



Seth Sturm [REDACTED] >

RE: FW: Third Notice and Updated WVFOIA Request — Jacob Hively / WVYD

1 message

Debra Rusnak <drusnak@kanawhaprosecutor.com>

Wed, Mar 18, 2026 at 2:56 PM

To: Seth Sturm <sethsturm@gmail.com>, Julie Chestnut <jchestnut@kanawhaprosecutor.com>

Mr. Sturm,

In response to your e-mail on March 13, 2026, we have searched all devices over which my office has possession, custody, and control. Such search yielded no results. Accordingly, the Kanawha County Prosecuting Attorney's Office has no records responsive to your request for communications arranging or confirming the June 4, 2024 meeting.

Additionally, you assert that my response that the Kanawha County Prosecuting Attorney's Office has no records responsive to your request for materials provided to my office by Mike Pushkin, Ryan Frankenberry, or any other non-law enforcement complainant concerning Jacob Hively or WVYD funds is contradicted by the police report. In support of your position, you point to the portion of the police report that states that Mr. Frankenberry provided documents to support his claims during the meeting. You go on to incorrectly assume that "[s]ix professionals coordinating a meeting across two offices where documents were presented to prosecutors necessarily generated records." I will explain the relationship between investigation and prosecution in effort to clear this up. My office does not accept evidence, rather, the investigating agency is tasked with collecting any evidence that may be provided by witnesses. Albeit members of my office likely reviewed records presented during that meeting, no one with my office collected any such records. Accordingly, the Kanawha County Prosecuting Attorney's Office has no records responsive to your request.

**Debra L. Rusnak**

Prosecuting Attorney

KANAWHA COUNTY PROSECUTING ATTORNEY'S OFFICE

Phone: (304) 357-0300**Direct:** (304) 357-5440**Fax:** (304) 357-0342

Email: drusnak@kanawhaprosecutor.com

301 Virginia Street, East

Charleston, West Virginia 25301

From: Seth Sturm <sethsturm@gmail.com>
Sent: Friday, March 13, 2026 4:05 PM
To: Julie Chestnut <jchestnut@kanawhaprosecutor.com>
Cc: Debra Rusnak <drusnak@Kanawhaprosecutor.com>
Subject: Re: FW: Third Notice and Updated WVFOIA Request — Jacob Hively / WVYD

Dear Ms. Chestnut and Prosecutor Rusnak,

I received your March 13 response to my West Virginia Freedom of Information Act (WVFOIA) request, which states that the Kanawha County Prosecuting Attorney's Office has no records responsive to my requests regarding:

1. Communications arranging or confirming the June 4, 2024 meeting;
2. Materials provided by Delegate Mike Pushkin, Mr. Ryan Frankenberry, or any other non-law-enforcement complainant; and
3. Intake, routing, assignment, transmittal, case-status, and disposition records for the KCSO file from August 13, 2024, through February 25, 2026.

This assertion is contradicted by Sheriff's Incident Report No. 2024-00017430, which documents that:

- Delegate Pushkin contacted Assistant Prosecutor Petry regarding a criminal matter;
- Detective Snuffer instructed Detective Pile to attend a June 4, 2024 meeting at your office with Prosecutors Rusnak, Petry, and Bannon, along with Delegate Pushkin and Mr. Frankenberry; and
- Mr. Frankenberry provided documents to support claims during that meeting.

Six professionals coordinating a meeting across two offices where documents were presented to prosecutors necessarily generated records. Your office has claimed they do not exist. If they existed and are now gone, that is a serious matter in itself.

Please note that under West Virginia law, records concerning public business are treated as public records regardless of whether they reside on personal devices or informal channels.

To resolve this contradiction, I respectfully request that your office:

1. Conduct a supplemental search of all locations reasonably likely to contain responsive records, including office and archived email, calendars, text messages, call logs, case-management systems, and any personal devices or accounts used for public business.
2. Either produce any additional responsive records or confirm that, following this supplemental search, your office maintains that no responsive records exist, while briefly describing the custodians and systems searched.

Please advise by Thursday, March 19, 2026 at 5:00 p.m.

Absent a satisfactory response, I will treat the March 13 response as final and file an enforcement action in Kanawha County Circuit Court seeking fees and costs under WVFOIA.

Sincerely,

Seth Sturm

On Fri, Mar 13, 2026 at 2:18 PM Julie Chestnut <jchestnut@kanawhaprosecutor.com> wrote:

Mr. Sturm,

Please consider this email as my formal response to your FOIA request.

1. With regard to “[c]ommunications arranging or confirming the June 4, 2024 meeting, including emails, text messages, calendar entries, phone logs, and intake records.”

The Kanawha County Prosecuting Attorney’s Office has no records responsive to this request.

2. With regard to “[m]aterials provided to your office by Mike Pushkin, Ryan Frankenberry, or any other non-law-enforcement complainant concerning Jacob Hively or WVYD funds.”

The Kanawha County Prosecuting Attorney’s Office has no records responsive to this request.

3. With regard to “[i]ntake, routing, assignment, transmittal, case-status, and disposition records reflecting your office’s handling of the KCSO file from August 13, 2024 through February 25, 2026.”

The Kanawha County Prosecuting Attorney’s Office has no records responsive to this request.

4. With regard to “[c]ommunications from February 20, 2026 through February 25, 2026 concerning my FOIA request, the status of the matter, or the decision whether to decline prosecution.”

Please see attached Document 1.

5. With regard to “[t]he Prosecuting Attorney’s Office’s native copy of the February 25, 2026 declination email, together with any associated declination memorandum, case-rejection form, or final disposition record.”

Please see attached Document 2.



Debra L. Rusnak

Prosecuting Attorney

Kanawha County Prosecuting Attorney’s Office

Phone: (304) 357-0300

Direct: (304) 357-5440

Fax: (304) 357-0342

Email: drusnak@kanawhaprosecutor.com

301 Virginia Street, East

Charleston, West Virginia 25301

From: Seth Sturm <sethsturm@gmail.com>

Sent: Tuesday, March 10, 2026 4:30 PM

To: Kanawha County Prosecutor Information <info@Kanawhaprosecutor.com>

Cc: Debra Rusnak <drusnak@Kanawhaprosecutor.com>

Subject: Third Notice and Updated WVFOIA Request — Jacob Hively / WVYD

Dear FOIA Custodian and Prosecutor Rusnak:

Per my telephone conversation with your office today, I am sending this updated and narrowed West Virginia Freedom of Information Act request after my February 20, 2026 email and March 3, 2026 facsimile to this office went unanswered.

KCSO Incident Report No. 2024-00017430 states that Delegate Mike Pushkin contacted Assistant Prosecutor Adam Petry regarding a possible criminal matter, that a June 4, 2024 meeting followed involving Prosecutors Rusnak, Petry, and Bannon together with Pushkin and Ryan Frankenberry, that the matter was sent to your office for review on August 13, 2024, and that Prosecutor Rusnak formally declined prosecution on February 25, 2026.

For ease of reference, I am attaching my previous requests and KCSO Incident Report No. 2024-00017430, which confirms the events and records categories described in this request.

I request records created, sent, received, or maintained between March 1, 2024 and February 28, 2026 concerning that matter, including:

1. Communications arranging or confirming the June 4, 2024 meeting, including emails, text messages, calendar entries, phone logs, and intake records.
2. Materials provided to your office by Mike Pushkin, Ryan Frankenberry, or any other non-law-enforcement complainant concerning Jacob Hively or WVYD funds.
3. Intake, routing, assignment, transmittal, case-status, and disposition records reflecting your office's handling of the KCSO file from August 13, 2024 through February 25, 2026.
4. Communications from February 20, 2026 through February 25, 2026 concerning my FOIA request, the status of the matter, or the decision whether to decline prosecution.
5. The Prosecuting Attorney's Office's native copy of the February 25, 2026 declination email, together with any associated declination memorandum, case-rejection form, or final disposition record.

Under W. Va. Code § 29B-1-3(d), a public body must respond to a records request within five days, excluding Saturdays, Sundays, and legal holidays.

Under syl. pt. 4, *Hechler v. Casey*, 175 W. Va. 434, 333 S.E.2d 799 (1985), the West Virginia Freedom of Information Act is applied liberally in favor of disclosure, while its exemptions are read narrowly.

Under syl. pt. 2, *Daily Gazette Co. v. W. Va. Dev. Off.*, 198 W. Va. 563, 482 S.E.2d 180 (1996), and W. Va. Code § 29B-1-5(2), the public body bears the burden of establishing the express applicability of any exemption it invokes.

Under syl. pt. 4, *Daily Gazette*, the internal memoranda exemption covers deliberative advice, opinions, and recommendations and does not extend to ordinary communications between a public body and private persons or entities.

Any withholding under W. Va. Code § 29B-1-4(a)(4) should be specifically justified in light of the formal declination issued on February 25, 2026. See *Hechler v. Casey*, 175 W. Va. 434, 447, 333 S.E.2d 799, 812 (1985).

Please search office systems, email accounts, calendars, text messages, phone logs, and any personal devices or private accounts used for public business. Under W. Va. Code § 29B-1-2(4), a public record is defined by content or context, not device ownership.

If any record is withheld, please identify the specific exemption relied upon and produce all reasonably segregable nonexempt portions. If records are withheld, the justification should satisfy syl. pt. 6, *Farley v. Worley*, 215 W. Va. 412, 599 S.E.2d 835 (2004).

Please provide the records electronically to this email address.

Sincerely,

Seth Sturm
377 Messer Run Rd
Metz, WV 26585
sethsturm@gmail.com

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