



SUPREME COURT OF APPEALS  
STATE OF WEST VIRGINIA

GARY L. JOHNSON  
ADMINISTRATIVE DIRECTOR



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January 11, 2018

Kennie Bass  
WCHS-TV/WVAH-TV  
1301 Piedmont Road  
Charleston, WV 25301  
*Via hand delivery*

Re: FOIA Request

Mr. Bass:

I write in further response to your Freedom of Information Act (FOIA) request directed to Administrative Director Johnson dated December 5, 2017, and received here in the Administrative Office (AO) that same day. This letter also is also in further response to my letter to you dated December 12, 2017 in regard to this same request and our recent telephone call establishing an appointment here at the AO. The AO has concluded its review of records available to us and provides you access to the public records described below.

I address each of your enumerated requests as follows:

*1. Any and all emails to and/or from Chief Justice Allen Loughry pertaining to the remodeling and renovation of the justice's chambers from January 2013 to present.*

These records are available for your review. The Administrative Director has withheld certain documents from production pursuant to West Virginia Code § 29B-1-4(a)(8) and the attorney-client privilege.

*2. Any and all emails to and/or from Kim Ellis, Director of Administrative Services, pertaining to the remodeling and renovation of the Chief Justice Allen Loughry's chambers from 2013 to present.*

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These records are available for your review. Certain of the records responsive to this request are contained within the documents produced in response to item #1 above.

*3. Any and all charges for meals purchased using public funds for the justices and clerks during 2016 and 2017.*

These records are available for your review. Please note that these meal charges are related to working lunches for the Court. The Court has in recent years chosen to remain on the bench without a lunch break until all arguments are concluded as a convenience to litigants and lawyers. Thereafter, a working lunch allows the Court to finish consideration of the cases and other administrative matters.

*4. Any and all P-Card purchases by the justices and court employees related to fuel and travel costs from 2009 to present.*

These records are available for your review.

*5. The written court policy concerning the use of state-owned furniture in the justice's homes, the process which that policy was approved and the date of its approval.*

A review of our records has not revealed any documents responsive to this request.

*6. Access to the WV Supreme Court of Appeals warehouse on Venable Avenue in Charleston to video state-purchased and state-owned furniture (a Cass Gilbert desk and blue-green leather couch) which were taken from Chief Justice Allen Loughry's home and placed within the warehouse. If the furniture has been moved to another location, please provide the current location of the furniture and allow our organization to video the furniture where it is being stored or utilized.*

This request does not seek a writing containing information prepared or received by a public body and hence is not a request cognizable under the West Virginia Freedom of Information Act. Nonetheless, it is my understanding that you have been granted access to this facility, and hence this request is moot.

*7. The cost for dinnerware and drinking glasses, mugs or cups emblazoned with the logo of the WV Supreme Court of Appeals purchased by the court using public money.*

These records are available for your review.

8. *The cost of flatware purchased by the court using public money.*

Our ongoing review of our records has not yet revealed any documents responsive to this request.

9. *Any and all emails or documents pertaining to the court's practice of allowing former and current justices to purchase furniture owned by the state which was bought by public funds without going through West Virginia's surplus property procedures. Please provide the written policy, the date it was approved and the manner in which the value of the furniture is determined.*

A review of our records has not revealed any documents responsive to this request.

10. *A list of state-owned furniture purchased by former and current justices of the WV Supreme Court of Appeals from 2009-present, the value of those items and the dates which they were purchased.*

These records are available for your review.

11. *A list of vehicles used by the court, including vehicles used by the justices.*

These records are available for your review.

12. *The policy pertaining to the use of state-owned vehicles by the justices and court employees, including reasons given for the usage of state-owned vehicles and the destination of the occupants disclosed to the court's vehicle supervisor.*

A review of our records has not revealed any documents responsive to this request.

13. *The policy which allows justices to be exempt from disclosing their reasons for using a state-owned vehicle and to be exempt from disclosing their destinations, how the exemption was crafted, who approved it and the date of the approval.*

A review of our records has not revealed any documents responsive to this request.

13. [sic] *A list of usage of state-owned vehicles by the justices and court employees.*

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A review of our records has not revealed any documents responsive to this request. The Administrative Office does maintain certain records regarding reservations for the potential use of state-owned vehicles. Should you wish to review these records, please advise, and they will be made available.

The AO reserves the right to charge a fee reasonably calculated to reimburse it for its actual cost in making reproductions of records responsive to your requests. As to any and all documents withheld from production, I am required by W. Va. Code § 29B-1-3(d)(3) to inform you that you have the opportunity to institute proceedings for injunctive or declaratory relief in the Circuit Court of Kanawha County.

Sincerely,



Christopher S. Morris  
Administrative Counsel

Encl.

## ADDENDUM

Justice Workman would like it noted that these responses are provided by Gary Johnson, Court Administrative Director, to whom the requests were directed. It is her position that the assertion of a FOIA exemption and the attorney-client privilege in response to request # 1 are made on behalf of Chief Justice Loughry concerning his e-mails. Justice Workman is not privy to any of the subject emails and has no authority to assert a privilege or FOIA exemption on behalf of any other person.