SPOKANE COUNTY'S PUBLIC RECORDS ACT RULES

INTRODUCTORY COMMENTS

(1) Background.

The legislature in RCW 42.17.348 directed the Attorney General to adopt advisory model rules on public records compliance and to revise them from time to time.

The purpose of the model rules is to provide information to records requestors and state and local agencies about "best practices" for complying with the Public Records Act. The overall goal of the model rules is to establish a culture of compliance among agencies and a culture of cooperation among requestors by standardizing best practices throughout the state.

The Attorney General encouraged state and local agencies to adopt the model rules (but not necessarily the comments).

Spokane County, consistent with the provisions of RCW 42.56.100 and RCW 42.56.070, desires to adopt the model rules promulgated by the Attorney General with some modifications. It should be noted that the comments are not being adopted. The comments incorporate interpretations of the Public Records Act by the Courts. Since these interpretations may change from time to time it was believed that the comments should not be a part of Spokane County's Public Record Act Rules.

(2) Non-binding effect of model rules.

The model rules are advisory only. The use of the words "should" or "may" are permissive, not mandatory, and are not intended to create any legal duty.

While the model rules are nonbinding, they should be carefully considered by requestors and Spokane County.

<u>SECTION NO. 1:</u> Authority and purpose.

(1) RCW 42.17.260(1)/42.56.070 requires each agency to make available for inspection and copying nonexempt "public records" in accordance with published rules. The Public Records Act (codified in chapter 42.56 RCW hereinafter sometimes referred to as 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 42.17.260(2)/42.56.070 requires each agency to set forth "for informational purposes" every law, in addition to the Public Records 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 Spokane County will follow in order to provide full access to public records. These rules provide information to persons

wishing to request access to public records of Spokane County and establish processes for both requestors and Spokane County staff that are designed to best assist members of the public in obtaining such access. **The terminology Spokane County shall mean all elected officials and departments of Spokane County which are subject to the Public Records Act.**

(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. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, Spokane County will be guided by the provisions of the Act describing its purposes and interpretation.

SECTION NO. 2: Agency description--Contact information—Public records officer.

(1) Spokane County is a political subdivision of the state of Washington. Spokane County has those statutory responsibilities set forth in Title 36 RCW . The Board of County Commissioners of Spokane County acts as the legislative and executive authority of Spokane County. Spokane County additionally has other separately elected officials responsible for performing duties set forth by state law. They include the Assessor, Auditor, Treasurer, Sheriff, and Prosecutor. For the purpose of these rules, the terminology "Spokane County" shall include Spokane County and its separately elected officials which are subject to the Public Records Act. Spokane County's central office is located at 1116 West Broadway Avenue, Spokane Washington, 99260.

(2) Any person wishing to request access to public records of Spokane County, or seeking assistance in making such a request should contact the public records officer of Spokane County:

Public Records Officer
Spokane County
1116 West Broadway Avenue
Spokane, Washington 99260
Phone Number: (509) 477-1721
Facsimile: (509) 477-3672

Information is also available at Spokane County's web site at www.spokanecounty.org.

(3) The public records officer will oversee compliance with the Act however other Spokane County staff may process the request. Therefore, these rules will refer to the public records officer "or designee." The public records officer or designee and Spokane County will provide the "fullest assistance" to requestors; create and maintain for use by the public and Spokane County officials, when appropriate, an index to public records of Spokane County; ensure public records are protected from damage or disorganization; and prevent fulfilling public records requests from causing excessive interference with essential functions of Spokane County.

SECTION NO. 3: Availability of public records.

(1) **Hours for inspection of records.** Public records are available for inspection and copying during normal business hours of Spokane County, Monday through Friday, 8:30 a.m. to 5:00 p.m., excluding legal holidays. Records must be inspected at the offices of Spokane County.

(2) **Record indexes.** Elected officials of Spokane County may have indexes of public records. Requestors should contact the public records officer to find out if elected officials have indexes, their contents and where they can be accessed.

For the most part, Spokane County and its elected officials find that maintaining indexes is unduly burdensome, unless required by separate statutory authority, and would interfere with agency operations. The requirement would unduly burden or interfere with their operations for various reasons. Elected officials opting out of the indexing requirement are encouraged to issue an order specifying the reasons they cannot maintain an index.

(3) **Organization of records.** Spokane County will maintain its records in a reasonably organized manner. Spokane County will take reasonable actions to protect records from damage and disorganization. A requestor shall not take Spokane County records from any office without the permission of the public records officer or designee. Some records are available on the Spokane County web site at www.spokanecounty.org. 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 copy public records of Spokane County should make the request in writing on the Spokane County's request form, or by letter or fax, addressed to the public records officer and including the following information. A copy of Spokane County request form it attached here as Appendix 1.

- Name of requestor;
- Address of requestor;
- Other contact information, including telephone number and any e-mail address;
- Identification of the public records adequate for the public records officer or designee to locate the records; and
- The date and time of day of the request.

(b) If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to pay for copies of the records or a deposit. Photocopy charges vary among Spokane County Offices depending on the copying equipment and staff making the copies.

(c) A form is available for use by requestors at the office of the public records officer and on-line at www.spokanecounty.org.

(d) The public records officer or designee may accept requests for public records that contain the above information by telephone or in person. If the public records officer or designee accepts such a request, he or she will confirm receipt of the information and the substance of the request in writing.

<u>SECTION NO. 4:</u> Processing of public records requests--general.

(1) **Providing "fullest assistance."** Spokane County is charged by statute with adopting rules which provide for how it will "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 will process requests in the order allowing the most requests to be processed in the most efficient manner.

(2) **Acknowledging receipt of request.** Within five (5) business days of receipt of the request, the public records officer will do one or more of the following:

(a) Make the records available for inspection or copying;

(b) If copies are requested and payment of a deposit, for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;

(c) Provide a reasonable estimate of when records will be available; or

(d) If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone. The public records officer or designee may revise the estimate of when records will be available; or

(e) Deny the request.

(3) **Consequences of failure to respond.** If Spokane County does not respond in writing within five (5) 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 may, prior to providing the records, give notice to such others whose rights may be affected by the disclosure. Such notice should be given so as to make it possible for those other persons to contact the requestor and ask him or her to revise the request, or, if necessary, seek an order from a court to prevent or limit the disclosure. The notice to the affected persons will include a copy of the request.

(5) **Records exempt from disclosure**. Some records are exempt from disclosure, in whole or in part. If Spokane County believes that a record is exempt from disclosure and should

be withheld, the public records officer 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 will redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted.

(6) **Inspection of records.**

(a) Consistent with other demands, Spokane County shall promptly 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. 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 (30) days of notification to him/her that the records are available for inspection or copying. Spokane County will notify the requestor in writing of this requirement and inform the requestor that he/she should contact Spokane County 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 (30) day period or make other arrangements, Spokane County may close the request and re-file 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 can be processed as a new request.

(7) **Providing copies of records.** After inspection is complete, the public records officer or designee shall make the requested copies or arrange for copying.

(8) **Providing records in installments.** When the request is for a large number of records, the public records officer or designee will provide access for inspection and copying in installments, if he or she reasonably determines that it would be practical to provide the records in that way. If, within thirty (30) days, the requestor fails to inspect the entire set of records or 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 Spokane County has completed a diligent search for the requested records and made any located non-exempt records available for inspection.

(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 will close the request and indicate to the requestor that the request is closed.

(11) **Later discovered documents.** If, after Spokane County has informed the requestor that it has provided all available records, Spokane County 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.

SECTION NO. 5: Exemptions.

(1) The Public Records Act 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. Requestors should be aware of those exemptions, outside the Public Records Act, that restrict the availability of some documents held by Spokane County for inspection and copying as set forth in Appendix 2.

(2) Spokane County is prohibited by statute from disclosing lists of individuals for commercial purposes.

SECTION NO. 6: Costs of providing copies of public records.

(1) **Costs for paper copies**. There is no fee for inspecting public records. A requestor may obtain standard black and white photocopies for fifteen cents per page or that per page fee established by the respective Spokane County office/department. A statement of the factors and the manner used to determine a per page fee in excess of fifteen cents is available from the public records officer.

There are several specific statutes which govern charges for particular kinds of records. These statutes shall control over the charges for public records under the Act.

Before beginning to make the copies, 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. Spokane County will not charge sales tax when it makes copies of public records.

(2) **Costs for electronic records**. The cost of electronic copies of records on a floppy disk or on a CD-ROM shall be established by Spokane County offices/department consistent with RCW 42.56.120. A statement of the factors and the manner used to determine the costs is available from the public records officer.

(3) **Costs of mailing.** Spokane County may also charge actual costs of mailing, including the cost of the shipping container.

(4) **Payment.** Payment may be made by cash, check , or money order to that Spokane County office or department as determined by the public records officer.

(5) **Waiver of copying charges**. Any Spokane County Elected Official has the discretion to waive copying charges. For administrative convenience, there shall be no charge for twenty five or fewer standard photocopies.

SECTION NO. 7: 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 records request may petition in writing (including e-mail) to the public records officer for a review of that decision. 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 consider the petition and any other relevant information and either affirm or reverse the denial within two business days following the public record officer's receipt of the petition, or within such other time the public records officer and the requestor mutually agree to.

(3) **Judicial review.** Any person may obtain court review of the denial of a public records request pursuant to RCW 42.17.340 at the conclusion of two business days after the initial denial regardless of any internal administrative appeal.

APPENDIX 1

Mail to: **Public Records Officer**
1116 W. Broadway Avenue
Spokane, Washington 99260

REQUEST TO INSPECT OR COPY PUBLIC RECORDS

REQUEST: (Please Type or Print)

Name:_____

Address:_____

Phone:_____ Other Contact Info: _____

Describe the Records or Information Requested: (Please be as specific as possible)

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Indicate whether you want to inspect records _____ or a copy of records _____

Date:_____ Time:_____

Requestor's signature: _____

APPENDIX 2

Exemption and Prohibition Statutes Not Listed in Chapter 42.56 RCW

Washington State Statutes

Citation	Records
RCW 2.64.111	Documents regarding discipline/retirement of judges
RCW 2.64.113	Confidentiality - violations
RCW 4.24.550	Information on sex offenders to public
RCW 5.60.060	Privileged communications
RCW 5.60.070	Court-ordered mediation records
RCW 7.68.140	Victims' compensation claims
RCW 7.69A.030(4)	Child victims and witnesses – protection of identity
RCW 7.69A.050	Rights of child victims and witnesses – addresses
RCW 7.75.050	Records of Dispute Resolution Centers
RCW 9.51.050	Disclosing transaction of grand jury
RCW 9.51.060	Disclosure of grand jury deposition
RCW 9.02.100	Reproductive privacy
RCW 9A.82.170	Financial institution records – wrongful disclosure
RCW 10.27.090	Grand jury testimony/evidence
RCW 10.27.160	Grand jury reports – release to public only by judicial order
RCW 10.29.030	Organized crime special inquiry judge
RCW 10.29.090	Records of special inquiry judge proceedings
RCW 10.52.100	Records identifying child victim of sexual assault
RCW 10.77.210	Records of persons committed for criminal insanity
RCW 10.97.040	Criminal history information released must include disposition
RCW 10.97.050	Conviction and criminal history information
RCW 10.97.060	Deletion of certain criminal history record information, conditions
RCW 10.97.070	Disclosure of identity of suspect to victim
RCW 10.97.080	Inspection of criminal record by subject
RCW 13.32A.090	Crisis residential centers notice to parent about child
RCW 13.34.115	Court dependency proceedings
RCW 13.40.217	Juveniles adjudicated of sex offenses – release of information
RCW 13.50.010	Maintenance of and access to juvenile records
RCW 13.50.050	Juvenile offenders
RCW 13.50.100	Juvenile/children records not relating to offenses

Citation	Records
RCW 13.60.020	Missing children information
RCW 13.70.090	Citizen juvenile review board – confidentiality
RCW 18.04.405	Confidentiality of information gained by CPA
RCW 18.19.060	Notification to clients by counselors
RCW 18.19.180	Confidential communications with counselors
RCW 19.215.020	Destruction of personal health and financial information
RCW 19.215.030	Compliance with federal rules
RCW 26.04.175	Name and address of domestic violence victim in marriage records
RCW 26.12.170	Reports of child abuse/neglect with courts
RCW 26.23.050	Child support orders
RCW 26.23.120	Child support records
RCW 26.26.041	Uniform Parentage Act – protection of participants
RCW 26.26.450	Confidentiality of genetic testing
RCW 26.33.330	Sealed court adoption records
RCW 26.33.340	Agency adoption records
RCW 26.33.343	Access to adoption records by confidential intermediary
RCW 26.33.345	Release of name of court for adoption or relinquishment
RCW 26.33.380	Adoption – identity of birth parents confidential
RCW 26.44.010	Privacy of reports on child abuse and neglect
RCW 26.44.020(19)	Unfounded allegations of child abuse or neglect
RCW 26.44.030	Reports of child abuse/neglect
RCW 26.44.125	Right to review and amend abuse finding – confidentiality
RCW 27.53.070	Records identifying the location of archaeological sites
RCW 29A.08.720	Voter registration records – place of registration confidential
RCW 29A.08.710	Voter registration records – certain information exempt
Chapter 40.14 RCW	Preservation and destruction of public records
RCW 42.23.070(4)	Municipal officer disclosure of confidential information prohibited
RCW 42.41.030(7)	Identity of local government whistleblower
RCW 42.41.045	Non-disclosure of protected information (whistleblower)
RCW 46.52.080	Traffic accident reports – confidentiality
RCW 46.52.083	Traffic accident reports – available to interested parties
RCW 46.52.120	Traffic crimes and infractions – confidential use by police and courts
RCW 46.52.130(2)	Abstract of driving record
RCW 48.62.101	Local government insurance transactions – access to information
RCW 50.13.060	Access to employment security records by local government Agencies
RCW 50.13.100	Disclosure of non-identifiable information or with consent
RCW 51.28.070	Worker's compensation records

Citation	Records
RCW 51.36.060	Physician information on injured workers
RCW 60.70.040	No duty to disclose record of common law lien
RCW 68.50.105	Autopsy reports
RCW 68.50.320	Dental identification records – available to law enforcement agencies
Chapter 70.02 RCW	Medical records – access and disclosure – entire chapter (HC providers)
RCW 70.05.170	Child mortality reviews by local health departments
RCW 70.24.022	Public health agency information regarding sexually transmitted disease investigations - confidential
RCW 70.24.024	Transcripts and records of hearings regarding sexually transmitted diseases
RCW 70.24.105	HIV/STD records
RCW 70.28.020	Local health department TB records – confidential
RCW 70.48.100	Jail records and booking photos
RCW 70.58.055	Birth certificates – certain information confidential
RCW 70.58.104	Vital records, research confidentiality safeguards
RCW 70.96A.150	Alcohol and drug abuse treatment programs
RCW 70.123.075	Client records of domestic violence programs
RCW 70.125.065	Records of rape crisis centers in discovery
RCW 71.05.390	Information about mental health consumers
RCW 71.05.395	Ch. 70.02 RCW applies to mental health records
RCW 71.05.400	Information to next of kin or representative
RCW 71.05.425	Notice of release or transfer of committed person after offense dismissal
RCW 71.05.427	Information that can be released
RCW 71.05.430	Statistical data
RCW 71.05.440	Penalties for unauthorized release of information
RCW 71.05.445	Release of mental health information to Dept. of Corrections
RCW 71.05.620	Authorization requirements and access to court records
RCW 71.05.630	Release of mental health treatment records
RCW 71.05.640	Access to treatment records
RCW 71.05.650	Accounting of disclosures
RCW 71.24.035(5)(g)	Mental health information system – state, county and regional Support networks – confidentiality of client records
RCW 71.34.200	Mental health treatment of minors – records confidential
RCW 71.34.210	Court records for minors related to mental health treatment
RCW 71.34.225	Release of mental health services information
RCW 71A.14.070	Records regarding developmental disability – confidentiality
RCW 72.09.345	Notice to public about sex offenders
RCW 72.09.585(3)	Disclosure of inmate records to local agencies – confidentiality

Citation	Records
RCW 74.04.060	Applicants and recipients of public assistance
RCW 74.04.520	Food stamp program confidentiality
RCW 74.09.900	Medical assistance
RCW 74.13.121	Financial information of adoptive parents
RCW 74.13.280	Children in out-of-home placements - confidentiality
RCW 74.20.280	Child support enforcement – local agency cooperation, information
RCW 74.34.095	Abuse of vulnerable adults - confidentiality of investigations and reports
RCW 82.32.330	Disclosure of tax information
RCW 84.36.389	Confidential income data in property tax records held by assessor
RCW 84.40.020	Confidential income data supplied to assessor regarding real property

Selected Federal Confidentiality Statutes and Rules

Citation	Records
20 USC § 1232g	Family Education Rights and Privacy Act
42 USC 290dd-2	Confidentiality of Substance Abuse Records
42 USC 405(c)(2)(vii)(l)	Limits on Use and Disclosure of Social Security Numbers.
42 USC 654(26)	State Plans for Child Support
42 USC 671(a)(8)	State Plans for Foster Care and Adoption Assistance
42 USC 1396a(7)	State Plans for Medical Assistance
7 CFR 272.1(c)	Food Stamp Applicants and Recipients
34 CFR 361.38	State Vocational Rehabilitation Services Programs
42 CFR Part 2 (2.1 - 2.67)	Confidentiality of Alcohol and Drug Abuse Patient Records
42 CFR 431.300 – 307	Safeguarding Information on Applicants and Recipients of Medical Assistance
42 CFR 483.420	Client Protections for Intermediate Care Facilities for the Mentally Retarded
42 CFR 5106a(b)(2)(A)	Grants to States for Child Abuse and Neglect Prevention and Treatment Programs
45 CFR 160-164	HIPAA Privacy Rule