

# CITY OF SEQUIM PUBLIC RECORDS ACT COMPLIANCE POLICY And GENERAL GUIDE FOR DISCLOSURE OF CITY RECORDS

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## **INTRODUCTION**

In the interest of an informed citizenry and accountable public servants, the City of Sequim is committed to making its records accessible to the public to the full extent allowed by law.

Requests for access to City records may be made by members of the general public, litigants, courts, and other governmental agencies. The procedures for responding to a particular type of request may vary, but in all cases it is our top priority to provide full and timely access to City records while remaining mindful of individual privacy rights and efficient administration of government.

This “Public Records Act Compliance Policy and General Guide for Disclosure of City Records” (“Guide”) sets forth the City’s obligations in the area of public records disclosure and provides procedures for staff and requesters to follow. The Guide was adopted by the City Council in Resolution R2017-19 and the City Manager is authorized to approve future amendments in order to comply with evolving statutes, regulations, court rules and case law, and to keep pace with best practices.

Except where mandated by law, this Guide establishes no affirmative duty or liability upon the City. Questions from City staff may be addressed to the City Clerk or the City Attorney’s Office.

This version supersedes all prior versions and anyone who seeks to rely on information contained in a superseded version does so at his or her own risk.

## **TYPES OF RECORDS REQUESTS**

Requests made under the Public Records Act are the most common type received by the City. The Public Records Act (“PRA”) is found in Chapter 42.56 of the Revised Code of Washington. In common parlance, these are sometimes called “freedom of information” or “sunshine law” requests. The PRA is a complex and ever-changing law that, in addition to ensuring transparency and accountability, can involve legal

risk and financial liability for the City. It is essential that the law be followed diligently, as set forth in the policy and procedures below.

The City also receives records requests under statutes other than the PRA, including but not limited to insurance company requests for police reports, requests from investigative agencies such as Child Protective Services or the Crime Victims Compensation Program, or quality assurance boards involved in the licensure and discipline of various professions.

Another common type of records request involves litigation discovery demands, court orders, or subpoenas issued by judges or attorneys.

All requests, no matter the type or the manner of receipt, should be immediately directed to the City Clerk, who is our official Public Records Officer, or to the Clerk's designee.

## DEFINITIONS

The following words and phrases appear throughout this Guide. Some are defined by law, others have been chosen for use in the interest of clarity and consistency. Where there is a conflict between the definitions provided in law and those in this Guide, those defined under State law control.

**Public Records Officer/PRO/portal:** The City employee(s) responsible for overseeing compliance with the Public Records Act and other disclosure rules and regulations. The City Clerk is the official PRO for the City of Sequim and is the designated **portal** for receipt of all records requests. The City Clerk may assign other employees as Records Officer Designees for purposes of fulfilling a particular request, or a particular genre of request. For instance, the Clerk may designate Sequim Police Department Records Section Specialists the task of handling insurer requests for collision reports. Unless otherwise noted, references to "PRO" include the PRO's designee(s).

**Public Records Act/PRA/PRR:** The Public Records Act (PRA) is a Washington state statute found at Revised Code of Washington (RCW) 42.56 *et seq.* that governs a type of disclosure request routinely submitted to public agencies. The PRA is intended to be liberally construed and its exemptions narrowly construed. "PRR" is the abbreviation for "Public Records Request."

**Record/City record/public record:** A "public record" is a **writing**, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by the City. All City records are public records except those that consist solely of or contain portions of **exempt** information. The law requires that "public record" be broadly defined.

**Writing:** Broadly defined, a writing means handwriting, typewriting, printing, photostating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; voicemails; papers, maps, magnetic or paper tapes, sticky notes, photographic films and prints, motion picture, film and video recordings,

magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including data compilations from which information may be obtained or translated, including email and text messages and anything else that can be captured in writing or electronically.

**Digital/Digitized/Born digital/Hardcopy/Electronic.** Records that originated in an **electronic** form, such as an email, are considered **digital** or **born digital** records. Records that have been converted from a paper or other **hardcopy** form through a physical imaging process (such as scanning) into an electronic record are considered **digitized**.

**Identifiable record:** An identifiable record is one that exists at the time the records request is made and that City staff can reasonably locate.

**Exempt record/Exemptions/Exemption Log:** All City records are available for review and copying by the public unless they are specifically exempted or prohibited from disclosure by state or federal law, which may be contained in RCW 42.56 or in other statutes. The legal reasons for withheld or redacted material are called “exemptions.” Every request fulfilled under the Public Records Act must include a list of any exemptions that were relied upon, commonly referred to as an “exemption log.” The City may utilize a system of codes contained in redaction marks as part of an exemption log.

**Redaction:** A redaction is an obscuring mark, usually solid black, placed over an exempt portion of a record in order to prevent disclosure. In the infrequent circumstances where redaction is not technically feasible or effective, a record may need to be withheld from production in its entirety. Redaction also may refer to the blurring or muting of audio, audiovisual, and photographic records.

**Retention schedule:** The City of Sequim, like all local government agencies in Washington, manages its records in accordance with schedules formulated by the State Archivist (a division of the Secretary of State’s Office) and other schedules that may be adopted by the City. The City is not required to permanently retain every record it creates or uses, and depending on the record, may not be required to retain it in its original form. Records that have been destroyed pursuant to retention schedules are no longer available for disclosure.

**Disclosure:** The act of revealing the existence of a record or the record itself to a requester. Except in very rare cases, the City always has a duty to disclose the existence of a record, but the duty to *produce* a copy or allow inspection depends on the nature of the record. Example: If a requester asks for employee Social Security Numbers, the City must disclose that it does possess records of employee SSNs, but that they are exempt from release to the public.

**Production:** “Production” is the act of providing a requester with a copy of a record or access to the record for purposes of inspection with or without copying. Records may be produced with certain portions withheld or redacted pursuant to available exemptions.

**Third Party Notification:** The limited advance notice sent to people whose rights may be affected by disclosure, advising them of their option to seek an order from a court to prevent or limit the disclosure.

**Inspection/Inspection Appointment:** Under the Public Records Act, a requester may choose to inspect the records prior to or in lieu of receiving copies and may arrange with the Public Records Officer a time and date to do so.

**Fulfillment:** The term “fulfillment” is used to describe the completion of production of records in response to a request.

### **PUBLIC RECORDS ACT COMPLIANCE POLICY**

This section of the Guide describes the policy and procedures for handling a request for records made pursuant to the Public Records Act (RCW 42.56) or where the requester has not specified another statute under which the request is being submitted. Public Records Act requests (“PRR’s”) are a very common type of request received by the City. They should be handled by the Public Records Officer and her/his designee with the full and prompt assistance of all staff.

This compliance policy was adopted by the Sequim City Council in Resolution R2017-19 which also authorized the City Manager to amend it to remain up to date.

### **Records Request – Submission – Initial Processing**

Requests to inspect or copy any record should be made to the City Clerk, who as the Council-designated Public Records Officer is the official portal for receipt of all records requests, including PRRs.

PRRs may be submitted as follows:

- By mail: Public Records Officer/City Clerk, 152 West Cedar Street, Sequim WA 98382
- By hand: Public Records Officer/City Clerk, 152 West Cedar Street, Sequim WA (2<sup>nd</sup> floor)
- By phone: (360) 681-3428 (see section on Oral Requests below)
- By email: [prarequests@sequimwa.gov](mailto:prarequests@sequimwa.gov) (accessible by KKR & Erika)
- By website: <http://www.sequimwa.gov/index.aspx?nid=235>

Although no particular format is required, the City has developed a Public Records Request form that is appended to this Guide and available on the City’s website.

The requester should include all of the following information in all records requests:

- Name and mailing address of requester
- Other contact information, including telephone number and email address
- The date of the request
- The preferred method of production (e.g., photocopies, email transmission, disk)
- Whether requester wishes to make an inspection appointment prior to receiving copies
- Identification of the requested records adequate for the records to be located by the PRO
- Signature of requester (or a notation by the staff member who is transcribing the request) indicating that the requester confirmed the information taken down during an oral request

The following types of information are recommended to expedite search procedures and to ensure that requesters receive available records:

- A date range in which to search
- Subject names and dates of birth
- Police Department case or incident numbers; incident dates and types; relationship of requester to involved parties (e.g., victim, suspect, parent)
- Permit numbers; addresses; project names; contractor names
- Meeting dates; agenda items

**Public Records Officer/PRO/Official Portal:** The City Clerk is the City's official Public Records Officer who, among other duties, serves as the portal for receipt of records requests. The PRO may designate the Sequim Police Department Records Section as the official portal for receipt of certain genres of request (e.g., collision reports).

**Reasonable Notice of Submission:** The Public Records Act requires that an agency be provided reasonable notice that a PRR has been submitted. PRRs should not be buried in other communications or otherwise delivered in an unapproved or roundabout manner. Failure to provide reasonable notice of submission may result in delayed production of records. Unless otherwise set forth in this Guide, the Public Records Officer is the official portal for receipt of all records requests made to the City of Sequim. For this reason, requesters should use the form provided by the City or submit the request through the City's website.

**Purpose of Request:** A requester is not required to divulge the purpose of a request. However, the City may ask the requester to certify, in writing, that a request for a list of individuals will not be used for a commercial purpose. See RCW 42.56.070(8). The City's official PRR form contains such a certification.

**Good Faith Compliance with the Public Records Act:** The City, its officials or employees are not liable for loss or damage based on release of any record if the City official or employee acted in good faith in attempting to comply with the Public Records Act.

**Oral Requests:** While use of the City's PRR form is encouraged, the PRO will accept oral requests made via telephone, voice mail, or face to face. All oral requests should be rendered into writing onto the City's form. If the requester is present or currently on the telephone, the PRO will seek verification that the request has been accurately transcribed. Oral requests made to other staff or departments should be immediately directed to the PRO as the official portal for all records requests.

**Availability.** Public records are available for inspection and copying during the City's normal business hours, Monday through Friday, currently 7:30 a.m. to 4:00 p.m., excluding legal holidays. Records inspections occur at the City Civic Center.

**Records Index:** As codified in Sequim Municipal Code 2.50.050, the City Council finds that maintenance of a current central index of public records as described in Chapter 42.56 RCW would be unduly

burdensome and costly and would interfere with City operations; therefore, creation and maintenance of such an index is not justified.

**Multiple Requests by the Same Party:** Where a requester makes multiple, separate requests or makes one or more additional requests while a prior request is open, the PRO may queue the requests in the order in which they were received. The PRO is not required to work on additional requests until the initial request is completed and closed. Requesters are solely responsible for informing the PRO if they want to re-prioritize the order of their requests.

**“Bot” Requests:** “Bot” requests are those requests that the PRO reasonably believes were generated by a computer program or script. The PRO will not respond to more than one “bot” received within any 24-hour period due to excessive interference with other City functions.

**Clarifying and Identifying Records/Narrowing and Prioritizing Requests/Reasonable Response Time:**

The City will provide its fullest assistance in producing records to the public upon request. The City will fulfill requests in the order that allows for the most requests to be processed in the most efficient manner. If a request cannot be fulfilled within the initial 5business day period, those requests will be processed in the order received, and the requester will be notified of the anticipated fulfillment date.

Requests will not be unreasonably delayed. The PRO will inform requester that additional time is needed and with a brief explanation as to why. Reasonable explanations for extended deadlines include, but are not limited to:

- Need to clarify the nature or scope of the records requested
- Expanded time to locate and assemble the records
- Expanded time to redact and log exempted portions
- Notification of third party persons or agencies affected by the request
- Consultation with legal counsel or risk manager regarding the request

The City may not deny a request for identifiable public records solely because the request is overbroad, time-consuming, or diverts staff from other tasks. A request for all or substantially all of an agency’s records is not a valid request unless the request contains a specific topic or provides a particular keyword or other means of identifying the subject of the request. The City may seek clarification, ask the requester to prioritize the request so that the most important records are provided first, and/or communicate with the requester to reduce the size and complexity of the request. Date ranges may also be suggested as a means of narrowing a request. When a request uses an inexact phrase such as “all records relating to”, the PRO may interpret the request to be for records that directly and fairly address the topic. When the requester has found the records she or he is seeking, the requester should advise the PRO that the requested records have been provided and that the remainder of the request may be cancelled.

The requirement that a record be “identifiable” does not mean that only precisely described records need to be produced for the requester. Rather, the PRO has a duty to assist the requester in clarifying

the request in an attempt to identify the records he or she is looking for. The PRO also has a duty to produce records that may only be partially responsive.

**Essential Functions:** Public records requests are an essential function of the City Clerk's Office. However, the City must also protect against excessive interference with other essential City functions. Due to the size of the City, its staff, and the nature of services the City provides, the PRO will dedicate no more than 25% of his or her time responding to public records requests. The PRO will monitor his/her time using the City's request log tracking system.

**Installments:** The City may provide records in installments over time. The PRO will inform the requester in advance that the records may be produced in installments, and that, if applicable, the copy costs for each installment must be paid before the next installment will be produced. The PRO will document the production of each installment, and send a final **Fulfillment Letter** when all records responsive to the request have been produced.

**Searching for Records/Search Log.** The City must conduct an objectively reasonable search for responsive records. The PRO will determine where responsive records are likely to be located and involve staff in other departments, as needed, to assemble them. After the records are located, the PRO should take reasonable steps to reduce the assembled records to those that are in fact responsive. For complex requests, a **Search Log** will be prepared to document where and how the search was conducted.

**Preserving Requested Records – Avoiding Spoliation of Evidence – Anticipating Litigation or Claims.** Upon receipt of a request, the PRO will determine which department or person may possess records associated with the request. If a requested record is scheduled shortly for destruction under a Retention Schedule, the record cannot be destroyed until the disclosure request has been resolved. This is true of all types of records requests (PRRs, subpoenas, etc.). Destruction of records required to be preserved due to outstanding requests, claims, or lawsuits can result in allegations of "spoliation" being brought against the City. If a records request is received that concerns a subject known to involve litigation that is pending, threatened, or anticipated, the PRO will promptly notify the City Attorney and Risk Manager of the request. The response information and the date of response must be recorded in the request log at the time the PRR is fulfilled. Once the records request is fulfilled or the litigation resolved (allowing for timely appeals), the record may be disposed of pursuant to the appropriate Retention Schedule.

**Abandoned or Withdrawn Requests.** A PRR will not be considered "abandoned" solely because a requester does not respond to the City's queries regarding clarification, reduction of scope, or method of production. While awaiting contact from the requester, the PRO will proceed to assemble at least a first installment of identifiable records and prepare them for production. If the requester does not respond within 30 calendar days to a written notification that these records are ready to inspect or that copies are available, a **Closing Letter** may be sent to the requester. The Closing Letter should state that the request has been closed, explain why the request was closed, and inform the requester that the City will take no further action. If the requester contacts the City subsequent to the Closing Letter going out, he or she will be required to submit a new PRR.

If a request is **withdrawn** by the requester, the PRO should document the date and circumstances in a Closing Letter to the requester, and preferably obtain written acknowledgment of the withdrawal from the requester.

**Inmate Requests.** The City will occasionally receive records requests from individuals who are incarcerated. The PRO will first determine whether the request is made under the Public Records Act or some other basis, such as a discovery demand by a “pro se” defendant or litigant representing him- or herself in a lawsuit or criminal case. Second, the PRO will confirm that the inmate has not been enjoined by a court from making records requests. Third, the PRO will ensure that all correspondence with the inmate will be marked on the outside of the envelope as “NOT LEGAL MAIL – PUBLIC RECORDS RESPONSE.” (The purpose of this notation is to distinguish the City’s correspondence from that of the inmate’s legal counsel.) Fourth, the PRO will carefully review the requested records for potential third party notice issues. Pursuant to and in conformance with RCW 42.56.565, the City may seek to enjoin the inspection or copying of any nonexempt public record by persons serving criminal sentences in state, local, or privately operated correctional facilities. Aside from the above steps, the request will be handled the same as if it were any other person or entity making the request.

**“No Record Found” Letters.** If no identifiable record can be located from the information provided on a PRR and the requester does not provide clarification, or if no such record exists in the possession of the City or its contractors, the City will inform the requester in writing that the request is being closed because no identifiable record was found. The City may, if applicable, suggest alternate agencies to which the requester might submit a request.

**Later Discovered Records.** If, after the PRO has informed the requester that the City has provided all available records, the City becomes aware of additional responsive documents that existed on the date of the request, the PRO will promptly inform the requester of the additional documents and produce them on an expedited basis.

**No Duty to Create Records.** The City is not obligated to create a new record to satisfy a records request; however, the City may, in its discretion create a new record to fulfill the request where it may be easier to create the new record than to collect and make available voluminous existing records containing fragments of the requested information. The City and requester must agree in advance in writing to fulfillment by means of the created record.

**Requests for Information.** Requests for *information* as opposed to *documentation* – that is, questions that cannot be answered by providing access to an existing identifiable record – will not be handled as public records requests under the Public Records Act.

**No Duty to Supplement Responses; No “Standing” Requests.** The City is not obligated to hold current PRRs open to respond to requests for records that may be created in the future. If a record is created or comes into the possession of the City after the PRR receipt date, it is not responsive to the PRR and will not be produced. A new PRR must be submitted to obtain later-created public records.



**Inspection Appointment.** The Public Records Act allows a requester the option of inspecting records in person prior to or instead of receiving copies. For security and operational reasons, a prearranged appointment will need to be made in most cases. The Public Records Officer and the requester will agree upon a time and date, and the PRO will assemble the responsive non-exempt records in a file, carton, or disk drive. The PRO will then provide the necessary space, work station, and supervision at the Civic Center for the requester to conduct the inspection. The PRO will confirm the inspection appointment date in writing. Inspection appointments will occur only during regular business hours, excluding legal holidays. If the requester fails to make the appointment, the PRO will notify requester that another appointment must be made within 30 calendar days or the request will be deemed abandoned, the PRR closed, and the records re-filed.

During the inspection appointment requesters may not remove records from the viewing area or disassemble or alter any record. Requesters may not photograph, videotape or “dub” any record without the express approval and supervision of the PRO. Requesters may ask for copies of any and all non-exempt records at the time of the appointment, and the PRO will provide those copies then and there, if possible. If making the copies would unduly disrupt City business, the PRO may choose to make and produce the copies after the inspection appointment and will do so on an expedited basis.

**Common Records – Access Via Website.** The City will post on its website electronic copies of common public records, including but not limited to City Council meeting notices and minutes, ordinances, resolutions, etc. If a request is made for a record that exists on the website, the City may encourage the requester to seek access from that source and provide a link. If the requester does not wish to utilize the website, proceed as you would on a request for records that are not on the website.

**Fees Associated with Public Disclosure Requests.** The City is not allowed to charge a requester for the staff-time required to locate a record or prepare it for production in response to a request made under the Public Records Act. However, advance payment may be collected on a per-page, per-device, per-scan, or per electronic file basis. Postage fees may also be collected. All fees will be in accordance with the current fee schedule adopted by the City Council.

**Native Format/Metadata.** The City is not required to assume that a request for records means a request for those records in their native format or with their digital metadata included. A requester must specifically ask for records to be produced in native format or to include metadata. If no such specific request is made, the PRO will produce the records in the format(s) that most readily allow organization, pagination, and redaction of exempt material.

**Denials of Requests for Public Records – Internal Administrative Review – Judicial Review.** When a requester disagrees with the City’s decision to withhold or redact a record or portion thereof, the requester may petition in writing (including by email) to the Public Records Officer for a review of the decision. The petition must include a copy of the denial or reasonably identify the written denial or claim of exemption made by the PRO.

The PRO will promptly provide the requester’s petition and any other relevant information to the City Attorney to conduct an internal administrative review of the denial/exemption decision. Within two

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business days of receipt of the petition, or within such other time period mutually agreed upon by City Attorney's Office and requester, the City Attorney will affirm or reverse the denial/exemption. If the denial/exemption is affirmed, the requester may seek judicial review pursuant to RCW 42.56.550. If the denial is reversed, the PRO will promptly produce the record for requester.

A requester is free to seek judicial review even while an internal administrative review is pending.

## GENERAL GUIDE FOR DISCLOSURE OF CITY RECORDS

### So you have received a request for City records ....

First, are you the Public Records Officer or her/his designee? If **not**, immediately transmit the request (Public Records Request, subpoena, discovery demand, etc.) to the City Clerk, who acts as the City's Public Records Officer and official portal for records requests of all kinds. Ensure and document in writing that the PRO or an available designee now has possession of the request.

If you **are** the PRO or a designee assigned to respond to the request, determine what sort of request it is. Is it made under the Public Records Act? Is it connected to a court matter, such as a subpoena? Is it a request from an insurance company, lawyer, crime victim, corrections inmate, law enforcement agency, investigative body or disciplinary board?

**Court Orders/Subpoenas/Discovery Demands ("Requests for Production of Documents"; "Interrogatories" etc.):** Refer to City Attorney and follow his or her instructions for response.

**Accident or Collision Reports; Other Insurance Company Requests.** These requests are usually handled by the Records Section of the Sequim Police Department. Insurance companies and drivers may receive copies of vehicle accident reports pursuant to RCW 46.52.080 (which is *not* part of the Public Records Act, although the citation looks similar). Individual drivers or passengers will usually receive a courtesy copy of a simple collision report at no charge. Insurance companies on behalf of their insured may receive copies of collision reports upon prepayment of a nominal charge (currently \$3.00) and provision of a self-addressed stamped envelope. If the accident involves a crime, death, or significant personal injury, the request should be directed to the PRO, who will review for exempt material and handle production pursuant to the Public Records Act.

Insurance companies will occasionally request police reports that do not involve accidents, but do describe a loss to their insured, such as burglaries, auto theft, or malicious mischief. These requests may be handled in hybrid fashion, i.e., using PRA exemptions on the produced records but accepting the collision report statutory fee in lieu of actual copy costs.

**Law Enforcement/Disciplinary Board/Investigative Agency.** The City will often receive requests from other governmental agencies for investigative purposes. These requests may or may not be made under the Public Records Act. If the statutory basis for the request is not set forth on the request, the PRO should contact the requester to obtain that information. If the requester will not or cannot provide an alternate statutory basis, the PRO will inform the requester that the request will be handled pursuant to the Public Records Act. If the requester does provide an alternate statutory basis, the PRO should review that basis to ensure that the records are produced in accordance with it. Sometimes this means that ordinarily exempt material under the PRA may remain unredacted.

**Public Records Act Requests.** The following procedure should be followed by the PRO or designee upon receipt of a PRR:

**Log the request.**

Go to the Excel Request Log for the current year and choose between “Police” and “City” sheets. The “Police” tab should be used to document insurer requests as well as PRRs specifically for law enforcement records. The “City” tab should be used for all other departments or for city-wide requests.

Assign the next available reference number, replicating the correct format (i.e., “20XX-XXX” at City tab, or “PXX-XXX” at Police tab).All PRA

Fill in the requester’s name, the date of receipt, and the text of the request under the appropriate columns. Whenever possible, fill in the content of the request verbatim. If that is not practical, distill the request to essential information.

**Prepare folders.**

In the Request folder for the current year, make a new folder using the naming convention of **Requester Name Reference Number**. For example, “Smith P17-188” or “Sequim Gazette 2017-040”. This folder will house scanned copies of the request and the fulfillment letter and all salient communications in between. In situations where the records requested were all **non-exempt**, it should also contain a scanned copy of the produced records.

If you are a PRO with permission to handle exempt records such as law enforcement, personnel, or attorney-client privileged, you will open a second folder with the same name in the “Raw” records directory. This is the folder where electronic records will be assembled, reviewed for exemptions and redacted as necessary.

**Scan and link request.**

Scan the written request into the folder you created in the Request directory for the year. Name the resultant pdf “request”. Return to the Excel spreadsheet and create a hyperlink between the requester’s name and the request.

**Prepare and send “5-Day Letter”.**

The initial 5-day response is a requirement of the Public Records Act and may not be necessary for requests made pursuant to other statutes or rules. The City has prepared various form letters to comply with the PRA’s 5-day response rule and recommends that they be used whenever possible.

Within 5 business days of receipt of a PRR, the agency *must* do at least one of the following:

- Make the record available for inspection or copying (inspection appointment);
- Produce the record by the method requested, together with an exemption log, if necessary, and a fulfillment letter
- Prepare and send a “no record found” letter if no identifiable responsive record can be located
- Acknowledge receipt of the request in writing. This letter should provide the City’s interpretation of the request and the law it intends to follow to respond; set an anticipated date

by which the records or a first installment will be produced; explain the reason(s) why more than 5 business days is necessary to respond; and ask for clarification, if needed or suggest methods for expediting or streamlining response. This correspondence may also contain an estimate of copying charges, if available.

**Note:** The City relies upon RCW 1.12.040 to count business days for purposes of the 5-day response. That general statute provides: “The time within which an act is to be done, as herein provided, shall be computed by excluding the first day, and including the last, unless the last day is a holiday, Saturday, or Sunday, and then it is also excluded.”

**Scan and link the 5-day response.**

Scan or convert the 5-day response or email into a pdf; place it in the folder created to house the PRR and rename it “5-day letter” or something similar. Return to the Excel request log and insert the date the 5-day letter was sent in the appropriate column and then create a hyperlink between that date and the 5-day pdf. For small requests that can be completed quickly, the PRO should include responsive documents along with the 5-day letter, and if applicable, indicate that the request is considered closed and the City will take no further action. We have a template for a “5-day fulfillment letter” which works for this rapid turn-around.

**Identify sources and assistants.**

The PRO should determine which City departments, individuals, officials, or contractors may possess records responsive to the request or have the necessary skills or access to assist in assembling them (e.g., IT; SPD; Finance). Sometimes it may be appropriate to send a City-wide notice of the request and elicit file locations or other useful feedback. Usually the nature and likely location of the records will be apparent to the PRO from experience and expertise.

**Assign designee(s).**

If the PRO will not be taking the lead on responding to the request, she or he will assign another person or persons to the task. The PRO may not assign another person to take the lead on a request unless the designee is appropriately trained and has the capacity for such an assignment. It is vital that this task transfer be documented and that the designee not lose track of the request’s status, particularly any approaching deadlines. The PRO is ultimately responsible for improperly handled requests and should properly supervise designees.

**Assemble records.**

The PRO will assemble all records located through an objectively reasonable search, and then do the following:

- Winnow the records down to those that are genuinely responsive, eliminating clear duplications when feasible
- Review for exempt material, with the assistance of the City Attorney if necessary

- Determine whether any third-party notifications need to be issued
- Calculate copy costs, if any
- Prepare at least a first installment for production by marking redactions and logging exemptions

**Notify third parties (if necessary).**

The Public Records Act is weighted heavily in favor of disclosure unless the record falls under a recognized exemption. “Privacy” is *not* a stand alone exemption, and requires a secondary recognized basis such as protected medical records or a risk of identity theft or stalking. Embarrassment, job security, reputation, and other similar factors cannot serve as sufficient reasons for a PRO to withhold a record or delay responding to a PRR in order to forewarn a third party. The PRO should only issue third party notifications in situations where she or he believes a court may grant an order preventing disclosure. In no event will the PRO unreasonably delay disclosure of non-exempt records or extend response deadlines solely to accommodate a third party’s efforts to obtain an injunction against disclosure. Third party notice delays should not exceed 30 calendar days.

Situations where a third party notification may be appropriate include, but are not limited to: victims or witnesses of serious crimes; witnesses or reporting parties who requested confidentiality at the time of the report; parents of minor children who could be identified from the record even if all allowed exemptions are employed.

The Public Records Act provides that an agency’s officials or employees are not liable for loss or damage to any person, including a third party, based on release of a City record if the employee or official acted in good faith in attempting to comply with the PRA.

A sample third party notification letter is included in the appendix.

**Redact the records.**

Prior to arranging an inspection appointment or producing any record, the PRO must make a diligent effort to prevent disclosure of non-public (i.e., exempt) material. Sometimes this means that an entire record must be withheld (after its existence is disclosed), but usually the PRO will be able to redact only the exempt portions and release the remainder. Where a document can be redacted and still have some benefit to the requester, the PRO will redact and produce the document.

The City has modified for its own use the Washington State Attorney General’s system for redacting and logging exemptions. This system is specifically set up to deal with records that have been rendered into pdf format; however, the exemption codes may be used in logs documenting redactions/withholdings of records in any format. The index of exemptions in effect at the time this Guide was adopted or amended is appended hereto.

**Arrange inspection appointment or begin producing records.**

If an inspection appointment was requested, the PRO should contact the requester with the information that the records, in whole or in part, are ready to view at the Civic Center. This correspondence should

be in writing and may contain a search log and other information about the records assembled thus far, such as the type, format, or volume. It should include a specific date and time for the inspection appointment, and require the requester to confirm the appointment or suggest an alternate date. The letter should also state that if the requester does not appear at the appointment or reschedule it, the City may deem the PRR abandoned after 30 calendar days, close the request, and re-file the records.

If no inspection appointment was requested, the records or first installment should be timely produced by the method requested (e.g., photocopies, email, dropbox, thumb drive), after receipt of advance payment, if appropriate. A cover letter should be included with each installment, including a synopsis of the records contained in the installment, an exemption log, and a search log if the request was broad or complex.

### **Fulfill the request.**

Along with or immediately after production of the final installment of records, a fulfillment letter should be sent to requester. The fulfillment letter should refer to all of the following items:

- Restate the original request and describe any agreed upon clarifications;
- Document the volume of records or number of installments, the method of production, the copy costs, and any other unique features of the request;
- Inform the requester that the City believes the PRR has been fulfilled and will take no further action.

The City has templates of fulfillment letters that may be used.

### **Close the request.**

When the PRO is satisfied that a PRR has been fulfilled, she or he should complete the remaining cells on the request spreadsheet. This will include the time spent on fulfilling the request, broken down by department; the initials of the staff involved in fulfilling the request; the amount of costs collected, if any; a link to the fulfillment letter (or closing letter, if the PRR was deemed abandoned or otherwise did not result in records production); and finally a brief description of the records produced and the exemptions relied upon.

Appendix:

Include copies or screen shots of the following:

Request spreadsheet

PRR form

5-day letter(s)

Fulfillment letter

No record found letter

Third party notification

Search Log

Exemption Index and Key