

AGENDA REQUEST FORM

**Return completed form and complete agenda item to the Clerk of the Board
Yakima County Commissioners' Office, Room 232**

Prepared by:

Josephina Mesa

Department:

Corporate Counsel

Requested Agenda Date:

05/02/2023

Presenting:

Josephina Mesa

Document Title:

IN THE MATTER OF REVISING YAKIMA COUNTY PUBLIC RECORDS POLICY AND PROCEDURES

Action Requested: *Check Applicable Box*

- ☒ PASS RESOLUTION ☐ EXECUTE or AMEND **AGREEMENT** CONTRACT or GRANT
☐ ISSUE PROCLAMATION ☐ PASS ORDINANCE ☐ OTHER _____

Describe Fiscal Impact:

0

Background Information:

PRA policy was last updated in 2016. An update is needed to reflect the reasonable fees for body cams, default fees for electronic fees, clarifying procedures for abandoned requests.

Summary & Recommendation:

Motion:

Department Head/ Elected Official

AGREEMENT Attached Is Approved as to Form
Corporate Counsel Initial

Signature

Late Agenda Requests Require BOCC Chairman Signature:

BOARD OF YAKIMA COUNTY COMMISSIONERS RESOLUTION

IN THE MATTER OF REVISING
YAKIMA COUNTY PUBLIC RECORDS
POLICY AND PROCEDURES

105-2023

WHEREAS, the Board of Yakima County Commissioners has determined the need to revise the Yakima County Public Records Policy and Procedures that was last updated in 2016.

WHEREAS, the revision will include policy and procedures regarding abandoned requests, default fees pursuant to RCW 42.56.120(2)(b) and (c) for electronic records and the body cam redaction fee permitted under RCW 42.56.240(14)(f); **and**,

WHEREAS the Board of Yakima County Commissioners has determined the revised policy should be effective May 2nd, 2023; **and**,

WHEREAS, the Yakima County Public Records Policy and Procedures has been revised as state above; **now therefore**,

BE IT HEREBY RESOLVED, by the Board of Yakima County Commissioners that the Yakima County Public Records Policy and Procedures be revised effective May 2nd, 2023.

DONE this 2nd day of May 2023.

Attest:



Julie Lawrence, Clerk of the Board
Erin Franklin, Deputy Clerk of the Board



LaDon Linde

LaDon Linde, Chair

Amanda McKinney

Amanda McKinney, Commissioner

Kyle Curtis

Kyle Curtis, Commissioner
Constituting the Board of County Commissioners
for Yakima County, Washington

YAKIMA COUNTY PUBLIC RECORDS POLICY

1. PURPOSE AND CONSTRUCTION

1.1 Declaration of Policy

It is the policy of Yakima County to release records of Yakima County in compliance with the Public Records Act set forth in 42.56 RCW, and any other applicable provisions of federal or state law. The purpose of this policy is to promote the goals of full public access to public records, to protect public records from damage or disorganization, to provide the fullest assistance to requestors, and to provide the most timely action possible on requests for identifiable public records.

1.2 Interpretation and Constriction of Provisions

In applying these County polices and regulations, the Public Records Officer and designees, County employees, and other persons and members of the public will interpret these regulations and policies such that they are consistent and compliant with state laws governing public records and access and dissemination of public records. The provisions of this policy are also to be construed in conjunction with other applicable state and federal law, including without limitation: RCW 10.97 (Washington State Criminal Records Privacy Act); RCW 13.50 (Keeping and Release of Records by Juvenile Justice or Care Agencies); RCW 40.14 (Preservation and Destruction of Public Records); RCW 42.56 (Public Records Act); all as presently constituted or as may be subsequently amended.

1.3 Availability of Public Records Policy

This document shall be posted on Yakima County's public website or can be provided by the Public Records Officer.

1.4 Updating of Public Records Policy

This policy may be modified by the Yakima County Board of Commissioners.

2. DEFINITIONS

2.1 Definitions Adopted by Reference

The definitions set forth in RCW 10.97.030, 13.50.010, and 42.56, as presently constituted or as may be subsequently amended, as well as other statutes are adopted by reference as if fully set forth herein, together with all amendments and additions provided in this policy.

2.2 Use of Words and Phrases

As used in this policy unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings:

(A) "County" is the municipal corporation of Yakima County, Washington. Collectively, the County includes the County elected officials, and each department, board and committee of the County. The term County also includes the paid employees of Yakima County.

(B) "Computer report" means the result of the of data by selected criteria from an electronic database.

(C) "Department" means a major functional division of Yakima County Government.

(D) "Electronic database" means a collection of data on computer-accessible media arranged for retrieval.

(E) "Non-routine computer report" means a computer report that a department is capable of producing but that is not regularly produced by the department.

(F) "Routine computer report" means a computer report that is regularly made by a department in the ordinary course of business to satisfy federal, state, county or local reporting requirements, or for other administrative or legislative purposes.

(G) "Writing" means any information (e.g., words, numbers, symbols, images and sounds) recorded in any media such as handwritten, typewritten, electronic, photographic, and video and audio recording as defined in RCW 42.56.010(3).

(H) "You," "your" or "requestor" used in this policy refers to a person who requests public records.

3. COUNTY ORGANIZATION

Yakima County is formed and organized pursuant to Article XI of the Constitution of the state of Washington and state statutes. Yakima County is a local agency as defined under RCW 42.56.

4. PUBLIC RECORDS OFFICER AND DEPARTMENT SPECIALIST

4.1 Yakima County Public Records Officer

The Public Records Officer of Yakima County oversees the Records Specialists within all Yakima County Departments. The Public Records Officer's office is located in Room 211 of the Yakima County Courthouse. She can be contacted during business hours at (509) 574-1203 or via e-mail at RecordsRequest@co.yakima.wa.us.

4.2 Public Records Specialists

Each elected official and each department head shall designate one or more Public Records Specialists to assist the County Public Records Officer. Each Public Records Specialist shall be knowledgeable of the public records in the possession and control of that department or office such that they are able to assist both the County Public Records Officer and the person requesting records in determining where documents are located and what documents are being sought by the requestor.

5. PROCEDURE FOR INSPECTION/COPYING

5.1 Making a Request for County Public Records

A person wishing to inspect or copy public records from any department is encouraged to submit all records requests via our Public Records Portal. It is also encouraged to submit all records requests to our Public Record Officer. All departments will accept requests directly. However, most departments gather records and do not process requests, so it is encouraged to submit records requests to our Public Records Officer so the records can be provided to you promptly. All requests for public records will be documented and uploaded into our Public Records Portal regardless of how the request is submitted to Yakima County.

5.2 County Public Records Request Portal Encouraged

It is encouraged that records requests be made in the County's public record request portal. The Records Center is located on the County's website at: [https://yakimacountywa.mycusthelp.com/WEBAPP/rs/\(S\(em24h0bcmjxoyljuvgwf233o\)\)/support/home.aspx](https://yakimacountywa.mycusthelp.com/WEBAPP/rs/(S(em24h0bcmjxoyljuvgwf233o))/support/home.aspx). If making a request through the portal is burdensome, we encourage to use the County public records request form. This request form is available from the County Public Records Officer or any of the Public Records Specialist. The form is also available electronically on the County's website. The requestor may also submit a written email or letter that contains the information listed below in paragraph 5.3.

5.3 How to Make a Public Records Request

Yakima County will accept public records requests in our Records Portal, our PDR form, letter, email, fax and via phone. It is encouraged to have the request in writing clearly indicating it is a public record request so it can be directed to the Public Records Officer promptly.

The request should have the following information below:

- The name, address and telephone number of the requester (this is encouraged but not required, requests can be submitted anonymously);
- The date of the request;
- A detailed description of the public record(s) being requested, including the time period for the records and the departments of the County or office of the County official who may have the public records;
- If not using the Public Records Portal or our request form, there needs to be a clear indication, such as a document heading or title such as "Public Records Request", so that it is clear you are requesting public records pursuant to the Public Records Act. This will ensure that the request is handled properly. Requestors shall not combine a request for public records with communication for other purposes;
- A statement as to whether the requestor wants copies or wants to inspect the requested records; and whether you want the records sent to you via hard copy or email;
- The signature of the requestor.

The requestor may, but is not required to, explain the purpose for which a record is requested. However, the department may ask the requestor to disclose information sufficient to allow the Public Records Officer or Specialist to determine if a statute or other exemption prohibits disclosure.

5.4 Creation of Records Not in Existence

The County is not obligated to format or create documents that are not already in existence. Reports may be run on information databases if the report is one that is commonly run as part of County business. However, the County is not required to reformat or write code in order to create a program to retrieve and complete specific information or create documents that do not exist under the Public Records Act.

5.5 Documents Available on Website

Many public records are available on the County's website. The Public Records Officer or Records Specialist may direct a requestor to the County's website to fulfill a records request.

5.6 No Duty to Convert Records to Another Format

There is no obligation of the County to convert an electronic record to a format that is different than the current format in which the document or record exists. Similarly, there is also no duty to convert or scan a paper document into an electronic format.

5.7 Videos CDs and Other Multimedia

County business may be recorded on video or CDs. All requests for video or other multimedia information or records shall state a date in which the event occurred. Given that these tapes are not indexed by subject and are not word searchable, the requestor must specifically request that he or she is looking for multimedia records. The County, in order to prevent the inference with essential functions of the County, has no obligation to respond to a request by searching all multimedia files.

5.8 No County Index

By the reference and adoption of this policy, the Yakima County Board of County Commissioners finds that it would be unduly burdensome and costly to the taxpayers of Yakima County for the County to develop an index of all County records. Many public records are currently available for viewing at no cost on the County's public website. Examples include real property searches, tax information, jail roster and booking reports.

5.9 Request for List of Individuals

In the event a request for records contains a list of individuals, the Public Records Officer and or Specialist may require you provide an affidavit either:

- That states you are not requesting the list for commercial purpose; or
- That states you are specifically authorized or directed by law to obtain the list of individuals for commercial purposes, and to identify such law.

The printable Record Request form and the online Records Center Portal has you acknowledge that you are not going to use the list for commercial purposes before submitting the request. If you decide to use a means outside of the above listed items when you submit a request, you may be required to provide an affidavit.

6. RESPONSE TO PUBLIC RECORDS REQUEST

6.1 Assistance

The County Public Records Officer or Public Records Specialist will help any person making a request.

6.2 No Obligation to Provide Records on Demand

There is no obligation to provide the requested record(s) on demand.

6.3 Response in Five Business Days

The Public Records Officer or Public Records Specialists will respond promptly to the requests for disclosure. Within five business days of physical receipt of the request, the Public Records Officer or Specialists will respond in writing by either:

6.3.1 Providing the record.

6.3.2 Acknowledging that the office has received the request and providing a reasonable estimate of time the office will require in which to respond to the request.

6.3.3 Denying the public records request. The Public Records Officer's response refusing in whole, or in part, the inspection of the public records shall include a statement of the specific exemption authorizing the withholding of the record (or any part) and a brief explanation of why the exemption applies to the record(s) withheld.

6.3.4 Clarifying the intent of the request with the requestor.

6.4 Additional Time May be Necessary to Respond

Additional time may be requested by the office/department based upon the need to:

6.4.1 Clarify the intent of the request.

6.4.2 Locate and assemble the information requested.

6.4.3 Notify third parties or agencies affected by the request and allow time for the affected parties or agencies to seek court protection pursuant to RCW 42.56.540.

6.4.4 Determine whether any of the information requested is exempt and if a denial should be made as to all or part of the request.

6.5 Clarification of Unclear Requests

As stated above, in acknowledging receipt of a public record request that is unclear, the Public Records Officer or Specialists may ask the requestor to clarify what documents the requestor is seeking.

6.6 Production of Records on an Installment Basis

For requests that involve a large quantity of documents, requests that involve records from multiple departments/offices or requests that require a significant amount of redacting and

privilege log creation, requested documents may be provided on a rolling or installment basis to prevent undue disruption to carrying on the normal and essential duties of that department, office, or the County while promoting timely access to requested documents. Multiple requests of this nature will be placed on a multiple request schedule under section 9.

6.7 Protection of Public Records

Except as necessary to make copies by a public employee or private copy shop, the Public Records Officer or Specialists shall, to the extent practical, 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 the purpose of allowing the person making the request to make copies. The Public Records Officer and Specialists shall also take necessary precautions to protect against disorganization of County records.

6.8 Abandoned Requests

Yakima County will close a request and consider the request abandoned if 30 days has passed and there is no action by the requestor. After 14 days, a letter is sent to the requestor requesting action be taken and a grace period with additional days is provided. Yakima County will close a request and consider the request abandoned and completed if any of the following listed below happens.

6.8.1 No clarification.

6.8.2 No inspection of records.

6.8.3 No fee paid.

6.8.4 Installment of records have not been viewed within 30 days of the date the installment of records was provided to the requestor.

7. COPY FEES

The following copy fees and payment procedures apply to requests to Yakima County under chapter 42.56 RCW. Pursuant to RCW 42.56.120(2)(b), Yakima County is not calculating actual costs for copying records because to do so would be unduly burdensome. Yakima County does not have the resources to conduct a study to determine actual copying costs. Cost varies significantly from request to request due to the size of request, numerous different salaries of the employees that work a request, redactions and so forth. No fee shall be charged for locating public documents and making them available for copying.

Yakima County will charge for copies of records pursuant to the default fees in RCW 42.56.120(2)(b) and (c). The office will charge for customized services pursuant to 42.56.120(3). Please see the Yakima County Public Records Fee Schedule attached to the end of this policy.

7.1 No Fee for Inspection of Public Records

There is no fee for inspecting/viewing public records.

7.2 Paper Copies Fees

Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of agency equipment to photocopy public records.

7.3 Scanned Paper Copies Fees

There is no requirement in the Public Records Act to provide documents in a scanned format if they are not in that format. However, if scanned copies are available, they will be provided at a cost of \$0.10 (ten cents) per page.

7.4 Electronic Records, Emails, Cloud-Based Storage

Five cents per each four electronic files or attachments uploaded to email, cloud-based data storage service, or other means of electronic delivery.

7.5 Records Transmitted in Electronic Format

Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of agency equipment to send the records electronically. The agency shall take reasonable steps to provide the records in the most efficient manner available to the agency in its normal operations.

7.6 Digital Storage Media Device – CD, DVD, Flash drive

The actual cost of any digital storage media or device provided by the County.

7.7 Envelopes

The actual cost of any container or envelope used to mail the copies to the requestor.

7.8 Postage

The actual postage or delivery charge.

7.9 Oversized, Unique, Color or Large Requests for Documents

Some documents, due to their size, graphic or color, may have to be sent to an outside copy service. Additionally, some departments/officers do not have color copy capabilities. Color copies will only be available when it is necessary to capture color-sensitive information within the record and is so requested by the requestor. For these types of documents or for requests that involve a large number of copies, the Public Records Officer or Specialists may in their discretion send these documents to a professional copy service for copying. In that case, the charge will be the actual cost of the outside copy service.

7.10 Body Worn Cameras Redactions

The Yakima County Sheriff's Office has implemented a Body Worn Camera Program. Pursuant to RCW 42.56.240(14)(f)(i) The PRA allows agencies to charge a requestor the reasonable costs of redacting, altering, distorting, pixelating, suppressing, or otherwise obscuring any portion of the body camera recording prior to disclosure. Reasonable cost of redacting body worn camera recordings including the cost of redaction technology provided it is the least costly commercially available method. The Yakima County Sheriff's Officer does not intend to charge requestors for technology cost at this time. Please see the Yakima County Sheriff's Office Body Worn Video Redaction Cost Study and Body Worn Camera fee Schedule for cost and exemptions to the fees associated with redactions.

8. PAYMENT FOR COPIES

8.1 Payment in Full

Full payment for the copies and any mailing costs shall be required before the actual mailing/pick-up of the records. If payment is not received within 30 days of the date the records are made available, the request will be deemed abandoned. A new request will need to be submitted after 30 days if the requestor would like the records at a later date.

8.2 Multiple Installments

If the request involves multiple installments, payments can be made per installment instead of full payment. Payment is required first for each installment before the installment is released. If payment is not received within 30 days of the of the date the installment is available, Yakima County will not continue to fulfill the other installments, the whole request will be deemed abandoned. A new request will need to be submitted after the 30 days if the requestor would like the records at a later date.

8.3 Deposit

If the requestor wants a large number of copies of public records, then the Public Records Officer or Specialist shall require an up-front deposit of 10% of the estimated copy charge before gathering and locating the materials to be copied.

8.4 Waiver

When the cost is nominal (under \$1.00), Yakima County departments may waive the fee if it determines it is more efficient to do so. However, individuals who make multiple records requests may be required to pay nominal fees when it's estimated the total of their collective requests exceeds over \$ 1.00.

8.5 Payment Methods

Payments should be made by check or money order to the Public Records Department or to the department the Records Specialist informed you to send it to. Cash and credit card payments are within the department's discretion and the Records Specialists will inform you if that is possible.

9. PROCEDURES FOR PROCESSING MULTIPLE PRA REQUESTS

Multiple public record requests that involve a large volume of records from the same requestor or their associates can monopolize County resources and interfere with the County's ability to respond to other requestors in a timely manner. It is in the public's interest and authorized by the provisions of the Public Records Act, RCW 42.56.040, .080 and .100 that the County adopt a queuing procedure to process such requests.

Under the County's queuing procedure, once a requestor has made a request for large numbers of County records, any additional requests from that person ("original requestor") or from persons working with or on behalf of the original requestor ("associated persons") will be queued behind the original request. Once the original request is completed, the County will then start providing records for the next request. A large request is any request that it is estimated to take more than ten hours to fulfill and may include records that must be retrieved from archives or that, by their nature, require more than ten (10) hours of staff time to review and redact.

If the original requestor wants a later request to be moved ahead of the original large request, the original requestor may either withdraw the other large request or request in writing that the later request be responded to before the original request. The County will grant such requests if the original requestor informs the County that the later request is time sensitive. If a person who has been deemed an associated person and believes that their request should not be queued behind the original requestor's large request, the associated person can explain in writing the time sensitive need for records or provide evidence showing that they are not making the request in association with the original requestor.

10. REVIEW OF PUBLIC RECORD REQUESTS.

10.1 Review of Non-Response

If the Public Records Officer or a Specialists does not respond in writing within five business days of receipt of the request for disclosure, the requestor is encouraged to notify and seek review from the Public Records Attorney within the Corporate Counsel Division of the Yakima County Prosecuting Attorney's Office at (509) 574-1200.

10.2 Review of Good Faith Estimate to Fulfill Request

If a requestor feels that an estimate of time given to fulfill the request is not reasonable, the requestor shall be entitled to petition the Chief Civil Deputy in the Corporate Counsel Division of the Prosecuting Attorney's Office for a review of the estimate of time.

10.3 Matters Involving Litigation

When a request for public records concerns a subject that is known to the Public Records Officer or Specialists to involve a claim or lawsuit that is pending or anticipated, the Public Records Officer or Specialists promptly notify the Corporate Counsel Division of the Prosecuting Attorney's Office involved with the case.

10.4 Administrative Review of Public Records Requests

10.4.1 If a requestor objects to the denial of a request for public records subject to chapter 42.56 RCW may petition for prompt review of such decision by tendering a written request for review to the Chief Civil Deputy in the Corporate Counsel Division. The petition shall specifically refer to the written statement by the Public Records Officer or Specialist which constituted or accompanied the denial.

10.4.2 After receiving the petition for review, the Chief Civil Deputy or his or her designee will review the matter and either affirm or reverse such denial within 2 business days following the receipt of the written petition for review. If the Chief Civil Deputy or his or her designee needs more time to review the written petition, they will inform the petitioner within the 2 business days.

10.4.3 Administrative remedies shall not be considered exhausted until the Chief Civil Deputy or his or her designee has made a written decision or until the close of 2 business day following receipt of the written petition if no additional time is need, whichever occurs first.

10.5 Disclaimer of Liability

Neither Yakima 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.

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 Yakima County beyond those imposed by state and federal law.

PRA Fee Schedule

Yakima County Public Records Fee Schedule - RCW 42.56.120	
Paper copies	15 cents per page
Scanned paper copies	10 cents per page
Electronic records, emails, cloud-based storage	5 cents per every 4 electronic files or attachments
Records transmitted in electronic format	10 cents per gigabyte
Digital storage media device – CD, DVD, flash drive	Actual Cost
Envelope	Actual Cost
Postage	Actual Cost
Oversized, unique, color or large requests for documents	Some documents, due to their size, graphic or color, may have to be sent to an outside copy service. Additionally, some departments/officers do not have color copy capabilities. Color copies will only be available when it is necessary to capture color-sensitive information within the record and is so requested by the requestor. For these types of documents or for requests that involve a large number of copies, the Public Records Officer or Records Specialist may in their discretion send these documents to a professional copy service for copying. In that case, the charge will be the actual cost of the outside copy service.

Body Cam Redaction Fee Schedule RCW 42.56.240(14)(f)(i)			
Redaction Type	Video Time	Average Redaction Time	Cost of Redaction per Minute of Footage
Targeted Blackout/Blur Video Redaction of Person or Object without Targeted Audio Redaction	1 Minute per individual or object redacted	9 Minutes per individual or object redacted	$0.53 \times 9 \text{ minutes} = \4.77 per individual or object redacted
Targeted Blackout/Blur Video Redaction of Person or Object with Targeted Audio Redaction	1 Minute per individual or object redacted	11 Minutes per individual or object redacted	$0.53 \times 11 \text{ minutes} = \5.39 per individual or object redacted
Targeted Audio Redaction Alone	1 Minute	5 Minute	$0.53 \times 5 \text{ minutes} = \2.65 per targeted audio
Full Blackout/Blur of Screen without Audio Removal	1 Minute	1 Minute	$0.53 \times 1 \text{ minute} = \0.53 per minute
Full Blackout/Blur of Screen with full Audio Removal	1 Minute	1 Minutes	$0.53 \times 1 \text{ minute} = \0.53 per minute

**Please see Yakima County Sheriff's Office Body Worn Video Redaction Cost Study for further information*