

## **Upshur County Emergency Communications Center Policy & Procedure for the retention and release of records and information**

Approved and Adopted by the Upshur County Commission on October 13, 2016.

In compliance with West Virginia Code 24-6-13, all calls for emergency service which pertain to alleged criminal activity and are recorded electronically, in writing or in any other form are kept confidential by the Upshur County Emergency Communications Center (herein after referred to as the "county answering point") receiving the call and may be released only pursuant to an order entered by a court of competent jurisdiction, a valid subpoena, or through the course of discovery in a criminal action requiring the release of information. Provided, that nothing contained in this section may be construed as preventing the county answering point from releasing information to a responding agency as may be necessary for that agency's response on a call or the completion of necessary report relating to that call. Furthermore, nothing in this policy may be construed as prohibiting complying with a freedom of information request under West Virginia Code 29-B-1 for information relating to the operation of the center or to calls for emergency service which do not involve the reporting of alleged criminal conduct.

### **I. RETENTION OF RECORDS**

- All calls for emergency service which are recorded electronically, in writing or in any other form are to be maintained for a period of at least 90 days.
- This period may be extended if required by an order entered by a court of competent jurisdiction.
- The County shall not be responsible for unavailability of a record of calls due to failure of equipment, or other item beyond its control.

### **II. REQUEST AND/OR RELEASE OF DISPATCH LOGS, RADIO LOGS, INCIDENT CARDS, COMPUTER AIDED DISPATCH FORMS (CAD) AND AUDIO RECORDINGS.**

- All persons or entities requesting any type of information from an answering point will be required to submit the request in writing which must include:
  - The purpose of the request
  - Location of incident
  - Time of incident
  - Date of incident
  - Any additional information that may be helpful in locating the requested information.
- A file request form will be completed by the answering point and must be signed by the receiver before the request can be released.
- All calls for emergency service reporting alleged criminal conduct which are recorded electronically, in writing, or in any other form, are to be kept confidential by the county answering point receiving the call, and may be released only pursuant to an order entered by a court of competent jurisdiction, a valid subpoena, or through the course of discovery in a criminal action requiring the release of information.

- A county answering point may release information to a bona fide law enforcement agency, the Prosecuting Attorney of a county, or a United States Attorney pursuant to a lawful criminal investigation.
- All calls for emergency service which are recorded electronically, in writing, or in any other form, are to be kept confidential by the county answering point receiving the call, and may be released only pursuant to an order entered by a court of competent jurisdiction, a valid subpoena, or through the course of discovery in a legal proceeding requiring the release of information if the record:
  - Identifies an Individual
  - Is a reasonable basis for believing the record of such call can be used to identify an individual
  - The record of such call discloses the individual's past, present or future physical or mental health or condition
  - Discloses the provision of health care to the individual
  - Information covered under WV code 57-5-4a-4j governing the release of hospital medical records.
  - The name, specific address and telephone number of callers to 911, without permission from the caller.
  - Information involved in a report of a juvenile crime, including but not limited to Names of specific suspects, callers, witnesses, times, locations and addresses.
- Upon proper request and payment of a reasonable fee (See Section III, Fee Schedule) set by the E-911 Communications Director to cover the cost of reproduction, a person or entity may obtain, without court order or a valid subpoena, an incident log of a call for emergency services reporting alleged criminal conduct. The answering point shall exclude and/or redact from the log any information relating to the identity of the caller, including but not limited to:
  - The Callers Name
  - The Callers Address
  - The Callers Telephone Number
  - The Callers location in relation to the alleged offense and/or the alleged perpetrator.
- If the transcript of a call is such that it cannot be successfully redacted so as to protect the identity of the caller, the answering point will decline to provide the transcript, unless required to do so by an order of court of competent jurisdiction.

### *III. FEE SCHEDULE*

- **Research Fee**
  - A minimum \$40.00 per call will be charged for all calls not consistent with the Freedom of Information Act (FOIA) set forth in WV Code 29-B-1-1 et seq. The cost will cover researching the information and the first hour required to make copies.
  - An additional \$15.00 will be charged for every additional hour after the first (based on anything over 15 minutes).
- **Audio Recording**
  - A fee of \$25.00 will include recording on CD-R or other media as may be determined by the Director.
  - Each additional copy requested will be \$10.00
- **Radio Log, Dispatch Log, CAD Report and/or Incident Card(s)**
  - Copies of these items will be provided at a charge of \$1.50 per page. A page shall be a one sided copy.
- **Request to review In-House**
  - The fee for reviewing records in the answering point without making duplicates will be charged at the research fee rate stated above.
  - Recording devices are prohibited when reviewing documents In-House. Including but not limited to: cameras, voice recorders, mobile phones, portable scanners, etc.
- **FOIA Requests**
  - Copies will be provided at a charge of \$0.02 per page. A page shall be a one sided copy.
  - Audio recordings will be provided on CD-R or other media as may be determined by the Director at the rate of \$0.40 per copy.
- **Shipping and Delivery**
  - Requested items may be mailed. They will be mailed via Certified Mail with the receiver being charged the fee for the mailing.
- **Member Agencies**
  - Agencies using the services of the county answering point (i.e, Law Enforcement, Fire, EMS, Prosecuting Attorney) are exempt from the above stated fee.
- **Payment**
  - The payment of all fees listed will be required prior to release of said request.
  - Cash and Checks will be accepted as payment. Checks should be made payable to: "Upshur County Sheriff" and Memo Line must be notated "E911 FOIA/ Information Release"

IV. EXEMPTIONS

- Except as provided by the provisions of this policy and by West Virginia Code 24-6-13, calls for emergency services to a county answering point are not confidential.
- Nothing in this policy requires disclosure of any information that is specifically exempt from disclosure by statute. Except as otherwise provided in this policy, nothing prohibits disclosure of information that is not specifically exempted from disclosure under a provision of West Virginia Code 24-6-13, or the Health Insurance Portability and Accountability Act (HIPPA)
- Nothing in this policy may be construed as prohibiting complying with a freedom of information request under West Virginia Code 29-B-1 for information relating to the operation of the center or to calls for emergency service which do not involve the reporting of alleged criminal conduct.

V. LIABILITY AND ACCOUNTABILITY

- The County Answering Point shall make this written policy available to the public in compliance with West Virginia Code 24-6-13.
- No County 911 answering point or its personnel shall be civilly liable for any injury arising from disclosure of information pursuant to the provisions of West Virginia Code 24-6-13

**APPROVED**

**OCT 13 2016**

UPSHUR COUNTY COMMISSION

*Mr. Be. [Signature]*