

RESOLUTION NO. 43-08
MASON COUNTY PUBLIC RECORDS PROCEDURES

WHEREAS, RCW 42.56 contains laws pertaining to public records;

WHEREAS, the Mason County Board of County Commissioners finds it is necessary to provide rules for the County to implement the provisions of RCW 42.56 relating to public records;

NOW THEREFORE, the Mason County Board of County Commissioners hereby adopts the Public Records Procedures for Mason County as shown in Attachment A.

APPROVED this 1st day of April, 2008.

BOARD OF COUNTY COMMISSIONERS

Tim Sheldon
Tim Sheldon, Chair

Lynda Ring Erickson
Lynda Ring Erickson, Commissioner

Ross Gallagher
Ross Gallagher, Commissioner

ATTEST:

Rebecca S. Rogers
Rebecca S. Rogers, Clerk of the Board

APPROVED AS TO FORM:

Monty Cobb
Monty Cobb, Chief Civil Deputy Prosecutor

MASON COUNTY

PUBLIC RECORDS PROCEDURES

Sections:

Purpose.

Interpretation and Construction.

Public records officer.

Requests for Public Records- How Made.

Public records available.

Searching public records—Backup and security copies—Email.

Response to public records requests.

Exemptions.

General guidelines for common exemptions for County records.

Copying and delivery fees.

Protection of public records.

Review of denials of public records requests.

Index not maintained

Purpose.

The purpose of this chapter is to provide rules for the County to implement the provisions of RCW 42.56 (formerly RCW 42.17) relating to public records.

This policy does not apply to public records of the State of Washington, such as the records of the Administrative Office of the Courts (AOC), the Washington State Patrol (WSP), the Department of Licensing (DOL) and the Department of Corrections (DOC), and Judicial Information System (JIS) even though those state documents may be available at computer stations located in Mason County and/or may be available to the County's employees by virtue of digital connectivity.

Interpretation and construction.

The provisions of this chapter shall be liberally interpreted and construed to promote full access to the county's public records in order to assure continuing public confidence in government; provided, that when making public records available, the County shall prevent unreasonable invasions of privacy, shall protect public records from damage, loss, or disorganization, and shall prevent excessive interference with essential government functions.

Public records officer designated.

- A. Each elected official and the chair of the Board of County Commissioners shall appoint a public records officer who shall be responsible for the implementation of these rules and regulations regarding release of public records, and generally assuring compliance with the public records disclosure requirements of Chapter 42.56 RCW. A public records officer shall serve as the point of contact for members of the public who request disclosure of public records.
- B. Unless otherwise designated by the Board of County Commissioners:
 - 1. The clerk of the Board of County Commissioners is the public records officer for the Board of County Commissioners and for Mason County
 - 2. The public records officer for the departments reporting to the Board of County Commissioners is the department head.
 - 3. The public records officer for every volunteer board appointed by and reporting to the board of County commissioners is the clerk of the board.
- C. Unless otherwise designated, the public records officer for other elected officials (and the departments that report to that official, if any) shall be the elected official.
- D. An alternate public records officer shall be designated by each appointing authority to act when the designated public records officer is absent or otherwise unavailable to act.
- E. Public records officers and their contact information shall be made in a way reasonably calculated to provide notice to the public, including posting at the local agency's place of business, posting on its internet site, or including in its publications, or on the County website.

Public records requests—How made.

- (a) Public records may be inspected and/or copies may be obtained under the following procedures:
 - 1. Requests for public records should be in writing and directed to the designated public records officer and should include the following information:
 - (A) The requester's name, mailing address, and telephone number;
 - (B) The date of the request;
 - (C) A clear indication that the document is a "Public Records Request";
 - (D) Whether the request is to inspect the public records or for copies of public records, or both;
 - (E) A clear description of the public records requested for inspection and/or copying and the office or department having custody of the public records;
 - (F) If the request is for a list of individuals, a statement that the list will not be used for any commercial purposes or that the requester is authorized or directed by law to obtain the list of

individuals for commercial purposes, with a specific reference to such law; and

(G) Whether the request is for printed or digital copies of the public record.

(2) The public records officer may honor verbal requests when the request is uncomplicated and can be handled quickly and informally. The public records officer may request that any verbal request be put in writing.

- (b) The County maintains a record of all public records requests made to the County. Such record shall include; The Requesting party, the Requesting Party's contact information, including address and telephone number, the information requested, the date of such a request, and the date of when such requested information is provided to the requested information.
- (c) Requests for inspection or copying of public records maintained by an agency of the State of Washington or another government agency must be made to such agency and will be subject to that agency's rules and regulations. The forms required for inspection and the fees charged for inspection or copying are set by the state agency, not by this chapter.

Public records available.

Public records are available for public inspection and copying pursuant to these rules except as otherwise provided by RCW 42.56 and any other federal or state, court rules or these rules. Public records shall be available for inspection and copying from 8:30 a.m. to noon and from 1:00 p.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The public records officer may request the person seeking to inspect or copy the records make an appointment to inspect the records.

Searching public records—Backup and security copies—Email.

- (a) In order to prevent excessive interference with essential functions of the county, the county shall not search backup or security systems for copies of public records when the originals of such records have been identified, located and are available for inspection and/or copying.
- (b) Access to public records does not include access to County computer systems or terminals except for those terminals, if any, which may be specifically designated for public use.

Response to public records requests.

- (a) The public records officer shall, to the extent practicable, assist requesters in identifying the public records sought.
- (b) There is no obligation to allow inspection or provide a copy of a public record on demand.

(c) Within five business days after receiving a public record request, the public records officer shall respond to the request in writing. The public officer shall make one or more of the following responses:

- (1) The request for inspection of public records is approved and whether an appointment for inspection needs to be scheduled by the requester;
- (2) The request for copies of public records is approved and the copies of all requested records are enclosed with the response;
- (3) The request has been received by the public records officer that additional time is needed to respond to the request, and stating a reasonable estimate of the time required to respond;
- (4) The request has been received by the public records officer and the records shall be provided on a partial or installment basis as the records are identified, located, assembled and/or made ready for inspection or copying; or
- (5) The request is denied, in whole or in part, whether by withholding a requested record or redacting a requested record, stating the specific exemption(s) prohibiting disclosure and a brief explanation of how the exemption applies to each withheld and redacted record.

(d) The public records officer shall immediately notify the requester if, after responding to a request for public records and approving the request, the public records officer identifies requested public records or information that are exempt from disclosure.

(e) Additional time to respond to a request may be based upon the county's need to:

- (1) Clarify the intent of the request;
- (2) Identify, locate, assemble and/or make the records ready for inspection or disclosure;
- (3) Notify third persons or agencies affected by the request; or
- (4) Determine whether any of the records or information requested is exempt from disclosure and whether a denial should be made as to all or part of the request.

(f) If a requester fails to clarify the request after receiving a response from the public records officers seeking clarification, the public records officer need not respond further to the request.

(g) If the public records officer does not respond in writing within five business days after receipt of a request for public records, the requester shall be entitled to request review by either the public record officer's elected official or by the prosecuting attorney.

(h) If the public records officer provides an estimate of the time required to respond to the request and the requester believes the amount of time stated is not reasonable, then the requester may request that the public record officer's elected official or department head or the prosecuting attorney review the estimate of time.

(i) When a request for public records is received that concerns a subject known to involve litigation that is pending, threatened or anticipated, the public records officer shall promptly notify the prosecuting attorney of the request. Copies of the

request, all correspondence between the public records officer and the requester, and copies of the public records provided to the requester shall be delivered to the prosecuting attorney. The requester shall not be charged for copies delivered to the prosecuting attorney.

Exemptions.

A. If the public records request falls within one of the exceptions to the law requiring disclosure, a formal written request for the record must be made. The formal written request helps the County make sure that its decision to disclose or withhold a public record is made properly and that the requester obtains the appropriate public records.

B. All County employees are encouraged to clearly identify records that are subject to exemptions and label the documents and files containing the documents accordingly. The label for exempt documents should substantially read as follows:

All or part of this document is exempt for public disclosure pursuant to RCW 42.56 and _____ [cite other applicable statutes]. Requests for public disclosure of this document or parts thereof, should be referred immediately to the Public Records Officer for [insert department of the County].

D. Some of the records of the County are protected by the attorney-client privilege and/or the attorney work product doctrine. The prosecuting attorney, in the course of representing County elected officials or departments may, at times, possess materials or copies of materials from such agencies that are exempt from disclosure. Guidelines evaluation and use of the attorney-client privilege have been prepared by the attorney general and should be consulted by the public records officer before releasing such documents.

F. Pursuant to RCW 42.56, the County reserves the right to delete identifying details when it makes available or publishes any public record, in any cases when there is reason to believe that disclosure of such details would be an invasion of personal privacy protected by law. The public records officer will explain such deletion in writing.

General guidelines for common exemptions for County records.

Public records officers should read the exemptions for public records and consult the lists of provisions that exempt or prohibit disclosure of documents or information on public records on a regular basis. Listed below are the subjects of exemptions which may present concerns regarding disclosure. This list is not exhaustive and other exemptions may exist. Any denial of a request for public records shall refer directly to the reference under state or federal laws. If a request concerns any of the following topics, the public records officer should closely examine the request and the applicable statutes which may prohibit or

restrict access and shall consult with the Prosecuting Attorney prior to responding to a public records request:

1. Job application materials;
2. Residential addresses and personal phone numbers of employees and volunteers;
3. Personnel files of current and retired employees and volunteers;
4. Private communications of current and former employees;
5. Taxpayer information that is private;
6. Investigative records compiled by law enforcement, probation officers and code enforcement officers;
7. Identity of witness to a crime or persons who file complaints with investigation and law enforcement agencies including the sheriff, prosecuting attorney and code enforcement officers;
8. Test questions, scoring keys or information for employment examinations;
9. Real estate appraisals made for an agency relative to the acquisition or sale of property;
10. Valuable designs, formulae, drawings and research data;
11. Preliminary drafts, notes, recommendations in which opinions are expressed as part of the deliberative process;
12. Attorney work product pertaining to pending, threatened or completed litigation;
13. Records, maps or other information identifying the location of archeological sites;
14. Complaints and investigative records compiled in connection with claims of discrimination in employment;
15. Credit card numbers;
16. Records prepared to prevent, mitigate or respond to criminal terrorist acts;
17. Information regarding the infrastructure and security of telecommunication networks;
18. Medical records and information;
19. Information pertaining to victims of crime;
20. Information regarding organized crime;
21. Traffic accident reports prepared by citizens;
22. Industrial insurance claim files and records; and
23. Identity of child victims of sexual assault.

Copying and delivery fees.

- A. No fee will be charged for the inspection of a public record. No fee will be charged for locating public records and making them available for inspection.
- B. No fee will be charged for searching for public records, redacting portions of the record which are exempt from disclosure, or preparing an index of exempt documents. If a request is sent to a private copy shop for copying, the fee

shall be the actual charge imposed for copying, plus applicable taxes and shipping costs.

- C. Payment shall be made by check payable to "Mason County Treasurer." The public records officer may require that all charges be paid in advance of the release of the copies.
- D. The public records officer may waive the fee for fewer than 25 pages.

SPECIAL INFORMATION REGARDING CERTAIN FEES:

The fee for providing copies of certain public records may be set by state statute. For example state law sets the fee for death certificates (RCW 70.58.107); court papers (RCW 3.62.060) (Chapter 36.18 RCW and CR 17(4)); duplication of electronic tapes of a court proceeding (RCW 3.62.060); traffic accident reports (RCW 46.52.085); and criminal history information (RCW 10.97.100). Where the state or federal law sets a fee for providing a copy of a record, that fee will be charged.

- E. At the option of the public records officer, electronic records may be printed out prior to copying and delivery. If the electronic record is large and not capable of being printed out, then the document may be provided electronically in the format in which the record is maintained by the County or in Adobe PDF format. There is no obligation of the County to convert an electronic record to a different format.
- F. Unless a fee is fixed by another federal, state or County ordinance, the following fee schedule is applicable.

Fee schedule:

8-1/2 by 14 or smaller B/W copies:	\$0.15 per page
Greenbar computer printouts	\$1.00 per page
Oversized or color copies	\$1.00 per page
Color maps	\$5.00 per square foot
All items sent to private copy shop:	Actual charge plus postage and delivery
Tapes or compact disc	\$20.00 for each tape or compact disc
Postage	Actual charge
Fax (8-1/2 by 11 only)	\$1.00 per page
Envelopes	\$1.00 each
Electronic records sent by e-mail	No charge*

* except, a scanning fee of \$0.15 per page may be charged when the requested documents are not already available in electronic format

- G. The public records officer may require a deposit in an amount not to exceed ten percent of the estimated cost of providing requested public records. If the public records officer responds to a request on a partial or installment basis, the requester shall be charged for each part or installment responding to the request. If a partial or installment response is not claimed or reviewed by the

requester, the public records officer is not obligated to fulfill the balance of the request.

H. Failure to Pay:

1. If a requestor fails to pay a deposit if required, the public records request is deemed complete without further action.
2. If a requestor fails to pay for records provided, the requestor will be required to pay the outstanding obligation in full prior to any other records requests being entertained.

Protection of public records.

A. Except as necessary to make copies by a public employee or private copy shop, the public records officer shall, to the extent practicable, ensure that records requested are not removed from the premises nor portions thereof removed by members of the public. Documents shall not be released to the public for purpose of allowing the person making the request to make copies.

B. No public records shall be filed or retained at any location other than the County property. Any public record that is prepared at an off-site location, such as a residence, shall be promptly delivered to the County for filing.

C. There is no obligation to provide duplicate copies of a public record. Electronic records are easily duplicated and often transferred to inactive media such as tapes for security purposes. To prevent interference with essential functions of the County, there is no obligation to respond to a public records request by searching backup tapes or other media for identifiable records.

D. If a public record request is made when a record exists, but the record is scheduled for destruction in the near future, the public records officer shall direct the record to retained until the request is resolved.

Review of denials of public records requests.

A. Any person who disagrees with the denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review to the prosecuting attorney for the County. The written request shall specifically refer to the written statement by the public records officer or other staff member which constituted or accompanied the denial.

B. After receiving a written request for review of a decision denying a public record, the prosecuting attorney for the County shall request a response from the public records officer or other staff member denying the request. The prosecuting attorney, or his or her designee, shall promptly consider the matter and may affirm, reverse or otherwise modify such denial.

C. For purposes of the public disclosure laws, the County shall be deemed to have made a final decision on a request for public records only after the review conducted under this section has been completed.

Index of records not maintained.

The county has determined by separate order that maintaining an index of records pursuant to RCW 42.56.070 would be unduly burdensome.

Laws Exempting or Prohibiting Disclosure of Specific Information or Records

Washington State Statutes

RCW 2.64.111 Documents regarding discipline/retirement of judges
RCW 2.64.113 Confidentiality - violations
RCW 4.24.550 Information on sex offenders to public
RCW 5.60.060 Privileged communications
RCW 5.60.070 Court-ordered mediation records
RCW 7.68.140 Victims' compensation claims
RCW 7.69A.030(4) Child victims and witnesses – protection of identity
RCW 7.69A.050 Rights of child victims and witnesses – addresses
RCW 7.75.050 Records of Dispute Resolution Centers
RCW 9.51.050 Disclosing transaction of grand jury
RCW 9.51.060 Disclosure of grand jury deposition
RCW 9.02.100 Reproductive privacy
RCW 9A.82.170 Financial institution records – wrongful disclosure
RCW 10.27.090 Grand jury testimony/evidence
RCW 10.27.160 Grand jury reports – release to public only by judicial order
RCW 10.29.030 Organized crime special inquiry judge
RCW 10.29.090 Records of special inquiry judge proceedings
RCW 10.52.100 Records identifying child victim of sexual assault
RCW 10.77.210 Records of persons committed for criminal insanity
RCW 10.97.040 Criminal history information released must include disposition
RCW 10.97.050 Conviction and criminal history information
RCW 10.97.060 Deletion of certain criminal history record information, conditions
RCW 10.97.070 Disclosure of identity of suspect to victim
RCW 10.97.080 Inspection of criminal record by subject
RCW 13.32A.090 Crisis residential centers notice to parent about child
RCW 13.34.115 Court dependency proceedings
RCW 13.40.217 Juveniles adjudicated of sex offenses – release of information
RCW 13.50.010 Maintenance of and access to juvenile records
RCW 13.50.050 Juvenile offenders
RCW 13.50.100 Juvenile/children records not relating to offenses
RCW 13.60.020 Missing children information
RCW 13.70.090 Citizen juvenile review board – confidentiality
RCW 18.04.405 Confidentiality of information gained by CPA
RCW 18.19.060 Notification to clients by counselors
RCW 18.19.180 Confidential communications with counselors
RCW 19.215.020 Destruction of personal health and financial information
RCW 19.34.240(3) Private digital signature keys
RCW 19.215.030 Compliance with federal rules
RCW 26.04.175 Name and address of domestic violence victim in marriage records

RCW 26.12.170 Reports of child abuse/neglect with courts
RCW 26.23.050 Child support orders
RCW 26.23.120 Child support records
RCW 26.26.041 Uniform Parentage Act – protection of participants
RCW 26.26.450 Confidentiality of genetic testing
RCW 26.33.330 Sealed court adoption records
RCW 26.33.340 Agency adoption records
RCW 26.33.343 Access to adoption records by confidential intermediary
RCW 26.33.345 Release of name of court for adoption or relinquishment
RCW 26.33.380 Adoption – identity of birth parents confidential
RCW 26.44.010 Privacy of reports on child abuse and neglect
RCW 26.44.020(19) Unfounded allegations of child abuse or neglect
RCW 26.44.030 Reports of child abuse/neglect
RCW 26.44.125 Right to review and amend abuse finding – confidentiality
RCW 27.53.070 Records identifying the location of archaeological sites
RCW 29A.08.720 Voter registration records – place of registration confidential
RCW 29A.08.710 Voter registration records – certain information exempt
Chapter 40.14 RCW Preservation and destruction of public records
RCW 42.23.070(4) Municipal officer disclosure of confidential information prohibited
RCW 42.41.030(7) Identity of local government whistleblower
RCW 42.41.045 Non-disclosure of protected information (whistleblower)
RCW 46.52.080 Traffic accident reports – confidentiality
RCW 46.52.083 Traffic accident reports – available to interested parties
RCW 46.52.120 Traffic crimes and infractions – confidential use by police and courts
RCW 46.52.130(2) Abstract of driving record
RCW 48.62.101 Local government insurance transactions – access to information
RCW 50.13.060 Access to employment security records by local government agencies
RCW 50.13.100 Disclosure of non-identifiable information or with consent
RCW 51.28.070 Worker’s compensation records
RCW 51.36.060 Physician information on injured workers
RCW 60.70.040 No duty to disclose record of common law lien
RCW 68.50.105 Autopsy reports
RCW 68.50.320 Dental identification records – available to law enforcement agencies
Chapter 70.02 RCW Medical records – access and disclosure – entire chapter (HC providers)
RCW 70.05.170 Child mortality reviews by local health departments
RCW 70.24.022 Public health agency information regarding sexually transmitted disease investigations - confidential
RCW 70.24.024 Transcripts and records of hearings regarding sexually transmitted diseases
RCW 70.24.105 HIV/STD records
RCW 70.28.020 Local health department TB records – confidential
RCW 70.48.100 Jail records and booking photos
RCW 70.58.055 Birth certificates – certain information confidential
RCW 70.58.104 Vital records, research confidentiality safeguards
RCW 70.96A.150 Alcohol and drug abuse treatment programs
RCW 70.123.075 Client records of domestic violence programs
RCW 70.125.065 Records of rape crisis centers in discovery
RCW 71.05.390 Information about mental health consumers
RCW 71.05.395 Ch. 70.02 RCW applies to mental health records
RCW 71.05.400 Information to next of kin or representative

RCW 71.05.425 Notice of release or transfer of committed person after offense dismissal
RCW 71.05.427 Information that can be released
RCW 71.05.430 Statistical data
RCW 71.05.440 Penalties for unauthorized release of information
RCW 71.05.445 Release of mental health information to Dept. of Corrections
RCW 71.05.620 Authorization requirements and access to court records
RCW 71.05.630 Release of mental health treatment records
RCW 71.05.640 Access to treatment records
RCW 71.05.650 Accounting of disclosures
RCW 71.24.035(5)(g) Mental health information system – state, county and regional support networks – confidentiality of client records
RCW 71.34.200 Mental health treatment of minors – records confidential
RCW 71.34.210 Court records for minors related to mental health treatment
RCW 71.34.225 Release of mental health services information
RCW 71A.14.070 Records regarding developmental disability – confidentiality
RCW 72.09.345 Notice to public about sex offenders
RCW 72.09.585(3) Disclosure of inmate records to local agencies – confidentiality
RCW 74.04.060 Applicants and recipients of public assistance
RCW 74.04.520 Food stamp program confidentiality
RCW 74.09.900 Medical assistance
RCW 74.13.121 Financial information of adoptive parents
RCW 74.13.280 Children in out-of-home placements - confidentiality
RCW 74.20.280 Child support enforcement – local agency cooperation, information
RCW 74.34.095 Abuse of vulnerable adults - confidentiality of investigations and reports
RCW 82.32.330 Disclosure of tax information
RCW 84.36.389 Confidential income data in property tax records held by assessor
RCW 84.40.020 Confidential income data supplied to assessor regarding real property

Selected Federal Confidentiality Statutes and Rules

20 USC § 1232g Family Education Rights and Privacy Act
42 USC 290dd-2 Confidentiality of Substance Abuse Records
42 USC 405(c)(2)(vii)(I) Limits on Use and Disclosure of Social Security Numbers.
42 USC 654(26) State Plans for Child Support
42 USC 671(a)(8) State Plans for Foster Care and Adoption Assistance
42 USC 1396a(7) State Plans for Medical Assistance
7 CFR 272.1(c) Food Stamp Applicants and Recipients
34 CFR 361.38 State Vocational Rehabilitation Services Programs
42 CFR Part 2 (2.1 - 2.67) Confidentiality of Alcohol and Drug Abuse Patient Records
42 CFR 431.300 - 307 Safeguarding Information on Applicants and Recipients of Medical Assistance
42 CFR 483.420 Client Protections for Intermediate Care Facilities for the Mentally Retarded
42 CFR 5106a(b)(2)(A) Grants to States for Child Abuse and Neglect Prevention and Treatment Programs
45 CFR 160-164 HIPAA Privacy Rule