

**WEST VIRGINIA
SECRETARY OF STATE**

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #2

FILED

JUN 6 1 27 PM '97

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: WEST VIRGINIA STATE POLICE TITLE NUMBER: 81

RULE TYPE: PROCEDURAL; CITE AUTHORITY W. Va. Code 29B-1-3

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

TITLE OF RULE BEING AMENDED: RULES GOVERNING REQUESTS FOR
INFORMATION (FREEDOM OF INFORMATION ACT)

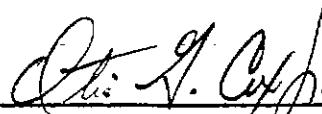
IF NO, SERIES NUMBER OF NEW RULE BEING PROPOSED: N/A

TITLE OF RULE BEING PROPOSED: N/A

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 7, 1997 AT 10:00 am. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS.

SUPERINTENDENT c/o S.W. Cogar
725 Jefferson Rd.
S. Charleston, WV 25309-1698
- Contact number: (304)746-2112
- FAX number: (304)746-2405

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.



Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

West Virginia State Police
Title 81
Series 7

Summary of Proposed Rule

The proposed rule outlines the procedures for the orderly dissemination of public records pursuant to the Freedom of Information Act by the West Virginia State Police. Additionally, the proposed rule includes a fee schedule that lists the costs associated with the retrieval and reproduction of these records.

West Virginia State Police
Title 81
Series 7

Circumstances Requiring Amendments to the Rule

The following circumstances led to the proposed amendments to §81-7-1 et seq.:

1.) The legislature changed the name of the agency from the "Division of Public Safety" to the "West Virginia State Police." The proposed rule reflects this change.

2.) Generic references to the West Virginia State Police will be made using "department" rather than "Division." This is a consequence of the legislative name change. The proposed rule reflects this change.

3.) The current rule is not uniform in its statutory citations. The proposed rule uses a uniform citation system.

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: RULES GOVERNING REQUESTS FOR INFORMATION

Type of Rule: Legislative Interpretive X Procedural

Agency WEST VIRGINIA STATE POLICE

Address 725 Jefferson Rd.

S. Charleston, WV 25309-1698

1. Effect of Proposed Rule

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
<u>ESTIMATED TOTAL COST</u>	\$ -0-	\$ -0-	\$ -0-	\$ -0-	\$ -0-
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERNATIONS					
EQUIPMENT					
OTHER					

2. Explanation of above estimates:

The proposed rules will have only nominal costs (if any at all) associated with them. Therefore, we have indicated that the proposed rules result in no costs to our agency.

3. Objectives of these rules:

To establish procedures for the orderly dissemination of public records pursuant to the Freedom of Information Act by the West Virginia State Police.

Rule Title: RULES GOVERNING REQUESTS FOR INFORMATION

4. Explanation of Overall Economic Impact of Proposed Rule.

A. Economic Impact on State Government.

NONE

B. Economic Impact on Political Subdivisions; Specific Industries; Specific groups of Citizens.

NONE

C. Economic Impact on Citizens/Public at Large.

NONE

Date: June 2, 1997

Signature of Agency Head or Authorized Representative

Rt. Hon. Gary N. Griffith

TITLE 81
PROCEDURAL LEGISLATIVE RULE
DIVISION OF PUBLIC SAFETY WEST VIRGINIA STATE POLICE

SERIES 7
RULES AND REGULATIONS GOVERNING
REQUESTS FOR INFORMATION
(FREEDOM OF INFORMATION ACT)

FILED
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SECRETARY OF STATE

§81-7-1. 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 §81-7-4, Article 1, Chapter 29B of the Code of West Virginia State Police.

1.2. Authority. -- W. Va. Code §29B-1-3

1.3. Filing Date. --

1.4. Effective Date. --

§81-7-2. 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 State Police.

§81-7-3. Definitions.

As used in these regulations rules, 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 W. Va. Code §29B-1-1 et. seq.

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

3.3. "Division" "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 prepared, owned, and retained by the West Virginia Division of Public Safety State Police, and which are not held in confidence pursuant to federal or state laws.

3.4. "Public records" "Superintendent" 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 Superintendent of the West Virginia Division of Public Safety, and which are not held in confidence pursuant to federal or state laws State Police.~~

§81-7-4. Form of Request.

4.1. Each request to inspect or copy any public record of the ~~Division~~department 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~~department 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~~department's regular business hours.

§81-7-5. Responsibilities of the ~~Division~~Department.

5.1. The ~~Division~~department 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~~department 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~~department to identify and locate the information and that the request cannot be further processed until additional information is made available to the ~~Division~~department. Upon receipt by the ~~Division~~department 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 department's action in accordance with W. Va. Code 29B-1-5 §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 department's possession, and/or

(3) The record is exempt from disclosure under §81-7-4 of the Act or other provisions of federal or state law W. Va. Code §29B-1-4 of the Act or other provisions of federal or state law.

5.3. The Division department 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.

5.4. The Division department will not honor requests received by Division department 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.

§81-7-6. Fees.

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

6.2. All fees are non-refundable and 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 West Virginia State Police.

Fee Schedule of Information Release

Copying (per page)	\$ 1.00
Criminal Report Search Fee	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.