



SNOCOM ADMINISTRATIVE POLICIES

SUBJECT: Public Entity Records

POLICY NUMBER: 4.51

CREATED: 1-1-07
ADOPTED: 1-1-07

Latest Revision: 2-24-2011
Prior Revision: 6-4-2009

Reference: RCW 40.14

Cross Reference: DP-3.2

PURPOSE

SNOCOM, as a public entity, is dedicated to ensuring that its required record keeping complies with all Federal, state and local laws that regulate the maintenance, storage, retention, destruction, release of confidential information and access to public records. All records kept by SNOCOM shall comply with applicable sections of The Revised Code of Washington and the Washington Administrative Code. SNOCOM has established the following written policy and procedures for managing records according to the provisions of the Public Records Act (RCW 40.56) and all other state and federal statutes and regulations that govern agency records management practices.

POLICY

4.51.1 DEFINITIONS

According to Chapter 42.56.010(2) RCW, a “Public Record” includes any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics...”

Chapter 42.56.010(3) RCW states, “Writing’ means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings and other documents including existing data compilations from which information may be obtained or translated.”

4.51.2 RETENTION and DISPOSITION of PUBLIC RECORDS

SNOCOM shall comply with the records retention and destruction requirements and disposition recommendations contained in the Local Government Common Records Retention Schedule 2.1 and Law Enforcement Records Retention Schedule 6.0.



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4.51.3 PUBLIC ACCESS

Rights of public access to local government records are defined by RCW 42.56, the Public Disclosure Act. The Public Disclosure Act declares that local government records are exclusively public property. They are open to public access subject to limited exemption, which are intended to protect the personal privacy of individuals and the integrity of vital governmental functions. SNOCOM shall comply with this and all other related statutes.

4.51.3.1 RECORD INDEX

Pursuant to RCW 42.56.070(4), SNOCOM has determined that a formal, master index of records would be unduly burdensome in construction and maintenance in relationship to agency size and staffing. SNOCOM public records are maintained, retained and destroyed in accordance with the Washington State Archives Retention Schedules (see SNOCOM SOP 4.51.2).

4.51.3.2 EMPLOYEE KNOWLEDGE

SNOCOM personnel dealing with records requests and release shall be familiar with all applicable sections of RCW 42.56.

4.51.4 BASIC PUBLIC DISCLOSURE REQUIREMENTS

- a. A request needs to be submitted in a manner which makes it recognizable as a request requiring a response. Requests should provide reasonable specificity as to the records being sought.
- b. Within five business days of receiving a public record request, SNOCOM shall respond by doing one of the following:
 1. Providing the record.
 2. Acknowledging receipt of the request and providing a reasonable estimate of time required to respond to the request. Or, if necessary, seek clarification regarding the request, and then respond as noted.
 3. Denying the request and provide a written statement of specific reasons.
- c. SNOCOM shall respond to requests for disclosure received by mail, or other sources. (RCW 42.56).
- d. SNOCOM is not required to *create* documents in order to respond to a request for certain information. Rather, SNOCOM must produce existing documents for review and copying.
- e. SNOCOM may not ask the reason for the disclosure request, except that when the request is for a list of persons, SNOCOM should ask whether it is to be used for a commercial purpose. If such a list is to be used for a commercial purpose, disclosure should be denied. (RCW 42.56.070).



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- f. Pursuant to RCW 42.56.540, Third Party Notification is provided for most requests when the request involves a party other than the requestor. This does not apply to requests from other Law Enforcement entities or other such privileged parties. Appropriate consideration of RCW 42.56.240(1)(2) is also applied at the discretion of the SNOCOM Director.

4.51.4.1 CHARGES FOR COPYING

SNOCOM cannot charge for the time required to locate a public record, but can charge for the reasonable costs if a person requests *copies* of public records. The cost for producing sound files on compact disks shall include reproduction time as well as actual costs for the disk and mailing (RCW 42.56.120).

- a. A \$20.00 processing fee will be charged for reproduction of radio or phone recording onto a compact disk. An additional \$5.00 will be charged for each copy produced.
- b. The maximum per page cost for photocopies can only exceed \$0.15 if the agency has determined that its actual costs exceed \$0.15 per page. SNOCOM will only apply the \$0.15 per page cost to requests whose total responsive copies are greater than 20 pages.
- c. When an electronic version of a paper record is requested, a scanning fee of \$0.10 per page cost will be applied when the number of responsive pages is greater than 30 pages.
- d. Recordings will be made for SNOCOM user agencies, prosecuting attorney's and public defenders, free of charge.

4.51.5 RECORDS WHICH ARE EXEMPT AND MAY BE WITHHELD OR REDACTED

The disclosure of SNOCOM records will be governed by appropriate state and local regulations and the procedures outlined in this policy. Washington state law provides that some records are exempt from public inspection, but only to the extent required to protect a right of privacy and/or a vital government interest. Careful review of documents needs to be made to determine if any exemption applies and/or if any documents are subject to attorney/client privilege before their release. If a portion of a public record is exempt from disclosure or prohibited from being disclosed, the portion that is exempt or prohibited should be *redacted* (blacked-out or other technique), and the rest of the document disclosed.

- a. Whenever SNOCOM denies disclosure of a record or a portion of a record, the agency shall provide a log citing the specific exemption relied upon and a brief explanation of how the exemption applies to the record withheld in accordance with RCW 42.56.210(3).



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- b. If the request is pursuant to a pending claim, claim incident, or lawsuit involving SNOCOM and/or a user agency, please notify WCIA and/or the assigned defense counsel before the response is made.

4.51.5.1. SNOCOM COMMONLY USED EXEMPTIONS

Exemptions commonly used by SNOCOM are provided below, but are in no way considered a comprehensive list of all the exemptions which may apply to SNOCOM records.

- a. Incidents still under active investigation by Law Enforcement (RCW 42.56.240(1)).
- b. The identity of witnesses to or victims of crime or who file complaints with investigative or law agencies, if disclosure would endanger any person's life, physical safety, or property (RCW 42.56.240(2)).
- c. Patient medical information (RCW 70.02.005, HIPPA (Health Insurance Portability and Accountability Act)).
- d. Control & Treatment of Sexually Transmitted Disease Confidentiality (RCW 70.24)
- e. Disclosure of certain information contained in SNOCOM employee personnel files (RCW 42.56.230 & 250).
- f. If at the time of an incident, a party requests non-disclosure, this preference shall govern (RCW 42.56.240(2)).

4.51.6 MASTER RECORDINGS

To ensure that the master recording is functioning properly at all times, daily testing shall be done by a Supervisor. Testing consists of logging into the recording software and listening to all recordable channels by sampling random sound files for the 24 hour period. At this time, it is the responsibility of the graveyard shift supervisor to conduct testing of the master recording system. It remains at the discretion of the Director and Operations Manager who shall conduct systems testing. In the event of recording system failure, immediate notifications will be made to the proper personnel for repair. (See repair section).

4.51.6.1 MASTER RECORDING COPYING PROCEDURE

Refer to the Recording Copying Handbook located at the Records Custodian's desk for step by step instructions on how to produce a CD.



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4.51.6.2

IMPOUNDING MASTER RECORDINGS

In the event that the requesting agency or a court order requires a master recording be impounded, the following will be done:

- a. SNOCOM shall preserve the specific sound file(s) originally pulled and responsive to the Public Records Act Request, and preserve it in a wave or MP3 format, so it may be easily reproduced again in the future.
- b. All official recordings reproduced onto CD from SNOCOM's recording system shall be labeled with an official SNOCOM logo, given the clear designation "SNOCOM MASTER RECORDING REPRODUCTION" and provide the date created, name and current the position of person reproducing and certifying the recording's authenticity. This is an essential step in order to preserve the chain of custody to other Law Enforcement agencies and/or for court purposes.
- c. User agencies consider the Master Copy Reproduction provided by SNOCOM their official copy for future evidence and will not request the impounding of SNOCOM recordings.