

BEFORE THE BOARD OF ISLAND COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

IN THE MATTER OF MODIFYING THE)
ISLAND COUNTY PUBLIC RECORDS)
AND DISCLOSURE POLICY) RESOLUTION C-45-23
)

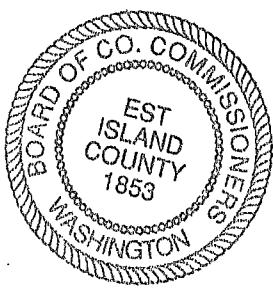
WHEREAS, the Public Records and Disclosure Policy consolidates existing policies and processes into a uniform, countywide policy for responding to requests for access to public records under the provisions of the Washington State Public Records Act (RCW 42.56); and

WHEREAS, the Island County Public Records and Disclosure Policy is subject to periodic modification as the need arises, particularly related to designating Public Records Officers; NOW, THEREFORE,

BE IT HEREBY RESOLVED by the Board of County Commissioners as follows:

- 1) The Island County Public Records and Disclosure Policy attached as Exhibit A is hereby modified to add a Public Records Officer.
- 2) The Board of Island County Commissioners directs the General Services Administration Director to update Exhibit A periodically, without resolution, based on personnel changes.

ADOPTED this 8th day of August, 2023

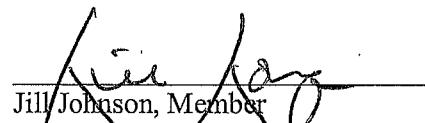


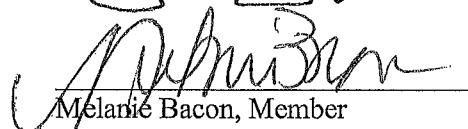
ATTEST:


Jennifer Roll
Clerk of the Board

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON


Janet St. Clair, Chair


Jill Johnson, Member


Melanie Bacon, Member



ISLAND COUNTY PUBLIC RECORDS DISCLOSURE POLICY

Island County is required by RCW 42.56.100 to adopt and enforce reasonable rules and regulation, consistent with the intent of the Washington State Public Records Act (PRA), referenced in RCW Chapter 42.56 and the Model Rules of WAC 44-14, and to provide access to public records, protect public records from damage and disorganization and to prevent excessive interference with other essential functions of the County. The County is also required to protect certain public records from disclosure subject to various legal exemptions.

This Public Records Policy establishes the procedures Island County will follow to provide for the fullest assistance to requestors, including timely action on requests, while protecting public records from damage and preventing "excessive interference with other essential agency functions."

The County is required to respond to public records requests pursuant to RCW Chapter 42.56. A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used or retained by the County is not a valid request for identifiable records under the PRA. A request must identify a particular topic or contain a particular keyword or name. The County is not required to respond to questions, do research or to give information that is not the subject of an identifiable public record.

Except where these guidelines are mandated by statute, the guidelines in this policy are discretionary and advisory only and shall not impose any affirmative duty on the County. The County reserves the right to apply and interpret this policy as it sees fit and to revise or change the policy at any time. Failure to comply with any provision of these guidelines shall not result in any liability imposed upon the County other than that required in the PRA.

DEFINITIONS

"Island County" and "County" means the county situated in the northwest part of Washington State which consists of Whidbey and Camano islands, and includes any office, department, division, bureau, board, commission or agency of Island County.

"Public Record" means any existing writing containing information relating to the conduct of government or the performance of any governmental or proprietary function that is prepared, owned, used or retained by Island County regardless of physical form or characteristics.

“Writing” means handwriting, typewriting, printing, photostating, photographing and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, symbols or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings and other documents including existing data compilations from which information may be obtained or translated.

“Identifiable record” means one that exists at the time the records request is made and that County personnel can locate after an objectively reasonable search.

“Exempt record” means all agency writings that are specifically exempted or prohibited from disclosure by state or federal law, either directly in RCW 42.56 or other statutes. For information related to Public Record Exemptions, please see Municipal Research Service Center’s (MRSC) publication “Public Records Act for Washington Cities, Counties and Special Purpose Districts” on the County’s website under Public Records Requests.

RESPONSIBILITY

Public Records Officers: Island County has a single designated Public Records Officer. Additionally, the Island County Sheriff’s Office and the Island County Prosecuting Attorney’s Office, as agencies, have separate designated Public Records Officers. Contact information for these public records officers is shown in Appendix A. Other County personnel may also process public records requests as needed but are not considered public records officers for purposes of this policy.

Information regarding Public Records Officers may be obtained through the County’s website at www.islandcountywa.gov.

Superior and District Courts of Island County: Court records are not considered “public records” under the definitions provided in both RCW 40.14.010 and RCW 42.56. Superior and District Courts have their own rules for providing records to requestors. Application directly to the Courts is necessary if court records are being requested.

PROCEDURE

- 1) General Records Requests. Any person requesting access to general public records (non-Sheriff, non-Prosecuting Attorney and non-Court) or seeking assistance in making such a request must make such request to the Island County Public Records Officer.
- 2) Sheriff’s and Prosecuting Attorney’s Office Records Requests: Any person requesting access to Sheriff’s or Prosecuting Attorney’s Office public records or seeking assistance in making such a

request should contact one of the Sheriff's or Prosecuting Attorney's Office Public Records Officers.

- 3) Request Format. While there is no specific required format for a public records request, a requestor must provide the County with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public records request, the requestor should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate timely response to the request.
- 4) The County encourages all requests for public records be made in writing using the Public Records Center page which is available on the County's website www.islandcountywa.gov. Written requests can also be made at the General Services Administration or Sheriff's and Prosecuting Attorney's offices, depending on the type of record sought. Requests may be submitted in person, orally, by mail or email to the designated Public Records Officers. Mail and email will be considered received on the date the request is stamped "received", not on the date sent. Requests should include the following information:
 - a. The requestor's name (not required), email address, mailing address and contact phone number;
 - b. The date of the request;
 - c. The nature of the request, including a detailed description of the public record(s) adequate for County personnel to be able to locate the records;
 - d. A statement regarding whether the records are being requested for a commercial purpose; and
 - e. Whether the requestor desires paper copies, electronic copies or to inspect the requested records.
- 5) Requests for public records made orally must be made to and confirmed by designated Public Records Officers.
- 6) A variety of records are available on the County's website www.islandcountywa.gov. Requestors are encouraged to view records available on the website prior to submitting a records request.
- 7) Response to Requests. The County will process requests in the most efficient manner the Public Records Officers deem appropriate. The Public Records Officers may ask a requestor to prioritize the records they are requesting so that the most important records may be provided first.

Within 5 business days of receiving a request, the County will do one of the following:

- a. Provide the record;

- b. Provide an internet address and link on the County's website to the specific records requested;
- c. Acknowledge that the request has been received and provide a reasonable time estimate needed to respond to the request;
- d. Acknowledge that the request has been received and ask the requestor to provide clarification for a request that is unclear, and to the greatest extent possible, a reasonable time estimate for response to the request if not clarified; or
- e. Deny the public records request.

Additional time to respond may be based on the need to clarify the intent of the request, to locate and assemble the records, to redact confidential or exempt information, to prepare a withholding index, to notify third parties or agencies affected by the request and provide such parties/agencies with the opportunity to seek a court order preventing disclosure where appropriate, and/or to consult with the Prosecuting Attorney's office about whether the records are exempt from disclosure. The Public Records Officers may briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officers will provide a revised estimate and explain the changed circumstances that make it necessary.

If the requestor fails to clarify an unclear request within 14 calendar days of the County seeking clarification and the entire request is unclear, the County will treat the request as having been withdrawn.

The County frequently receives requests for public records identified in terms of "any and all documents related to" a particular topic or a particular keyword or name. If the requestor is unable or unwilling to narrow the scope of the documents being sought in order to expedite the County's response and/or reduce the volume of potentially responsive documents, the Public Records Officers are allowed to err on the side of producing more rather than fewer documents in response to such a broad, general request. County personnel shall not be obligated to interpret such a broad, general request in order to decipher which specific documents may be of interest to the requestor and PRA does not allow a requestor to search through the County's files for records which cannot be identified or described to the County. When a request uses a phrase such as "all records relating to", the Public Records Officers may interpret the request to be for records which directly and fairly address the topic.

The County may deny a bot request that is one of multiple requests from the requestor to the County within a 24-hour period, if the County establishes that responding to the multiple requests would cause excessive interference with other essential functions of the County. For purposes of this policy, "bot request" means a request for public records that an agency reasonably believes was automatically generated by a computer program or script.

The County is not authorized to provide lists of individuals for commercial purposes. If responsive records include a list of individuals, the Public Records Officers must seek a certification from the requestor that the records will not be used for commercial purposes and a statement describing the purpose for which the list is sought. The Public Records Officers may also seek sufficient information to determine if another statute or court order may prohibit disclosure.

If the public record contains personal information that identifies an individual or organization other than the requestor of the public record, the County may notify that individual or organization to allow the party to seek relief pursuant to RCW 42.56.540. Such relief may include a court injunction prohibiting release of the record because such examination would not be in the public interest and would substantially and irreparably damage any person or vital governmental function. The County may take the above into account when providing an estimate of when the records will be available. Nothing in this policy is intended to, nor does it, create any right to such notice.

The County may respond to a request to provide access to a public record by providing the requestor with a link to the County's web site containing an electronic copy of that record if it can be determined that the requestor has internet access and the requestor agrees that the request has been satisfied. The Public Records Officers will review records software to ensure the requestor viewed the documents before closing the request.

- 8) Providing Paper Records in Installments. When the request is for a large number of records, the County may provide access for inspection and copying in partial installments if reasonably determined that it would be practical to provide the records in that way. If the requestor does not contact the appropriate Public Records Officer within 30 calendar days to arrange to claim or review the first installment, the County may deem the request abandoned and may stop fulfilling the remainder of the request. The County may prioritize other record requests received after commencing to fulfill the large request.
- 9) Electronic Records. The process for requesting electronic public records is the same as the process for requesting paper public records. Requestors who want the public records they have requested in electronic format only must specify this at the time of the request. The County is under no obligation to convert an electronic record into a different format.

When a requestor requests records in an electronic format, if technically feasible, the Public Records Officers will provide the nonexempt records or portions of such records that are reasonably locatable in an electronic format that is used by the County and generally commercially available or will provide the records in a format that is reasonably translatable from the format in which the County keeps the record. Should redactions be required and electronic redactions are not feasible, the records may need to be printed and redactions made on the paper records. Requestors will be expected to pay for these copies. The County is under

no obligation to provide redacted records electronically as this may involve re-scanning the records.

With the consent of the requestor, the County may provide customized access if the record is not reasonably locatable or not reasonably translatable into the format requested. The County may charge a fee for such customized access. Because internet service capability varies, the requestor making a request for electronically delivered e-records risks that an internet service provider is unable to accommodate the files provided by the County. The County is not obligated to make adjustments to accommodate the service provider's file size or other capability to deliver e-records to the requestor. The County, however, may make such records available through a file transfer protocol program.

- 10) No Duty to Create Records. This policy does not require the County to answer written questions, summarize data or information, create new public records or provide information in a format that is different from the original public records. The County may, in its discretion, create a new record to fulfill the request where it may be easier for the County to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request.
- 11) No Duty to Provide Information. This policy does not require the County to respond to requests for information, research, opinions or advice. Requests for information, research, opinions, advice or other similar requests may receive a response stating the request does not seek records and the request will be closed pursuant to policy.
- 12) No Duty to Supplement Requests. The County will only provide public records existing on the date of the request and, as such, will not hold current records requests open to respond to requests for records that may be created in the future. A new request must be made to obtain later-created public records.
- 13) Fees. A reasonable fee shall be charged for providing copies of public records, including costs for mailing, special media or copying/scanning done by a third person for hire. No fee is charged for inspection of a public record or for locating a record. Fees may be waived due to the few number of copies made or under other circumstances. Payment of fees is required prior to release of records, including installments, unless other arrangements have been made. Upon request, the County will provide a summary of the applicable charges before any copies are made and the requestor may revise the request to reduce the number of copies to be made and the applicable charges.

Charges may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request.

The County does not impose copying charges for access to or downloading of records the County routinely posts on its website prior to the receipt of a request, unless the requestor specifically requests that the County provide copies of such records through other means.

State statute or federal law may set a fee for providing copies of certain records. Examples of fees set by state law are: death certificates, court documents, traffic accident reports and criminal history information.

- 14) Deposit. The County may require a deposit of up to ten percent (10%) of the estimated cost of copying/scanning records, including any fees or customized service charges, prior to identifying any records for a requestor.
- 15) Availability of Public Records. Public records are available for inspection and copying at the County Administrative office in Coupeville during usual business hours, excluding holidays. The appropriate County Public Records Officer and the requestor may make mutually agreeable arrangements for time(s) of inspection and copying. Information on usual business hours is available on the County's website at www.islandcountywa.gov.

To the extent possible given other demands for space and staff time, the Public Records Officers will promptly provide space to inspect public records in County offices. The County deems it necessary, in compliance with the PRA's mandate to protect public records, to require inspections of public records be conducted in the presence of the Public Records Officers or designated County personnel. The County will make every effort to provide personnel to oversee the expeditious inspection of public records without unduly compromising or unreasonably interfering with the essential functions of the County.

Any assistance necessary to help requestors locate and inspect particular responsive records shall be provided by the Public Records Officers, provided that the giving of such assistance does not unreasonably disrupt the daily operations or regular business of the County. In accommodating a request for public records inspection, the County may consider the size of the request, the ease with which the requested records can be made available for inspection, special accommodations requested by the requestor necessary to inspect the records, the availability (schedule) of the requestor to conduct the inspection, the availability of County personnel to observe the inspection, the time constraints on personnel availability imposed by other current County business and other relevant circumstances.

The Public Records Officers will provide a non-permanent method of marking the desired records. After inspection is complete, the requestor shall indicate which documents they want to have copied using the approved non-permanent method of marking the desired records. The Public Records Officers will arrange for payment and copying.

- 16) Preservation of Public Records. No member of the public may remove a public record from a viewing area, disassemble, alter, fold, mark, deface, tear, damage or destroy any public record. Public records maintained in file jackets or binders or in chronological order may not be dismantled except for the purpose of copying and only by County personnel. Copies of public records may be copied using only copying machines belonging to the County unless other arrangements are made and approved by a Public Records Officer. No food or drink will be permitted during inspection of public records. Access to file cabinets, shelves, vaults and other County storage areas is restricted to authorized County personnel.
- 17) Organization of Public Records. The County finds that maintaining an index as provided in RCW 42.56.070(3) for use by the public would be unduly burdensome and would interfere with agency operations given the high volume, various locations and types of public records received, generated and otherwise acquired by the County. (ICC 1.34.010) Notwithstanding the foregoing, the County will maintain its records in a reasonably organized manner and take reasonable actions to protect records from damage and disorganization.
- 18) Closing Abandoned or Unpaid Requests. If the requestor withdraws the request, fails to fulfill their obligations to inspect the records within 30 calendar days of notice that the records are available for inspection or fails to pay the deposit, installment payment or final payment for the requested copies (including scans or electronic records), Public Records Officers will close the request. County Public Records Officers will document closure of the request and conditions that led to closure.
- 19) Records Exempt from Public Disclosure. The County is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state law or federal statute or regulation. The County is prohibited by statute from disclosing lists of individuals for commercial purposes.

The Public Records Act provides that a number of types of documents are exempt from public inspection and copying. RCW 42.56.230 through 42.56.480 contain a number of exemptions from public inspection and copying. The County adopts the Municipal Research Service Center's published list of exempt records. www.mrsc.org.

Other statutes outside the Public Records Act may prohibit and exempt disclosure of certain documents and information. The County's failure to list an exemption shall not impact the effectiveness of the exemption.

- 20) Denial of Request Due to Exemption. All denials of requests for public records will be accompanied by a written statement specifying the reason(s) for the denial, including a statement of the specific exemption authorizing the withholding of the record and a brief explanation of how the exemption applies to the record withheld.

- 21) Mechanism for Review or Denial. A person who objects to the denial of a public records request may petition for review of the decision within 30 calendar days, in writing, to the appropriate Elected Official responsible for such records or the County Administrator. The petition shall include a copy of or reasonably identify the written statement by a Public Records Officer denying the request. The Elected Official or County Administrator shall perform a review of the denial as promptly as possible but no more than five (5) business days following the objection. If the objection is denied, the denial represents final action for the purposes of judicial review.
- 22) Retention of Records. The County is not required to retain all records it creates or uses. However, the County follows RCW Chapter 40.14, Preservation and Destruction of Public Records, in the retention and destruction of public records. The Secretary of State, State Archives Committee approves a retention schedule for local agency records. The retention schedule for local agencies is available at www.secstate.wa.gov/archives. Retention schedules for documents vary based on the content of the record.
- 23) Loss of Right to Inspect. Inspection shall be denied and records withdrawn by a Public Records Officer if the requestor, when reviewing the records, acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the County.
- 24) Log of Public Records Requests. The County Public Records Officers maintain a log for public requests submitted to and processed by the County. The log is a public record subject to disclosure and contains the following information for each request:
 - a. Identity of requestor (if provided);
 - b. Date the request was received;
 - c. Text of the original request;
 - d. Description of the records produced in response to the request;
 - e. Description of records redacted or withheld and the reasons for doing so; and
 - f. The date of the final disposition of the request.
- 25) Training. All Elected Officials and Public Records Officers shall complete mandatory public records training and retain documentation of having completed said training, pursuant to RCW 42.53.150 and RCW 42.56.152.
- 26) Disclaimer 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 this policy.

27) Limitation of Rights. This policy is not intended to expand or restrict the rights of disclosure or privacy as they exist under state and federal law. Despite the use of any mandatory terms such as "shall", nothing in this policy is intended to impose mandatory duties on the County beyond those imposed by state and federal law.

APPENDIX A

County – Sharon Branch; Nicole Wheat; Stephanie Montgomery

Sheriff's Office – Lorene Norris; Mary Kaye Weller; Julia Rosenberg

Prosecuting Attorney's Office – Cassandra Cosby; Jenna Miller