City of Seattle
Jenny A. Durkan, Mayor

DIRECTIVE ON CITY-WIDE PUBLIC RECORDS ACT IMPROVEMENTS

The City recognizes and affirms the obligation of government to be transparent and accountable to the people. As part of this, the city affirms its duty to maintain and produce public records in compliance with state law. These obligations require a continual reassessment of city policy, ongoing training, and adequate resources. In addition, new technological tools should be regularly evaluated to ensure the most timely and comprehensive responses to public record requests. There is no question that the city, like many other governmental entities, is facing increased challenges with the archival, review and production of records because of the significant increase in the volume and formats of digital records. The transition to "work from home," with an increasing number of communication platforms accelerated these challenges. To address these challenges, the city must take a number of near and long-term actions.

Key to all strategies is sufficient, ongoing training. Training is essential for discharging the obligation of public disclosure. In accordance with RCW 42.56.152, basic public disclosure training has been and will continue to be provided widely to create a culture of compliance within the City. City departments currently handle all their own disclosures under the Public Records Act ("PRA") and have one or more employees trained and responsible for disclosure compliance. The City Clerk's Office and City Attorney's Office, in conjunction with the Citywide Public Records Act program staff ("CPRA") and departmental public disclosure officers ("PDOs"), will continue to conduct regular public disclosure training for PDOs, as well as other City employees who would benefit from such training. Training shall continue to address, among other topics, issues related to the retention, production, and disclosure of electronic documents, including updating and improving technology information services. As new communication platforms are implemented in the city, the CPRA must evaluate with the City Attorney whether any new training is required of city personnel, or new policies need to be implemented to ensure compliance with the PRA.

Despite the robust PRA policies in place, both near-term and long-term actions need to be taken to address challenges faced by the city in meeting its obligations. It is clear that long term and systemic change is also needed to establish a more cohesive city-wide system with built in processes and mechanisms for continual evolution to keep up with increased demand, ever-changing technology, and the new ways we communicate and create records.

In 2014 and 2015, a Public Disclosure Request Task Force was formed to review current practices, identify shortcomings, and provide an initial set of recommendations regarding Citywide policies, procedures, and organizational structures. The result of this task force was the creation of the City's CPRA program, which was formed shortly thereafter and was initially housed in the Facilities and Administrative Services (FAS) department. Because of the increasing technological issues involved in creating, storing, archiving, reviewing, and producing records, on January 1, 2021, this function transferred to the Seattle Information and Technology Department (Seattle IT) and currently resides under the Chief Privacy Officer (within Seattle IT's Privacy Office).

The City averages over 14,000 PRA requests annually, and the number and complexity of these records requests have been steadily increasing. There exists an ever-growing need to organize, reliably search and process massive amounts of data in a reasonable amount of time. After collection, which can take time, a systemic review of each document is done to assess issues of privilege or other exemptions to immediate disclosure. These can include issues of privilege, ongoing deliberations, law enforcement matters or other areas of exemption. The city has many records that are exempt from disclosure for various reasons of privacy and confidentiality.   Reviews must be done consistently and efficiently in compliance with state law. Failure to do so places the City in legal and financial liability and risks a loss of public trust. Failure to sufficiently review materials, on the other hand, can lead to the inappropriate release of confidential records. Additionally, the hidden costs associated with responding to public records requests are significant in terms of labor, troubleshooting, training, and re-training, and exploring and supporting technology workarounds.

I recognize the unprecedented challenges faced by the city during the global pandemic, and in particular the Seattle IT, as they supported thousands of city employees who suddenly began remote work, supported new systems needed to support large scale telework, and assisted with establishing new programs like COVID-19 testing and vaccination administration by the city. Seattle IT work increased exponentially, but with reduced workforce and resources. Since January 2021, Seattle IT has also assumed the responsibility of the City's Public Disclosure Program from FAS and has been working to identify and resolve many of the systematic process and resource deficiencies.

Based on the work by Seattle IT and in collaboration and consultation with the City Attorney, the following immediate and remedial measures are being taken:

Near-term actions:

New Resources for Public Disclosures
They city will be conducting a systemic review of the need for additional resources, functions, technology, and structure of PRA compliance. However, based on a preliminary review, the City is committing the following resources to increase capacity within the City's CPRA program. These resources will improve the technology available to process records, improve consistency and accuracy, expedite production and request fulfillment, and reduce legal and financial risk to the City.

Technology and Infrastructure Investment Detail:

Resource	Purpose	Amount Required	2021 Cost	Ongoing Annual Cost	Required for Deployment	Approximate Deployment Timeline
Advanced eDiscovery	Enhanced infrastructure for search, discovery, review, multi-platforms, and legal holds	All City – Approx. 13,000	$1.1M/year ($2M for 2021-2022)	$1.1M/year*	No additional cost: 6-8 hours of training required for each PDO to onboard	6 Months; Full deployment by Q4
SMS Message Capture Solution	SMS retention and capture for City-owned mobile devices	All City mobile Devices – Approx. 7,000	$598K	$588K	Educational and awareness campaign and configuration requirements to all City Employees with existing Mobile Devices	3 Months; Full scaled deployment dependent on Citywide MDM implementation
Nuix	Comprehensive discovery file review platform; eliminates technical issues related to current .PST process licensed for PDOs and back-up PDOs	25 additional licenses (25 already purchased by ITD)	$36K	$20K	6-8 hours for each of remaining 25 licenses	6 Months; Full deployment by Q4
2 6-Month FTE TESs	Temporary employees for Intune Mobile Device Management (MDM) device enrollment	2	$152K	NA	HR process	NA
1 FTE	MDM platform support	1	NA	$153K (ITP C)	HR process	NA
TOTALS			**$1.88M**	**$1.86M**		

Additional Resources

Not represented in the table above are full time employee resources to reduce reliance on part time Public Disclosure Officers (PDO) Citywide with the addition of three PDO full time employees to the CPRA team. This will expedite fulfillment and ensure consistency ($496K annually). These positions, which allow for PDO

consolidation and reduction in departmental and CPRA required training and retraining hours, will also result in fewer fulfillment delays and increased response consistency across the City**.**

Third Party Retention of SMS Messages and iMessages
The use of messaging applications has significantly increased and have become a common way of communication among people. This tool comes loaded on almost every mobile phone or device. The City previously did not have technology in place to ensure automatic archiving and quick retrieval of cellular text messages. There is also no mechanism to prevent inadvertent loss of records due to hardware or software failures, hardware losses or other issues inherent with cellular phones, tablets and other devices and their security requirements.
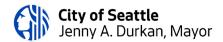
Seattle IT and CPRA are implementing a solution for backing up and retaining texts/messages, for archival, review and production as required. Leadership in the City Attorney's Office, Seattle IT, Seattle Police Department, Seattle Fire Department, and the Mayor's Office have begun piloting and are currently evaluating third party solutions that would enable automatic SMS data collection to make retention and production of records more efficient.

Seattle IT shall continue to evaluate SMS archiving solutions based upon the pilot, and once it has determined a solution, it should expand implementation to all the Mayor's executive staff, cabinet, and the appropriate other senior leaderships across departments. In addition, Seattle IT shall assist all departments in implementing mobile device management (MDM) and approved configuration settings. This system will be reviewed at least annually. Together with a review of newer technology that may be available to perform the same/similar functions in a better or more cost-effective way.

Seattle IT shall evaluate the feasibility and scope of implementing this pilot citywide. Every Department Director will provide this information to Seattle IT. Seattle IT shall also evaluate whether the costs associated with implementing these technological solutions (including the license fees) should be included into the general cost of issuing a City phone to staff members and whether a city phone is necessary for the duties.

Prohibiting Other Messaging Apps
There has been a significant increase in available messaging applications, tools, and platforms. The City policy shall be that no application or communication tool or platform that would create public records can be utilized on a City issued phone or to conduct City business unless approved by Seattle IT. This policy, together with a list of approved apps will be circulated and effective by August 31, 2021. Seattle IT will immediately develop a proposal to operationalize a technological solution to enforce this policy via mobile device management. For example, the City is evaluating the enterprise-wide use of Microsoft Intune, a cloud-based service that focuses on mobile device management (MDM). In doing so, Seattle IT can prohibit non-approved messaging apps from being installed on managed phones (both iPhone and Android). This MDM solution can also be used to only allow a select group of apps to be installed on City phones. However, as of the effective date of the policy, and

even if such a technology tool has not been implemented, it will be deemed a violation of City policy to conduct city business on any non-approved application, tool, or platform. Seattle IT's proposal shall include recommendations on enforcement of this provision once mobile device management is operationalized.

Long-term Planning and Systemic Review:
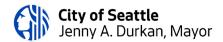
Public Records Act Systemic Review:
Despite the previous work of the taskforce, the city still faces systemic challenges to carrying out its obligations under the Public Records Act and with the increase in digital records, the challenges will be ongoing. CPRA has completed a preliminary Maturity Assessment that offers several recommendations to improve technology and the work necessary to respond to public record requests across the City. This maturity assessment focused programmatically on CPRA's work across the City and did not conduct a detailed analysis on each individual department.

Before finalizing these recommendations, external, and internal stakeholders should have an opportunity to review CPRA's assessment to ensure the City is addressing issues that may be unique to different departments, while also addressing the systemic issues most important to those invested in government transparency.

To that end, Seattle IT shall convene a Systemic Review Team (SRT) of internal departmental stakeholders. This SRT will review the CPRA Maturity Assessment recommendations pertaining to the City's structure, processes, and procedures city-wide for PRA requests, and look at processes, tools, and best practices in other governmental or private companies. The SRT shall consult with external stakeholder on priorities and ongoing concerns related to PRA compliance, and on recommendations to be made by the SRT. Those external stakeholders should include media representatives, transparency advocates, technologists, and known PRA experts.

The SRT will make recommendations by December 31, 2021 on any additional ways the City could improve the system to expedite the production of public records, including whether there should be greater centralization of the function, additional personnel, updated technology, better training, and more recommendations of best practices.

In addition, since the Seattle Police Department accounts for almost half of all the PRA requests received by the City, and the types of records that exist at SPD are generally technical and complex, the SRT shall separately assess and make specific recommendations on investments and improvements to the SPD Public Disclosure Unit based on best practices. The SRT should consult with SPD, CPRA, and the City Attorney's Office to review the Public Disclosure Unit staffing assessment SPD conducted, review the March 2015 Auditor's report regarding SPD's Public Disclosure Process, and review SPD's 2021 response updates for making recommendations specifically pertaining to SPD.

CPRA program staff, the City Clerk and Seattle Police Department shall help identify departmental representatives and Public Disclosure Officers who will participate in or support the Systemic Review Team (SRT) and provide input and information as appropriate. The City Attorney and the Central Budget Office (CBO) shall also be consulted and included as appropriate. Any CPRA recommendations, SPD related recommendations, or stakeholder input that is ultimately endorsed by the internal SRT that requires new budget actions or authority should be reviewed by the CBO to be included in the 2022 budget process, or a supplemental budget process, and beyond.

The SRT review and feedback on the CPRA Maturity Assessment Recommendations and SPD PRA recommendations should include, but not be limited to the following:

- A baseline assessment of current public disclosure processes and technologies and resources.
- Whether the City should create a new, independent, cabinet level executive position of Chief Public Records Officer, who will ensure recommendations are implemented, and have authority to oversee PRA production city wide.
- Whether the city should be creating a city-wide centralized PRA office. This is to include dedicated PRA officers with a higher level of training and expertise on the tools for searching records and that will have the time to dedicate to continual improvement and adapt to continually changing technology and evolving ways employees communicate and create records.
- How the current PRA Officers workload across departments compares to best practices for staffing levels to respond to PRA requests quickly and fully. While centralizing PRA officers may create some efficiencies, the SRT should also consider if improvements could be made to address situations where departments may be currently under resourcing this work. The SRT should examine the number of full-time employees needed for optimal PRA compliance. This may include whether it makes sense to pool resources among smaller departments or having PRA Officers who specialize subject matters or types of records.
- Investments that may be needed for additional technological tools for efficient and accurate production of records in response to PRA request, such as Advanced eDiscovery software to improve the accuracy of search results with auditing capabilities and redaction and review software to reliably automate many of the time-consuming redaction requirements.
- Whether there are mechanisms for frequently requested records or information, to make the records and data publicly accessible through open source, searchable databases or dashboards that would both increase transparency and reduce workload on PRA Officers.
- Determine the ideal composition, and structure, longevity, and meeting cadence for a long-term Transparency Advisory Group as described below.

Formation of a Transparency Advisory Group:
As public records work continues to grow exponentially, it is imperative that the City obtain and implement the proper tools and ensure there is adequate personnel to handle the ever-increasing workload. To foster an

environment of continuous improvement and to provide a resource and touchstone for the City, a Transparency Advisory Group (TAG) of external and internal stakeholders shall be established to assess and advise the City on its PRA policies, procedures, technology, and implementation. The TAG should be updated and provide input on:

- Areas where there seem to be systemic barriers or issues related to timely compliance.
- Policy, procedure, or training changes.
- New technologies and tools being considered to aid in retention, archival, or production of records.
- Current volume and response times for requests.
- Other issues that impact the obligation of the City under the PRA.

The TAG shall use this forum to raise concerns about any specific or systemic issues, policy, or practices. TAG will issue an annual report to the public that describes the work of the preceding year and make recommendations on investments and improvements the City can make.