

Chapter 137-08 WAC

PUBLIC RECORDS—DISCLOSURE

WAC

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WAC 137-08-010 Purpose. The purpose of this chapter shall be to ensure compliance by the department of corrections with the provisions of the Public Records Act, chapter 42.56 RCW.

[Statutory Authority: RCW 72.01.090. WSR 07-12-073, § 137-08-010, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-010, filed 1/26/82.]

WAC 137-08-020 Definitions. (1) "Public records" 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 department regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

(3) "Department" means the department of corrections.

(4) "Client" means any person or organization about whom the department has a record.

(5) "Disclosure" means inspection and/or copying.

(6) "Denial of disclosure" denotes any exempting from disclosure of any public record.

[Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-020, filed 1/26/82.]

WAC 137-08-060 Public records available. The department shall at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within five working days of receipt of the request for disclosure. The department's failure to so respond shall entitle the person seeking disclosure to petition the public disclosure officer pursuant to WAC 137-08-140.

[Statutory Authority: RCW 72.01.090. WSR 08-04-045, § 137-08-060, filed 1/31/08, effective 3/2/08; WSR 07-12-073, § 137-08-060, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 10.97.080 and 42.17.320. WSR 86-

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10-010 (Order 86-05), § 137-08-060, filed 4/29/86. Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090. WSR 85-13-020 (Order 85-06), § 137-08-060, filed 6/10/85. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-060, filed 1/26/82.]

WAC 137-08-070 Public disclosure officer. The department shall designate a public disclosure officer, located in the state administrative office, who shall be responsible for implementing the department's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements.

[Statutory Authority: RCW 10.97.080 and 42.17.320. WSR 86-10-010 (Order 86-05), § 137-08-070, filed 4/29/86. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-070, filed 1/26/82.]

WAC 137-08-080 Public disclosure coordinator. Each departmental administrative unit, for example, each institution, shall designate from among its employees at least one public disclosure coordinator, who shall:

(1) Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and

(2) Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and

(3) Verify, if necessary, the identity of any person requesting information.

[Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-080, filed 1/26/82.]

WAC 137-08-090 Request for public records. (1) All requests for the disclosure of a public record, other than requests by incarcerated offenders for inspection of their health record or central file must be submitted in writing directly to the Department of Corrections Public Records Officer at P.O. Box 41118, Olympia, WA 98504 or via e-mail at publicdisclosureunit@doc1.wa.gov identifying the record sought with reasonable certainty. The written request should include:

(a) The name of the person requesting the record and their contact information;

(b) The calendar date on which the request is made; and

(c) The records requested.

Incarcerated offenders under the authority of the department of corrections shall submit requests to inspect their own health record or central file to the records manager at the facility in which, they are currently incarcerated.

(2) A request for disclosure shall be made during customary business hours.

(3) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 137-08-150, the department must provide the person

requesting disclosure with a written explanation for the non-disclosure, pursuant to WAC 137-08-130.

(4) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure pursuant to WAC 137-08-130, may request a review under the provisions of WAC 137-08-140.

(5) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(6) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.

[Statutory Authority: RCW 72.01.090. WSR 08-04-045, § 137-08-090, filed 1/31/08, effective 3/2/08. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-090, filed 1/26/82.]

WAC 137-08-100 Disclosure to client's representative.

(1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must include:

(a) The identity of the person(s) or organization(s) to whom disclosure is to be made;

(b) An identification of the record, or portion thereof, to be disclosed;

(c) A statement of when the authorization for disclosure expires.

(2) Disclosures of information to a representative shall be made to the same extent as to the client.

(3) The legal guardian of a client has any and all rights accorded to a client by this section.

[Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-100, filed 1/26/82.]

WAC 137-08-105 Correction of erroneous information.

(1) A client may challenge the accuracy or completeness of criminal history record information, as defined in chapter 10.97 RCW, pertaining to the client and maintained in the department's files. Such challenge shall be effected in accordance with chapter 446-20 WAC.

(2) A client may challenge the accuracy and completeness of information in the department's files pertaining to the client other than criminal history record information. Such challenge shall be effected in accordance with department policies and procedures.

[Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090. WSR 85-13-020 (Order 85-06), § 137-08-105, filed 6/10/85.]

WAC 137-08-110 Fees—Inspection and copying.

(1) No fee shall be charged for the inspection of public records.

(2) The department shall collect a fee of twenty cents per page plus postage to reimburse itself for the cost of providing copies of public records.

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(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.

(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs.

[Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090. WSR 85-13-020 (Order 85-06), § 137-08-110, filed 6/10/85. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-110, filed 1/26/82.]

WAC 137-08-120 Protection of public records.

Public records shall be disclosed only in the presence of a public disclosure coordinator or his or her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the department. This section shall not be construed to prevent the department from accommodating a client by use of the mails in the disclosure process.

[Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-120, filed 1/26/82.]

WAC 137-08-130 Disclosure procedure.

(1) The public disclosure coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public disclosure coordinator shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the public disclosure coordinator shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed.

[Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-130, filed 1/26/82.]

WAC 137-08-140 Review of denial of disclosure.

(1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, such person may petition the department's public disclosure officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

(2) Within ten working days after receipt of a petition for review of a decision denying disclosure, the public disclosure officer shall review the decision denying disclosure, and advise the petitioner, in writing, of the public disclosure officer's decision on the petition. Such review shall be deemed completed at the end of the second business day following denial of disclosure, and shall constitute final agency action for the purposes of judicial review.

[Statutory Authority: RCW 10.97.080 and 42.17.320. WSR 86-10-010 (Order 86-05), § 137-08-140, filed 4/29/86. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-140, filed 1/26/82.]

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WAC 137-08-150 Exemptions to public records disclosure. The department reserves the right to determine if a public record requested in accordance with the procedures outlined in WAC 137-08-090 is exempt or nondisclosable under RCW 42.56.210 through 42.56.480.

Nondisclosable records include, but are not limited to:

(1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required by RCW 42.56.230(1); however, disclosure may be made to that person or that person's representative, except as otherwise prohibited by these rules;

(2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession. This data is nondisclosable to the extent required by RCW 42.56.240, 10.97.080 and chapter 446-20 WAC;

(3) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(4) Personal information in files maintained for an employee of the department to the extent required by RCW 42.56.230;

(5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intraagency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.56.290;

(6) Records which are relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

(7) Criminal history records information the disclosure of which is prohibited by chapter 10.97 RCW.

[Statutory Authority: RCW 72.01.090. WSR 07-12-073, § 137-08-150, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090. WSR 85-13-020 (Order 85-06), § 137-08-150, filed 6/10/85. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-150, filed 1/26/82.]

WAC 137-08-160 Qualifications on nondisclosure.

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.56.210(1).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.56.210(2), or an order of the office of hearings enforcing a subpoena.

[Statutory Authority: RCW 72.01.090. WSR 07-12-073, § 137-08-160, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-160, filed 1/26/82.]

WAC 137-08-170 Interagency disclosure. (1) Unless prohibited by law, information may be disclosed by the department to outside agencies, including other state of Washington agencies, or agencies of other states.

(2) Outside agencies receiving information pursuant to subsection (1) of this section shall be thereby subject to the same standards of disclosure as are required of the department.

[Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-170, filed 1/26/82.]

WAC 137-08-180 Records index. The record index may be accessed on the department's web site in the public disclosure section at: <http://www.doc.wa.gov/aboutdoc/publicdisclosure.asp>.

[Statutory Authority: RCW 72.01.090. WSR 08-01-026, § 137-08-180, filed 12/10/07, effective 1/10/08; WSR 06-19-058, § 137-08-180, filed 9/18/06, effective 10/19/06. Statutory Authority: RCW 42.17.250. WSR 82-04-023 (Order 82-3), § 137-08-180, filed 1/26/82.]