

# Public Records Act (PRA) and Records Retention Training

## General Rule- RCW 42.56

- Basic Tenant: All records must be disclosed unless there is a specific exemption
- Records include:
  - Any writing...
    - Writing means handwriting, typewriting, printing, photographing, sound recording, and any other means of recording any form of communication or representation.
    - Includes digital, photos, electronic
  - ...which contains information relating to the conduct of government...
  - ...prepared, owned, used, or retained by any state agency regardless of physical form

## Records Retention- RCW 40.14

- Records as defined above must be retained in accordance with Records Retention Schedule
- “Transitory records” (e.g. scheduling emails) need not be retained
- Retention may apply to records on personal equipment
  - If only looking at document, no need to retain
  - If creating or altering record may need to retain (this would apply to text messages)
  - If send/receive record on personal, send copy to Commission address
- Once receive a public records request must retain responsive records even if they could be destroyed under the Records Retention Schedule
- Felony to destroy records in violation of schedule- RCW 40.16.020

## Agency & Commissioner Responsibilities for Records Request

- Request could come to Commissioners—be sure to notify JLARC staff immediately
- Must provide response to requestor in 5 business days
- Must perform an “adequate search”
- Search places that record is “reasonably likely to be found”
  - This may include personal equipment if used for Commission business
  - Need to document how and where search was performed

## Production of Records

- Records must be produced unless covered by a statutory exemption
- Exemptions narrowly construed & agency has burden of proving
- Must redact exempt information and provide remainder of record

## Costs of Failure to Disclose

- Court impose on the agency a penalty award of up to \$100 a day for each day the record inspection was unreasonably delayed
- Agency will be required to pay other parties’ court costs and attorney fees

## Additional Resources

- Office of the Attorney General -- <http://www.atg.wa.gov/OpenGovernmentTraining.aspx>
- Governor’s Office Online appointee training <https://www.governor.wa.gov/boards-commissions/resources-appointees/online-appointee-training>