

Chapter 446-10 WAC

PUBLIC RECORDS

WAC

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**DISPOSITION OF SECTIONS FORMERLY
CODIFIED IN THIS CHAPTER**

- 446-10-020 Definitions. [Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-020, filed 3/23/79.] Repealed by WSR 07-04-039, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570].
- 446-10-060 Public records officer. [Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-060, filed 3/23/79.] Repealed by WSR 07-04-039, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570].
- 446-10-070 Office hours. [Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-070, filed 3/23/79.] Repealed by WSR 07-04-039, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570].
- 446-10-120 Protection of public records. [Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-120, filed 3/23/79.] Repealed by WSR 07-04-039, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570].
- 446-10-130 Records index. [Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-130, filed 3/23/79.] Repealed by WSR 07-04-039, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570].
- 446-10-140 Request for information. [Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-140, filed 3/23/79.] Repealed by WSR 07-04-039, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570].
- 446-10-150 Adoption of form. [Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-150, filed 3/23/79.] Repealed by WSR 07-04-039, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570].

WAC 446-10-010 Authority and purpose. (1) RCW 42.56.070(1) requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The act defines "public record" to include 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 the agency. RCW 42.56.070(2) requires each agency to set forth "for informational purposes" every law, in addition to the Public Records Act (the act), that exempts or prohibits the disclosure of public records held by that agency.

(2) The purpose of these rules is to establish the procedures the Washington state patrol shall follow in order to provide full access to public records. These rules provide information to persons wishing to request access to public records of the Washington state patrol and establish processes for

both requestors and Washington state patrol staff that are designed to best assist members of the public in obtaining such access.

(3) The purpose of the act is to provide the public full access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of the efficient administration of government. In carrying out its responsibilities under the act, the Washington state patrol shall be guided by the provisions of the act describing its purposes and interpretation.

[Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570]. WSR 07-04-039, § 446-10-010, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-010, filed 3/23/79.]

WAC 446-10-030 Description of central and field organizations of the Washington state patrol. (1) The Washington state patrol is a law enforcement agency. The Washington state patrol is headquartered in the General Administration Building, 210 - 11th Avenue S.W., Olympia, Washington 98504. The department has eight district headquarters with working addresses as follows:

- District I - 2502 112th Street East, Tacoma
98445-5104
- District II - 2803 - 156th Avenue S. E., Bellevue
98007
- District III - 2715 Rudkin Road, Union Gap
98903
- District IV - West 6403 Rowand Road, Spokane
99204-5300
- District V - 11018 N.E. 51st Circle, Vancouver
98682-3812
- District VI - 2822 Euclid Avenue, Wenatchee
98801-5916
- District VII - 2700 116th Street N.E., Marysville
98271-9425
- District VIII - 4811 Werner Road, Bremerton
98312-3333

(2) Any person wishing to request access to public records of the Washington state patrol, or seeking assistance in making such a request, shall contact the public records officer of the Washington state patrol:

Public Records Officer
Washington State Patrol
P.O. Box 42631
Olympia, WA 98504
Phone: 360-596-4137
Fax: 360-596-4153
Email: pubrecs@wsp.wa.gov

Information is also available at the Washington state patrol's web site at <http://www.wsp.wa.gov/>.

(3) The public records officer shall oversee compliance with the act, but another Washington state patrol staff member may process the request. Therefore, these rules shall refer to the public records officer "or designee." The public records officer or designee and the Washington state patrol shall provide the "fullest assistance" to requestors; create and maintain for use by the public and Washington state patrol officials an index to public records of the Washington state patrol; ensure that public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of the Washington state patrol.

[Statutory Authority: RCW 42.56.040. WSR 08-20-074, § 446-10-030, filed 9/26/08, effective 10/27/08. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570]. WSR 07-04-039, § 446-10-030, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.17.250. WSR 95-24-041, § 446-10-030, filed 11/30/95, effective 12/31/95; WSR 79-04-037 (Order 79-2), § 446-10-030, filed 3/23/79.]

WAC 446-10-040 Operations and procedures. The department has and exercises throughout the states such police powers and duties as are vested in sheriffs and peace officers generally, and such other powers and duties as are presented by chapter 43.43 RCW and other applicable RCW chapters. The members of the department enforce, throughout the state, laws having statewide application. The individual officer assumes his law enforcement role after a period of rigorous training, and is vested with certain discretion in his contact with alleged law violators in the same degree as are sheriffs and other peace officers. His role also encompasses providing nonlaw enforcement assistance to members of the public within his competence and training, including first aid, traffic direction, aid to stranded motorists, etc.

[Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-040, filed 3/23/79.]

WAC 446-10-050 Availability of public records. (1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of the Washington state patrol; 8:00 a.m. to noon, and 1:00 p.m. to 4:00 p.m., Monday through Friday, excluding legal holidays. Records must be inspected at the offices of the Washington state patrol.

(2) **Records index.** An index of public records is available for use by members of the public. The index includes a list of current manuals of the Washington state patrol, a current list of laws, other than those listed in chapter 42.56 RCW, that exempts or prohibits disclosure of specific information or records, and current *Washington Administrative Code* agency rules. The index may be accessed online at www.wsp.wa.gov/, or at any public Washington state patrol office.

(3) **Organization of records.** The Washington state patrol shall maintain its records in a reasonably organized manner. The Washington state patrol shall take reasonable actions to protect records from damage and disorganization. A requestor shall not take Washington state patrol records from Washington state patrol offices without the permission of the public records officer or designee. Records may be

available on the Washington state patrol web site at www.wsp.wa.gov/. Requestors are encouraged to view the documents available on the web site prior to submitting a records request.

(4) Making a request for public records.

(a) Any person wishing to inspect or obtain copies of public records of the Washington state patrol shall make the request in writing using the Washington state patrol request form, or by letter, fax, or email addressed to the public records officer. Each request should include the following information:

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and/or any email address; and
- Identification of the public records adequate for the public records officer or designee to locate the records.

(b) If the requestor wishes to inspect rather than obtain copies of records, they shall indicate this preference in their request. Pursuant to WAC 446-10-090, standard photocopies shall be provided at fifteen cents per page, plus postage.

(c) A form is available for use by requestors online at www.wsp.wa.gov/.

[Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570]. WSR 07-04-039, § 446-10-050, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-050, filed 3/23/79.]

WAC 446-10-080 Processing of requests for public records. (1) **Providing "fullest assistance."** The Washington state patrol is charged by statute with adopting rules which provide for how it shall "provide full access to public records," "protect records from damage or disorganization," "prevent excessive interference with other essential functions of the agency," provide "fullest assistance" to requestors, and provide the "most timely possible action" on public records requests. The public records officer or designee shall process requests in the order they are received and allowing for the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer or designee shall do one or more of the following:

- (a) Make the records available for inspection;
- (b) Provide the requested records (or provide a bill for the records if applicable) to the requestor;
- (c) Provide a reasonable estimate of when records shall be available; or
- (d) Deny the request, and providing a statutory explanation as to the reason for the denial.

(3) **Consequences of failure to respond.** If the Washington state patrol does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the public records officer to determine the reason for the failure to respond.

(4) **Protecting rights of others.** In the event that the requested records contain information that may affect rights of others and may be exempt from disclosure, the public records officer or designee may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. This notice is given so affected persons may seek an order from a court to prevent or limit the

disclosure. The notice to the affected persons may include a copy of the request.

(5) **Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part. If the Washington state patrol believes that a record is exempt from disclosure and should be withheld, the public records officer or designee shall state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld. If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the public records officer or designee shall redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, the Washington state patrol shall provide space to inspect public records. No member of the public may remove a document from the viewing area or disassemble or alter any document without approval from the public records officer or designee. The requestor shall indicate which documents he or she wishes the agency to copy.

(b) The requestor must claim or review the assembled records within thirty days of the Washington state patrol's notification to him or her that the records are available for inspection or copying. The agency shall notify the requestor in writing of this requirement and inform the requestor that he or she is to contact the agency to make arrangements to claim or review the records. If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period or make other arrangements, the Washington state patrol may close the request and refile the assembled records. Other public records requests can be processed ahead of a subsequent request by the same person for the same or almost identical records, which may be processed as a new request.

(7) **Providing copies of records.** After inspection is complete or in lieu of inspection, the public records officer or designee shall make the requested copies or arrange for copying and provide them to the requestor.

(8) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee may provide access for inspection and copying in installments, if he or she reasonably determines that it would be more practical to provide the records in that way. If, within thirty days, the requestor fails to inspect one or more of the installments, the public records officer or designee may stop searching for the remaining records and close the request.

(9) **Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the public records officer or designee shall indicate that the Washington state patrol has completed the request and provided all available (nonexempt) records.

(10) **Closing withdrawn or abandoned request.** When the requestor either withdraws the request or fails to fulfill his or her obligations to inspect the records or pay the deposit or final payment for the requested copies, the public records officer shall close the request and indicate to the requestor that the Washington state patrol has closed the request.

(11) **Later discovered documents.** If, after the Washington state patrol has informed the requestor that it has pro-

vided all available records, the Washington state patrol becomes aware of additional responsive documents existing at the time of the request, it shall promptly inform the requestor of the additional documents and provide them on an expedited basis.

[Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570]. WSR 07-04-039, § 446-10-080, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-080, filed 3/23/79.]

WAC 446-10-090 Costs for providing copies of public records. (1) The following copy fees and payment procedures apply to requests to the agency under chapter 42.56 RCW.

(2) **Actual costs.** Pursuant to RCW 42.56.120 (2)(b), the agency is not calculating all actual costs for copying records because to do so would be unduly burdensome for the following reasons:

(a) The agency does not have the resources to conduct a study to determine all its actual copying costs;

(b) To conduct such a study would interfere with other essential agency functions; and

(c) Through the 2017 legislative process, the public and requestors have commented on and been informed of authorized fees and costs, including for electronic records, provided in RCW 42.56.120 (2)(b) and (c), (3) and (4).

(3) **Costs for paper copies.** There is no fee charged for inspecting public records. The agency will charge for copies of paper records pursuant to the default fees in RCW 42.56.120 (2)(b) and (c). A requestor may obtain standard black and white photocopies for fifteen cents per page.

(a) Before beginning to make copies, the public records officer or designee may estimate costs of copying the records, and may require a deposit of up to ten percent of all the records selected by the requestor.

(b) The public records officer or designee may require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

(c) The Washington state patrol shall not charge sales tax when it makes copies of public records.

(4) **Costs for electronic records.** Electronic copies of records shall be charged as follows pursuant to RCW 42.56.120 (2)(b) and (c):

(a) Ten cents per page for scanned records or for use of agency equipment for scanning.

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

(c) Ten cents per gigabyte for records transmitted in an electronic format or for use of agency equipment to send records electronically.

(d) Actual costs of any digital storage media or devices provided by the agency.

(e) Actual costs of a "customized service charge" when the request would require the use of information technology expertise to prepare data compilations or when such customized access services are not used by the agency for other business purposes.

(i) The agency will notify the requestor and take other steps if it will be doing a customized service charge.

(ii) The public records officer or designee may require a deposit of up to ten percent of the estimated costs of copying all the records selected by the requestor. The public records officer or designee may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.

(iii) Copy charges may be combined to the extent more than one type of charge applies to copies responsive to a particular request.

(iv) Public records request fees do not supersede other statutory provisions for copying fees.

(5) **Costs of mailing.** The Washington state patrol may also charge actual costs of mailing, including the cost of the shipping container.

(6) **Payment.** Payment shall be made payable to the Washington state patrol.

(7) **Summary of charges.** Upon request the Washington state patrol will provide a summary of the applicable charges before copies are made and the requestor may revise the request to reduce the number of copies, thereby reducing the applicable charges.

(8) **Waiver of charges [reserved].** It is within the discretion of the public records officer or designee to waive copying fees when:

(a) All of the records responsive to an entire request are paper copies only and are twenty-five or fewer pages; or

(b) All of the records responsive to an entire request are electronic and can be provided in a single email with attachments of a size totaling no more than the equivalent of one hundred printed pages. If that email for any reason is not deliverable, records will be provided through another means of delivery, and the requestor will be charged in accordance with this section.

[Statutory Authority: RCW 42.56.120 (2)(b) and (c). WSR 18-03-058, § 446-10-090, filed 1/10/18, effective 2/10/18. Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570]. WSR 07-04-039, § 446-10-090, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.17.250 and 42.17.300. WSR 97-01-018, § 446-10-090, filed 12/9/96, effective 1/9/97. Statutory Authority: RCW 42.17.250. WSR 90-10-097, § 446-10-090, filed 5/2/90, effective 6/2/90; WSR 79-04-037 (Order 79-2), § 446-10-090, filed 3/23/79.]

Reviser's note: The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency.

WAC 446-10-100 Exemptions. (1) The Public Records Act, chapter 42.56 RCW, provides that a number of types of documents are exempt from public inspection and copying. In addition, documents are exempt from disclosure if any "other statute" exempts or prohibits disclosure. A list of statutes containing exemptions, outside the Public Records Act, that restrict the availability of some documents held by Washington state patrol for inspection and copying can be found in the Washington state patrol public records index which is available online at www.wsp.wa.gov/ or at any Washington state patrol public office.

(2) The Washington state patrol is prohibited by statute from disclosing lists of individuals for commercial purposes.

[Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570]. WSR 07-04-039, § 446-10-100, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-100, filed 3/23/79.]

WAC 446-10-110 Review of denials of public records. (1) **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a request for a public record may petition for prompt review of such decision by tendering a written request for review. The petition shall include a copy of, or reasonably identify, the written statement by the public records officer or designee denying the request.

(2) **Consideration of petition for review.** The public records officer shall promptly provide the petition and any other relevant information to the chief or designee. The chief or designee shall immediately consider the petition and either affirm or reverse the denial within two business days following the Washington state patrol's receipt of the petition, or within such other time as the Washington state patrol and the requestor mutually agree upon.

(3) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the Washington state patrol denies a requestor access to public records because it claims the record is exempt in whole or in part from disclosure, the requestor may request the attorney general's office review the matter. The attorney general has adopted rules on such requests in WAC 44-06-160.

(4) **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of two business days after the initial denial regardless of any internal administrative approval.

[Statutory Authority: RCW 42.56.040 through 46.56.570 [42.56.570]. WSR 07-04-039, § 446-10-110, filed 1/30/07, effective 3/2/07. Statutory Authority: RCW 42.17.250. WSR 79-04-037 (Order 79-2), § 446-10-110, filed 3/23/79.]