



1

About MRSC

Research and Consulting Services for Washington Local Governments and State Agencies

- Free consultation (Ask MRSC)
- Guidance on hundreds of topics
- Webinars and workshops
- E-newsletters
- Sample documents
- Research tools

2

PRA Basics

Public Records Act passed in 1972

Codified at chapter 42.56 RCW

- Significant amendments
- And through case law

3

PRA Basic Rule

Agencies shall make available for inspection and copying all public records, unless exempt or disclosure is prohibited

RCW 42.56.070



4



5

What is a Public Record?

Almost everything...

"[V]irtually any record related to the conduct of government."
O'Neill v. Shoreline, 170 Wn.2d 138 (2010)

"This broad construction is deliberate and meant to give the public access to information about every aspect of state and local government." *Nissen v. Pierce County*, 183 Wn.2d 863 (2015).

6

What is a Public Record?

Any writing containing information:

Related to the
conduct of
government

The performance of
any governmental or
proprietary function

Prepared, owned,
used, or retained
by the agency

regardless of physical form or characteristics

RCW 42.56.010

7

Personal Notes



Yacobellis v. Bellingham, 55 Wn. App 706 (1989)

Test is whether the notes:

- Are created solely for the government official's or employee's convenience or to refresh the official's or employee's memory
- Are maintained in a way indicating a private purpose
- Are not circulated or intended for distribution within agency channels
- Are not under agency control
- Can be discarded at the writer's sole discretion

8

Personal Emails on Agency Email Account



Tiberino v. Spokane County, 103 Wash. App 680 (2004)

- Test is whether the personal email ended up being "used" by the agency, then it can become a public record

9

Union-Related Emails on Agency Email Account



SEIU Local 925 v. UW, 193 Wn. 2d 860 (2019)

- Not a public record unless discuss work conditions or other public business

10

Public Records on Personal Devices



11

Personal Devices and Accounts

May encompass agency-related records on **personal** devices and accounts, including:



Agency-Related Emails on Personal Accounts
(*West v. Vermillion*, 196 Wn.App 627 (2016))



Agency-Related Text Messages on Personal Phones
(*Nissen v. Pierce Co.*, 183 Wn.2d 863 (2015))



Agency-Related Social Media Posts on Personal Accounts (*West v. Puyallup*, 2 Wn.App. 2d 586 (2018))

12

Scope of Employment?

If record resides on a personal device or account, apply "scope of employment" test:

Employer
directs the
writing

or

The writing
furthers the
employer's
interest

or

Job
requires
the writing

13

Scope of Employment?



Texting about work-
related matters from
personal cell phone

Nissen v. Pierce Co.



Texting spouse
about working late

Nissen v. Pierce Co.

14

Scope of Employment?



Emailing on a personal
account, even if account
was originally created for
private or campaign use

West v. Vermillion



Posting general agency
information on personal
Facebook account
Caution: Comments/Engaging

West v. Puyallup

15

5 Steps in PRA Request Response



16

Request



- Tracking Log
- Calendar Significant Dates
- PRA Request Number
- 5 Day Response (RCW 42.56.520)
- Incorrect Agency
- Document Preservation / Hold Notice

17

Coordinating Requests across Depts.



HERDING CATS

It never works, so fuhgeddaboutit.

18

Request: 5-Day Response

✓ Calendar 5-day response (and, later, installments)

✓ Send 5 (business) day response:

- Make records available (inspection or copies)
- Direct requestor to records on agency's website
- Provide time estimate
- Request clarification & provide time estimate
- Deny the request

19

Search



- Search Plan: Who, What, Where, When
- Search Requirements
- Document Search - Check Lists
- Private Devices
- Metadata
- Installments

20

Review



- Review Each Document
- Exemptions
 - PRA Specific
 - Other Statutes (State or Federal)
- Exemption/ Withholding Log
- 3rd Party Notice

21

Delivery



- Fee Schedule
- Links
- Numbering and Tracking
- Methods of Records Delivery
- Preservation and Retention

22

Closure



- ✓ Document Completion Date
- ✓ Identify Retention/ Disposition Date
- ✓ Prepare Electronic and Hard Copy Files for Storage

23

Valuable Resources



AG's Office:

- [Open Government Guide](#)
- [Model Rules](#)
- [Local Gov't Consultation Program](#)

State Archivist:

- Retention Schedules
- Grant Program
- Tip Sheets & Online Videos/Training

WAPRO:

- Conferences and Toolkit

MRSC:

- PRA Tip Sheets
- PRA Webpage and PRA Case Law Updates
- PRA & Records Management Tech Guide
- Live and On-Demand Deep Dives

[WMCA](#) (more than city clerks!)

24

Work Closely with your Prosecuting Attorney's Office!

They are an essential part of
your team – especially with
OPMA and PRA matters.

25

Local Government Public Records Consultation Program



*Assisting local
governments with
PRA best practices.*

Morgan Damerow (360) 570-3418
Lucy Collis (360) 664-8756
PRAConsultation@atg.wa.gov

Technical Assistance – Training – Risk Mitigation – Best Practices

26

26

Stay up-to-date with the latest news and analysis from MRSC!

- New legislation and court decisions
- Emerging issues
- Policy and financial guidance
- Management tips

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27

Upcoming Trainings



REGISTRATION IS NOW OPEN FOR:

Climate Action Funding Opportunities and Other Resources for Local Government
Tuesday, June 27, 1 PM– 2:30 PM | ONLINE

ABCs of Cooperative Purchasing (Piggybacking)
Tuesday, July 25 | 10 AM - 11 AM | Online

The OPMA – Latest Issues and Case Law Updates 2023
Wednesday, July 12 | 10 AM - 11 AM | Online

Learn more at mrsc.org/training

28

Questions????



29

Thank You!

Ask MRSC
Have a question we did not answer today?
Submit your questions online at mrsc.org
Call us at 800-933-6772 (toll free) or 206-625-1300



30
