

# Records Management and the Public Records Act

1. Records management responsibilities
2. What is a record
3. What is records management
4. The Public Records Act (RCW 42.56)
5. County records and personal devices

# Records Management Responsibilities

**Every County Employee and Advisory Board Member is responsible  
for some records management**

# What Is a 'Record'?

## ► RCW 40.14 (Preservation and Destruction of Public Records)

### 1. "Made by or received by any agency in the State of Washington"

Public records include both the records that an agency *creates* and those that it *receives* or *collects*.

### 2. "In connection with the transaction of public business"

A record provides proof or evidence of agency business. Agency business includes not only the core functions of an agency, but also support functions

### 3. "Regardless of physical form or characteristics"

If a record meets the two criteria listed above, then it is a public record, regardless of the format in which it is transmitted or received. This definition encompasses physical and digital formats.

# What Is a 'Record'?

## ► RCW 42.56 (Public Records Act)

- "Public record" includes any **writing** containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency **regardless of physical form or characteristics**.
- "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

# What is Records Management?

- ▶ The goal of records management is controlling records and information to reduce risk, reduce cost, and maximize efficiency
- ▶ Two main branches of RM:
  - ▶ Retention
  - ▶ Disposition
- ▶ Passive vs Active
  - ▶ Passive – “Keep everything, we might need it.” Only uses retention.
  - ▶ Active – “Let’s get rid of what we don’t need.” Uses retention & disposition.

# What is Records Management?

- ▶ CORE (Local Government Common Records Retention Schedule, v. 5.0)
  - ▶ DAN (Disposition Authority Number)/ Description
  - ▶ Retention/Disposition Action
    - ▶ Keep for 'X', *then*:
    - ▶ Transfer/Destroy
  - ▶ Designation
    - ▶ Archival/Non-Archival
    - ▶ Appraisal
    - ▶ Essential/Non-Essential
    - ▶ OFM (Office Files & Memoranda)/OPR (Official Public Record)
  - ▶ Supplemental Schedules – Law Enforcement, Utilities, Land Use, Auditor, Assessor, etc...

# Public Records Act – RCW 42.56

- ▶ **RCW 42.56**
- ▶ Empowers the public to request all records held by a public agency
  - ▶ Think before you write, it could be on the front page of a newspaper
- ▶ Public can seek monetary penalties and attorney's fees if the agency fails to provide responsive records
- ▶ Exempts certain records from release
- ▶ Does not apply to Judicial offices
  - ▶ GR 31.1

# Public Records Act – RCW 42.56

## ► 42.56.030 Construction.

- The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.

# County records and personal devices

- ▶ **Public records belong to the employer irrespective of location**
- ▶ *Nissen v. Pierce County*
  - ▶ “text messages sent and received by a public employee in the employee’s official capacity are public records of the employer, even if the employee uses a private cell phone.”
- ▶ Text messages can be public records.
  - ▶ If you use your personal phone for county business transfer the files to the County
  - ▶ May be called on to sign an affidavit indicating that you do not have public records responsive to a request on your personal device

# Summary



- ▶ Records Management is everyone's responsibility
- ▶ The state determines the minimum retention for public records
- ▶ The Public Records Act allows the public to review/request all public records unless otherwise exempt from disclosure
- ▶ Public records belong to the employer irrespective of location