



# Herndon Police Department GENERAL ORDERS

**Administration Section**

206

Effective Date: November 5, 2024

Page 1

## **FREEDOM OF INFORMATION ACT (FOIA) REQUESTS**

### I. PURPOSE

The Virginia Freedom of Information Act, (FOIA) Virginia Code §2.2-3700, grants access to public records of the department. This policy provides general guidance on processing requests for department records.

### II. TERMINOLOGY

- Public Record (Record) – information that documents a transaction or activity by the department or its members, regardless of form, required by law to be made and kept in the performance of duty, and is subject to inspection, examination, and copying by the public.

### III. DEPARTMENT RECORDS

- A. The department creates records in the performance of its official law enforcement responsibilities and maintains or disposes of such records in accordance with the Library of Virginia's Records Retention and Disposition Schedule, (RRDS), as authorized by the Virginia Public Records Act. The department maintains operational, investigative, administrative, personnel, and training records, which are categorized by the RRDS for retention and disposition.
- B. Department records are subject to disclosure, unless pursuant to Virginia Code §2.2-3704.1, §2.2-3705.1,2, and §2.2-3706, or other applicable law, discretion is allowed to be exercised, or an exclusion exists to withhold records partially or entirely. Discretion and/or exclusions generally applicable to department records include, but are not limited to, personnel information, certain financial information, juvenile records, specified investigative information, and security or tactical matters.
- C. The department is not required to create records that do not already exist or to fulfill requests for records that are no longer available because they have been destroyed. If it is known to the department that another public body has the requested records, the department will direct the requestor to the other public body.



# Herndon Police Department GENERAL ORDERS

**Administration Section**

206

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Page 2

## **FREEDOM OF INFORMATION ACT (FOIA) REQUESTS**

### IV. FREEDOM OF INFORMATION ACT REQUESTS

All requests for information will be processed based on the provisions of FOIA, Virginia Code §2.2-3704, or other applicable laws.

#### A. Requesting Records

1. Anyone may make a FOIA request.
2. A request does not need to reference “FOIA” specifically to invoke the provisions of the law or impose timelines for a response.
3. The request must include the requestor’s name, legal address, and indicate the records sought with reasonable specificity.

#### B. Processing a Request

1. Upon receipt of a records request, the FOIA Records Specialist will be the primary point of contact for processing, documenting, and responding to requests.
2. The department will ensure that responses to requests are made within the statutory time allowed, **within five working days** of receipt of the request (not to include the date the request was received, weekends or holidays), or longer, if provisions apply.
3. If it is not practically possible to provide the requested records or to determine whether the records are available within the five working day period, a response will specify the conditions that make production of the records within that period not possible, thereby invoking additional time, as permitted by law, to process and respond to the request.
4. Records requested will be partially or entirely withheld from disclosure, pursuant to discretion or exclusions provided in FOIA. If records are withheld, the response shall reasonably detail the subject matter, volume of data if withheld entirely, and the code section that authorizes non-disclosure.



# Herndon Police Department GENERAL ORDERS

**Administration Section**

206

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Page 3

## **FREEDOM OF INFORMATION ACT (FOIA) REQUESTS**

Records containing exempt and nonexempt information will be released with applicable redactions.

5. Responses may be coordinated with or approved by the Town Attorney.
6. A response must be provided to each FOIA request. Failure to respond or cite an applicable exclusion constitutes a violation of FOIA.
7. A copy of the FOIA request and the official response(s) will be retained, as appropriate, to document records released and to indicate the exercise of discretion or an applied exclusion.

### **C. Applicable Fees**

1. Pursuant to Virginia Code §2-3704, the department may assess reasonable charges that do not exceed the cost incurred in accessing duplicating, searching, or supplying the requested records.
2. FOIA requests may necessitate a cost. A cost estimate will be sent to the requestor for approval prior to fulfilling the record request.
  - a. Records requests with cost estimates under \$200 will be processed once the requestor confirms approval of the charge. The requestor will be sent the fulfilled request along with the amount owed along with payment instructions.
  - b. When it is determined that charges for supplying the requested records will exceed \$200, the department will require the requestor to pay a deposit prior to fulfillment of the request. The deposit shall be credited toward the final cost of supplying the requested records.
3. Routine requests for background checks, accident and incident reports from non-government investigators and third-party vendors will be charged an established flat rate.



# Herndon Police Department GENERAL ORDERS

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206

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Page 4

## **FREEDOM OF INFORMATION ACT (FOIA) REQUESTS**

4. Requestors must submit payment for the records requested by check, money order, or credit card payable to the Town of Herndon. The department will facilitate payment for checks and money orders and forward to the Town for processing, however; credit card payments must be processed with the Town of Herndon's Finance Department.
5. The Town of Herndon will require a requestor to pay any amounts owed for previous requests that remain unpaid 30 days or more after billing before responding to a subsequent request for records.