

Town of Hurt, Virginia

Policy # 2020-04-001- Information, Records, Meetings and Communications Guidelines

Initial Effective Date: April 3, 2020

Applicable To: ALL Town of Hurt Employees – Full, Part-time. Contract and Volunteers

Philosophy: The Town of Hurt is committed ensuring that citizens of the Town of Hurt and the Commonwealth have ready access to public records in the custody of the Town of Hurt, its officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted. The affairs of the Town of Hurt are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government. Unless the Town of Hurt, its officers or employees specifically elect to exercise an exemption provided by law, every meeting shall be open to the public and all public records shall be available for inspection and copying upon request. All public records and meetings shall be presumed open, unless an exemption is properly invoked.

This policy shall be liberally construed to promote an increased awareness by all persons of Town of Hurt activities and afford every opportunity for citizens to witness the operations of town government. Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld, or meeting closed to the public unless specifically made exempt pursuant to law. This policy shall not be construed to discourage the free discussion by government officials or employees of public matters with the citizens of the Town of Hurt and the Commonwealth.

The Town of Hurt, their officers and employees shall make reasonable efforts to reach an agreement with a requester concerning the production of any records/information requested.

The Town of Hurt also recognizes that there are conditions whereby information/records may be exempt from public disclosure under very narrow and specific guidelines as defined under the Virginia Freedom of Information Act and other applicable laws/regulations.

General Provisions:

I: Public Information Officer: The Town of Hurt will release information in a professional manner via the utilization of a designated Public Information Officer (PIO). The PIO will be the Mayor for all general government matters other than public safety; The Director of Public Safety/Police Chief shall be the PIO for all matters of public safety.

1a: FOIA Officer: The Mayor will be the designated FOIA Officer.

II: Authorization to Release Information/Records:

- a) Employees, contractors and volunteers of the Town of Hurt are specifically prohibited from releasing confidential information/records that are deemed to have been determined to be EXEMPT from FOIA by the Mayor and Town Council.
- b) Employees, contractors and volunteers are encouraged to seek guidance and advice from their supervisor if they have any knowledge of or concern that the item(s) in questions - information/records – are EXEMPT from disclosure.
- c) Information and records that are deemed to be EXEMPT from disclosure shall be noted appropriately on the documents and memorialized in writing in cases of non-written information.
- d) Employees, contractors and volunteers are encouraged to be knowledgeable about information and documents that are EXEMPT from disclosure and those that are Public Records/Information.
- e) Employees, contractors and volunteers are encouraged to release as much information that is allowable under law to those members of the public who request it.

III: Exemptions from Release:

- a) Proprietary information, voluntarily provided by private business pursuant to a promise of confidentiality from a public body, used by the public body for business, trade, and tourism development or retention; and memoranda, working papers, or other information related to businesses that are considering locating or expanding in Virginia, prepared by a public body, where competition or bargaining is involved and where disclosure of such information would adversely affect the financial interest of the public body.
- b) Financial statements not publicly available filed with applications for industrial development financings in accordance with Chapter 49 (§ [15.2-4900](#) et seq.) of Title 15.2.
- c) Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects if disclosure of such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exclusion provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.
- d) Confidential information designated as provided in subsection F of § [2.2-4342](#) as trade secrets or proprietary information by any person in connection with a procurement transaction or by any person who has submitted to a public body an application for

prequalification to bid on public construction projects in accordance with subsection B of § 2.2-4317.

e) Memoranda, staff evaluations, or other information prepared by the responsible public entity, its staff, outside advisors, or consultants exclusively for the evaluation and negotiation of proposals filed under the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) where (i) if such information was made public prior to or after the execution of an interim or a comprehensive agreement, § 33.2-1820 or 56-575.17 notwithstanding, the financial interest or bargaining position of the public entity would be adversely affected and (ii) the basis for the determination required in clause (i) is documented in writing by the responsible public entity; and Information provided by a private entity to a responsible public entity, affected jurisdiction, or affected local jurisdiction pursuant to the provisions of the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.) if disclosure of such information would reveal (i) trade secrets of the private entity; (ii) financial information of the private entity, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise; or (iii) other information submitted by the private entity where if such information was made public prior to the execution of an interim agreement or a comprehensive agreement, the financial interest or bargaining position of the public or private entity would be adversely affected. In order for the information specified in clauses (i), (ii), and (iii) to be excluded from the provisions of this chapter, the private entity shall make a written request to the responsible public entity:

- (1) Invoking such exclusion upon submission of the data or other materials for which protection from disclosure is sought;
- (2) Identifying with specificity the data or other materials for which protection is sought; and
- (3) Stating the reasons why protection is necessary.

The responsible public entity shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial information of the private entity. To protect other information submitted by the private entity from disclosure, the responsible public entity shall determine whether public disclosure prior to the execution of an interim agreement or a comprehensive agreement would adversely affect the financial interest or bargaining position of the public or private entity. The responsible public entity shall make a written determination of the nature and scope of the protection to be afforded by the responsible public entity under this subdivision. Once a written determination is made by the responsible public entity, the information afforded protection under this subdivision shall continue to be protected from disclosure when in the possession of any affected jurisdiction or affected local jurisdiction.

f) Except as specifically provided in subdivision 11 a, nothing in this subdivision shall be construed to authorize the withholding of (a) procurement records as required by § 33.2-1820 or 56-575.17; (b) information concerning the terms and conditions of any interim or comprehensive agreement, service contract, lease, partnership, or any agreement of any kind entered into by the responsible public entity and the private entity; (c) information concerning the terms and conditions of any financing arrangement that involves the use of any public funds;

or (d) information concerning the performance of any private entity developing or operating a qualifying transportation facility or a qualifying project.

For the purposes of this subdivision, the terms "affected jurisdiction," "affected local jurisdiction," "comprehensive agreement," "interim agreement," "qualifying project," "qualifying transportation facility," "responsible public entity," and "private entity" shall mean the same as those terms are defined in the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.) or in the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.).

g) Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity pursuant to a promise of confidentiality to the Virginia Resources Authority or to a fund administered in connection with financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected.

h) Trade secrets or confidential proprietary information that is not generally available to the public through regulatory disclosure or otherwise, provided by a (i) bidder or applicant for a franchise or (ii) franchisee under Chapter 21 (§ 15.2-2100 et seq.) of Title 15.2 to the applicable franchising authority pursuant to a promise of confidentiality from the franchising authority, to the extent the information relates to the bidder's, applicant's, or franchisee's financial capacity or provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies, or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such information were made public, the competitive advantage or financial interests of the franchisee would be adversely affected.

In order for trade secrets or confidential proprietary information to be excluded from the provisions of this chapter, the bidder, applicant, or franchisee shall (a) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (b) identify the data or other materials for which protection is sought, and (c) state the reason why protection is necessary.

No bidder, applicant, or franchisee may invoke the exclusion provided by this subdivision if the bidder, applicant, or franchisee is owned or controlled by a public body or if any representative of the applicable franchising authority serves on the management board or as an officer of the bidder, applicant, or franchisee.

i) Information of a proprietary or confidential nature furnished by a supplier or manufacturer of charitable gaming supplies to the Department of Agriculture and Consumer Services (i) pursuant to subsection E of § 18.2-340.34 and (ii) pursuant to regulations promulgated by the Charitable Gaming Board related to approval of electronic and mechanical equipment.

I: Special Applications for Police Officers: § 19.2-389. (Effective until January 1, 2021 – Policy MUST be reviewed before the new effective date to ensure compliance with General Assembly and Gubernatorial modifications)

1: Police officers for the Town of Hurt must abide by a variety of federal, state and local regulations, law and policy on the dissemination of records and information to the public.

The Virginia FOIA contains ample provisions to safeguard information essential to the accomplishment of the law enforcement mission. Adequate protection is also provided for sensitive information gathered by law-enforcement agencies in the course of conducting investigations of noncriminal matters. With the ability to withhold much information comes the responsibility not to abuse that discretion. This can best be accomplished by adopting a "predisposition to disclose." Philosophy. Using this approach, the Town of Hurt identifies only that information which must be withheld rather than that which must be released under FOIA. FOIA does not prohibit the release of any information. Information that is exempted may be released at the Town of Hurt's discretion, and frequently the Town of Hurt may find that it serves its best interests to do so. It is an established fact that law enforcement benefits when citizens are informed to the maximum extent possible.

Part 1: Required Releases:

1. Information in the possession of/custody of law-enforcement officials relative to the identity of any individual, other than a juvenile, who is arrested and charged, and the status of the charge or arrest shall be released. This includes felony, misdemeanor, and traffic arrests. Any chronological listing of adult arrests is a public document. However, reflecting federal mandates, VA law prohibits the dissemination of "criminal history and the record information" to individuals outside of the law-enforcement community. The release of arrest information is commonly understood to apply to "reasonably contemporaneous" arrests. Requestors seeking older information should be directed to check court records, which are public;
2. Adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure, except when necessary to avoid jeopardizing an investigation in felony cases, until such time as the release of the photograph will no longer jeopardize the investigation;
3. Records of completed unattended death investigations to the parent or spouse of the decedent or, if there is no living parent or spouse, to the most immediate family member of the decedent, provided the person is not a person of interest or a suspect. "Unattended death" is defined as a death determined to be a suicide, accidental or natural death where no criminal charges will be initiated. "Immediate family" means the decedent's personal representative or, if no personal representative has qualified, the decedent's next of kin in order of intestate succession as set forth in § 64.2-200; and
4. Criminal incident information relating to felony offenses. Criminal incident information includes a general description of the criminal activity reported, the date the alleged crime was committed, the general location where the alleged crime was committed, the identity of the investigating officer or other point of contact, and a general description of any injuries suffered or property damaged or stolen. This is undoubtedly the type of information most frequently requested from law enforcement agencies, not only by the news media, but also by interested citizens. As defined in FOIA, this is minimal information about an event, frequently much less than an agency would typically disclose. Note, for example, that suspect descriptions, which are commonly made public in such cases as robbery, are not required components of "criminal incident information."

Examples are as follows:

"General description of the criminal activity reported": This means the nature of the offense, though the specific criminal charge that may be involved need not be specified. For example: "Sexual assault" may be used rather than the more specific terms of rape, sodomy, sexual battery, and similar offenses. "Malicious wounding" instead of stabbing or beating. "Drug law violation" could be used without specifying the substance involved or whether the case involved possession or distribution.

"The date the alleged crime was committed/The general location where the alleged crime was committed": A specific date should generally be provided, though in some cases a time frame may be appropriate. While the approximate time an event occurred is not required, it may be provided. Street and hundred blocks is one of the most frequently used methods of identifying a location. However, if a street or block contains only several residences or buildings, use of a geographic, community, or subdivision locator identity may be appropriate if protection of a victim's identity is desired.

"Identity of the investigating officer or other point of contact": Self-explanatory but could include either an officer taking an initial report, or a detective assigned to follow up on a case. While this information must be furnished if a requestor wants it, as a practical matter it generally is not needed as long as there is a point of contact for additional information, such as a public information officer.

"A general description of any injuries suffered, or property damaged or stolen": Phrases such as "stab wound," "life-threatening injuries," or "injuries which are not life threatening" are appropriate.

Property may be described in such terms as "construction materials," "household goods," or "assorted merchandise" instead of books, chairs, desk, computer. "Cash" vs. a specific amount.

NOTE: A verbal response as agreed to by the requester and the public body is sufficient to satisfy the requirement to provide criminal incident information.

Permitted Withholding of "Criminal Incident Information":

Even this minimal amount of information may be withheld if the release of the information is likely to do one or more of the following:

- (1) jeopardize an ongoing investigation or prosecution;
- (2) jeopardize the safety of an individual;
- (3) cause a suspect to flee or evade detection; or
- (4) result in the destruction of evidence.

It is important to note that the "criminal incident information" may be withheld only until the specified damage is no longer likely to occur from release of the information.

Financial crime investigations are a good example of why you would want to withhold criminal incident information. Otherwise, the potential for evidence to be lost is very high.

Note: FOIA specifically requires the release of those portions of such information that are not likely to cause the above-referenced damage.

Part II--Criminal Records Discretionary Exemptions From Release: The following records are excluded from the mandatory disclosure provisions of FOIA, but may be disclosed by the custodian, in his discretion, except where such disclosure is prohibited by law:

1. Criminal investigative files.

Note: "Criminal investigative file" is specifically defined in FOIA as "any documents and information including complaints, court orders, memoranda, notes, diagrams, maps, photographs, correspondence, reports, witness statements, and evidence relating to a criminal investigation or prosecution, other than criminal incident information."

2. Reports submitted in confidence to (i) state and local law-enforcement agencies, (ii) investigators authorized pursuant to Chapter 3.2 (§ 2.2-307 et seq.), and (iii) campus police departments of public institutions of higher education established pursuant to Article 3 (§23.1-809 et seq) of Chapter 8 of Title 23.1;

3. Records of local law-enforcement agencies relating to neighborhood watch programs that include the names, addresses, and operating schedules of individual participants in the program that are provided to such agencies under a promise of anonymity;

4. All records of persons imprisoned in penal institutions in the Commonwealth, provided such records relate to the imprisonment;

5. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law enforcement personnel or the general public;

6. All records of adult persons under (i) investigation or supervision by a local pretrial services agency in accordance with Article 5 (§ 19.2-152.2 et seq.) of Chapter 9 of Title 19.2; (ii) investigation, probation supervision, or monitoring by a local community based probation services agency in accordance with Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1; or (iii) investigation or supervision by state probation and parole services in accordance with Article 2 (§ 53.1-141 et seq.) of Chapter 4 of Title 53.1;

7. Records of a law-enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties;

8. Those portions of any records containing information related to undercover operations or protective details that would reveal the staffing, logistics, or tactical plans of such undercover operations or protective details. HOWEVER, information concerning the overall costs or expenses associated with undercover operations or protective details must be released;

9. Records of (i) background investigations of applicants for law-enforcement agency employment, (ii) administrative investigations relating to allegations of wrongdoing by employees of a law-enforcement agency, and (iii) other administrative investigations conducted by law-enforcement agencies that are made confidential by law;

10. The identity of any victim, witness, or undercover officer, or investigative techniques or procedures. However, the identity of any victim or witness shall be withheld if disclosure is prohibited or restricted under § 19.2-11.21 ; and

11. Records of the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, including information obtained from state, local, and regional officials, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913.

Part III - Prohibited Releases:

FOIA specifically **PROHIBITS** the disclosure of the identity of any individual providing information about a crime or criminal activity under a promise of anonymity.

Part IV - Noncriminal Incident Records:

Those portions of noncriminal incident or other noncriminal investigative reports or materials that contain identifying information of a personal, medical, or financial nature. § 19.2-11.2. Crime victim's right to nondisclosure of certain information; exceptions; testimonial privilege. Upon request of any witness in a criminal prosecution under § 18.2-46.2, 18.2-46.3, or 18.2-248 or of any violent felony as defined by subsection C of § 17.1-805, or any crime victim, neither a law-enforcement agency, the attorney for the Commonwealth, the counsel for a defendant, a court nor the Department of Corrections, nor any employee of any of them, may disclose, except among themselves, the residential address, any telephone number, email address, or place of employment of the witness or victim or a member of the witness' or victim's family, except to the extent that disclosure is (i) of the site of the crime, (ii) required by law or Rules of the Supreme Court, (iii) necessary for law-enforcement purposes or preparation for court proceedings, or (iv) permitted by the court for good cause. Except with the written consent of the victim of any crime involving any sexual assault, sexual abuse, or family abuse or the victim's next of kin if the victim is a minor and the victim's death results from any crime, a law-enforcement agency may not disclose to the public information that directly or indirectly identifies the victim of such crime except to the extent that disclosure is (a) of the site of the crime, (b) required by law, (c) necessary for law-enforcement purposes, or (d) permitted by the court for good cause. In addition, at the request of the victim to the Court of Appeals of Virginia or the Supreme Court of Virginia hearing, on or after July 1, 2007, the case of a crime involving any sexual assault or sexual abuse, no appellate decision shall contain the first or last name of the victim. Nothing herein shall limit the right to examine witnesses in a court of law or otherwise affect the conduct of any criminal proceeding. Information may be withheld where the release of such information would jeopardize the safety or privacy of any person. [Examples: credit card numbers and other identifying information recorded on lost property reports, and response to domestic disputes where no violence occurs.] ALL other noncriminal records of law-enforcement agencies must be released. Note: Access to personnel records of persons employed by a law-enforcement agency shall be governed by the provisions of subdivision B 9 of § 2.2-3706 (regarding background, internal affairs, and other administration investigations) and subdivision 1 of § 2.2-3705.1 (general personnel records exemption), as applicable.

Part V—Specific Types of Records and How to Handle:

1. 911 Recordings: Records of any call for service or other communication to an emergency 911 system or communicated with any other equivalent reporting system are subject to FOIA. As a result, records involving criminal investigations may be withheld; those involving noncriminal incidents may only be withheld as discussed above (Part IV-- Noncriminal Incident Records). [EXAMPLES: The words of a caller reporting a medical emergency could be excised from a recording or deleted from a transcript in order to protect individual privacy, but many of the words of a call taker or dispatcher would be subject to release, as would records of response times.]
2. Body Camera Recordings & In Car Recordings: Felony traffic stop, and apprehension of a criminal suspect may be withheld as part of a criminal investigation but NOT routine

traffic stop (noncriminal). Officer misconduct may be withheld as internal affairs investigation.

3. Cell Phone #s: Subdivision B 7 of § 2.2-3706: May withhold "records of a law enforcement agency to the extent that they disclose the telephone numbers for cellular telephones, pagers, or comparable portable communication devices provided to its personnel for use in the performance of their official duties.

4. Roster of Vehicles: Generally, would have to be released EXCEPT identity of undercover vehicles.

Part VI--Other FOIA Exemptions: FOIA contains several other specific exemptions applicable to or of interest to law enforcement agencies in addition to those enumerated in § 2.2-3706. These other provisions can be found in §§ 2.2-3705.1, 2.2-3705.2, and 2.2-3705.5, and include:

1. Information contained in (i) engineering, architectural, or construction drawings; (ii) operational, procedural, tactical planning, or training manuals; (iii) staff meeting minutes; or (iv) other records that reveal any of the following, the disclosure of which would jeopardize the safety or security of any person; governmental facility, building, or structure or persons using such facility, building, or structure; or public or private commercial office, multifamily residential, or retail building or its occupants: a. Critical infrastructure information or the location or operation of security equipment and systems of any public building, structure, or information storage facility, including ventilation systems, fire protection equipment, mandatory building emergency equipment or systems, elevators, electrical systems, telecommunications equipment and systems, or utility equipment and systems; b. Vulnerability assessments, information not lawfully available to the public regarding specific cybersecurity threats or vulnerabilities, or security plans and measures of an entity, facility, building structure, information technology system, or software program; c. Surveillance techniques, personnel deployments, alarm or security systems or technologies, or operational or transportation plans or protocols; or d. Interconnectivity, network monitoring, network operation centers, master sites, or systems related to the Statewide Agencies Radio System (STARS) or any other similar local or regional public safety communications system. The same categories of records of any person or entity submitted to a public body for the purpose of antiterrorism response planning or cybersecurity planning or protection may be withheld from disclosure if such person or entity in writing (a) invokes the protections of this subdivision, (b) identifies with specificity the records or portions thereof for which protection is sought, and (c) states with reasonable particularity why the protection of such records from public disclosure is necessary to meet the objective of antiterrorism, cybersecurity planning or protection, or critical infrastructure information security and resilience. Such statement shall be a public record and shall be disclosed upon request. Any public body receiving a request for records excluded under clauses (a) and (b) of this subdivision 14 shall notify the Secretary of Public Safety and Homeland Security or his designee of such request and the response made by the public body in accordance with § 2.2-3704. Nothing in this subdivision 14 shall prevent the disclosure of records relating to (1) the structural or environmental soundness of any such facility, building, or structure or (2) an inquiry into the performance of such facility, building, or structure after it has been subjected to fire, explosion, natural disaster, or

other catastrophic event. As used in this subdivision, "critical infrastructure information" means the same as that term is defined in 6 U.S.C. § 131. [§ 2.2-3705.2(14)]

2. Information that describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system. [§ 2.2-3705.2(2)]

3. Information and records acquired during a review of any child death conducted by a child fatality review team, family violence fatality review team, adult fatality review team, or overdose fatality review team. [§ 2.2-3705.5(7)]

4. Confidential information, including victim identity, provided to or obtained by staff of a rape crisis center or a program for battered spouses. [§ 2.2-3705.2(1)]

5. Computer programs used to process data that may be included within official records. [§ 2.2-3705.1(6) and (7)]

PART VII--FOIA VS OTHER LAWS In the event of conflict between § 2.2-3706 of FOIA and other provisions of law, subsection F of § 2.2-3706 states that the provisions of § 2.2-3706 shall control.

Part VIII—Specific Prohibitions on the Release of Records In Other Laws:

Social Security Numbers: Where collected by tax official are treated as tax information that is exempt from FOIA (§ 58.1-3017) AND the first five digits of an SSN are prohibited from release under the Protection of Social Security Numbers Act (§ 2.2-3815 et seq.).

Tax returns and other information relating to the income or property of any person or business, except for real estate assessments, information relating to building permits and certain personal property assessments (§ 58.1-3).

Juvenile arrest and court records (§ 16.1-301).

Certain school records (§§ 22.1-287, 22.1-287.1 and 23.1-405; 20 USC § 1232g) —

Crime victim information (§ 19.2-11.2).

Certain records or reports submitted in confidence to the Department of State Police relating to an ongoing criminal investigation (§ 52-8.3).

Criminal history record information (§ 19.2-389) and juvenile record information (§ 19.2-389.1).

Additional Police Guidance:

Criminal history record information shall be disseminated, whether directly or through an intermediary, only to:

1. Authorized officers or employees of criminal justice agencies, as defined by § [9.1-101](#), for purposes of the administration of criminal justice and the screening of an employment application or review of employment by a criminal justice agency with respect to its own employees or applicants, and dissemination to the Virginia Parole Board, pursuant to this subdivision, of such information on all state-responsible inmates for the purpose of making parole determinations pursuant to subdivisions 1, 2, 3, and 5 of § [53.1-136](#) shall include collective dissemination by electronic means every 30 days. For purposes of this subdivision, criminal history record information includes information sent to the Central Criminal Records Exchange pursuant to §§ [37.2-819](#) and [64.2-2014](#) when disseminated to any full-time or part-time employee of the State Police, a police department or sheriff's office that is a part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible

for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of the Commonwealth for the purposes of the administration of criminal justice;

2. Such other individuals and agencies that require criminal history record information to implement a state or federal statute or executive order of the President of the United States or Governor that expressly refers to criminal conduct and contains requirements or exclusions expressly based upon such conduct, except that information concerning the arrest of an individual may not be disseminated to a noncriminal justice agency or individual if an interval of one year has elapsed from the date of the arrest and no disposition of the charge has been recorded and no active prosecution of the charge is pending;

3. Individuals and agencies pursuant to a specific agreement with a criminal justice agency to provide services required for the administration of criminal justice pursuant to that agreement which shall specifically authorize access to data, limit the use of data to purposes for which given, and ensure the security and confidentiality of the data.

Additional General Employee Guidance:

1) Employees, contractors and volunteers shall be given training in FOIA, permissible document and information release, duties of the PIO and instruction in utilizing this policy.

2) When in doubt, employees, contractors and volunteers shall contact their supervisor as soon as possible for guidance.

3) The Town of Hurt policy clearly defines areas that are not releasable under FOIA. However, FOIA is not an absolute bar to release of information. It is the choice of Town Council and the Mayor to determine if they wish to invoke the Exemptions provided by the FOIA Code of Virginia provisions.

END OF POLICY