

Exemptions listed in the Agency Denial Form/Exemption Log (linked to in DOC Policy 280.510 Public Disclosure of Records). Last updated 6/17/2015.

EXEMPTIONS SECTION

The following section identifies and explains the exemptions relied upon in the above table(s):

1-ACTIVE INVESTIGATIONS – These records contain information regarding an active investigation, the non-disclosure of which is essential to effective law enforcement, and have been redacted or withheld in their entirety per the following citations. See also Newman v. King County, 133 Wn.2d 565, 947 P.2d 712 (1997) and Cowles Publishing Co. v. Spokane Police Department, 139 Wn.2d 472 987 P.2d 620 (1999).

RCW 42.56.240(1) – “Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person’s right to privacy.”

2-ATTORNEY CLIENT PRIVILEGE/WORK PRODUCT – These records reflect privileged attorney-client communication, and/or attorney work product which is protected from disclosure and has been redacted or withheld in their entirety per the following citations:

RCW 42.56.290 – “Records that are relevant to a controversy to which an agency 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 are exempt from disclosure under this chapter.”

RCW 5.60.060(2)(a) – “An attorney or counselor shall not, without the consent of his or her client, be examined as to any communication made by the client to him or her, or his or her advice given thereon in the course of professional employment.”

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.”

3-INMATE PHONE CALLS – These records contain inmate phone recordings which is protected from disclosure and has been withheld in their entirety per the following citations:

RCW 9.73.095(3)(b) – “The contents of any intercepted and recorded conversation shall be divulged only as is necessary to safeguard the orderly operation of the correctional facility, in response to a court order, or in the prosecution or investigation of any crime.”

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.”

4-FINANCIAL ACCOUNT NUMBERS – These records contain bank account or similar financial information which is protected from disclosure and has been redacted per the following citation:

RCW 42.56.230(5) - Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, or bank or other financial account numbers, except when disclosure is expressly required by or governed by other law.

5-COMPUTER SECURITY AND INMATE PERSONAL IDENTIFICATION (IPIN) NUMBERS – These records contain computer access paths, codes, IPIN telephone access codes, or similar information, the release of which may compromise the security of the computer and/or telecommunication systems and information, and have been redacted per the following citation:

RCW 42.56.420(4) - "Information regarding the infrastructure and security of computer and telecommunications networks, consisting of security passwords, security access codes and programs, access codes for secure software applications, security and service recovery plans, security risk assessments, and security test results to the extent that they identify specific system vulnerabilities."

6-DELIBERATIVE PROCESS – These records, consisting of preliminary drafts, notes, recommendations, and/or intra-agency memorandums in which opinions are expressed or policies formulated or recommended, are protected from disclosure at this time and have been withheld in their entirety per the following citation:

RCW 42.56.280 – "Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this chapter, except that a specific record is not exempt when publicly cited by an agency in connection with any agency action."

7-EMPLOYEE APPLICATIONS & ATTACHMENTS – These records, consisting of applications for public employment and other related materials submitted with respect to an applicant, are protected from disclosure and have been withheld in their entirety per the following citation:

RCW 42.56.250(2) – "All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant."

8-EMPLOYEE & VOLUNTEER OUTSIDE EMPLOYMENT DOCUMENTS – These records contain private information of an employee or volunteer of the agency maintained in personnel files, public employment related records or volunteer rosters, are protected from disclosure and have been redacted per the following citation:

RCW 42.56.230(3) – "Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy."

9-EMPLOYEE PERFORMANCE EVALUATIONS (NOT CONTAINING SPECIFIC MISCONDUCT) – These records, consisting of performance evaluations which do not discuss specific instances of misconduct, are protected from disclosure and have been withheld in their entirety per the following citation:

RCW 42.56.230(3) – "Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy."

10-EMPLOYEE, EMPLOYEE SPOUSE AND/OR DEPENDENT PRIVATE INFORMATION – These records contain private information regarding an agency employee or volunteer, their spouse and/or dependents which are maintained in personnel files, public employment related records or volunteer rosters and protected from disclosure per the following citations:

RCW 42.56.230(3) – "Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy."

RCW 42.56.250(3) – "The residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact

information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal electronic mail addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency that are held by any public agency in personnel records, public employment related records, or volunteer rosters, or are included in any mailing list of employees or volunteers of any public agency.”

RCW 42.56.250(8) – “Photographs and month and year of birth in the personnel files of employees and workers of criminal justice agencies as defined in RCW [10.97.030](#). The news media, as defined in RCW [5.68.010](#)(5), shall have access to the photographs and full date of birth. For the purposes of this subsection, news media does not include any person or organization of persons in the custody of a criminal justice agency as defined in RCW [10.97.030](#).”

11-RAP SHEETS – “Rap” Sheets” – Criminal History Record Information (CHRI) obtained by the Department of Corrections through the Washington State Patrol and the Federal Bureau of Investigation are disclosable to the subject of the record. CHRI will be released to a third party if that party has a signed release from the subject of the record. If the third party does not have a signed release, all non-conviction data will be redacted prior to release to the third party per the following citations:

5 U.S.C. 552(b)(7)(C) Requests for public information does not apply to matters that are “records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information could easily be expected to constitute an unwarranted invasion of personal privacy.” See also *U.S. Dept. of Justice v. Reporters Committee for Freedom Press*, 489 U.S. 749, 109 S.Ct. 1468, 103 L.Ed 2d 774 (1989)

RCW 10.97.080 – “...No person shall be allowed to retain or mechanically reproduce any nonconviction data except for the person who is the subject of the record. Such person may retain a copy of their personal nonconviction data information on file, if the criminal justice agency has verified the identities of those who seek to inspect them. Criminal justice agencies may impose such additional restrictions, including fingerprinting, as are reasonably necessary both to assure the record's security and to verify the identities of those who seek to inspect them. The criminal justice agency may charge a reasonable fee for fingerprinting or providing a copy of the personal nonconviction data information pursuant to this section. The provisions of chapter 42.56 RCW shall not be construed to require or authorize copying of nonconviction data for any other purpose.”

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.”

13-INFORMANT – These records contain information relating to the identity of a confidential informant, the nondisclosure of which is necessary for the protection of the informant and the safety and/or security of people and/or a facility, and have been redacted or withheld in their entirety per the following citations:

RCW 42.56.240(1) – “Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person’s right to privacy.”

RCW 42.56.240(2) – “Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person’s life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure,

such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.”

14-LSI-R RISK ASSESSMENT TOOL – These records contain the LSI-R risk assessment tool which is protected from disclosure and is withheld in its entirety per the following citations:

Federal Copyright Act, 17 U.S.C., Secs. 102, 301, 106(1).

RCW 42.56.240(1) – “Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person's right to privacy.”

RCW 42.56.270(11) – “Proprietary data, trade secrets, or other information that relates to: (a) A vendor's unique methods of conducting business; (b) data unique to the product or services of the vendor; ...”.

15-MEDICAL INFORMATION – These records contain medical information, mental health information, infectious disease and/or drug and/or alcohol information as it relates to diagnosis and treatment. This information is protected from disclosure and has been redacted or withheld in its entirety per the following citations:

RCW 70.02.020(1), “Except as authorized in RCW 70.02.050, a health care provider, an individual who assists a health care provider in the delivery of health care, or an agent and employee of a health care provider may not disclose health care information about a patient without the patient's written authorization. A patient's written authorization must conform to the authorization.”

RCW 42.56.360(2), “Chapter 70.02 RCW applies to public inspection and copying of health care information.”

42 CFR – “Records of the identity, diagnosis, prognosis, or treatment of any patient which are maintained in connection with the performance of any drug abuse prevention function conducted, regulated, or directly or indirectly assisted by any department or agency of the United States shall, except as provided in subsection (e) of this section, be confidential...”

RCW 70.96A.150(1)(3) – “(1) The registration and other records of treatment programs shall remain confidential. Records may be disclosed (a) in accordance with the prior written consent of the patient with respect to whom such record is maintained, (b) if authorized by an appropriate order of a court of competent jurisdiction granted after application showing good cause, (c) to comply with state laws mandating the reporting of suspected child abuse or neglect, or (d) when a patient commits a crime on program premises or against program personnel, or threatens to do so.” “(3) Nothing contained in this chapter relieves a person or firm from the requirements under federal regulations for the confidentiality of alcohol and drug abuse patient records.”

RCW 70.24.105(1) – “No person may disclose or be compelled to disclose the identity of any person who has investigated, considered, or requested a test or treatment for a sexually transmitted disease.”

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.”

17-NON-CONVICTION INFORMATION – These records contain non-conviction criminal history information which is protected from disclosure and have been redacted or withheld in their entirety per the following citations:

RCW 10.97.080 – “No person shall be allowed to retain or mechanically reproduce any nonconviction data except for the purpose of challenge or correction when the person who is the subject of the record asserts the belief in writing that the information regarding such person is inaccurate or incomplete. The provisions of chapter 42.56 RCW shall not be construed to require or authorize copying of nonconviction data for any other purpose.”

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.”

18-SOCIAL SECURITY NUMBERS – These records contain social security numbers which are protected from disclosure and have been redacted per the following citations:

Title 5, Section 552(a) United States Regulations, Annotated Secs 102, 301, 106(1)

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing.”

19-SPECIFIC INTELLIGENCE INFORMATION – These records contain specific intelligence information, the non-disclosure of which is necessary for the protection, safety and security of people and/or a facility and have been redacted or withheld in their entirety per the following citation:

RCW 42.56.240(1) – “Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person’s right to privacy.”

20-SECURITY INFORMATION – These records contain specific security information and protocols, the disclosure of which may compromise the safety and/or security of people and/or a facility, and have been redacted or withheld in their entirety per the following citations:

RCW 42.56.240(1) – “Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person’s right to privacy.”

RCW 42.56.420(2) – “Those portions containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual’s safety.”

20.5-SURVEILLANCE VIDEO – Surveillance video is protected from disclosure in its entirety and has been withheld per the following citations:

RCW 42.56.240(1) – “Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person’s right to privacy.”

RCW 42.56.420(2) – “Those portions containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans at a city, county, or state adult or juvenile correctional facility, the public disclosure of which would have a substantial likelihood of threatening the security of a city, county, or state adult or juvenile correctional facility or any individual’s safety.”

Fischer v. Washington State Department of Corrections, No. 64818-7-I, January 24, 2011

21-DATA FOR EMPLOYMENT & ACADEMIC EXAMS – These records contain test questions, scoring keys, and/or other examination data used to administer a license, employment or academic examination, which are protected from disclosure and have been redacted or withheld in their entirety per the following citation:

RCW 42.56.250(1) – “Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination”

22-EMPLOYEE NAMES WHERE ALLEGATIONS ARE UNSUBSTANTIATED – These records contain the names of employees where allegations of misconduct were either unsubstantiated or unfounded and therefore have been redacted per the following citations:

RCW 42.56.230(3) - “Personal information in files maintained for employees, appointees, or elected officials of any public agency to the extent that disclosure would violate their right to privacy.”

Bellevue John Does 1-11 v. Bellevue School District No.405, 164 Wn2d 199, (2008)

Bainbridge Island Police Guild v. City Of Puyallup, 172 Wn.2d 398 (2011)

23-VICTIM AND/OR WITNESS – These records contain names or identifying information, the non-disclosure of which is necessary for the protection of a witness, crime victim, or complainant, and have been redacted or withheld in their entirety per the following citations:

RCW 42.56.240(2) – “Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person’s life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern. However, all complaints filed with the commission about any elected official or candidate for public office must be made in writing and signed by the complainant under oath.”

RCW 42.56.240(5) – “Information revealing the identity of child victims of sexual assault who are under age eighteen. Identifying information means the child victim's name, address, location, photograph, and in cases in which the child victim is a relative or stepchild of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator.”

24-EDUCATION RECORDS – These records contain educational records, such as transcripts, which are exempt from disclosure and are withheld in their entirety per the following citations:

FERPA 34 CFR Part 99 & 20 U.S.C. 1232g “The parent or eligible student shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from the student’s education records, except as provided in § 99.31.”

RCW 42.56.230(1) “Personal information in any files maintained for students in public schools, patients or clients of public institutions or public health agencies, or welfare recipients”

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing”

25-COPYRIGHT – These records are protected by Federal Copyright law and may be inspected but not copied for release. They are withheld per the following citations:

Federal Copyright Act, 17 U.S.C., Secs 102, 106(1), 301

RCW 42.56.070(1) – “Each agency, in accordance with published rules, shall make available for public inspection and copying all public records, unless the record falls within the specific exemptions of subsection (6) of this section, this chapter, or other statute which exempts or prohibits disclosure of specific information or records. To the extent required to prevent an unreasonable invasion of personal privacy interests protected by this chapter, an agency shall delete identifying details in a manner consistent with this chapter when it makes available or publishes any public record; however, in each case, the justification for the deletion shall be explained fully in writing”

26-SECURITY THREAT GROUP (STG) INFORMATION – These records concern security threat groups and contain information the disclosure of which may compromise the safety and/or security of people and/or a facility, and have been redacted or withheld in their entirety per the following citations:

RCW 42.56.240(12) – “The following security threat group information collected and maintained by the department of corrections pursuant to RCW 72.09.745: (a) Information that could lead to the identification of a person's security threat group status, affiliation, or activities; (b) information that reveals specific security threats associated with the operation and activities of security threat groups; and (c) information that identifies the number of security threat group members, affiliates, or associates.”

RCW 42.56.240(1) – “Specific intelligence information and specific investigative records compiled by investigative, law enforcement, and penology agencies, and state agencies vested with the responsibility to discipline members of any profession, the nondisclosure of which is essential to effective law enforcement or for the protection of any person’s right to privacy.”

27- OTHER –