

Public Disclosure Act Primer for City Volunteers

1. Q. What is the Public Records Act (PRA)?

A. The PRA is Washington’s “sunshine law” for public records, comparable to the federal Freedom of Information Act. The PRA is a state law found in Ch. 42.56 of the Washington Code. Effective July 1, 2006, the PRA is a recodification of the Public Disclosure Act. The PRA applies to all state and local governmental agencies.

2. Q. What’s the philosophy behind the PRA?

A. That the people of the state are ultimately in charge and insist on staying informed about what their government does. Under the PRA the public’s right to know is broad and any exemptions to disclosure must be interpreted narrowly. The default option: “You gotta give it up.”¹

3. Q. What does the PRA require?

A. The PRA requires a governmental agency to promptly disclose any public record that someone has requested unless the PRA or some other law exempts or prohibits disclosure of that record. There are numerous exemptions, but they are narrow and specific. Examples of exemptions include attorney-client privileged communications, medical records, credit-card numbers, employee and volunteer home addresses and home telephone numbers, and certain criminal records. Unless a record fits within a statutory exemption, it must be disclosed.

4. Q. Does the PRA contain a “reasonableness” requirement? Is it OK for an agency to refuse to turn over records to a requester who makes too many requests, or who asks for records for the wrong reason?

A. No. Under the PRA, an agency must “promptly” disclose all public records in response to a request unless the records are exempt from disclosure. The agency must do so regardless of who has made the request or what the requester’s motives may be. All requesters must be treated the same. What’s a “prompt” response depends on factors like the nature of the request and the agency’s resources.

5. Q. What are public records?

¹ With apologies to Marvin Gaye and Mowtown Records.

- A. The term is very broad. It includes any record that contains information about the government or its business, and that a governmental agency prepares, owns, uses, or possesses. The term also includes any record regardless of whether it is paper, electronic, tape-recorded or digitally stored. That means e-mails, desk calendars, videos, post-its—any kind of record as long as it fits the definition.
- 6. A. Does a governmental agency actually have to possess a document for that document to be considered a public record?**
- A. No. Records used by a governmental agency may be public records no matter who possesses them.
- 7. Q. I'm a volunteer for the City. Does that mean records I keep at home may be subject to the PRA?**
- A. If the record is about your City work, or is otherwise written in your “official” capacity about the City’s business or functions, it may be subject to the PRA. In addition, *any* record you send to the City and that is in the City’s possession may be subject to the PRA, regardless of whether you sent it as a private citizen.
- 8. Q. So as a City volunteer I have to allow any requester to rifle through my home files or my home computer’s hard drive?**
- A. No. Your home records that you have written or received in a purely personal capacity and that don’t concern your work as a City volunteer are not public records.
- 9. Q. Should I respond directly to PRA requests that are sent to me by working with the PRA requester myself?**
- A. No. You should let the Public Disclosure Officer (PDO) for the City department or office that you are working with handle the request. But if you receive a request directly, you should promptly advise the PDO of the request so that person can promptly handle it. You also should help the City respond to a PRA request by working with the City employee who is handling the request, and by looking for any relevant public records that you may have.
- 10. Q. Isn't there a general “privacy” exemption to the PRA?**
- A. No. The PRA and several other laws do contain specific privacy-related exemptions, but there’s no general exemption that can be applied to all “private” information. And the PRA defines the term “privacy” very narrowly. Even embarrassing records must be disclosed if there’s a legitimate public interest. And under the PRA there’s a legitimate public interest in almost everything the government and its agents do.

11. Q. If some part of a record is exempt from disclosure, may the entire record be withheld?

A. Generally speaking, no. The City must "redact" (black out) the exempt part of the record and turn over the rest.

12. Q. If the City believes that a record someone has requested is exempt from disclosure, is it OK not to tell the requester about the record?

A. No. If a record has been requested and an agency believes it is exempt, the agency must identify the record and explain why it is exempt.

13. Q. If a record is subject to a request and I don't want to disclose it, is it OK to destroy the record?

A. No! The law requires you to maintain the record until the request has been resolved. Records may be destroyed if no request is pending and the destruction is consistent with a records retention policy.

14. Q. If someone requests public records about me, do I get to know about the request before the records are released?

A. The PRA includes a provision that allows a governmental agency to inform a person in your position that the records have been requested. This notification may be given before the records are released. The PRA doesn't require the agency to do this. Notification is at the agency's option.

15. Q. Do you have any tips for living comfortably inside the glass bubble that the PRA creates?

A. Yes. They include:

- Relax and get used to it. The PRA exists for a reason, and has to be applied equally to everybody who does the government's work.
- Don't create any record that you wouldn't want to see reported in the newspaper. Chances are that it won't be—but once the City has received the PRA request it's too late to change what you've already done.
- Think of e-mails as written communications, not informal conversations.
- Think carefully about whether it's really necessary to put something in writing.
- If you work at home on City business, keep separate files and computer directories for your City work. That will make it easy for you to find and review the records if someone requests them.