



**Village of Rantoul  
Freedom of Information Act  
Second Annual Compliance Report  
2009**

Prepared By  
**Jeremy Reale, Clerk/FOIA Officer**  
333 S. Tanner Street, Room 102  
Rantoul, IL 61866

**FREEDOM OF INFORMATION FILE AUDIT (2007-2009)**  
**VILLAGE OF RANTOUL**

	2007		2008		2009		3-Year Total	
Number of Requests Processed	37		34		12		83	
Number of Requests Approved	27	73%	32	94%	9	75%	68	82%
Number of Requests Denied in Part	7	19%	2	6%	2	17%	11	13%
Number of Requests Denied in Whole	3	8%	0	0%	1	8%	4	5%
<i>Basis for Denials</i>								
Requested Record was Exempt	3	30%	0	0%	2	67%	5	33%
Compliance would be "Unduly Burdensome"	0	0%	0	0%	0	0%	0	0%
Requested Record did not exist/could not be located	7	70%	2	100%	1	33%	10	67%
Number of Separate Individual Requestors	15		14		12			
Number of Requests from Media	4	11%	3	9%	1	8%	8	10%
Number of Requests from Commercial Entities	4	11%	2	6%	1	8%	7	8%
Number of Requests Asked to be Narrowed	1	3%	2	6%	0	0%	3	4%
Number of Extensions Issued	1	3%	2	6%	1	8%	4	5%
Extensions for Commercial Requests	0	0%	0	0%	1	100%	1	25%
Total Copying Fees Assessed	\$97.00		\$31.00		\$7.40		\$135.40	
Fee Waivers Requested	14	38%	5	15%	3	25%	22	27%
<i>Requesting Party</i>								
Private Citizen	12		2		1		15	
Not-for-Profit / Govt. Agency	2		0		1		3	
Media	0		3		1		4	
Fee Waivers Granted in Whole	13	93%	5	100%	3	100%	21	95%
Fee Waivers Granted in Part	1	7%	0	0%	0	0%	1	5%
Fee Waivers Denied	0	0%	0	0%	0	0%	0	0%
Average Response Time (in Business Days)	3.2		3.5		3.2		3.3	
Number of Appeals Processed	0		0		0		0	
Number of Appeals Granted	0		0		0		0	
Number of Appeals Denied	0		0		0		0	
Number of Denials Resulting in Litigation	0		0		0		0	
Number of FOIA Violation Letters Received from State	0		0		0		0	

### FOIA REQUESTS PROCESSED IN 2009

Requestor Type	Responsible Department	Request Date	Response Date	Extension Issued	Approved Denied	Respondent	Denial Basis
Commercial Entity	Liquor Commissioner	2/24/2009	2/24/2009	No	Approved	Janet Gray	n/a
Attorney	Inspection / Police	3/17/2009	3/20/2009	No	Partial Denial	Jeremy Reale	5 ILCS 140/7 (1) c – "Criminal Investigation"
Private Citizen	Public Works	3/24/2009	4/02/2009	No	Approved	Jeremy Reale	n/a
Private Citizen	Village Clerk	4/1/2009	4/01/2009	No	Partial Denial	Jeremy Reale	5 ILCS 140/7 (1) b v – "Informant Identity" (redaction)
Private Citizen	Inspection	4/13/2009	4/17/2009	No	Approved	Jeremy Reale	n/a
Media	Administration	5/28/2009	6/4/2009	No	Denial	Jeremy Reale	Record could not be located
Private Citizen	Code Enforcement	6/30/2009	7/2/2009	No	Approved	Jeremy Reale	n/a
Attorney	Fire / Police / Inspection	8/7/2009	8/18/2009	Yes (8/17/2009)	Approved	Jeremy Reale	n/a
Not-For-Profit Organization	Accounting	8/24/2009	8/27/2009	No	Approved	Jeremy Reale	n/a
Private Citizen	Legal / Code Enforcement	8/31/2009	09/02/2009	No	Approved	Jeremy Reale	n/a
Private Citizen	Community Development	9/29/2009	9/30/2009	No	Approved	Jeremy Reale	n/a
Attorney	Rental Inspection	11/16/2009	11/16/2009	No	Approved	Jeremy Reale	n/a

\*\* Figures only reflect formal FOIA requests processed by the Village Clerk's office and do not include requests made to the Police Department.

## ANALYSIS OF 2010 FOIA CHANGES

- **COMPLIANCE DEADLINE**: Reduced from seven (7) business days to five (5) business days, with option available for municipalities to issue an extension of up to an additional five (5) business days.

**ANTICIPATED IMPACT:** **NEGLIGIBLE**

**EXPLANATION:** A reduction in compliance time may be a significant cause for concern for municipalities and other government bodies that routinely handle large amounts of FOIA requests; however, the recent history of limited FOIA activity in Rantoul gives little reason to expect any type of significant impact upon the operations of the Village. With an average turnaround time (between receipt of request and final response from the Village) holding steady at 3 to 3 ½ business days, the vast majority of requests received by the Village are already being addressed within the new timeframe. One important point to stress here is that the Village's approach to handling FOIA requests has not been concentrated on the legal deadline as much as it has been focused on providing the quickest turnaround time possible. Reductions in legal deadlines for compliance will not alter that overall philosophy.

Given the fact that the level of FOIA activity experienced in the Clerk's office has been consistently low over the last several years (with a significant dip in activity experience in 2009), it is not unreasonable to assume that this trend will continue through 2010. With some media attention being placed upon the changes in the FOIA, there is a possibility that requests might increase if the public gains a new awareness of their rights to access records. Impact should be reevaluated after the new policies have been in place for one year.

- **COPYING FEES**: First fifty (50) pages of information provided per request are to be provided at no charge, with fees for any additional pages capped at \$0.15 per page.

**ANTICIPATED IMPACT:** **NEGLIGIBLE TO LOW**

**EXPLANATION:** Since January 2007, the Village Clerk's office has assessed at total of \$135.40 for copies of records requested under the FOIA. This is due to a combination of public interest waivers and a local policy providing that the first five (5) copied pages were to be given to the requestor at no charge. Had the new rules been in place during that three-year time period, the Village would not have been eligible to recoup virtually any of the copying costs that had otherwise been assessed. Nevertheless, the impact of losing an average of \$45.00 in fees collected per year should not be felt in the Corporate Fund.

The new fee caps will require a change in Police Department procedures, as the past practice has been to charge requestors a flat rate of \$5.00 for copies of police reports. Under the revised FOIA, those charges will be eliminated and, unless a particular report exceeds 50 pages, police reports (not including accident reports) will be provided for free. Based upon past years, it is expected that the new regulations will result in the loss of \$750.00 to \$850.00 in fees to the Police Department.

It is important to note that government bodies are only permitted to charge fees necessary to recoup the actual costs of reproducing records (e.g. paper, toner, etc.) and cannot legally seek to recoup any costs associated with personnel time used in completing a FOIA request. The primary point is that providing access to public records is a public service that the Village offers and not a money-making enterprise.

- **APPEALS PROCESS**: Internal appeals process for denied requests is eliminated and requestors are instead provided with a right to directly petition the Public Access Counselor for review of the denial.

**ANTICIPATED IMPACT:** **NEGLIGIBLE**

**EXPLANATION:** Under the current FOIA, any requestor who has been denied access to information would have the right to appeal that denial to the Mayor, who would then be required to rule on the appeal within seven business days. If the appellant is unsatisfied with the decision rendered by the Mayor, he/she could seek a judicial review in Circuit Court. The new standards eliminate this internal appeals route and replace it with a review process handled by the Public Access Counselor in the Attorney General's office. The law also provides that the Village must provide advance notice to the PAC if it intends to deny a request based upon the "personal information" or "preliminary draft" exemptions.

During the past three years, the Village has never had a requestor use the internal appeals route to seek to overturn a denial. Likewise, the Village has never asserted the "personal privacy" or "preliminary draft" exemptions in denying a request. Since 2004, there has only been one instance in which a citizen has filed a complaint against the Village with the Attorney General regarding a FOIA request and that case ended with the State upholding the decision of the Village Clerk.

- **FREEDOM OF INFORMATION OFFICERS**: Each public body is required to designate a Freedom of Information Officer to be responsible for receiving and processing all requests for information. FOI officers will be subject to completion of an annual training curriculum developed by the Illinois Attorney General's office.

**ANTICIPATED IMPACT:** NEGLIGIBLE

**EXPLANATION:** In some respects, the Village has been ahead of the curve on this issue – having created a FOI Officer position in its original policy adopted in 2007. This had been done to centralize the processing of FOIA requests, ensure that the appropriate official was held accountable for handling requests within the terms of the law in a consistent fashion, and to settle past internal disputes over the proper handling of requests for public information.

Under the new policy, the responsibility of serving as primary FOI Officer will continue to be vested within the Village Clerk and two deputy FOI Officers will directly handle all requests for information made to the Police Department. This will allow for the Village to continue its existing practice of having all non-Police FOIA requests processed through the Village Clerk's office, while the Police Department handles its own requests internally. We believe this to be an important separation of responsibilities due to the nature of the records handled by the Police and because it cuts down on bureaucratic red tape by allowing the public to get their information directly from the primary source instead of going through the Clerk's office.

Training curriculum will be offered online at no cost to the Village or the individual officers beginning January 15, 2010. All mandated training is to be completed on or before June 30, 2010 and we will strongly encourage all of our designated FOIA officers to complete the curriculum as soon as possible.

➤ **EXEMPT AND NON-EXEMPT RECORDS:**

**ANTICIPATED IMPACT:** **UNKNOWN – PROBABLY LOW**

**EXPLANATION:** One of the biggest uncertainties arising from the new language of the FOIA is related to its reworking of some of the categories of information that are deemed to be exempt from public disclosure requirements. For example, the revised statute eliminates the exemption for “personnel files”, while keeping and further defining exemptions for “private information” and “personal information”. Private information refers to what are termed “unique identifiers” and would include records such as social security numbers, personal medical records, personal telephone numbers, personal financial information and the like. This exemption is pretty straightforward and would be regarded by most as common sense.

The “Personal Information” exemption is less clear. Whereas this information was previously considered exempt if it would constitute “a clearly unwarranted invasion of personal privacy”, the law now adjusts that language to a more narrow definition of “highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” Where exactly the line is to be drawn on this type of information is unknown – except for the fact that the ultimate determination will be made by the State rather than the municipality. (As mentioned in a previous section, the Village will be required to notify the Public Access Counselor if it intends to use this exemption as a basis for denying a request and the burden is placed upon the Village to prove that any material in question meets the standard set forth in the law.) At this point, the new language essentially leaves in limbo the exempt status of certain types of records that we would have previously denied on the basis of “personnel file” information (e.g. employee performance evaluations). Again, I think common sense needs to prevail in handling requests for this type of information; however, we need to be aware of the fact that the ball is now in the State’s court on this and we should have a better understanding of how

the PAC will interpret these exemptions after the new standards have been up and running for some time.

Changes in how the law defines “public record” will also have a potential impact upon how the Village crafts language in its agreements with contractors and legal settlements. Settlement agreements are now considered public records even if they contain confidentiality clauses. As such, future settlements should probably contain the stipulation that they are confidential to the extent permitted by law. The definition of “public record” also now includes records in the possession of contractors that have been hired by the Village to perform a governmental function to the extent that such records directly relate to the governmental function. This means that the Village will be required to produce records that are held by an outside party and contractors will need to be made aware of the fact that they will be required to disclose certain records relating to projects undertaken on behalf of the Village.

➤ **COMMERCIAL REQUESTS:**

**ANTICIPATED IMPACT:** **UNKNOWN**

**EXPLANATION:** In the prior incarnation of the Freedom of Information Act, it was specifically stated that the act was “not to be used for the purpose of furthering a commercial enterprise” because, presumably, the framers had not wanted public resources to become burdened by those seeking information as a means to a profit. This language no longer exists; however, the Act does provide public bodies with an extended period of time to comply with commercial requests (up to a maximum of 21 business days). While the Village would not normally be permitted to ask a requestor to disclose his/her reason for making the request, there is a provision in the law that gives the Village the option to require advance disclosure of the commercial nature of any such requests. Our standard FOIA request forms have been modified to include, among other things, a section providing for such disclosure.

Historically, the Village has received one or two such requests each year and, thus far, none have required a considerable amount of personnel time to compile the requested data. In this respect we have been relatively fortunate, as a number of municipalities in recent years have been inundated with requests from entities (personal injury lawyers are particularly frequent requestors) seeking information to help expand potential clientele bases. Since the Act no longer explicitly states that it is not to be used to further a commercial enterprise, will commercial entities feel more receptive to the idea of using FOIA as a means of obtaining information to advance their interests? The answer remains to be seen.

If there is one area of the revised statute that I find disappointing, it is this section regarding requests made for commercial purposes. While I don't object to processing commercial requests *per se*, I have long believed that the Village should be allowed to recoup the costs associated with any personnel time used to locate and compile information for such requests. Under the new standards, not only does the Village

remain uncompensated for staff time, but it also must provide the first fifty pages of paper copies of this information for free. The concept of allowing businesses to obtain free data for private financial advantage by using employees being paid by the taxpayer's dime seems somewhat morally bankrupt. While this doesn't immediately present itself as a major issue, it could have an impact upon Village operations if this type of FOIA activity increases in the coming years.

➤ **OVERALL:**

**ANTICIPATED IMPACT:** LOW

**EXPLANATION:** For the purpose of forecasting the potential overall impact that the new FOIA regulations will have upon the Village, the only reliable guide that we have to use is the past. Assuming that past trends hold, I would not anticipate much of a significant impact once our staff has adjusted to the “learning curve”. Obviously, we should have a better grasp on the overall impact by the time of our 2010 year-end evaluation. In the interim, we will be carefully monitoring the activities of the Public Access Counselor’s office – particularly with respect to its opinions on some of the parameters of the “new” exempt classes of information. This is going to be a learning process for everyone – from local FOIA officers all the way up to the attorneys in Lisa Madigan’s office – and I suspect there will be a good deal of trial and error in the first several months of 2010.

The law is by no means perfect and, in some cases, creates more questions than answers for local government officials. That having been said, we should at least acknowledge the reality that the previous version of the Illinois Freedom of Information Act was an inferior law that paid lip service to the concept of “transparency” without any substantive backup in terms of holding public bodies accountable. The new standards have provided for some improvement on that front and might help to curb some of the abuses that had been previously exhibited. However, I would stress that, for all of the attention that has been placed upon government bodies that abused or altogether ignored the FOIA in the past, I believe the majority of public officials have worked diligently to comply with the law and will continue to do so. While it’s easy to demonize “government” for all of the examples of corruption and abuse that grace the headlines, we should not be so quick to generalize that all public offices operate from the shadows.

## EVALUATION OF 2009 GOALS

- **Continued professional training for the staff of the Village Clerk's office and possible in-house training for employees from other departments that handle FOIA requests**

**STATUS:           ONGOING**

Both the Village Clerk and Deputy Clerk have attended dozens of hours of professional training, including training focused on Freedom of Information laws and procedures. The Village Clerk attended a FOIA-related seminar in August 2009 presented by Michael Luke, an Assistant Attorney General who assisted in the drafting of the new legislation. Various representatives of the Police Department have also attended FOIA training sessions. Mandatory state training for all FOIA officers is to be made available by January 15, 2010 and must be completed before July 1, 2010.

- **Development of Freedom of Information section on Village website, including: downloadable forms; local policies and procedures; public information directory; and annual FOIA compliance reports**

**STATUS:           COMPLETED**

A new Freedom of Information page was unveiled on the Village's website on January 4, 2010 as a collaborative project between the Clerk's office and Christopher Huston of the IT Department. This page includes: revised FOIA forms; our local policy and procedures; FOIA directory; and the annual reports prepared by the FOIA office.

- **Continued progress toward the long-term goal of a substantially "paperless" office by making more records available electronically**

**STATUS:           ONGOING**

By making records widely available to public access via Internet, municipalities can effectively help themselves to cut down on some of the FOIA activity in their offices. At the present time, the Village makes available online records such as: ordinances; resolutions; agendas/minutes; Board packets; budget documents; building code information; bid documents, etc. We will continue to evaluate additional records and materials that might be suitable for inclusion on the web.

- **Monitoring of current policies and procedures to identify ways that procedures may be altered to better meet the needs of our customers, including obtaining feedback from citizens, the media, and other organizations conducting business with the Village**

**STATUS:            ONGOING**

Given the changes to the FOIA handed down from the State, reevaluation and revision of our policies and practices was necessary to comport with new legal standards. By monitoring the legislative process in Springfield this past summer, staff was able to draft a revised local policy and begin preparations for the changes at a relatively early stage (even before Gov. Quinn had signed the bill into law). The revised policy was adopted by the Board in September 2009 and staff began to implement some of the new changes in advance of the effective date of January 1, 2010. By getting out in front of the law, Rantoul has been something of a leader in this issue and our policy has been used as a sample by a number of municipalities across Illinois in crafting their own local policies. Our Village Board and administration should consider that a compliment.

Obviously, at this early stage of the new standards, staff will need to remain vigilant of potential changes that may come from the General Assembly as well as opinions and interpretations of the statute that will come from the Attorney General and, possibly, the courts. We will also continue to be receptive to feedback from our citizens as to how we can improve our processes to better suit their needs.

## **ACKNOWLEDGEMENTS**

Many of the employees and officials of the Village of Rantoul have contributed to the Village's successful compliance with the Freedom of Information Act through their efforts in researching information, compiling data, and preparing reports for timely responses to citizen requests. Without their cooperation and assistance, meeting our legal obligations and philosophical commitment to public access would have been a difficult, if not impossible, task. For these efforts, the Village Clerk's office wishes to gratefully acknowledge the following employees for 2009:

Scot Brandon, *Finance*

Dan Culkin, *Inspection*

Paul Farber, *Police*

Henry Gamel, *Police*

Janet Gray, *Administration*

Jackie Hadler, *Accounting*

Steve Hammond, *Rental Inspection*

Christopher Huston, *Information Technology*

Valerie Laney-Marshall, *Rental Inspection*

Mike Loschen, *Community Development*

David Miller, *Public Works*

Brenda Runyon, *Inspection*

Bruce Sandahl, *Administration*

Jim Schmelzle, *Code Enforcement*

Sara Simpkins, *Deputy FOI Officer - Police*

Angie Wascher, *Accounting*

Ken Waters, *Fire*

Jeffrey Wooten, *Deputy FOI Officer - Police*

Peggy Zeilstra, *Public Works*

**BASIC INFORMATION REGARDING THIS REPORT**

**POINT OF CONTACT FOR QUESTIONS OR COMMENTS**

Jeremy Reale, Freedom of Information Officer  
333 S. Tanner Street, Room 102  
Rantoul, IL 61866  
Telephone: (217) 892-6823  
Facsimile: (217) 892-4794  
Email: [JReale@village.rantoul.il.us](mailto:JReale@village.rantoul.il.us)

**TO OBTAIN A COPY OF THIS REPORT, SEND REQUEST TO:**

Office of the Village Clerk  
Village of Rantoul  
333 S. Tanner Street  
Rantoul, IL 61866

An electronic copy of this report is (or will be) available for download as a PDF document from the Village of Rantoul website:

[www.village.rantoul.il.us](http://www.village.rantoul.il.us)



Original Draft Submitted: January 4, 2010  
Final Draft Completed: January 8, 2010  
Publication Date: January 11, 2010