



Washington State
Hospital Association



Association of Washington
Public Hospital Districts

GOVERNANCE EDUCATION

WASHINGTON STATE
HOSPITAL ASSOCIATION

ASSOCIATION OF WASHINGTON
PUBLIC HOSPITAL DISTRICTS

2022 Public Records Officer Webinar for Public Hospital Districts

Oskar Rey, Mary Kay Clunies-Ross, Jori Stott

November 9, 2022

Facilitators



Matthew Ellsworth
Executive Director
AWPHD



Joanna Castellanos
Program & Outreach Manager
AWPHD

Speakers



Oskar Rey, Legal Consultant,
MRSC



Mary Kay Clunies-Ross,
Sunshine Communications



Jori Stott,
Summit Pacific Medical Center



Public Records Regulations

- Managing & Retention
- Common Pitfalls
- Documenting the process

Oskar Rey, MRSC

Proper Management and Retention of Records

Proper Management of Records

- Chapter 40.14 governs the retention, preservation and lawful destruction of public records
- Public records are public property; agencies are the custodians of this public property
- All public records shall be and remain the property of the state of Washington (RCW 40.14.020)
- Mutilating, destroying, concealing, erasing, obliterating or falsifying a public record = felony! (RCW 40.16.020)

- Archives Branches ▾
- Research ▾
- Ask An Archivist
- Teachers & Students
- Records Management ▾
- Records Center
- Imaging Services
- Historical Records Advisory Board
- Electronic Recording Standards Commission
- Archives Oversight Committee
- Historical Records Project
- Local Records Grant Program
- Open Records Portal Study

- Branches / Repositories**
- Digital Archives
 - State Archives



Archives News

Online Training

Washington State Archives offers a variety of records management training videos online. [More information](#) ➔



[Ask an Archivist](#)

[Online Records](#)

[Archives Catalog](#)

Upcoming Events

Contact Info

Steve Excell, State Archivist

Location: 1129 Washington Street SE
Olympia

Email State Archivist:
archives@sos.wa.gov

Research Requests and Information about Public Records:
research@sos.wa.gov

Mail: PO BOX 40238
OLYMPIA WA 98504-0238

Telephone: (360) 586-1492

Records Management Email:
recordsmanagement@sos.wa.gov



BRANCHES ▾

RESEARCH ▾

TEACHERS & STUDENTS

STATE AGENCIES

LOCAL GOVERNMENTS

Archives Branches ▾

Research ▾

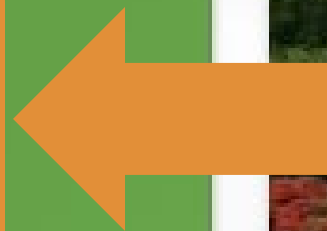
Ask An Archivist

Teachers & Students

Records Management ▴

State Agencies

Local Governments



Managing Hospital District Records

Records Retention...

- [Which Schedules to Use?](#)
- [Common Records \(CORE\) v.4.2 \(Aug 2021\)](#)
- [Emergency Comm 911 v.1.0 \(Nov 2012\)](#)
- [Fire & Emergency Medical v.2.1 \(Aug 2022\)](#)
- [Public Hospital Districts v.5.0 \(Mar 2011\)](#)
- [More Help with Records Retention...](#)
 - [Examples of Common Records with Minimal Retention](#)
- [Updating Records Retention Schedules](#)

How to...

- [Go Paperless \("Scan & Toss"\)](#)
- [Destroy Non-Archival Records](#)
- [Transfer Archival Records](#)

Need Help With...

- [Where Do I Start?](#)
 - [Getting Training](#)
 - [Basics of Managing Public Hospital Records Training](#)

Need Help Managing...

- [Board/Committee Meeting Records](#)
- [Calendar Records](#)
- **Electronic Records...**
 - [Audio/Visual Records](#)
 - [Backups](#)
 - [Chat/Instant Messaging](#)
 - [Cloud Services/Storage](#)
 - [Database Records](#)
 - [Digital/Electronic Signatures](#)
 - [Drones](#)
 - [Email](#)
 - [Imaging/Scanning](#)
 - [Portable Media \(CDs, DVDs, Flash Drives, etc.\)](#)
 - [Social Media](#)
 - [Text Messages](#)
 - [Video Conferencing Records](#)
 - [Voicemails](#)

Trending Now...

[Draft Revision - Public Hospitals Records Retention Schedule](#)

[COVID-19 Pandemic Records](#)

[Local Records Grant Program](#)

[Office 365 / Microsoft 365](#)

[Information Governance / ECM](#)

Looking for...

[List of all Records Retention Schedules](#)

[Training Calendar](#)

[Online Training](#)

[Open Government Training](#)

[Advice Sheets & Other Publications](#)

[Forms & Templates](#)

[Local Records Committee](#)

Find Records at the Archives...

[Digital Records](#)

[Paper Records](#)

Stay Informed...

Subscribe to Local Govt Updates to automatically receive updates on records retention schedules, training opportunities, and records management advice.

This schedule applies to: All Local Government Agencies

Scope of records retention schedule

This records retention schedule authorizes the destruction/transfer of the public records of all local government agencies relating to the common functions of the management of the agency, and management of the agency's assets, finances, human resources, and information resources. It is to be used in conjunction with the other approved schedules that relate to the functions of the agency.

All current approved records retention schedules can be accessed online at: <http://www.sos.wa.gov/archives/recordsretentionschedules.aspx>.

Disposition of public records

Public records covered by records series within this records retention schedule must be retained for the minimum retention period as specified in this schedule. Washington State Archives strongly recommends the disposition of public records at the end of their minimum retention period for the efficient and effective management of local resources.

Public records designated as Archival (Permanent Retention) or Non-Archival (with a retention period of "Life of the Agency" or "Permanent") must not be destroyed. Records designated as Archival (Appraisal Required) must be appraised by the Washington State Archives before disposition. Public records must not be destroyed if they are subject to ongoing or reasonably anticipated litigation. Such public records must be managed in accordance with the agency's policies and procedures for legal holds. Public records must not be destroyed if they are subject to an existing public records request in accordance with chapter 42.56 RCW. Such public records must be managed in accordance with the agency's policies and procedures for public records requests.

In addition to the minimum retention requirements specified in this schedule, there may be additional (longer) retention requirements mandated by federal, state, and/or local statute, grant agreement, and/or other contractual obligations.

Revocation of previously issued records retention schedules

All previously approved disposition authorities for records that are covered by this retention schedule are revoked, including those listed in all general and agency unique retention schedules. Local government agencies should take measures to ensure that the retention and disposition of public records is in accordance with current approved records retention schedules.

Authority

This records retention schedule was approved by the Local Records Committee in accordance with RCW 40.14.070 on August 5, 2020.

Signature on File

For the State Auditor: Al Rose

Signature on File

For the Attorney General: Matt Kernutt

Signature on File

The State Archivist: Steve Excell

DISPOSITION AUTHORITY NUMBER (DA)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
GS50-04B- Rev. 1	<p>Recruitment</p> <p>Records relating to the process of recruiting, interviewing, and filling/recruitment effort terminated</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Employment requisitions (position specifications, needs and requests to fill, desired qualifications, etc.); • Personnel Action Request/notice (PAR) development; • Job announcements and postings; • Applications, resumes, test results and background check (including applicants screened but not interviewed); • Applicant lists, eligibility lists, applicant profile data (including interview questions and tests); • Screening, scoring, ranking and selection criteria; • Related correspondence/communications. <p>Excludes records covered by:</p> <ul style="list-style-type: none"> • <i>Apprenticeship - Program Administration (DAN GS50-04B-06)</i> • <i>Employee Work History (DAN GS50-04B-06).</i> 	<p>Retain for 3 years after position filled/recruitment effort terminated</p> <p><i>then</i></p> <p>Destroy.</p>	<p>NON-ARCHIVAL NON-ESSENTIAL OFM</p>

<p>GS50-05A-10 Rev. 1</p>	<p>Franchise Requests – Granted by Agen Records relating to franchise agreemer the use of public streets, bridges or oth the surface of the ground, for the provi electricity, water, sewer, etc.], railroad: accordance with <u>RCW 35A.47.040</u> and negotiations, final agreement and relat Excludes franchises granted <u>to the age</u></p>
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<p>Retain for 6 years after termination or withdrawal of franchise agreement <i>then</i> Transfer to Washington State Archives for permanent retention.</p>	<p>ARCHIVAL (Permanent Retention) ESSENTIAL OPR</p>
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<p>/AL etention) IAL</p>

Get Rid of ROT

Redundant

Outdated/Obsolete

Trivial Records

6. RECORDS WITH MINIMAL RETENTION VALUE (TRANSITORY RECORDS)

This section covers records created or received by the agency which are typically of short-term, temporary informational use.

What types of records are transitory?



Question: Which of the following could you probably delete or destroy today?

- A. CC emails announcing a co-worker's adoption of a child
- B. A clerk's personal handwritten notes of a meeting that have already been typed up
- C. Extra copies of flyers for the local 2008 farmers' market
- D. All of the above

Answer: D! get rid of it!

		RETENTION AND DISPOSITION ACTION	
DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS		DESIGNATION
GS50-02-04 Rev. 2	<p>Secondary (Duplicate) Copies Copies of records (created or received), <u>provided</u> the agency retains its prim record in accordance with the current approved minimum retention period.</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Data extracts and printouts from agency information systems; • Cc's of emails, <u>provided</u> the agency is retaining its primary copy of the en • Convenience/reference copies of records; • Duplicate and near-duplicate images/photographs, <u>provided</u> the selectec documenting the occasion/object is retained. <p>Excludes records which are the agency's only copy of the record, even if it is agency.</p>	<p>Retain until no longer needed for agency business <i>then</i> Destroy.</p>	<p>NON-ARCHIVAL NON-ESSENTIAL OFM</p>

End of Retention Period

At the end of the retention period, there are two options*:

1 Destroy the record

2 Transfer the records to archives

*Unless there is a litigation hold or an open PRA request encompassing the records

Washington State Archives Trainings

Includes Recorded Trainings:

- A Primer for Public Records
- Digital Hoarding – Emails “Getting Your House in Order”
- Lions and Tigers and Twitter Oh My! - Social Media

www.sos.wa.gov/archives/recordsmanagement/online-training.aspx

Upcoming Live/Online Trainings:

- November 23, 10:00 am–Basics of Managing Public Hospital Records
- December 14, 10:00 am—Basics of Managing Records

www.sos.wa.gov/archives/recordsmanagement/trainingsignup.aspx

PRA & RECORDS MANAGEMENT TECHNOLOGY GUIDE



MRSC

Making Sense of Records Management Software Options

Modern records management software is designed to provide records managers with quick and easy access to records in almost any format. Several types of records management software applications have evolved over time in response to growth in the use of new technology-based business and communication systems. In fact, there are so many now that it is easy to become overwhelmed by the myriad types of software available and the various terms used to describe them and their functions.

For the purposes of this guide, we group records management software into three major categories:

1. **Custom Software** - Developed in-house, not typically an off-the-shelf solution, to meet unique records management needs
2. **Specialty Software** - Off-the-shelf software that performs specific records management tasks, often focusing on specific types of content and records
3. **Multi-Function Software** - Combines a range of capabilities and services into more full-featured records management systems

Also, for the purposes of this guide we are using the term "Records Management Software" as an umbrella term to refer broadly to all types of software that have been developed to manage public records (electronic and paper) even though the term can have more specialized meanings depending on the context.

CUSTOM SOFTWARE

Many local government agencies have for a long time been using a variety of common business software tools like spreadsheets and databases singly or in combination with others to catalog, reference, and store paper and electronic records. For the most part, these applications were not developed specifically to help with records management tasks, but they have been adapted and customized for this purpose by agency staff.

For some smaller agencies with fewer records to maintain and fewer public records requests, these solutions have worked because they are based on familiar systems with relatively low barriers to entry that still provide some measure of technology-based assistance. However, it's not clear whether such "homegrown" solutions will be able to keep up with expected growth in the types and quantities of public records.

“Currently records coordinators in each office and department use a cobbled-together system of software programs and methods to receive, log, respond to, and track public records requests.”

—2018 Technology Tools Grant Applicant

Some jurisdictions have developed in-house, or with vendor assistance, wholly customized applications that have been specifically developed to meet their unique records management needs. Custom

<http://leg.wa.gov/jlarc/Pages/publicRecAdmin.aspx>

Joint Legislative Audit & Review Committee
Joint Legislative Audit & Review Committee
All Reports
Upcoming Reports
All Meetings
JLARC Members
Tax Preference Website
SAO Hearings & Reports
Contact JLARC Staff
About JLARC
Awards & Recognition
Public Records Requests
Main Sections
Legislature Home
House of Representatives
Senate
Laws & Agency Rules
Agendas, Schedules, & Calendars
Bill Information
View all links



Joint Legislative Audit & Review Committee

HOW TO REPORT PUBLIC RECORDS DATA

Public Records Reporting System

[View reporting instructions](#)

ABOUT PUBLIC RECORDS REPORTING

Do I have to report?

RCW 40.14.026 requires agencies with public records costs that exceed \$100,000 to report to the Joint Legislative Audit and Review Committee (JLARC) on a variety of performance metrics including information on cost, staff time, and response time. JLARC has developed an online reporting tool to collect the performance metrics data.

You can still report if your agency does not spend over \$100,000 on public records costs.

If your agency does not wish to report, JLARC encourages every agency to log into the reporting system and tell us that your agency did not meet the \$100,000 reporting threshold.

Further guidance on the performance metrics can be found in the [agency guidance](#) document.

NOTIFICATIONS & UPDATES

[SUBSCRIBE TO PUBLIC RECORDS EMAIL LIST](#)

Recent Updates

September 2022

Data from the 2021 reporting period (January 1, 2021 to December 31, 2021) is now available.

[2021 public records data](#)

JLARC's full report will be available in January 2023.

CONTACT INFORMATION

Tel: (360) 786-5171 | JLARC@leg.wa.gov

[View all contact information](#)

PUBLIC RECORDS TEAM

Ashley Elliott | Tel: (360) 786-5286

General questions can be emailed to: JLARCPublicRecStudy@leg.wa.gov

ADDITIONAL RESOURCES

[2021 public records data](#)

[Is my agency required to report public records data?](#)

[Agency Guidance on Public Records Data Reporting](#)

[Worksheet for determining \\$100,000 threshold](#)

[Staff Cost Estimation Worksheet for Metrics 11 & 13](#)

Valuable Resources

AG's Office:

- Open Government Guide
- Model Rules
- Local Govt Consultation Program

State Archivist:

- Retention Schedules
- Grant Program
- Tip Sheets & Online Videos/Training

WAPRO:

- Conferences and Toolkit

MRSC:

- PRA Tip Sheets
- PRA Webpage and PRA Case Law Updates
- PRA & Records Management Tech Guide

Documenting the Process



Request Tracking Log

Agency Name:

Start Date of Log:

Completion Date of Log:

Log of Public Record Requests

Identity of Requestor	Date Received	Text of Original Request	Description and Number of Records Produced in Response:	Description of Records Redacted or Withheld:	Reasons for Redactions or Withholding (RCWs/other statutes):	Date of Final Disposition of Request:
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Note: Agencies must maintain a log of public records requests under RCW 40.14.026(4). Request logs must be retained for two years after the request has been fulfilled, then the log can be destroyed. DAN GS2010-014. This template is set up to track requests on an annual basis so the entire log can be deleted two years after creation.

Sample Request Tracking Log Available in WAPRO Toolkit

Request: 5-Day Response



Calendar 5-day response (and, later, installments)



Send 5 (business) day response:

- Make records available (inspection or copies)
- Direct requestor to website
- Provide time estimate
- Request clarification
- Deny the request

Provide Reasonable Estimate of Time



Consider the following factors:

- Volume of records requested
- Number of staff who may have responsive records
- Whether records are kept in multiple locations
- Whether exemptions apply; and the need for legal review
- Whether third party notice is required
- Where the request falls in the request queue

Request: 5-Day Response



Calendar 5-day response (and, later, installments)



Send 5 (business) day response:

- Make records available (inspection or copies)
- Direct requestor to website
- Provide time estimate
- Request clarification
- Deny the request

Request

Document Hold

Notify key staff of request

Direct staff to maintain responsive records and suspend all ordinary destruction and recycling of potentially responsive records



The Request

Document Hold

PRA HOLD MEMO

To: *{Enter Recipients}*

From: *{Enter Author}*

Date: *{Enter Date}*

Re: Public Records Hold Regarding *{Enter general topic, records request #, or requestor name}*

{Enter name of requestor} has filed the following request for records:

{Summarize records request or state full text of request}

If any potentially responsive records are in your possession, **you must now maintain these records and suspend all ordinary destruction and recycling procedures of the potentially responsive records.** This includes email, voicemail, any other electronic media, handwritten notes, and drafts of documents related to or referring to the subject of the request. By way of example, relevant records that must be retained could include, but would not be limited to:

- *{Enter examples of potentially responsive records}*

If in doubt about whether a record is responsive, please retain it because destruction of responsive records may create liability for the *{Enter name of agency}*. All records affected by this hold must be retained until you receive written notification from me that the records are to be collected or that the hold is lifted.

You have received this memo because we believe that you may have responsive records. Please forward this memo to anyone to whom it was not addressed that you believe may also have responsive records and inform me that you have taken that action. If you do not have records affected by this hold, you are not required to take any further action. If you have any questions about your obligations, please contact me at *{Enter email and phone number}*.

Sample PRA
Hold Memo
Available in
WAPRO Toolkit

How Do I Conduct a Reasonable Search?

1 Document your search

MRSC Practice Tips—Performing
an Adequate Search



PRA – PERFORMING AN ADEQUATE SEARCH FOR RECORDS



Practice Tips FOR LOCAL GOVERNMENTS



The Public Records Act (PRA), [chapter 42.56 RCW](#), requires that agencies perform an adequate search to locate records responsive to a public records request. The PRA itself doesn't provide detailed provisions on how to conduct an adequate search. Rather, such requirements can be found in court decisions interpreting the PRA, including [Neighborhood Alliance v. Spokane County](#) (2011), [Block v. Gold Bar](#) (2015), [Nissen v. Pierce County](#) (2015), [Rufin v. City of Seattle](#) (2020), and [West v. City of Tacoma](#) (2020). These practice tips are based on such case law. Use these tips to guide your agency's search for responsive records. For more information and resources visit mrsc.org/prs.

ADOPT A STANDARD METHODOLOGY TO SEARCH FOR RECORDS

(This methodology will apply to each search.)

- **Document records organization.** Understand how each department within your agency organizes and retains its records.
- **Implement an effective system for locating and collecting responsive records.** With an effective system in place, an agency can more efficiently find records responsive to a PRA request and more easily defend itself against a challenge that its search for records was inadequate, especially in situations in which the agency finds no records responsive to a PRA request.

Search Checklist

Search Locations	Search Conducted	Records Located	Search Date	Search Terms Used <i>(for electronic records searches)</i>	Time Spent Searching and Collecting Records in Each Location
Calendars <i>(Paper or Electronic)</i>	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Databases Description:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Emails	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Paper Files	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Shared Drives Description:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Social Media Accounts	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Text Messages	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Thumb Drive or CDs	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			
Other Description:	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input type="checkbox"/> No			

Internal Records Search Tracking Log

This template tracking form can be utilized by agency staff involved in the agency's search for records. It records the agency's search process, which the agency can rely on to show it conducted an adequate search.

Sample Search
Checklist
Available in
WAPRO Toolkit

Employee Name: _____ Employee Signature: _____ Date: _____

How Do I Conduct a Reasonable Search?

1 Document your search

2 Refine your search terms

3 Search every location a record is likely to be located

4 Follow obvious leads



Search

Private Device Declaration

Sample
Declaration
Available in
WAPRO Toolkit

DECLARATION OF PUBLIC OFFICIAL/EMPLOYEE RE SEARCH OF PERSONAL DEVICE/ACCOUNT

I, Susan Smith, Councilmember for the Agency, do hereby certify that I completed the following search of my personal devices and personal accounts on March 27, 2018:

- I searched the following accounts and devices:
 - Personal Gmail Account (ssmith2018@gmail.com)
 - Text Messages on Personal Cell Phone
- I used the following individual search terms independent of each other:
 - "city hall"
 - "location"
- I searched for records within the following dates: January 1, 2017-December 31, 2017

The search was performed in order to provide records responsive to the following Public Records Request ("Request"):

"All emails and text messages from 2017 to and from all councilmembers regarding the proposed location of a new city hall."

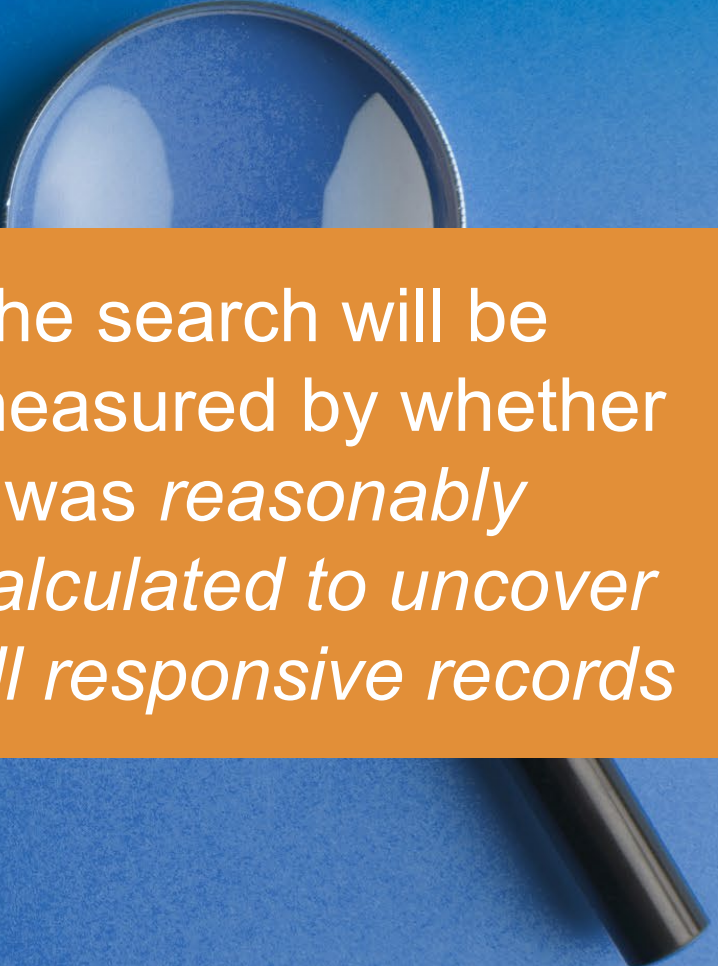
I hereby certify that the only personal devices and accounts I use to communicate for agency business are my Gmail account and the text messaging feature on my personal cell phone. I further certify that I have provided to the Agency PRO all responsive emails located in my Gmail account and all responsive text messages located on my personal cell phone as a result of my search. I hereby certify that any other email messages in my Gmail account and any other text messages on my personal cell phone, other than those I have provided pursuant to the Request, are either personal in nature (and therefore not public records) or are not responsive to the Request.

Signed and dated this ___ day of _____, _____ at _____, _____.

Signature

How Do I Conduct a Reasonable Search?

- 1 Document your search
- 2 Refine your search terms
- 3 Search every location a record is likely to be located
- 4 Follow obvious leads



The search will be measured by whether it was *reasonably calculated to uncover all responsive records*

Search Metadata

Metadata must be specifically requested

Request for record in native electronic format by its nature encompasses metadata

Is it possible to produce metadata for:

- Text messages?
- Social media posts?
- Website?

Is it reasonable or technically feasible to produce metadata for these types of records?

Search Installments

Installments are your friend

10% deposit up front

Collect costs per installment

Consider request abandoned if don't pay for or review installment



Review

Exemption Log

Sample
Exemption Log
Available in
WAPRO Toolkit

RECORDS PROVIDED WITH REDACTIONS

Document Type	Page # (Bates numbering)	Code*
Email	5	1A
Payroll record	12	7E
Employment offer letter	13	11A
Internal misconduct investigation	25	24

*Refer to Exemption Key

RECORDS WITHHELD IN THEIR ENTIRETY

Document Type / Description	Document Date	# of Pages	Author	Recipient	Code*
Application for employment	January 2017	2	Jim Williams	Agency HR Director Patty Gray	22
Resume	January 2017	1	N/A	N/A	22
Test questions used to administer employment examination	February 2017	5	Jane Smith	N/A	23A
Test scoring keys used for employment examination	February 2017	1	Jane Smith	N/A	23B
Memo	August 2017	2	Agency Attorney Nicholas Wolf	Agency HR Director Patty Gray	1A

Review Exemption Log

EXEMPTION KEY

Attorney-Client Privilege, 1A–1E

Attorney Work Product, 2A–2D

Computer & Telecommunication Network Information, 3A–4G

Confidential Informants, 5A–5B

Copyright & Trade Secrets Information, 6A–6B

Credit Card, Bank & Other Financial Information, 7A–7H

Criminal Records Privacy Act & Background Checks, 8–9

Deliberative Process, 10

Employee/Volunteer Records, 11–21

Employment Records, 22–23

Internal Investigation Records, 24–26

Investigative Records & Intelligence Information, 27–30

Juvenile Records, 31–32

Medical Records, 33

Passport Number, 38

Records Related to Real Estate Acquisition or Sale of Property, 39A–39C

Security, 40A–40B

Social Security Number, 41

Taxpayer Information, 42–43

Utility Customers, 44

Miscellaneous, 45–51

Code	Applicable Exemption	The cited exemption applies because the redacted/withheld information includes the following:
Attorney-Client Privilege		
1A-1D	RCW 42.56.070(1); RCW 5.60.060(2)(a). Communication between client and attorney for the purpose of obtaining or providing legal advice is exempt.	1A: Communication between client and attorney to obtain or provide legal advice 1B: Communication between attorney and client regarding litigation 1C: Communication between attorneys regarding litigation 1D: Communication between attorneys regarding client advice
1E	RCW 42.56.070(1); RCW 5.60.060(2)(a). Communication between members of client agency for purpose of gathering information to obtain legal advice or convey attorney/client communications is exempt.	Communications between clients to gather information for attorney

Sample
Exemption Log
Available in
WAPRO Toolkit

ABC Contractor
654 Western Avenue
City, WA 99999

5/1/2018

Review

Third Party Notice

Dear ABC Contractor:

The Agency has received a public records request for records that pertain to your company.

Pursuant to RCW 42.56.540, we are providing you with third party notice of this public records request. A copy of the records request and responsive public records that pertain to your company are enclosed for your review.

The Public Disclosure Staff have thoroughly reviewed these responsive records and concluded that no exemptions apply. Therefore, we are prepared to release the records to the requestor.

The Public Records Act allows a court to prevent release or examination of public records upon request by an affected third party if release or examination of the records would not be in the public interest and would substantially and irreparably damage any person. If you desire legal guidance on the Public Records Act and how to obtain a court injunction prohibiting release of the records, you need to contact your own legal counsel. You must obtain and the Agency needs to be served with a court order blocking release of the records within fourteen business days from the date of this letter. If we have not been served with the court order within fourteen business days, the records will be released. In addition, you must ensure that all necessary parties (including the requestor) have been joined in your action, should you choose to seek an injunction.

If you have any questions or concerns, please contact my office at 206-209-5264 or jdoe@wa-pro.org.

Sincerely,
Jane Doe
Records Officer

Sample Third
Party Notice
Available in
WAPRO Toolkit

What Can I Charge to Copy Records?

All agencies need to adopt a PRA fee schedule in order to charge for copying costs, RCW 42.56.070(7).

Adopt
actual costs
(fee study
required)

or

Adopt default
statutory costs
(unduly
burdensome
finding)



Delivery Preservation/Retention



Local Government Common Records Retention Schedule
Version 4.1 (August 2020)

5.4 PUBLIC DISCLOSURE

The activity of responding to requests for access to the public records of the local government agency in accordance with chapter 42.56 RCW.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
GS2010-014 Rev. 3	<p><i>Public Disclosure/Records Requests</i> Records relating to requests from the general public for access to the agency's public records in accordance with <u>chapter 42.56 RCW</u>.</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Internal and external correspondence relating to the request; • Legal advice/opinions; • Records documenting the public records provided to the requestor (copies or lists of the records provided, etc.); • Records documenting the public records (or portions) withheld (exemption logs, copies of portions redacted, etc.); • Records documenting administrative reviews relating to the request; • Tracking logs. <p>Excludes the records that are the subject of the public records request (which must be retained in accordance with the applicable records series).</p>	<p>Retain for 2 years after public records request fulfilled <i>then</i> Destroy.</p>	<p>NON-ARCHIVAL NON-ESSENTIAL OPR</p>

Closure



- ✓ Document Completion Date
- ✓ Identify Retention/ Disposition Date
- ✓ Prepare Electronic and Hard Copy Files for Storage

*Include “closure” language in communication with Requestor—that ensures the start of the one-year statute of limitations.

FAQs and Common Pitfalls



FAQs--Retention

Question: What are our responsibilities for public records retention on websites and social media accounts?

Answer: Retention is based on the underlying record/communication—there is not a specific retention period for webpages or social media posts in general. The content may be “duplicate” if the original record is located elsewhere. But have good back up strategies!

FAQs--Retention



Question: How best to deal with the dusty storage room full of old files?

Answer: Understand the nature of the records and potential retention periods before you start. Be ready to scan anything that may still be subject to retention. Ask for the time and resources you need and hold off until you think you have enough of both to get the job done. For more, see the Washington State Archives [Local Records Grant Program](#) (Organizing the File Room and Digital Imaging).

FAQ—Requests for Information



Question: Many requests are not for a record, but for information. What is the requirement if we don't have the requested report, do we create a document? What is the best way to respond to these types of requests?

Answer: An agency is not required to create a record if it does not have a responsive record. “I want more information about _____” is not a request for records. One approach is to explain to the requestor that they need to specify the types of records they are looking for. Some agencies will create a record if it is not difficult to do so in the name of efficiency and “providing the fullest assistance possible” under the PRA.



FAQ—Broad/Vague Requests

Question: What are best practices when dealing with requests for records pertaining to a particular topic that appear vague or overbroad, where the individual may not want all records related to that topic.

Answer: Sometimes requestors use broader language than necessary to ensure they get the records they want. Communication with the requestor is key. Sometimes a phone call works better than an email. Explain to them that the process will be faster and cheaper if they agree to narrow the scope of their request. Good customer service is key! Be sure to document any agreement on the part of the requestor in this regard.

FAQ—Redaction versus Exemption



Question: I have heard that it is better to redact documents rather than exempt document. If that is the case, then what is the purpose of an exemption log?

Answer: Redaction is a type of exemption in which you exempt a portion of a record. The exemption log is used to explain the purpose of the redaction. It can apply to both redactions and documents that are exempt in their entirety (which is rare).

FAQ—PRA—Substitute for Discovery



Question: Attorneys are now starting to use the public records request to circumvent discovery as a means to obtaining documents faster. Is there a way to prevent this? How could you best handle the request?

Answer: This has been happening for years and there is no way to prevent it. Coordinate with your legal counsel if you suspect a records request involves actual or potential litigation with your agency. Sometimes legal review of responsive records is required to determine if exemptions such as work-product or attorney-client privilege apply.



A Word about “Frequent Fliers”

A “frequent flier” can be motivated by any number of things—grievance against an agency, watchdog, passion for a particular topic, etc.

Up to date public records policies and fee schedules are very important.

So is treating everyone, including frequent fliers, “by the book.”

Agencies get hit hardest in PRA cases when they don’t follow the PRA or their policies with respect to a requestor they perceive to be “difficult.”

A PRO needs to have thick skin and realize that their agency may have to settle or pay damages in a PRA case at some point. Even if they do their job well. Sometimes, mitigation of damage is the best you can do.

Questions?

Submit your inquiries at [Ask MRSC](#) or call me at 206-625-1300 x102.

You can also reach me by email:
orey@mrsc.org.





Community Impact

Preparing and responding when public records get *really* public

Mary Kay Clunies-Ross, Sunshine Communications

Opinion

Harassment, public-records requests bombard UW truth seeker after Jan. 6 hearings cameo

Oct. 19, 2022 at 2:44 pm | Updated Oct. 19, 2022 at 4:10 pm



Whidbey public records advocate blasts cities' responses

Eric Hood has collected about \$1 million through Public Records Act lawsuits.

By Jessie Stensland jstensland@whidbeynewsgroup.com

Monday, September 20, 2021 2:54pm | LOCAL NEWS NORTHWEST WHIDBEY ISLAND

PTSD settles lawsuit over public records

School district is latest hit by legal action from chronically litigious Whidbey resident



Local Politics

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Local News | Local Politics

Not just the mayor: Text messages of Seattle police and fire chiefs from June 2020 also missing

May 7, 2021 at 8:39 pm | Updated May 7, 2021 at 10:42 pm



Phone was manually set to delete former Seattle Mayor Jenny Durkan's texts, forensic analysis indicates

'Institutional abuse.' 'Tumultuous 15 months.' Public records reveal new details of investigation into CCCCD's ex-chancellor

Report supports allegations of bid tailoring, quid pro quo

Communicating with the public about public records

Preparation

- Web page
- Educate staff and commission members
- Have a clear and well-documented response process

When To Notify Others

- Who is making the request?
- What is the issue?
- What is the tone of the request?

Upon Preparation- Final Review

- Are any of the responsive documents sensitive or likely to cause embarrassment or harm?
- Were documents included that should not have been?
- How responsive was the agency to the request? How will it be received?
- Are there other stakeholders who should be notified?

Questions





Public Records Officer

Experience & Accrued Knowledge

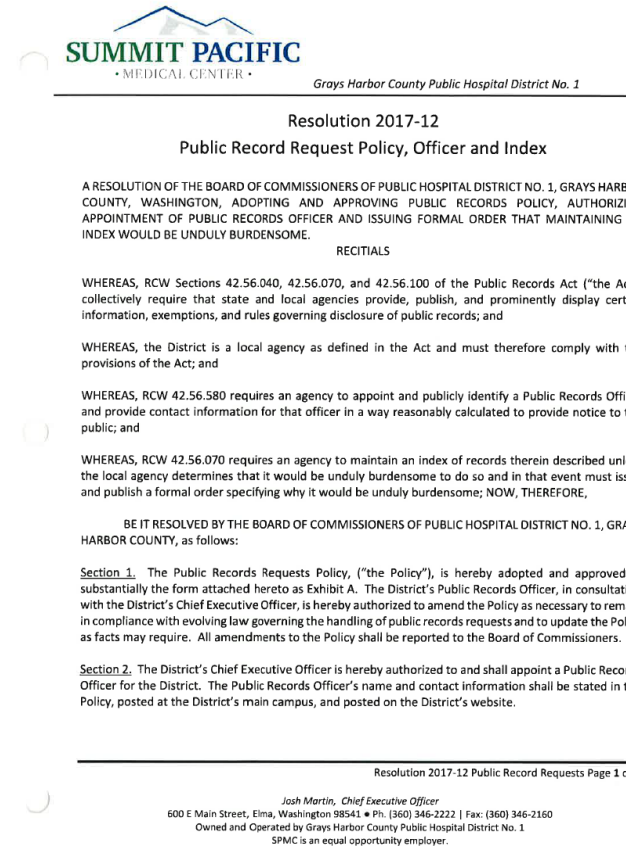
Jori Stott, Summit Pacific Medical Center



So, you're a Public Records Officer... now what?

Set Up Your Framework

- ✓ Draft an Organizational Public Record Policy
- ✓ Index or draft resolution from Board that an index would be “unduly burdensome ”on District resources
- ✓ Publish PRO Contact on agency website and at physical location



Set Up Your Framework

✓ Create internal processes for training and filing













- Develop a tracking/ filing system for record requests and supporting documents
- Develop a calendar for training requirements for PRO and Board Members
- Provide regular staff training and onboarding for new employees



Set Up Your Framework

✓ Save yourself time and create templates:

- 5 Day Response
- No Responsive Records
- Request for Clarification
- Records Provided
- Notice to Third Party Abandoned Request
- Additional Time Needed
- Exemption Log
- Annual tracking log

Name	Date modified	Type	Size
 CERTIFICATE-OF-TRAINING-TEMPLATE	3/21/2018 10:37 AM	Microsoft Word 9...	340 KB
 Exemption Log Template	8/29/2018 1:46 PM	Microsoft Word D...	85 KB
 Letter 5 Day Notice 2018	5/25/2018 10:30 AM	Microsoft Word D...	78 KB
 Letter Abandoned Request.doc	8/29/2018 10:37 AM	Microsoft Word D...	79 KB
 Letter Clarification	1/14/2019 11:51 AM	Microsoft Word D...	80 KB
 Letter Exemptions	8/29/2018 10:44 AM	Microsoft Word D...	79 KB
 Letter Installments 2018	8/29/2018 11:09 AM	Microsoft Word D...	78 KB
 Letter No Records	8/29/2018 10:47 AM	Microsoft Word D...	79 KB
 Letter Records Provided	1/21/2021 4:33 PM	Microsoft Word D...	79 KB
 Letter Third Party Notice to Requestor	8/29/2018 10:54 AM	Microsoft Word D...	79 KB
 Letter Third Party Notice to Vendor	8/29/2018 11:05 AM	Microsoft Word D...	78 KB
 Public-Records-Request	8/29/2018 3:50 PM	Adobe Acrobat D...	59 KB

Create Your Network



- ✓ Reach out to other Public Hospital District Public Record Officers
 - Ask for policy and letter templates
 - Ask questions about how their PHD responds to different types of requests and best practices
 - Ask how other PHDs retain their records or if they use any software systems for record retention
 - Share lessons learned with other PROs

Create Your Network

- ✓ Find and become familiar with your regulatory resources
 - ✓ Attorney General
 - ✓ Secretary of State Archivist and Retention Schedule
 - ✓ MRSC
 - ✓ WAPRO
 - ✓ JLARC
 - ✓ RCW 42.56
 - ✓ WAC 44-14



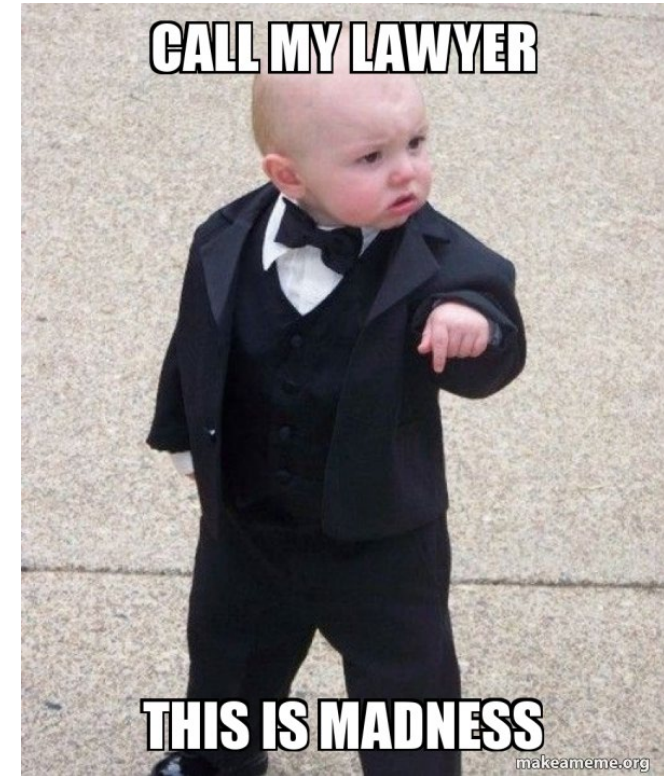
WASHINGTON

Secretary of State



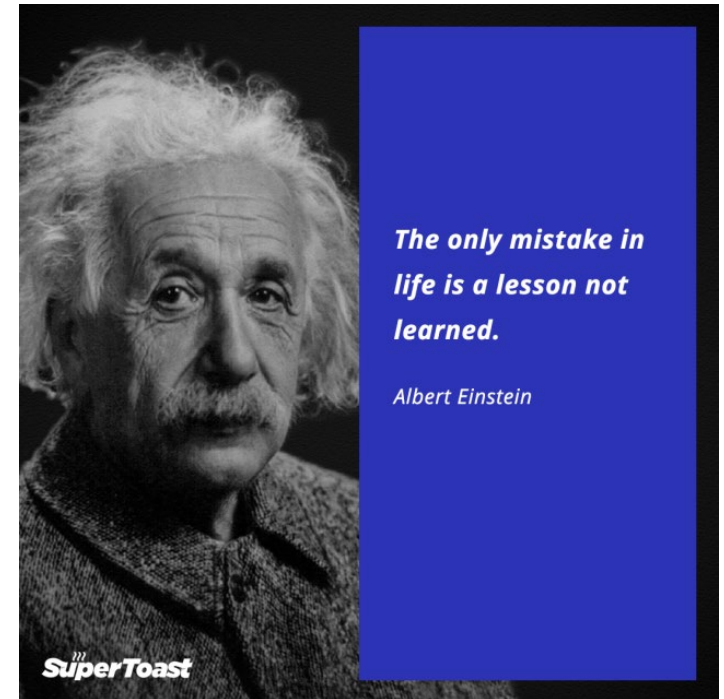
Create Your Network

- ✓ Become best friends with your legal counsel
 - When in doubt, ask! No request is ever the same and your legal counsel can help
 - Create a review system for record denials



Responding to Requests “Lesson’s Learned Best Practices”

- Develop a professional rapport with your requester
- Get everything in writing
- Manage your requesters expectations i.e. realistic time needed, clarification of records requested, associated price
- Request monetary deposit (even if small) to create a transactional relationship: Don’t waste your time on a ghost
- Use your software tools to their fullest
- Never give the “cute” or “why I oughta” responses
- When in doubt, have someone double check your work
- When you sign your name, ask yourself “was this my best good faith effort?”



A Journey to Retention



- Develop a relationship with your State Archivist
- Meet with your organizational leaders to identify their internal records
- Identify low hanging fruit
- Document records that are transferred or destroyed that have retention value
- Start small, but get started

Questions or comments?



THANK YOU AGAIN FOR ATTENDING PUBLIC RECORDS OFFICER WEBINAR.

A REMINDER FOR THOSE WHO ARE WORKING TOWARDS EARNING THEIR HEALTH CARE GOVERNANCE CERTIFICATION, PARTICIPATION IN THIS COURSE QUALIFIES FOR (2) CREDIT HOURS.

THIS CREDIT WILL AUTOMATICALLY BE LOGGED TO YOUR GOVERNANCE EDUCATION PORTAL ACCOUNT.

IF YOU HAVE ANY FURTHER QUESTIONS, OR WOULD LIKE TO PROVIDE FEEDBACK ON THE COURSE, PLEASE FEEL FREE TO EMAIL US: GOVEDU@WSHA.ORG

THANK YOU FOR JOINING US AND HAVE A GREAT DAY!