

# Public Records Act





## **Transparent Government: Your Rights to Access Official State Records and Documents.**

*This guide provides information about Washingtonians' rights to access official state records from agencies and cities under the Public Records Act. This guide is not intended to provide legal advice. If you believe your rights have been violated or if you seek additional information, please contact the ACLU-WA [Information and Referral Program](#).*

### **What is the Public Records Act?**

Washington's Public Records Act (PRA) protects the people's power to request records from any state or local government agency. The PRA only covers state and local institutions. For information on accessing records held by the federal government, see our FOIA guide [here](#).

The purpose of the PRA is to ensure that Washingtonians remain informed about the activities of their government "so that [the people] may maintain control over the instruments that they have created."<sup>1</sup>

The PRA guarantees a variety of protections that enable us to keep our local and state government accountable by letting us view official documents. The ACLU of Washington regularly uses the PRA to collect records on governmental actors.

For example, the law covers:

- police and sheriff departments,
- jails and prisons,
- entities like city and county councils and boards of county commissioners,
- public school boards, public libraries, and public colleges and universities,
- public hospitals and other government run health care agencies, and a variety of other agencies (e.g., Department of Commerce, state police, Department of Ecology, etc.)

### **How do I make a PRA request?**

The first step for any successful PRA request is to identify the entities (agency, department, city, governmental body) that possess the records you seek. The second step is to draft a description of

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<sup>1</sup> RCW [42.56.030](#).

the documents you wish to request. The description should include any official name of documents (e.g., “police report”), a reference to any law that requires the agency to keep or produce the specific document, and a time frame. (The final step is to figure out how to make the request: online, by phone, or via mail.

Anyone can make a PRA request. **If an agency tells you otherwise, please inform the ACLU of Washington immediately.**

Some entities make requesting records easier than others. For example, nearly all local police departments in Washington maintain a “public records” portal on their website. Often, agencies will also use the online center to provide responsive records, which allows requesters to immediately access digital copies.

Alternatively, people can request records by mail or over the phone. Find the phone number of a government agency in our state’s [telephone directories](#), or by calling the Secretary of State’s “Ask a Librarian” service at: 360-704-5221. While online requests are much easier to process, an agency must accept a request that was made under the PRA by mail. An agency cannot insist that a request only be made in a specific format (over the phone, online, etc.).

That said, **the ACLU of Washington recommends making the request in writing, and preferably online, through a website’s record center.** Oral requests (over the phone) can be misunderstood, and often create no record of the actual request made. Mail requests have unclear timelines: unless steps are taken to track the mailing, there will be no confirmation of when the request arrived with the agency’s record custodian, or when they began processing the request. In contrast, digital requests are received immediately, and email notifications will be automatically sent whenever action has been taken on the request. Additionally, digital requests create a record chain that can help if you experience difficulties: there is no need to remember the filing date, when it was acknowledged, when a response was received, what was written to the record officer, or when the agency stopped providing items.

Finally, a request must give the agency fair notice that it is a PRA request; this means that the request should always state: “This is a PRA request.” It is unnecessary to cite the PRA itself. For more clarity on how to craft a request, read our PRA request [template](#).

### **What can be requested under the PRA?**

A person can request nearly all records that pertain to government programs, and information that government officials collect or make (e.g., reports, minutes, memos, assessments, correspondence). See below for records not covered under the PRA.

### **What are the limits of the PRA?**

While the PRA is meant to be liberally interpreted in favor of transparency, there are [hundreds of very specific exemptions](#) under the law. A few notable exemptions: the PRA does not cover records or documents that are protected by attorney-client privilege; records that pertain to open and active investigations; information on affordable housing tenants; information relating to

insurance and financial institutions; and certain records or information held by state prisons and private detention facilities. Importantly, the PRA does not include court documents. For court records and documents, make a request under [General Rule 31.1](#).

In addition to specific exemptions, the PRA exempts the disclosure of information that “(1) would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public.”<sup>2</sup> The public has no right to inspect, examine, or copy public records in a manner that invades one’s privacy. The PRA’s expansive obligations, which require state bodies to maximize their transparency toward the public, have also been abused to harass and to invade people’s privacy.

### **Can they just ignore me?**

Not if a valid request was sent. “A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by an agency is not a valid request for identifiable records under [the PRA].”<sup>3</sup>

Once a valid request is received, the PRA requires that agencies promptly respond to the requester. The agency has **5 business days** to either (a) provide the record, (b) provide a link where the record can be located online, (c) acknowledge the request and provide a reasonable estimate of the time it will take to respond to the request, (d) seek clarification from the requester about the records sought, or (e) deny the request.<sup>4</sup> Usually, agencies reply within 24 hours acknowledging the request and outlining a reasonable response time.

Agency responses tend to come directly from record custodians, so reply to the custodians if seeking to clarify any aspect of the request or their response.

If the agency denies a request, they must explain their reasons. If the agency never responded to the request, consider it denied and plan to appeal. If a requester fails to respond to an agency’s request for clarification, the agency will not respond to the original record request.

If the agency failed to respond or explicitly denied the request, then consider an appeal. (If one simply hasn’t received a response, follow up with the agency before considering an appeal.)

If a PRA request was denied by a state (not a *local*) agency, one can request that the Attorney General review the matter before seeking resolution in court. Direct a written request for review, along with a copy of your initial request and agency denial, to:

**Office of the Attorney General  
Attn: Public Records Review  
P.O. Box 40100  
Olympia, WA 98504-0100**

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<sup>2</sup> [RCW 42.56.050](#).

<sup>3</sup> [RCW 42.56.080](#).

<sup>4</sup> [RCW 42.56.520](#).

**Email: [publicrecords@atg.wa.gov](mailto:publicrecords@atg.wa.gov)**

The Attorney General will conduct an independent review of the request and provide a written opinion on whether the record requested is exempt. More information on the denial review process can be found [here](#) and on the Attorney General's [website](#).

### **How long do they have to respond?**

An agency is only obligated to respond with records within a *reasonable time*. If the requester believes that the agency's time estimate is not reasonable, they can ask a local court to review the agency's timeline.<sup>5</sup> The PRA has a 1-year statute of limitations. This means that a requester who wants to challenge an agency's answer, silence, time estimate, or denial must sue the agency in court within 1 year "of the agency's claim of exemption" or 1 year since the agency's "last production of a record on a partial or installment basis."<sup>6</sup> If the requester wins the lawsuit, the agency will be required to pay for their court and attorney fees.

### **Costs:**

The production of government records can be expensive. However, the cost of production should never be a barrier to transparency in government. Therefore, with certain exceptions, under the PRA governments and agencies are required to let people "inspect" and make copies of records, free of charge.<sup>7</sup> An agency cannot make up its fee structure — fees and costs for records must be established in a document published by the agency or government body. If the cost of your entire request is massive, an agency is not allowed to require a deposit of more than 10% of the estimated total cost.

If one requests physical or digital copies, they can be charged for being provided copies, but government agencies are not allowed to charge more than \$0.15 per photocopy, or printed copy; \$0.10 per scanned page; \$0.05 per each four electronic files or attachments uploaded to email; and \$0.10 per gigabyte for the transmission of records sent electronically.

Finally, lawyers who request records on behalf of civil rights plaintiffs (e.g., people who are suing police for violating their constitutional rights) are not required to pay for redacting, distorting, editing, or pixelating portions of body worn camera footage.<sup>8</sup>

### **Tips for a successful request:**

Washington governments and agencies have previously denied, misconstrued, or ignored PRA requests on dubious grounds. We do not want requests to be unnecessarily denied. Here are some tips:

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<sup>5</sup> [RCW 42.56.550\(2\)](#).

<sup>6</sup> [RCW 42.56.550\(6\)](#).

<sup>7</sup> [RCW 42.56.120\(1\)](#).

<sup>8</sup> [RCW 42.56.240\(14\)\(e\)\(i\)-\(ii\)](#).

- ***Be specific.*** Vague, open-ended requests are easy to deny. Details result in success.
- ***Use what you know.*** Narrow the request by dates, by a specific event or place, and/or by a specific official or specific program.
- ***Never file a request for “all records.”*** Instead, file a request for all records within a specific timeframe (we recommend no more than a 5-year range).
- ***Don’t give up.*** Communication is key. Keep a record. Use the online features to correspond with the record custodian. That way, if the request is denied, there is a complete record of all the communication with the agency for the court to review.