

SECRETARY OF STATE

KEN HECHLER

ADMINISTRATIVE LAW DIVISION

Form #5

FILED

JUL 17 9 57 AM '97

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: WEST VIRGINIA STATE POLICE TITLE NUMBER: 81

CITE AUTHORITY: W. Va. Code 29B-1-3

RULE TYPE: PROCEDURAL X INTERPRETIVE _____

EXEMPT LEGISLATIVE RULE _____
CITE STATUTE(S) GRANTING EXEMPTION FROM LEGISLATIVE REVIEW

N/A

AMENDMENT TO AN EXISTING RULE: YES X, NO _____

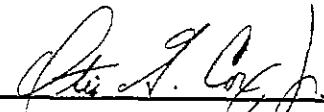
IF YES, SERIES NUMBER OF RULE BEING AMENDED: 7

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

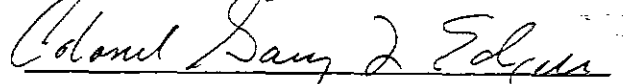
IF NO, SERIES NUMBER OF NEW RULE BEING ADOPTED: N/A

TITLE OF RULE BEING ADOPTED: N/A

THE ABOVE RULE IS HEREBY ADOPTED AND FILED WITH THE SECRETARY OF STATE. THE
EFFECTIVE DATE OF THIS RULE IS August 18, 1997



Authorized Signature



Superintendent (Agency Head)



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

Cecil H. Underwood
Governor

Colonel Gary L. Edgell
Superintendent

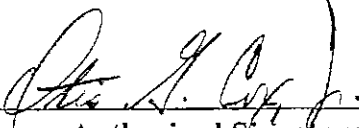
TO: Secretary of State
Legislative Rule Making

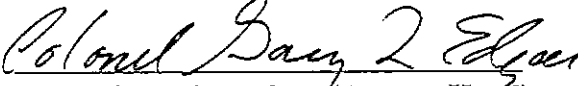
FROM: West Virginia State Police

DATE: July 17, 1997

RE: Procedural Rule
"Rules Governing Requests For Information"
Title 81
Series 7

The accompanying procedural rule was filed for a notice comment period on June 6, 1997. Subsequently, no comments or suggestions were received in response to the proposed changes to the rule. Therefore, the proposed rule is hereby approved by the promulgating agency for final filing with the Secretary of State.


Authorized Signature


Superintendent (Agency Head)

FILED

TITLE 81
PROCEDURAL RULE
WEST VIRGINIA STATE POLICE

JUL 17 9 57 AM '97

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

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

§81-7-1. General.

1.1. Scope. -- These rules establish procedures whereby any person may inspect and copy any public record prepared, owned, and retained by the West Virginia State Police.

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

1.3. Filing Date. -- July 17, 1997

1.4. Effective Date. -- August 18, 1997

§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 State Police.

§81-7-3. Definitions.

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

3.1. "Act" means the "Freedom of Information Act" W. Va. Code §29B-1-1 et. seq.

3.2. "Department" means the West Virginia State Police.

3.3. "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 State Police, and which are not held in confidence pursuant to federal or state laws.

3.4. "Superintendent" means the Superintendent of the West Virginia State Police.

§81-7-4. Form of Request.

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

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

5.1. The 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 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 department to identify and locate the information and that the request cannot be further processed until additional information is made available to the department. Upon receipt by the 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 department'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 department's possession, and/or

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

5.3. The 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 department will not honor requests received by 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 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, 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.

KEN HECHLER
Secretary of State

MARY P. RATLIFF
Deputy Secretary of State

JAN CASTO
Deputy Secretary of State

CATHERINE FREROTTE
Executive Assistant

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**STATE OF WEST VIRGINIA
SECRETARY OF STATE**

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Charleston, WV 25305-0770

FILED

WILLIAM H. HARRINGTON
Chief of Staff

JUDY COOPER
Director, Administrative Law

PENNEY BARKER
Supervisor, Corporations

OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

(Plus all the volunteer
help we can get)

SEP 17 9 12 AM '97

TO: STEVE W COGAR

AGENCY: STATE POLICE

FROM: JUDY COOPER, DIRECTOR, ADMINISTRATIVE LAW DIVISION

DATE: September 5, 1997

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 STATE POLICE

* THE ATTACHED RULE HAS BEEN REVIEWED AND IS CORRECT.

SIGNED: _____

TITLE OF PERSON SIGNING: _____

DATE: _____

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

SIGNED: Stephen W. Cogar

TITLE OF PERSON SIGNING: DIRECTOR, STATE POLICE LEGAL SECTION

DATE: 09/15/97

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