

WSR 22-10-093
PROPOSED RULES
CRIMINAL JUSTICE
TRAINING COMMISSION
[Filed May 3, 2022, 5:18 p.m.]

Supplemental Notice to WSR 22-05-039.

Preproposal statement of inquiry was filed as WSR [21-10-029 on] April 27, 2021.

Title of Rule and Other Identifying Information: Original notice was provided in WSR 21-10-029 to change the public records WAC, updating them to current practices and procedures for chapter 139-02 WAC.

Hearing Location(s): On June 8, 2022, at 10 a.m. - 12 p.m., at 19010 1st Avenue South Burien, WA 98148; or virtual at cjtc.wa.gov.

Date of Intended Adoption: June 8, 2022.

Submit Written Comments to: Derek Zable, 19010 1st Avenue South Burien, WA 98148, email dzable@cjtc.wa.gov, by June 7, 2022.

Assistance for Persons with Disabilities: Contact Derek Zable, phone 206-835-7350, email dzable@cjtc.wa.gov, by June 7, 2022.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rule updates the commission's public records WAC to current best practices and to the current procedures within the commission. It also updates the format of the existing WAC for accessibility and referencing.

Reasons Supporting Proposal: Updating the public records WAC for the commission allows clarity for requestors, notice of what our current practices and procedures are, and for a common reference of the requirements of the public record[s] officer.

Statutory Authority for Adoption: RCW 43.101.080, 42.56.040.

Statute Being Implemented: Chapter 42.56 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Derek Zable, 19010 1st Avenue South, Burien, WA 98148, 206-835-7350.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

May 3, 2022
Derek Zable
Records Manager

OTS-3600.3

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-010 Authority and purpose. (~~((1) RCW 42.56.070(1) requires each agency to make available for inspection and copying non-exempt "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 criminal justice training commission 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 criminal justice training commission and establish processes for both requestors and Washington state criminal justice training commission 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 criminal justice training commission shall be guided by the provisions of the act describing its purposes and interpretation.)~~ (1) These rules establish procedures the Washington state criminal justice training commission will follow to provide full access to public records. These rules:

(a) Provide information to persons wishing to request commission public records; and

(b) Establish processes for both requestors and commission staff to fully assist the public in obtaining such access.

(2) In carrying out its public records responsibilities the commission will be guided by the provisions of chapter 42.56 RCW, the Public Records Act.

[Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-010, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-010, filed 8/4/00, effective 9/4/00.]

NEW SECTION

WAC 139-02-021 Definitions. The definitions set forth in RCW 42.56.010 apply throughout this chapter. In addition, the definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) **Commercial purposes** means a business activity by any form of business enterprise intended to generate revenue or financial benefit.

(2) **Customary business hours** refers to Burien administrative office hours which are 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays and days the commission is closed.

(3) **Electronic format** or **electronic records** or **electronic records format** refer to digital records as distinct from paper; examples include email, Word or Excel documents, PDF, or media files.

(4) **Executive director** means the executive director of the Washington state criminal justice training commission.

(5) **Page** means one impression/image on a single side of a sheet of paper. It also applies to one electronic image of a single side of a sheet of paper. For example, the commission considers a physical sheet of paper with an impression/image on both sides as two pages.

(6) **Public Records Act** means the same as chapter 42.56 RCW.

(7) **Public records officer** means the public records officer or designee for the commission appointed by the executive director.

(8) **Request** or **public records request** means a public records request made pursuant to chapter 42.56 RCW.

[]

AMENDATORY SECTION (Amending WSR 21-07-039, filed 3/10/21, effective 4/10/21)

WAC 139-02-040 About the Washington state criminal justice training commission and public records officer. (1) The Washington state criminal justice training commission is the state training academy for law enforcement and corrections professionals. The (~~Washington state criminal justice training~~) commission's campus is located in Burien, WA at 19010 1st Avenue South. The (~~Washington state criminal justice training~~) commission has a fiscal office in Lacey, WA located at 3060 Willamette Drive N.E.

(2) Any person wishing to request access to public records of the (~~Washington state criminal justice training~~) commission, or seeking assistance in making such a request, should contact the public records officer of the (~~Washington state criminal justice training~~) commission:

Public Records Officer
Washington State Criminal Justice Training Commission
MS: TB-35
19010 1st Avenue South
Burien, WA 98148
Phone: 206-835-7300
Email: Recordsrequests@cjtc.wa.gov

Public records requests can be made and additional information is (~~also~~) available at the (~~Washington state criminal justice training~~) commission's website at cjtc.wa.gov.

(3) The public records officer will oversee compliance with the act, but another (~~Washington state criminal justice training~~) commission staff member may process the request. Therefore, these rules will refer to the public records officer or designee. The public records officer or designee and the (~~Washington state criminal justice training~~) commission will:

(a) Provide the fullest assistance to requestors;

(b) Create and maintain for use by the public and (~~Washington state criminal justice training~~) commission officials an index to public records of the (~~Washington state criminal justice training~~) commission;

(c) Ensure ((that)) public records are protected from damage or disorganization; and

(d) Prevent fulfilling public records requests from causing excessive interference with essential functions of the ((Washington state criminal justice training)) commission.

[Statutory Authority: RCW 43.101.080. WSR 21-07-039, § 139-02-040, filed 3/10/21, effective 4/10/21. Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-040, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 05-01-109, § 139-02-040, filed 12/15/04, effective 1/15/05; WSR 00-17-017, § 139-02-040, filed 8/4/00, effective 9/4/00.]

AMENDATORY SECTION (Amending WSR 21-07-039, filed 3/10/21, effective 4/10/21)

WAC 139-02-050 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 criminal justice training)) commission; 8:00 a.m. ((to noon, and 1:00 p.m. to 4:00)) to 5:00 p.m., Monday through Friday, excluding legal holidays and days the campus is closed. Records must be inspected at the ((offices)) Burien campus of the ((Washington state criminal justice training)) commission.

(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 criminal justice training commission, 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 ejtc.wa.gov or at the Washington state criminal justice training commission in Burien.))

(a) The commission shall have available to all persons at its offices in Burien a current index which provides identifying information as to the following records:

(i) All records issued before July 1, 1990, for which the commission has maintained an index;

(ii) Final orders entered after June 30, 1990, that are issued in adjunctive proceedings as defined in RCW 34.05.010(1) and contain an analysis or decision of substantial importance to the commission in carrying out its duties;

(iii) Declaratory orders entered after June 30, 1990, that are issued pursuant to RCW 34.05.240 and contain an analysis or decision of substantial importance to the commission in carrying out its duties;

(iv) Interpretive statements as defined in RCW 34.05.010(8) that were entered after June 30, 1990;

(v) Policy statements as defined in RCW 34.05.010(14) that were entered after June 30, 1990; and

(vi) Meeting minutes of the governing body of commission.

(b) The system of indexing shall be as follows:

(i) The indexing system shall be administered by the commission's public records officer and shall be located at the Burien campus.

(ii) Copies of indexes shall be available for public inspection and copying in the same manner provided for the inspection and copying of public records.

(iii) The public records officer shall establish and maintain a separate index for each item contained in (a) (i) through (vi) of this subsection as follows:

(A) All final orders and declaratory orders determined by the commission to contain analyses or decisions of substantial importance to the commission shall be listed alphabetically by the titles of the hearing or controversy and shall contain a phrase describing the important issue or issues.

(B) Interpretive statements and policy statements shall be indexed by the applicable program.

(C) The meeting minutes of the governing body of the commission shall be indexed chronologically.

(iv) The public records officer shall update all indexes at least once a year and shall revise such indexes when deemed necessary.

(3) Organization and protection of records.

(a) The ((Washington state criminal justice training)) commission maintains its records in a reasonably organized manner and takes reasonable actions to protect records from damage and disorganization. ((A requestor shall not take Washington state criminal justice training commission records from Washington state criminal justice training commission offices without the permission of the public records officer or designee.)) If commission records are maintained in a digital format, they will be provided digitally in response to a public records request. If records are maintained and inspected on paper, a requestor may ask for copies.

(b) Records will be made available to the requestor for inspection subject to the following restrictions:

(i) Only the public records officer will remove records from the designated inspection area.

(ii) The quantity of records may be limited in accordance with the available space.

(iii) All possible care shall be taken by the requestor to prevent damage to the records.

(iv) Records shall not be marked, altered, cut or mutilated in any way.

(v) During inspection, eating, drinking, and smoking are prohibited.

(vi) Records shall not be defaced in any way including writing on, folding or folding anew if in folded form, tracing or fastening with clips or other fasteners except those that already exist in the file.

(vii) Records must be kept in the order in which received.

(viii) Commission personnel will provide all requested copies of records.

(ix) The public records officer will remove the records from the inspection area when no longer required by the requestor and no later than the end of the customary business hours.

(c) Records may be available on the ((Washington state criminal justice training)) commission website at cjtc.wa.gov. Requestors are encouraged to view the documents available on the website 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 criminal justice training)) commission

shall make the request in writing using the ~~((Washington state criminal justice training))~~ commission public record request ~~((form, or))~~ website, by letter, 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 an email address; and
- Identification of the public records adequate for the public records officer or designee to locate the records.

(b) Communications seeking commission records sent or provided to unauthorized locations, addresses or staff, will not be accepted or processed as public records request. Any such communication will be processed as general informal inquiries, general correspondence, general requests for information, or discovery as appropriate. The requestor may resubmit his/her request to the public records officer at the Burien office.

(c) If the requestor wishes to have copies of the records made instead of inspecting them, the request should so indicate. Costs will be assessed in compliance with WAC 139-02-070.

(d) If requestors wish to inspect rather than obtain copies of records, they must indicate this preference in their requests ~~((. Pursuant to WAC 139-02-070, standard photocopies are provided at fifteen cents per page, plus postage))~~ and the requestor must follow the rules of requesting to inspect public records provided in WAC 139-02-090(6).

[Statutory Authority: RCW 43.101.080. WSR 21-07-039, § 139-02-050, filed 3/10/21, effective 4/10/21. Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-050, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-050, filed 8/4/00, effective 9/4/00.]

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-070 Costs for providing copies of public records.

~~((1) Costs for paper copies. There is no fee charged for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page. 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. 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. The Washington state criminal justice training commission will not charge sales tax when it makes copies of public records.~~

~~(2) Costs for electronic records. The cost of electronic copies of records shall be the actual cost of the CD, DVD, audio or video tape, or disc.~~

~~(3) Costs of mailing. The Washington state criminal justice training commission may also charge actual costs of mailing, including the cost of the shipping container.~~

~~(4) Payment. Payment may be made by check or money order only, payable to the Washington state criminal justice training commis-~~

sion.)) (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) There is no fee charged for inspecting public records.

(4) **Costs for paper copies.** The agency will charge for copies of paper records pursuant to the fees in RCW 42.56.120 (2) (b) and (c).

(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 10 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 commission shall not charge sales tax when it makes copies of public records.

(5) **Costs for electronic records.** Electronic copies of records shall be charged as follows pursuant to the fees in RCW 42.56.120 (2) (b) and (c), which includes:

(a) Charge for scanned records or for use of agency equipment for scanning.

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

(c) Charge 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 10 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.

(6) **Costs of mailing.** The commission may also charge actual costs of mailing, including the cost of the shipping container.

(7) **Payment.** Payment shall be made payable to the Washington state criminal justice training commission by check or money order only.

(8) **Payment date.** The payment date for fees, deposits, or other costs will be scheduled at a minimum of 30 days, but no more than 45 days, after the required payment is communicated with the requestor. If a requestor fails to pay by the payment date, the request will be closed per WAC 139-02-090(8).

(9) **Summary of charges.** Upon request the commission 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.

(10) **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 25 or fewer pages; or

(b) All of the records responsive to an entire request are electronic and no more than the equivalent of 100 printed pages.

[Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-070, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-070, filed 8/4/00, effective 9/4/00.]

AMENDATORY SECTION (Amending WSR 09-13-066, filed 6/16/09, effective 7/17/09)

WAC 139-02-090 Processing requests for public records. (1) **Providing fullest assistance.** The Washington state criminal justice training commission 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))~~) will evaluate and process requests according to the nature of the request, clarity, volume, and availability of requested records.

(2) **Acknowledging receipt of request.** Within five business days of receipt of the request, the public records officer or designee will 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 will be available (the public records officer may revise the estimate of when records will be available); (~~((or))~~)

(d) Deny the request and provide a statutory explanation as to the reason for the denial; or

(e) Acknowledge receipt of the request and ask the requestor to clarify all or any part of the request that is unclear and provide to the greatest extent possible a reasonable estimate of the time the

commission will require to respond to the unclear request or unclear part of a request if it is not clarified.

(i) Such clarification may be requested and provided by telephone and memorialized in writing, or by email or letter;

(ii) Clarification may include identifying a record with specificity sufficient for the commission to locate or produce the record;

(iii) If the requestor fails to respond to a request for clarification and the entire request is unclear, the commission need not respond to it. The commission will respond to those portions of a request that are clear.

(3) **Additional time to respond.** Additional time for the commission to respond to a request may be based upon the need to clarify the request, locate and assemble the records requested, notify affected others or agencies affected by the request, or determine whether any of the information requested is exempt and that a denial should be made as to all or part of the request.

~~((3))~~ (4) **Consequences of failure to respond.** If the ((Washington state criminal justice training)) commission 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))~~ (5) **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))~~ (6) **Records exempt from disclosure.** ((Some records are exempt from disclosure, in whole or in part.))

(a) The commission reserves the right to determine a public record is exempt in whole or in part consistent with provisions of the Public Records Act or other applicable provision of law.

(b) If the ((Washington state criminal justice training)) commission believes ((that)) a record is exempt from disclosure and should be withheld, the public records officer or designee will 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 will redact the exempt portions, provide the nonexempt portions, and indicate to the requestor why portions of the record are being redacted.

~~((6))~~ (c) **Certain exemptions other than the Public Records Act itself restrict the disclosure of documents held by the commission. Some examples of such other applicable statutory exemptions include, but are not limited to:**

RCW 5.60.060: Attorney-client privileged records.

Chapter 19.108 RCW: Trade secrets.

(7) The commission reserves the right to delete identifying details when producing any public record when there is reason to believe disclosure of such details would be an invasion of personal privacy protected by RCW 42.56.050.

(8) The commission is prohibited by statute from disclosing lists of individuals or records that may be manipulated to created lists of individuals for commercial purposes pursuant to RCW 42.56.070.

(9) **Inspection of public records.**

~~(a) ((Consistent with other demands, the Washington state criminal justice training commission will 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 will 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 criminal justice training commission's notification to him or her that the records are available for inspection or copying. The Washington state criminal justice training commission will 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 criminal justice training commission 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 will make the requested copies or arrange for copying and provide them to the requestor.~~

~~(8-)) A requestor must notify the commission in advance of their intent to inspect public records. Using the tracking ID the commission assigns to each public records request a requestor must identify with specificity and in advance the records the requestor wishes to inspect. The commission will assist the requestor in scheduling an appointment for inspection and may propose convenient alternatives to an in-person visit. Public records will be available for inspection during customary business hours and when staff are available to assist the requestor.~~

~~(b) When the request to inspect is for a large number of records, the public records officer may schedule inspection in installments.~~

~~(c) The commission will notify the requestor of the scheduled appointment. The requestor must inspect the requested records within 30 days of the scheduled appointment. If the requestor or a representative of the requestor fails to inspect the records within the 30-day period or fails to make other arrangements, the commission may close the request and refile the assembled records. If the requestor makes a request for the same records it will be processed as a new request.~~

~~(d) Agency facilities shall be made available to any person for the copying of public records except when and to the extent that this would unreasonably disrupt the operations of the agency.~~

~~(e) Inspections are conducted in accordance with the requirement that agencies protect the requested records from damage or disorganization. No member of the public shall remove a document from the inspection area or disassemble or alter any public record.~~

~~(f) After inspection is complete, the requestor may wish to identify which documents the requestor wishes the agency to copy.~~

~~(i) Where the commission charges for copies, the requestor must pay for the copies prior to the copies being provided to the requestor.~~

~~(ii) Electronic records will be provided as a link to the records on the commission public records website if the records are located on~~

the public records website, or in a format used by the commission and which is generally commercially available.

(g) When the inspection of the requested records is complete and any requested copies are provided the public records officer will close the records request.

(10) Providing records in installments.

(a) 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.

(b) If, within ~~((thirty))~~ 30 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 will indicate that the Washington state criminal justice training commission has completed the request and provided all available (nonexempt) records.~~

~~(10))~~ (c) When the request is for copies of public records, the public records officer may require payment for each installment either prior to providing the installment or prior to providing subsequent installments. In addition, the requestor may be required to provide a deposit up to 10 percent of the estimated cost of copying all records selected by the requestor. If the requestor fails to pay the required cost by the scheduled payment date, the public records officer may close the request.

(11) Closing withdrawn or abandoned request. ~~((When the requestor either))~~

(a) The public records officer will close a request when the requestor:

(i) Withdraws the request ~~((or))~~;

(ii) Fails to fulfill his or her obligations to inspect the records ~~((or))~~ 30 days after the scheduled inspection date;

(iii) Fails to clarify an entirely unclear request 30 days after clarification was requested;

(iv) Fails to claim an installment 30 days after records were provided;

(v) Fails to pay required fees for an installment by the scheduled payment date;

(vi) Fails to pay the deposit or final payment for the requested copies ~~((or))~~ by the scheduled payment date.

(b) The public records officer will close the request and indicate to the requestor that the Washington state criminal justice training commission has closed the request and refile the assembled records.

~~((11))~~ **(12) Later discovered documents.** If, after the Washington state criminal justice training commission has informed the requestor that it has provided all available records, the Washington state criminal justice training commission becomes aware of additional responsive documents existing at the time of the request, it will promptly inform the requestor of the additional documents and provide them on an expedited basis.

(13) The commission is not required to create a record that does not otherwise exist.

[Statutory Authority: RCW 43.56.040 [42.56.040] and 43.101.080. WSR 09-13-066, § 139-02-090, filed 6/16/09, effective 7/17/09. Statutory Authority: RCW 43.101.080. WSR 00-17-017, § 139-02-090, filed 8/4/00, effective 9/4/00.]

NEW SECTION

WAC 139-02-095 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 executive director or designee. The executive director or designee shall immediately consider the petition and either affirm or reverse the denial within two business days following the Washington state criminal justice training commission's receipt of the petition, or within such other time as the commission and the requestor mutually agree upon.

(3) **Exhausting administrative remedies.** Administrative remedies will not be considered exhausted until the commission has returned the petition with a decision or until the close of the second business day following denial of inspection, whichever occurs first.

(4) **Review by the attorney general's office.** Pursuant to RCW 42.56.530, if the commission 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.

(5) **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.

[]

NEW SECTION

WAC 139-02-105 Commercial purposes. No provisions of any rule contained in this title shall be construed as giving authority to any commission records or public records officer or employee to give, sell, or provide access to lists of individuals requested for commercial purposes. If a list of individuals is included in the records requested, the commission may require requestors to identify themselves and the purpose of their request, and provide a signed statement that the requestor will not use the list of individuals for commercial purposes.

When the commission has credible indication that a requested list of individuals might be used for commercial purposes, the commission

will investigate the request further. The commission will determine on a case-by-case basis whether such further investigation is necessary, based on the identity of the requestor, the nature of the records requested, and any other information available to the commission. When the commission determines further investigation is necessary, the commission will require requestors to identify the purpose of their request.

[]