeks to assist the Superintendent in the efficient discharge of his statutory duties under the Act.

The provision in the proposed rule limiting requests for information under the Act to personal appearance and U. S. Mail does fail to recognize the feasibility of employing courier delivery services, fax, or computer modem. The final rule will be amended to include these methods of delivery.

The provision in the proposed rule that would refuse requests for records in the form of a compilation of existing records is strictly in conformity to both statutory and case law. The act is fundamentally concerned with "public records" maintained by a "public body". Thus, a request for a "creation of a record containing a compilation of records, extraction of information from other records, or any statistical analysis of records" is nothing more than a request to inspect or copy a "public record" that simply does not exist. The Superintendent, of course, has no legal or other duty pursuant to the Act to create a record. Further, the work load attendant to requiring the Superintendent to perform compilations would undeniably interfere with the his ability to discharge the routine duties of his position. The expenditure of clerical resources in dealing with information compilations or analysis would likely cause other statutory duties to remain pending.

The proposed rule names the Superintendent as the custodian of all Division records. Notwithstanding the arguments cited *supra* for this designation, the Superintendent, as an appointed official charged with administering the Division, is the only individual permitted *by law* to act as custodian. W. Va. Code § 29B-1-2(1).

3) The proposed rule requires that a requestor provide "a description of each document sought..." This provision was intended to promote expedience in processing requests and comports with the reasonable specificity requirement of the statute. However, the final rule will be amended to include the phrase, "All requests for information must state with reasonable specificity the information sought and if possible, a description of each document sought."

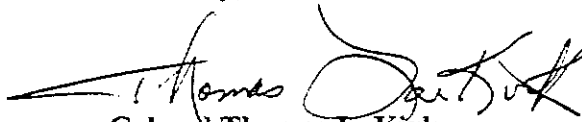
4) Regarding your contentions concerning the absence of a fee schedule, the final rule will be amended to include a schedule of all fees associated with information requests under the Act. As an aside, the Division's proposed rule is based on essentially similar state regulations promulgated by the Department of Energy under CSR §38-9-1 et seq., and by the Attorney General under CSR §142-2-1 et seq.

5) Your concern that news agencies and individuals located outside of the Charleston area would experience undue hardship in receiving information pursuant to the Act is unwarranted. First, the bulk of the information disseminated to the media by the Division is accomplished without a formal request under the Act and routinely stems from current events, crimes, accidents, and similar happenings. The Division, through this proposed regulation, does not intend to alter its present policy of freely and liberally providing information concerning these matters. Second, with the amendment to the final rule permitting requests to be made in person, in writing, by fax, computer modem, or private courier, it is unlikely that anyone will be placed at a disadvantage in seeking otherwise disclosable information from the Division. There simply is no other way to seek the information and simultaneously provide the Division with the data required to consider the request.

6) Finally, your contention that the proposed rule "...would allow division personnel to selectively favor certain individuals, types of media or certain media organizations and to delay provision of information to others" is without justification as the Division is promulgating the rule with the express intent of improving the efficiency of processing requests. The Division intends to maintain its policy of cooperation with the media and their representatives in their efforts to gather and report information of interest to the public.

Again, thank you for your comments. If you have any questions, please contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Thomas L. Kirk". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Colonel Thomas L. Kirk  
Superintendent

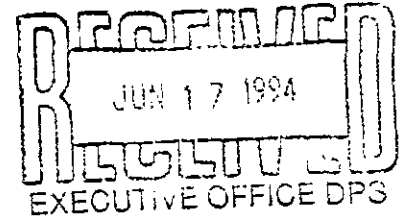
# Charleston Daily Mail

CHARLESTON, WEST VIRGINIA 25330

DAVID J. GREENFIELD  
Editor

June 16, 1994

Lt. Col. Gary Griffith  
Office of the Superintendent  
725 Jefferson Road  
South Charleston, WV 25309-1698



Dear Lt. Col. Griffith:


As editor of the Charleston Daily Mail and head of the state press association's Freedom of Information Committee, I read with interest the recently issued proposed rules governing requests for information. Permit me to submit several brief concerns.

As you know, state police cooperation is vital to us providing timely news to our readers about a wide variety of events in the community. Often, state police have exclusive access to documents, records or crime scene information.

One concern, in reading the proposed freedom of information procedure, is that it appears all requests must now be processed by the superintendent. Will this centralization cause delays in processing?

The regulation also states that the five-day response period begins only when the request is "properly" filed with the superintendent's office. That seems to place undue discretion as to a properly filed request in the hands of the administrator and could stretch the response limit now provided under the FOI statute.

I sincerely hope these new proposals will not in any way slow down the processing of information requests as they relate to the press. If you could clarify this in any way, I would appreciate it.

Sincerely,  
  
David Greenfield

DJG/jq



West Virginia State Police  
725 Jefferson Road  
South Charleston, West Virginia 25309-1698  
Executive Office

Gaston Caperton  
Governor

Colonel Thomas L. Kirk  
Superintendent

June 20, 1994

David J. Greenfield, Editor  
Charleston Daily Mail  
Charleston, West Virginia 25330

Dear Mr. Greenfield,

Thank you for your letter and comments dated June 16, 1994. I understand your concern regarding the proposed Freedom of Information Act regulation. The Division acknowledges that providing timely information to the media is an important and vital function. Toward that end, the Division filed the proposed regulation as a means of enhancing the efficient delivery of information covered under the Act.

Currently, requests for records and information are administered in a non-uniform manner throughout the State. Due to this lack of cohesive policy, requests for information often become mired in administrative confusion as the determination is made as to what is proper to release. Many records maintained by the Division are subject to federal and state disclosure laws and are exempt from freedom of information requests. By centralizing this process and placing the decision in the hands of those familiar with the law, the Division hopes to accelerate the processing of requests under the Act.

Finally, the bulk of the information disseminated to the media by the Division is accomplished without a formal request under the Act and stems from current events, crimes, accidents, and similar happenings. The Division, through this proposed regulation, does not intend to alter its present policy of freely and liberally providing information concerning these matters. If you have any further questions, please contact me.

Sincerely,

*Lt. Col. Gary N. Griffith*  
Lt. Col. Gary N. Griffith  
Deputy Superintendent

**West Virginia Department of Public Safety and Military Affairs**  
**Division of Public Safety**  
**Title 81**  
**Series VII**

**Amendments Made to Proposed Rule as a Result of  
Comments**

The following amendments were made to the proposed rule as a result of the comments received:

1) Section 4.1(d) was amended to read "A statement describing , with reasonable specificity, the information sought and whether or not the person will be requiring reproductions of the public record. If possible, the statement should include a description of each document sought and if available, the title, date, and author of each such document..."

2) Section 4.2 was amended to read "Requests may be filed either in person, by U. S. Mail, fax, computer modem, or private courier, at the Office of the Superintendent, 725 Jefferson Road, South Charleston, West Virginia, 25309-1698."

3) A "Fee Schedule for Information Release" was added to the rule.

**West Virginia Department of Public Safety and Military Affairs**  
**Division of Public Safety**  
**Title 81**  
**Series VII**

**Reasons for Amendments Made to Proposed Rule as a  
Result of Comments**

The amendments were made to the proposed rule as a result of the comments received for the following reasons:

1) Section 4.1(d) was amended to read "A statement describing , with reasonable specificity, the information sought and whether or not the person will be requiring reproductions of the public record. If possible, the statement should include a description of each document sought and if available, the title, date, and author of each such document..." This amendment is intended to accommodate those persons requesting information who may not have specific information such as form titles, numbers, log numbers, etc.

2) Section 4.2 was amended to read "Requests may be filed either in person, by U. S. Mail, fax, computer modem, or private courier, at the Office of the Superintendent, 725 Jefferson Road, South Charleston, West Virginia, 25309-1698." This amendment is intended to provide alternate means of filing requests under the Freedom of Information Act, bearing in mind the significant advantages offered to both the custodian and the requestor attendant to the use of modern technology and services.

3) A "Fee Schedule for Information Release" was added to the rule. This amendment is intended to provide the public with a schedule of the costs associated with reproducing records and information sought under the Freedom of Information Act.



KEN HECHLER  
Secretary of State

MARY P. RATLIFF  
Deputy Secretary of State

A. RENEE COE  
Deputy Secretary of State

CATHERINE FREROTTE  
Executive Assistant

Telephone: (304) 558-6000  
Corporations: (304) 558-8000

WILLIAM H. HARRINGTON  
Chief of Staff

JUDY COOPER  
Director, Administrative Law

DONALD R. WILKES  
Director, Corporations

(Plus all the volunteer  
help we can get)

FAX: (304) 558-0900

**STATE OF WEST VIRGINIA**

**SECRETARY OF STATE**

Building 1, Suite 157-K  
1900 Kanawha Blvd., East  
Charleston, WV 25305-0770

TO: Steve Cogar

AGENCY: Public Safety

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: September 1, 1994

THE ATTACHED RULE FILED BY YOUR AGENCY HAS BEEN ENTERED INTO OUR COMPUTER SYSTEM. PLEASE REVIEW, PROOF AND RETURN IT WITH ANY CORRECTIONS. IF THERE ARE NO CORRECTIONS, PLEASE SIGN THIS MEMO AND RETURN IT TO THIS OFFICE. YOU WILL BE SENT A FINAL VERSION OF THE RULE FOR YOUR RECORDS.

PLEASE RETURN EITHER THE CORRECTED RULE OR THIS FORM WITHIN TEN (10) WORKING DAYS OF THE DATE YOU RECEIVED THIS REQUEST. CALL IF YOU HAVE ANY QUESTIONS.

SERIES: 7 TITLE: 81 Public Safety

\* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: Sgt Stephen W. Cogar

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: 09/12/94

\*\*\*\*\*

\* THE ATTACHED RULE HAS BEEN REVIEWED AND NEEDS CORRECTING. THE CORRECTIONS HAVE BEEN MARKED.

SIGNED: \_\_\_\_\_

TITLE OF PERSON SIGNING: \_\_\_\_\_

DATE: \_\_\_\_\_

NOTE: IF YOU ARE NOT THE PERSON WHO HANDLES THIS RULE, PLEASE FORWARD TO THE CORRECT PERSON.