

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON**

IN THE MATTER OF:

RESOLUTION NO. 23-140

RESCIND RESOLUTION 18-055, LEWIS COUNTY
POLICY REGARDING PUBLIC RECORDS
REQUESTS AND ESTABLISH AN UPDATED PUBLIC
RECORDS ACT COMPLIANCE POLICY

WHEREAS, the Public Records Act, Ch. 42.56 RCW, requires agencies subject to the act to adopt and enforce reasonable rules and regulations to provide full access to public records. This policy and procedure complies with the requirements of the Public Records Act by providing for consistent and predictable practices for responding to and fulfilling requests for public records; and

WHEREAS, Lewis County's policy regarding the Public Records Act is found in Resolution 18-055, and Lewis County desires to replace said policy with the policy attached and incorporated herein by reference.

NOW THEREFORE BE IT RESOLVED Resolution 18-055 is hereby superseded and repealed and is replaced by this Resolution and the attached Public Records Act Compliance Policy; and

NOW THEREFORE BE IT FURTHER RESOLVED the Lewis County Board of County Commissioners reserves the right to modify this resolution and any document attached herewith; and

NOW THEREFORE BE IT FURTHER RESOLVED if any section, sentence, clause, or phrase of this resolution should be held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or the constitutionality of any other section, sentence, clause or phrase of the resolution; and

NOW THEREFORE BE IT FURTHER RESOLVED this resolution shall go into effect immediately upon adoption.

DONE IN OPEN SESSION this 25th day of April, 2023.

APPROVED AS TO FORM:
Jonathan Meyer, Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
LEWIS COUNTY, WASHINGTON

David Bailey
By: David Bailey,
Chief Civil Deputy Prosecuting Attorney

Sean D. Swope
Sean D. Swope, Chair

ATTEST:



Scott J. Brummer
Scott J. Brummer, Vice Chair

Rieva Lester
Rieva Lester,
Clerk of the Lewis County Board of
County Commissioners

Lindsey R. Pollock, DVM
Lindsey R. Pollock, DVM, Commissioner



LEWIS COUNTY PUBLIC RECORDS ACT COMPLIANCE POLICY

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I. GENERAL PURPOSE, GENERAL TERMS, AND DEFINITIONS

A. General Purpose

The Public Records Act, Ch. 42.56 RCW, requires agencies subject to the Act to adopt and enforce reasonable rules and regulations to provide full access to public records. This policy and procedure complies with the requirements of the Public Records Act by providing for consistent and predictable practices for responding to and fulfilling requests for public records.

County records retention is governed by separate law than the Public Records Act. Under Chapter 40.14 RCW, County records are managed and disposed of in accordance with the corresponding records retention schedule, published by the Washington State Secretary of State. There are several records retention schedules for a variety of County functions, found here: <https://www.sos.wa.gov/archives/recordsmanagement/managing-county-records.aspx>

The policy portion of this document clarifies the County's goals and intent with respect to providing access to public records. The procedure portion of this document describes the process for requesting and fulfilling public records requests in keeping with legal requirements.

These policies include statutory requirements and best practices. Nothing in this policy creates legal obligations or rights beyond those obligations and rights created by statute or other binding laws.

B. General Terms

1. Record ownership

Public records maintained by Lewis County are and remain the property of the County.

2. Nondiscrimination

Procedures governing access to public records shall ensure access to public records without discrimination amongst requestors and shall provide appropriate safeguards for information exempted from or prohibited from disclosure by statute.

3. Applicability

This policy and procedure shall apply to all employees of Lewis County and the Lewis County Elected Officials that adopt this policy and procedure, as well as all advisory boards and commissions of Lewis County. This policy and procedure does not apply to requests that do not reasonably appear to be requests for public records, including but not limited to:

- agency-to-agency requests;
- requests for information (rather than documents);
- requests for court records under GR 31 and GR 31.1;
- legal discovery requests governed by State or Federal Rules of Civil Procedure;
- employees' requests for their own personnel files;
- requests under statutory rights of access other than the Public Records Act;
- communications vague enough that it is not clear a request is being made; and
- requests buried within an unrelated document, or within sets of documents, or so that it is unclear that a request was included.

Lewis County Elected Officials other than the County Commissioners are invited to, but need not adopt this policy. Such Elected Officials may instead elect to appoint a public records officer to manage their office's public records requests independently of and/or collaboratively with the County PRO. The County PRO, however, will not provide oversight of the fulfillment process.

4. Limitations of Liability

Neither the County nor any officer, employee, official or custodian shall be liable, nor shall a cause of action exist, for any loss or damage based upon a release of public records if the person releasing the records acted in good faith in attempting to comply with the policy.

Nothing contained in this policy is intended nor shall be construed to create or form the basis of any liability on the part of the County, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the County related in any manner to the enforcement of this policy by its officers, employees, or agents.

Nothing contained in this policy shall create an obligation for staff to create electronic or other records, or to convert electronic records into other formats in which the records are not already maintained. Moreover, this policy shall not create an obligation for staff to ask other agencies for records that would fulfill the requestor's request. Department and office staff are encouraged to convert a file only when reasonable and technologically feasible, provided such conversion is not unduly burdensome and does not interfere with other essential County functions. Requestors may request paper copies of electronic records subject to applicable copying charges adopted by the County.

4. Corrections

The PRO is authorized to make necessary corrections to this policy including, but not limited to, the correction of scrivener's/clerical errors, references, numbering, section/subsection numbers and any references thereto.

5. References

Chapter 42.56 RCW
RCW 84.08.210, 84.40.020, 84.40.340
Chapter 44-14 WAC

C. Definitions

For the purpose of this policy, the following definitions apply:

1. **“All records relating to,” “All records regarding,” “All records pertaining to”** means those records that directly and fairly address the topics that are reasonably identifiable by the Public Records Officer or its designee fulfilling the request. These phrases are inherently ambiguous and requestors are encouraged to avoid using such terms when possible to avoid unnecessary delays.
2. **“Commercial purpose”** means a records request with the intent to generate revenue or any other financial benefit from the direct use of the information requested.
3. **“Court records request”** means any request for Lewis County Superior Court and Lewis County District Court records. Courts are not considered an “agency” under the Public Records Act and are subject to release directly through the Lewis County Superior Court or Lewis County District Court under General Rule 31.1.
4. **“Exempt record”** means records or portions of records that are exempt from public disclosure. Exemptions include those identified in the Public Records Act or in other statutes incorporated by RCW 42.56.070. Exemption from disclosure of a portion of a record does not automatically exempt the remainder of the record from disclosure. Exempt portions of records may be subject to redaction.
5. **“Inmate request”** means a public records request from an incarcerated individual beyond the scope of discovery records that would be provided to any pro se litigant.
6. **“Lewis County” or “the County”** means Lewis County, Washington. Lewis County is a political subdivision of the State of Washington that provides the full range of county services allowed by statute and the Washington State Constitution. Any reference herein includes all participating elected offices, departments, divisions, boards, commissions or other local public entities/agencies within Lewis County's government structure to which the Public Record Act applies. If an entity is not defined as an “agency” under the Public Records Act and/or under other applicable law, that entity is not a County entity subject to this policy.

7. **“Multiple Requestor”** means an individual, group, entity, organization or internet protocol address that submits a public records request to the County while an earlier records request is still open from that requestor.
8. **“Normal Course of Business”** means those records which are created, filed, and recorded as core functions of the Department or Office to include, but not limited to:
 - a. Parcel Information or tax summaries held by the Assessor’s Office;
 - b. Official records held by the Auditor’s Office;
 - c. Agendas and meeting minutes of the Board of County Commissioners;
 - d. Discovery requests to the Prosecuting Attorney’s Office;
 - e. Jail records and police records held by the Sheriff’s Office;
 - f. Permit information held by Community Development or Public Works;
 - g. Resource and outreach material from Public Health and Social Services; and
 - h. Event Information or applications held by the Southwest Washington Fairgrounds.
9. **“Overly broad request”** means a records request where staff is unable to identify with confidence the records sought by a requestor, or when a request appears to be overly broad and unsuccessful attempts have been made to obtain clarification from the requestor.
10. **“Public record”** means any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics. Electronic data, including email, that meet this definition shall be considered a public record. Records created or received by employees using non-county devices only meet the definition of public record if they relate to the conduct of the County or the performance of a County function, and the employee was acting within the scope of the employment when the record was created or received.
11. **“Public records request”** means a request made to Lewis County pursuant to the Public Records Act for disclosure of public records. Requests made pursuant to other statutory rights of access to public records shall not be considered “public records requests” but may be otherwise handled under this policy.
12. **“Public Records Liaison” and “Records Liaison”** means the person or persons designated by a department director, elected official, or designee to accept, track, and arrange for fulfillment of requests for disclosure of public records within a County department.
13. **“Public Records Officer or “PRO””** serves as a point of contact for members of the public in requesting disclosure of public records and to oversee the County’s compliance with the public records disclosure requirements of the Public Records Act.
14. **“Record holder”** means the department or particular staff person in custody of the primary record.
15. **“Requestor”** means the individual making the request for public records by submitting an official public records request.

II. POLICY

A. Public Records Officer (PRO)

The Public Records Office is a division of Lewis County's Human Resources Office and is located in the lower level of the Lewis County Historic Courthouse building at:

351 NW North Street
Chehalis, WA 98532

The PRO shall be the lead of that division. The PRO shall oversee compliance with the Public Records Act throughout the County by serving as a point of contact for County staff and members of the public seeking access to public records. The PRO can be contacted through the County's Public Records Portal (<https://lewiscountywa.gov/public-records/public-disclosure-requests>) or via e-mail at publicrecords@lewiscountywa.gov. If the requestor is contacting the PRO concerning an open request, the Requestor is strongly encouraged to contact the PRO through the County's Public Records Portal.

The PRO shall have the following additional duties and responsibilities:

1. Oversee compliance with disclosure laws;
2. Serve as primary point of contact for the public for access to public records;
3. Serve as a single point of contact to coordinate the County's response when a request involves multiple record holders, is broad in scope, or is otherwise complicated to fulfill;
4. Direct the public to appropriate Records Liaisons in possession of particular records;
5. Serve as a resource to staff on topics related to disclosure of public records;
6. Maintain a list of department Records Liaisons;
7. Consult with Records Liaisons and other staff about fulfillment of records requests;
8. Approve forms for use in processing records requests;
9. Disseminate legal updates and policy changes affecting records requests;
10. Collect and analyze relevant information related to the County's performance of public records disclosure, and make appropriate reports thereon; and
11. Maintain the Lewis County Public records webpage.

The PRO is not the sole County employee obligated to fulfill every request to the County, nor is it intended the PRO will be the sole reviewer of every request prior to fulfillment.

In the interest of providing effective access to public records, the PRO may refer parties requesting public records to a department Records Liaison as appropriate. Furthermore, the PRO may delegate its duties to another staff member when the PRO is not available.

B. Public Records Liaisons

Each participating office and each department within Lewis County shall appoint a Records Liaison to assist the public in obtaining access to public records. The department director or elected official shall designate at least one Records Liaison and one backup Records Liaison. Each department or office will inform the PRO of all Records Liaisons and designated backups with current names and contact information.

Under the oversight of the PRO, Records Liaisons may accept requests for public records in the possession of their respective departments or offices and may respond to requestors in accordance with the requirements of state statutes and this policy and procedure.

In consultation with the PRO, Records Liaisons may communicate directly with requestors, forward requests to other County employees as necessary, compile requested records, arrange for the supervised public inspection and copying of requested records, maintain files and logs of official requests fulfilled by the department and provide periodic statistical reporting of disclosure activity to the PRO.

Alternatively, instead of participating in this policy, an elected official may designate its own PRO and may adopt its own policy under which it will respond to requestors in accordance with the requirements of state statutes. In this instance, the office PRO may consult and seek advice from the County PRO. The County PRO, however, will not provide oversight of the fulfillment process.

C. Public Records Requests

Requests for public records should be made in writing. The County encourages all requestors to utilize the public disclosure request portal on the County website to provide the fullest assistance to all requestors (<https://lewiscountywa.gov/public-records/public-disclosure-requests>). In the alternative, the County encourages all requestors to utilize the e-mail address set up for all records request to the county (publicrecords@lewiscountywa.gov)

For those requestors who prefer not to use the public disclosure request portal or e-mail address, the County shall provide an official form for submission of public records requests. Forms for the purpose of requesting public records shall be approved by the PRO for general use by County staff. These forms shall not be edited for distribution without the approval of the PRO. As needed, the PRO may approve alternate request forms that are specialized for request of records with unique statutory considerations, such as law enforcement records.

Acceptance of requests by means other than on official forms approved by the PRO shall be in accordance with the procedures outlined in this policy and procedure.

D. Fair Notice

It is the requestor's obligation to provide the County with fair notice that a Public Records Request has been made. When a requestor (i) does not submit a records request through the records portal; (ii) does not use the County's official request form; (iii) makes the request to an employee that is not a Records Liaison; (iv) is vague or confusing about whether a request for records (as opposed to information) is being made; or (v) includes a request as part of other documents provided to the County for reasons other than making a records request, the requestor may not be providing fair notice.

To ensure fair notice is provided, requestors are encouraged to use the Lewis County Public Records Request portal, make the request through the designated email address, make the request using the official forms, and/or take other steps to clearly identify their request.

For example, when a request is submitted with other documents not related to disclosure of public records, it shall be the responsibility of the requestor to provide reasonable notice that

a public records request is included. This notice may be in the form of an entry on a cover or transmittal sheet.

E. County Response

All requests for public records shall be afforded the same treatment and consideration without distinction among persons, and without regard to the intent of the request, except when the Public Records Act or another statute directs that records are public for one purpose or recipient but not another. If the intent of a request is irrelevant to the requestor's entitlement to records, the PRO and record liaisons may nevertheless inquire about the requestor's intent to help clarify or speed the search.

To reduce proliferation of paper copies and in the interest of efficiency, the PRO and Records Liaisons are encouraged to use electronic means to respond to, fulfill, and track public records requests.

Responses to requests of public records, including responses by email, become public records in their own right, subject to the provisions of the Public Records Act and the retention requirements of the Office of the Secretary of State, and shall be maintained accordingly.

F. Immediate Release of Records in the Normal Course of Business

Staff may respond immediately to verbal requests for records without the need for completion of a written request, entry into a request log, or a written response by the County when all of the following conditions exist:

1. The record is provided in a normal course of business;
2. The records requested are easily accessible to staff with minimal searching;
3. The requested records do not contain lists of individuals;
4. The requestor is seeking only inspection of records and no copies are provided by the County, or the copying is minimal and poses no burden on staff or budget;
5. Staff can fulfill the request without referring it to Records Liaisons or the PRO;
6. The request is not for records that are subject to withholding or redaction due to disclosure exemptions or confidentiality considerations;
7. The requestor does not have a current open records request for the item requested;
and
8. The record is no longer in draft form.

When a request is received in writing and the requested records are provided to the requestor in person at the time of the request, a separate written response by staff is not required.

G. Locating Responsive Records

Staff shall make a reasonable effort to identify and locate any and all responsive records. When identifying records, the Records Liaison or PRO may ask the requestor for clarification or refinement of the request. Such clarifications may be verbal or in writing. In the case of verbal clarification, staff involved in the conversation shall document the clarification in writing and include the information in the request file. Staff shall not conclude that a request is overly broad or does not adequately identify the records requested without attempting to obtain clarification from the requestor.

Records liaisons and staff are not required to create new records in response to a request for public records, but shall when deemed feasible, tailor existing informational databases or indexes to provide a report responsive to a request that otherwise would not be produced in the normal course of business. The determination of the feasibility of creating such reports shall take into account the ability to redact or withhold exempt information. When the production of a tailored report requires additional resources such as customized programming or fact-specific analysis, or would otherwise interfere with other essential functions, the County is not required to produce such tailored reports but should instead consult with the requestor.

The County is only required to provide records that exist at the time a request is made. The County cannot fulfill “standing” requests or requests for records that may be created at a future date.

When records requested may be located on the personal device(s) or account(s) of one or more county staff, the PRO or Records Liaison shall notify the staff of the request and ask the staff to search his or her own device(s) or account(s) for responsive records, providing a location into which staff may place responsive records. Staff should be encouraged to provide a description of what device(s) or account(s) they searched and how they conducted the search, especially if they located no responsive records. If a large number of staff are all involved in such a search, the PRO or Records Liaison shall work with the County Prosecutor to develop a form or affidavit that staff can fill out to easily record the results of their searches.

Fulfillment of requests shall be processed in the order that provides the timeliest response. Requests may be fulfilled in the order of receipt as long as easily fulfilled requests are not postponed behind larger or more complicated requests strictly because they were received later. However, when the County receives multiple requests from the same requestor, the responses shall be queued as set forth below in section III.E.

H. Lists of Individuals

Under RCW 42.56.070(8), a list of individuals cannot be disclosed to the requestor if that list will be used for commercial purposes. Requests for public records that include lists of individuals require a signed certification by the requestor that such lists shall not be used for commercial purposes. A certification provision is included on the County’s official records request form. The PRO is not bound by the certification and may research whether the request is for commercial purposes.

I. Installments

Requests may be fulfilled through an installment process as described in this policy and procedure. When installments are provided and are not claimed or inspected, the County shall either postpone compilation of subsequent installments or treat the request as abandoned and closed. In such cases, staff shall consult with the PRO or the Lewis County Prosecuting Attorney’s Office before postponing compilation of an installment or treating the request as abandoned and closed.

J. Exemptions

The Public Records Act and other statutes exempt or prohibit disclosure of certain public records. It is the policy of Lewis County to provide prompt and helpful access to all public records in the County’s custody that the law does not exempt or prohibit from disclosure.

Requested records may only be withheld or redacted consistent with statutory requirements, which shall be documented for the requestor in accordance with the requirements of RCW 42.56.210.

Some public records may contain specific content that is exempt from disclosure. The presence of exempt information does not usually exempt an entire record from disclosure. Because all public records are presumed disclosable, exempt portions of an otherwise disclosable record shall be redacted prior to inspection or copying and such redactions shall be documented. The requestor shall be notified of the redaction in accordance with the requirements of RCW 42.56.210.

Departments and offices of the County may adopt standard procedures for withholding or redacting portions of commonly requested exempt records.

K. Agency-to-Agency Requests

Requests for information from another governmental agency are considered “agency to agency” information requests and are not subject to this policy. The County reserves the right to treat these as such unless the agency clarifies that it wishes for its request to be treated as a public records request. Records Liaisons should clarify with the agency how it would like its information request to be treated.

L. Administrative Court Records

Although not covered under the Public Records Act or under this policy and procedure, any public records request received by the Lewis County Superior Court, Lewis County Clerk, and Lewis County District Court for other County department records shall be forwarded to the PRO immediately upon receipt. All requests for administrative court records are governed by GR 31.1 and are not subject to the Public Records Act because courts are not agencies under the Act.

M. County Jail and Sheriff Records; Body-Worn and Dash-Cam Footage

The Lewis County Sheriff’s Office is responsible for the coordination, tracking, and fulfillment of requests for sheriff records. The PRO will serve as an advisor to the County Sheriff Records Liaisons, for simple, over the counter, and phone requests for records. For complex requests, the PRO shall assist and oversee the fulfillment process of such requests directed to the Sheriff’s Office.

The Lewis County Jail is responsible for the coordination, tracking and fulfillment of simple, over the counter, and phone requests for records. The PRO will serve as an advisor to the County Jail Records Liaisons, but will not provide oversight of the fulfillment process.

The Lewis County Prosecuting Attorney’s Office will work collaboratively with the PRO for the coordination, tracking, and fulfillment of requests for body-worn video and dash-cam video footage.

N. Records Index

The Lewis County Board of County Commissioners issued a formal order finding that the maintenance of an index of all public records created by the County is unduly burdensome. The County consists of multiple elective offices and an even greater number of departments, each with divisions or subdivisions. The different offices and departments necessarily maintain separate databases and/or record-keeping systems for the indexing of records and information. Some offices and departments have statutorily based mandates which require that certain records are maintained and disclosed outside the scope of this policy. Because these records are diverse, complex, and stored in multiple locations and in multiple computer systems and databases, it is unduly burdensome to maintain a central index of records.

O. Fees

A requestor may obtain copies or scans as provided under RCW 42.56.070(7), 42.56.120 and WAC 44-14-07003. The County will charge for those copies or scans according to the fee schedule. See Attachment 1.

In the event RCW 42.56.070(7), 42.56.120, and WAC 44-14-07003 are modified, amended, altered or changed, this policy and procedure will be automatically modified, amended, altered or changed to reflect the current fees permissible in the State of Washington.

For records other than paper or electronically provided files, the County will charge the actual cost it pays for the medium used to furnish the record or records provided to the requestor. Those mediums include, but are not limited to, CDs, DVDs, flash drives, external hard drives and others. The statements providing those costs are the invoices paid to obtain them and are available for public inspection and copying.

There is no charge for inspection of records. Fees may be waived if a request is made by a government agency, unless another statute so directs or a request is particularly burdensome. Fees may be waived if the total fee for the request is around one dollar (\$1.00), and the request was easy to fulfill. Provided, that a proliferation of requests under the \$1.00 benchmark may make such requests burdensome to fulfill. The County reserves the right to use an outside vendor for requests beyond the normal capabilities of the office or department in which the records are held, and to charge the requestor for those costs.

If payment arrangements are not made within 30 calendar days of notice that the records are available, the entire request may be deemed abandoned and closed. A reasonable attempt shall be made by the PRO to contact the requestor prior to deeming a request abandoned and closed.

III. PROCEDURE

A. Form of Request

As specified in section II.C. above, to ensure the fullest service and appropriate response to the requestor, all public records requests for County records should be made in writing through the County's Public Records Portal on its website (<https://lewiscountywa.gov/public-records/public-disclosure-requests>), utilizing the county public records e-mail (publicrecords@lewiscountywa.gov), or using the County approved submittal form. All requests should be directed to the PRO or the Records Liaison of the office or department

from which the records are requested. Requests shall include, at a minimum, the following information:

1. An indication that the request is being made for access to a public record pursuant to the Public Records Act;
2. The requestor's name, address, and convenient means of contact such as email address, phone number, fax, etc.;
3. The date of request;
4. A description of the records requested sufficient to identify the records;
5. Whether the requestor wants to inspect records or wants copies.

When paper copies are requested, the PRO shall provide a cost estimate to the requestor before fulfilling the request.

B. Receipt by Staff

Any department or office staff person under the general direction of the PRO may accept records requests. Such requests shall be logged into the Lewis County Portal, GovQA. In the alternative, the staff person shall receipt stamp or date on the face of the request and forward to the PRO through electronic means. If the staff person does not have the immediate capability to forward the request to the PRO, the staff member shall inform and provide their supervisor or Records Liaison with the request for immediate transmittal to the PRO.

C. GovQA, Requests Log, and Retention

The PRO or their designee shall maintain a log of all requests and associated documents using GovQA, unless the request is immediately handled in the normal course of business.

D. Five (5) Day Response and Follow-Up

A response to a records request must be made within five (5) business days. The five-day (5) response period begins on the business day immediately following receipt of the request. Weekends and holidays observed by the agency are excluded from this calculation.

Within the five (5) business days, the County will provide its initial response in the following forms:

1. When feasible, the initial response should include the requested records or invite the requestor to inspect the requested records.
2. If the records requested are available via the County website, staff may provide a direct link to the requestor to the online documents. A requestor may instead request a hardcopy at the typical fee.
3. If the County does not have records responsive to the request, the initial response shall include an explanation of the search made for the records, and may direct the requestor to another agency believed to have the records requested.
4. An initial response may ask for clarification or refinement of the request. The initial response must include an estimate of when the request will be fulfilled if clarification is not made.
5. If the initial response does not include copies of the requested records, the County shall provide a reasonable estimate of when the request can be fulfilled. When

providing an estimate, the PRO or Records Liaison may take into account the time required to refine or clarify a request, locate or retrieve requested records, redact or withhold exempt records and create associated documentation, consult with appropriate staff, consider whether the requestor qualifies for queuing, and notify third parties of requests for information of a sensitive nature consistent with the provisions of RCW 42.50.540.

6. An initial response may propose fulfilling the request on an installment basis and provide an estimated date for the first installment's availability.
7. An initial response may be a written denial of the request that explains why the requested records are exempt under Washington State Law or are not public records.

Records liaisons shall advise department record holders of the five-day response deadline when forwarding records requests and consult with record holders when estimating the fulfillment date.

If the request is not completed through the initial 5-day response, the PRO or Records Liaison shall diligently continue the search and, within the time estimate(s) given to the requestor, provide periodic installments and/or written updates concerning the likely completion date of the request. The County shall inform requestors when requests are completed, indicating that it the County's final action on the matter.

E. Multiple Requestor Queue

If a requestor has three (3) or more open records requests with any County office or department, the PRO shall queue the requestor's open requests in the order received. The PRO will notify the requestor in writing of this action and provide an opportunity for the requestor to choose the order in which the requests are processed.

The PRO will work on the first item in the queue to completion prior to starting on any subsequent requests of that requestor. A request will be deemed completed or closed when the PRO notifies the requestor that the record(s) and/or final installment are available and the requestor submits payment for the records.

The requestor may adjust the order in which requests are fulfilled at any time. To provide fullest assistance, the PRO is encouraged to offer advice on adjusting the queue for expediting and accurately processing the requests within the queue.

When a multiple requestor fails to claim or pay for an installment of records for 30 calendar days, and thereby abandons a request (under sections III.G, III.K, III.L, or as set forth elsewhere in this policy), the PRO will move onto the next item in the queue. However, if the multiple requestor abandons two or more request-items in their queue consecutively, the PRO shall communicate with the requestor about whether the requestor wishes to abandon the queue as a whole. For example, requestor A makes 10 requests of the County at one time, which are arranged into a queue of ten items. The PRO offers A the records from the first item, but A never responds and abandons this item. The PRO moves onto the second item and offers A the records, but again A never responds. At this point, the PRO corresponds with A to say that unless A contacts PRO within 30 days to demonstrate a continued desire for the records, PRO will consider A to have abandoned the queue. A never responds, and the PRO closes out all the requests in the queue as abandoned, inviting A to resubmit the requests if he later decides he wishes to receive the records.

F. Broad Requests

When a request is received that is broad in nature, staff shall consult with the PRO, who shall provide direction to staff regarding its fulfillment. Staff may also consult with the County Prosecutor on such requests and shall do so in the absence of the PRO. Following consultation, the PRO, Records Liaisons, and/or staff shall request clarification from the requestor to ensure that the appropriate records are identified. Requests for clarification shall focus on information needed to identify responsive records. Any information provided about the purpose of the request shall not be used as a basis for denying the request, except under circumstances where the Public Records Act or another statute directs that records are public for one purpose or recipient but not another.

When appropriate, as part of the clarification process, the PRO, Records Liaison or staff may work with the requestor to find ways to narrow the request to the requestor's area of interest. When a requestor agrees to narrow a request, nothing prevents the requestor from later expanding the request or submitting an additional request.

G. Installments

If appropriate, records requests may be fulfilled in installments. Installments are subject to the same deadlines as elsewhere in this policy. **If an installment is not claimed, or if arrangements for inspection of an installment are not made, within 30 calendar days from notification of availability, the County will discontinue compiling subsequent installments of the same request.** The PRO shall contact the requestor prior to deeming a request abandoned or warn the requestor of this possibility when making an installment available.

H. Exemption from Disclosure

1. Withholding or Redaction of Records

Records Liaisons, staff and the PRO may consult with the County Prosecutor on claiming exemptions. When records are redacted, the Records Liaison shall keep a copy of the unredacted records in the request file.

The following are summaries of common exemptions from disclosure. The County reserves the right to assert any exemptions permitted by law when the County determines non-disclosure serves the public interest and is not limited to the exemptions listed below. Some disclosures are prohibited by law.

- a. Records that are protected by trade secrets law (RCW 19.108);
- b. Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by the County within five (5) years of the request for disclosure when disclosure would produce private gain and public loss (RCW 42.56.270(1));
- c. Personal information in files maintained for county commissioners, county officials, and county employees to the extent that disclosure would violate their right to privacy, including but not limited to addresses, phone numbers, Social Security numbers, driver license numbers, voluntary deductions, marriage status, information about dependents, and any garnishment deductions (RCW 42.56.230(3) & .250(4));

- d. Preliminary drafts, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the County in connection with any County action (RCW 42.56.280);
- e. All applications for public employment, including names of applicants, resumes, and other related materials submitted with respect to an applicant (RCW 42.56.250(1));
- f. Records in investigative files, including law enforcement and code enforcement investigations, to the extent that nondisclosure is essential for effective law enforcement or for the protection of any person's right to privacy (42.56.240(1));
- g. Identifying information for victims or witnesses of crimes under certain circumstances (RCW 42.56.240(2) & (5));
- h. Records created in anticipation of litigation (RCW 42.56.290); or records reflecting communications between attorneys and County employees where legal advice is sought or received (RCW 5.60.060(2));
- i. Jail records confidential under RCW 70.48.100;
- j. Juvenile justice or care records confidential under Ch. 13.50 RCW;
- k. Tax records confidential under RCW 84.08.210, 84.40.020, or 84.40.340.

Two additional, non-exclusive reference for exemptions, both under state law and incorporated into the Public Records Act from federal law, are:

- Appendix C of the Municipal Research and Service Center's Public Records Publication, available at <https://mrsc.org/home/explore-topics/legal/open-government/public-records-act.aspx> .
- The annual lists of public disclosure exemptions published by the Washington Attorney General's Office Sunshine Committee, available at <https://www.atg.wa.gov/sunshine-committee> .

2. Exemption Log

The PRO or designee shall prepare an exemption log for the requestor listing the information withheld, a brief explanation for the withholding, and the statutory basis for each redaction or record withheld.

Individual occurrences of the same redaction may be listed generally in the exemption log. For example, an exemption log need not list separately every occurrence of the redaction of an individual's social security number, but may list one time that the number has been redacted throughout the record.

When explanation of the exemption(s) is more efficient in letter form than in log form, an explanatory letter may substitute for an exemption log.

3. Administrative Review of Denial

A requestor may ask for review of a decision to withhold or redact exempt records by submitting a written petition to the PRO that includes a copy of or detailed description of the County's statement of withholding. The request for review and any relevant information shall be forwarded immediately to the Prosecuting Attorney's Office, who shall consider the petition and either reverse or affirm the denial within two business days of the County's

receipt of the petition. To allow for a more thorough review, the County and the requestor may mutually agree to a longer period of time for consideration of a petition for review. If the withholding or redaction is affirmed, the decision shall be considered the County's final action for the purposes of judicial review. If the decision to withhold or redact is reversed, the PRO shall proceed to make the subject records available to the Requestor for inspection or copying in accordance with this policy.

A requestor may seek court review of the county's response to their request at the conclusion of two (2) business days following the initial decision regardless of any internal administrative appeal. Failure to exhaust the administrative remedies set forth herein shall not preclude suit under the Public Records Act.

I. Inspection of Responsive Records

Requestors may choose to inspect records prior to or instead of copies being made. Requestors shall make arrangements with the PRO or Records Liaison to inspect records on County premises during normal business hours at a mutually convenient time. Staff shall make every effort to accommodate reasonable requests for appointment times while ensuring the security of public records during inspection.

The PRO or Records Liaison fulfilling the request shall provide for the security of records during inspection, which shall be supervised by County staff as deemed appropriate. Requestors shall return all records inspected in the condition and order they were provided. Records shall not be altered in any way, rearranged, or removed from folders or removed from the County premises during inspection. A requestor may flag selected pages for copying but shall not alter the original record.

Inspection shall be halted and the records withdrawn by the PRO or Records Liaison if the requestor, when reviewing responsive records, acts in a manner that will damage or substantially disorganize the records or interfere excessively with other essential functions of the County.

The County reserves the right to make copies of records for inspection rather than provide original records. The requestor will not be responsible for copy costs if the requestor only inspects such records.

J. Electronic Copies

Records available in electronic form that do not require redaction may be provided to a requestor in native format unless the requestor specifically asks that they be provided in paper or other form. When requested and deemed feasible, electronic records may be converted from one format to another provided such conversion is not unduly burdensome to staff. Refer to Attachment 1.

K. Requestor Responsibilities

Requestors shall arrange to inspect records or claim copies of requested records within 30 calendar days following notification by the County that responsive records are available for inspection or copying. The 30 calendar days begins on the business day immediately following the County's notice that the records are available and includes weekends and County holidays. The PRO may extend this time period as appropriate to ensure fullest assistance to

requestors. Requestors must respond to requests for clarification within 30 days of being contacted or a request will be deemed abandoned and closed.

L. Abandoned Records

If a requestor fails to claim, pay for, or arrange for inspection of requested records within 30 calendar days of notification that records are available, the request shall be deemed abandoned and closed.

The PRO shall contact the requestor prior to deeming a request abandoned or warn the requestor of this possibility when making records available.

M. Third Party Notice

If a public record contains personal information that identifies an individual or organization other than the subject of the requested public record, or when a record may be disclosable under the Public Records Act, but may include private information, the County may notify that individual or organization to allow the third party to seek relief under RCW 42.56.540. The County shall take this into account when providing a time estimate for release and inspection of those public records. The County shall review any contracts with identified third parties that may contain special notice provisions.

The third party notice should include:

1. The date of the request;
2. A description of the record being requested;
3. The date (at least ten days later) the County intends to release the record; and
4. How the individual or organization can prevent release of the record by injunction.

The County may also notify the requestor that:

1. The individual or organization has been notified;
2. The County expects a response from the individual or organization regarding the disclosure of their personal information by a specified date; and
3. Disclosure may be denied by court order.

The County shall release the record if no response is provided by the individual or organization by the specified date, unless the record is otherwise exempt from production. If an individual objects and seeks an injunction, the County will always seek to join the requestor as a necessary party and will defer disclosure until after the Court rules on the matter.

Third-party notice is required under the following circumstances:

- Third-party notice to a current or former employee, the employee's union representative (if any), and the requestor is required under RCW 42.56.250(12) when information located exclusively in the employee's personnel, payroll, supervisor, or training file is requested; and
- Third-party notice to an employee is required, as part of Lewis County's protocol to implement RCW 42.56.660, for any request for records concerning the employee who

has made a claim of workplace sexual harassment or stalking with the agency, or is named as a victim in the claim,

Except as set forth in the two mandatory third-party circumstances above, the County will generally not give third party notice to individuals or organizations when the information sought by requestor is already public knowledge, or if otherwise unnecessary at the discretion of the PRO.

The Lewis County Assessor's Office hereby adopts the Lewis County Board of County Commissioners Resolution #23-140, relating to the Lewis County Public Record Act Compliance Policy.



ROSS NIELSON, Lewis County Assessor

The Lewis County Auditor's Office hereby adopts the Lewis County Board of County Commissioners Resolution #23-140, relating to the Lewis County Public Record Act Compliance Policy.

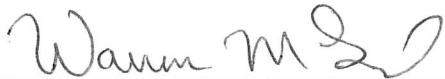
LARRY E. GROVE, Lewis County Auditor

The Lewis County Clerk's Office hereby adopts the Lewis County Board of County Commissioners Resolution #23-140, relating to the Lewis County Public Record Act Compliance Policy.



SCOTT TINNEY, Lewis County Clerk

The Lewis County Coroner's Office hereby adopts the Lewis County Board of County Commissioners Resolution #23-140, relating to the Lewis County Public Record Act Compliance Policy.



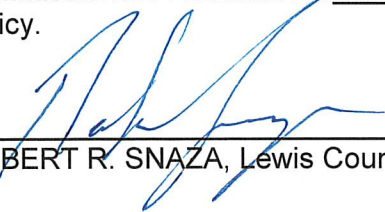
WARREN McLEOD, Lewis County Coroner

The Lewis County Prosecuting Attorney's Office hereby adopts the Lewis County Board of County Commissioners Resolution #23-140, relating to the Lewis County Public Record Act Compliance Policy.



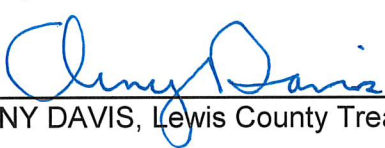
JONATHAN L. MEYER, Lewis County Prosecutor

The Lewis County Sherriff's Office hereby adopts the Lewis County Board of County Commissioners Resolution #23-140, relating to the Lewis County Public Record Act Compliance Policy.



ROBERT R. SNAZA, Lewis County Sheriff

The Lewis County Treasurer's Office hereby adopts the Lewis County Board of County Commissioners Resolution #23-140, relating to the Lewis County Public Record Act Compliance Policy.



ARNY DAVIS, Lewis County Treasurer

Attachment 1

Washington State Public Records Request Fee Schedule

Paper Copy Fee	15 cents/page
Scan Page Fee for Electronic Format	10 cents/page
Electronic Delivery (e-mail) Fee	5 cents for every 4 files*
Electronic Records Transmissions	10 cents/gigabyte
Storage Media (CD/DVD/Flash Drive) Container/Envelope/Postage/Delivery Charge	Actual Cost

***For purposes of calculating fees, an electronic "file" shall contain no more than one document and/or e-mail.**

NOTE: Charges will be combined if more than one type of charge applies.

BOCC AGENDA ITEM SUMMARY

Resolution:

BOCC Meeting Date: April 25, 2023

Suggested Wording for Agenda Item:

Agenda Type: Deliberation

Rescind Resolution 18-055, Lewis County policy regarding public records requests and establish an updated Public Records Act Compliance Policy

Contact: Casey Mauermann

Phone: 360-740-2674

Department: RISK - Risk

Description:

Update Public Records Act Compliance Policy

Approvals:

User	Status
PA's Office	Approved

Publication Requirements:

Publications:

None

Additional Copies:

Casey Mauermann

Cover Letter To: