

## Exhibit A

# The City of Mount Vernon Policies and Procedures for Processing Public Records

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### 1.0 General

The City is required by Chapter 42.56 RCW (the Public Records Act) to adopt and enforce reasonable rules and regulations to provide full access to public records. This policy and procedure complies with the requirements of the Public Records Act by providing for consistent and predictable practices for responding to and fulfilling requests for public records in a manner consistent with the Act.

The policy portion of this document clarifies the City's goals and intent with respect to providing access to public records. The procedure portion of the document describes the process for requesting and fulfilling public records requests in keeping with legal requirements.

These policies include statutory requirements and best practices. Nothing in this policy is intended to create legal obligations or rights beyond those obligations and rights created by statute or other binding laws.

### 2.0 Definitions

For the purpose of this policy, the following definitions apply:

**2.1 "All records relating to," "all records regarding," or "all records pertaining to"** means those records that directly and fairly address the topics that are reasonably identifiable by the Records Liaison fulfilling the request. These phrases are inherently ambiguous and requestors are encouraged to avoid using such terms when possible to avoid unnecessary delays.

**2.2 "City of Mount Vernon"** means the City of Mount Vernon, Washington. The City of Mount Vernon is a general purpose governmental entity that provides the full range of municipal services allowed by statute or state constitution. These services include police, fire, emergency medical, street maintenance, planning and zoning, libraries, parks and recreation, and general administrative services. In addition to its general government services, the City operates the following enterprises: storm water and sewer utility, solid waste utility, and off street parking.

**2.3 “Court records request”** means any request for Mount Vernon Municipal Court (a Department of the Skagit County District Court) records. Mount Vernon Municipal Court records are exempt from the Public Records Act and are subject to release directly through the Mount Vernon Municipal Court under applicable court rule including General Rule 31.1.

**2.4 “Exempt record”** means records or portions of records that are exempt from public disclosure. Exemptions include those identified in the Public Records Act or based in other statutes or law. Exemption from disclosure of a portion of a record does not automatically exempt the remainder of the record from disclosure. Exempt portions of records may be subject to redaction.

**2.5 “Public record”** means 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. Electronic data, including email, that meet this definition shall be considered a public record. This definition does not include records that are not otherwise required to be retained by the City and are held by volunteers who: (a) Do not serve in an administrative capacity; (b) Have not been appointed by the City to a City board, commission, or internship; and (c) Do not have a supervisory role or delegated City authority.

**2.6 “Public records request”** means a request made to the City of Mount Vernon pursuant to the Public Records Act for disclosure of public records. Requests for public records made pursuant to other statutory rights of access to public records shall not be considered “public records requests” but may be otherwise handled under this policy.

**2.7 “Public Records Liaison” and “Records Liaison”** means the person or persons designated by a department director or designee to accept, track by log, and arrange for fulfillment of requests for disclosure of public records within a City department.

**2.8 “Public Records Officer”** means the City Clerk or designee.

**2.9 “Record holder”** means the department or particular staff person in custody of a primary record.

**2.10 “Requestor”** means the individual making the request for public records by submitting an official public records request.

### **3.0 Policy**

#### **3.1 General**

Public records maintained by the City of Mount Vernon are and remain the property of the City. It is the policy of the City of Mount Vernon to provide access to public records in accordance with the requirements of Chapter 42.56 RCW. Procedures governing access to public records shall ensure access to public records without unlawful discrimination to requestors and shall provide appropriate safeguards for information exempted from or prohibited from disclosure by statute.

In order to fully assist the public in requesting public records, the City shall encourage the use of available electronic resources whenever possible for accessing, requesting, and fulfilling requests for public information, including use of email and provision of information on the City’s website.

#### **3.2 Public Records Officer**

The City Clerk shall serve as the Public Records Officer of the City of Mount Vernon. The City Clerk may appoint a designee to fulfill the responsibilities of the Public Records Officer.

The Public Records Officer shall oversee compliance with the Public Records Act throughout the City by serving as a point of contact for City staff and members of the public seeking access to public records; however, not every request must be addressed to the Public Records Officer, nor is it intended that every request be reviewed by the Public Records Officer prior to fulfillment. In the interest of providing effective access to public records, the Public Records Officer may refer parties requesting public records to a department Records Liaison as appropriate.

The Public Records Officer shall maintain a list of department Records Liaisons who are designated to accept and fulfill requests for disclosure of public records on a regular basis, and shall provide advice and instruction to Records Liaisons and other staff members regarding fulfillment of such requests.

The Public Records Officer shall distribute updates on laws, legal precedents, and policy changes affecting fulfillment of records requests, as appropriate, and shall approve all forms for requesting and responding to requests of public records.

### **3.3 Public Records Liaisons**

There shall be a network of Records Liaisons with representatives in every department of the City to assist the public in obtaining access to public records. Each department director shall designate at least one Records Liaison and one backup Records Liaison. Each department will inform the Public Records Officer of all Records Liaisons and designated backups.

Under the oversight of the Public Records Officer, Records Liaisons may accept requests for public records in the possession of their respective departments and may respond to requestors in accordance with the requirements of state statutes and this policy and procedure.

In consultation with the Public Records Officer, Record Liaisons may communicate directly with requestors, forward requests to other City employees as necessary, compile requested records, arrange for the supervised public inspection and copying of requested records, maintain files and logs of official requests fulfilled by the department, and provide periodic statistical reporting of disclosure activity to the Public Records Officer.

Attached as Appendix A incorporated herein is a description of the City's organization and city officials identified as Records Liaisons from whom the public may make records requests including statements of general operations of each department to inform the public what department will likely contain information it may seek. Appendix A shall be periodically updated whenever substantive changes are made to the organizational structure of a department or city official identified as Records Liaison for a particular department.

### **3.4 Police Records**

The Police Department is responsible for the coordination, tracking, and fulfillment of requests for police records. The Public Records Officer will serve as an advisor to the Police Records Liaisons, but will not provide oversight of the fulfillment process.

### **3.5 Public Records Requests**

Requests for public records should be made in writing. The City shall provide an official form for submission of public records requests. Forms for the purpose of requesting public records shall be approved by the Public Records Officer for general use by City staff. These forms shall not be edited for distribution without the approval of the Public Records Officer. As needed, the Public Records Officer may approve alternate request forms that are specialized for request of records with unique statutory considerations, such as law enforcement records.

Acceptance of requests by means other than on official forms approved by the Public Records Officer shall be in accordance with the procedures outlined in this policy and procedure.

### **3.6 City Response**

Staff shall respond promptly to requests for public records in accordance with the requirements of RCW 42.56.520 and this policy and procedure. **The deadline for initial response to the records request is five (5) business days after receipt of the request.** Business days do not include weekends and City holidays.

Initial and final responses from staff to official requests for public records shall be made in writing and may be by fax, letter, or email. Staff may ask for clarification of a request in order to properly identify the records being requested. Clarification of requests may be obtained in writing or verbally. All clarification requests done during the initial response shall include and not be in lieu of providing a reasonable estimate of time to the greatest extent possible the City will require to respond to the request if it is not clarified.

All requests for public records shall be afforded treatment and consideration without distinction among persons, and without regard to the intent of the request.

To reduce proliferation of paper copies and in the interest of efficiently and expeditiously responding to requests for disclosure of public records, the Public Records Officer and Records Liaisons are encouraged to use electronic means to respond to, fulfill, and track public records requests.

This policy shall not obligate staff to create electronic or other records, or to convert electronic records into a format or medium in which the records are not already maintained. When asked by a requestor to convert an electronic record into a different format, staff is encouraged to do so when reasonable and technologically feasible, provided such conversion is not unduly burdensome and does not interfere with other essential City functions. Requestors may request paper copies of electronic records subject to applicable copying charges adopted by the City.

Responses to requests of public records, including responses by email, become public records in their own right, subject to the provisions of the Public Records Act and the retention requirements of the Office of the Secretary of State, and shall be maintained accordingly.

### **3.7 Exemption**

The Public Records Act and other statutes exempt or prohibit disclosure of certain public records. It is the policy of the City of Mount Vernon to provide prompt and helpful access to all public records in the City's custody that State statutes or federal law do not exempt or prohibit from disclosure. Requested records may only be withheld or redacted consistent with statutory requirements, which shall be documented for the requestor in accordance with the requirements of RCW 42.56.210.

Some public records may contain specific content that is exempt from disclosure. The presence of exempt information does not necessarily exempt an entire record from disclosure. Exempt portions of an otherwise disclosable record shall be redacted prior to inspection or copying and such redactions shall be documented. The requestor shall be notified of the redaction in accordance with the requirements of RCW 42.56.210.

Attached as Appendix B incorporated herein is a list of common exemptions relied upon by the City and exemptions outside the Public Records Act that exempts or prohibits disclosure of specific information or records. Note, the City reserves the right to assert any exemptions permitted by law when the City determines non-disclosure serves the public interest and is not limited to the exemptions included herein. Pursuant to state law the City adopted Ordinance 3256 relieving the City from the requirement to maintain an index of certain public records identified under RCW 42,56,070 (3)

### **3.8 Broad Requests and Installments**

A public records request must be for identifiable records. A request for all or substantially all records prepared, owned, used, or retained by the City is not a valid request for identifiable records, provided that a request for all records regarding a particular topic or containing a particular keyword or name shall not be considered a request for all of the City's records.

When a request is received that appears to be unclear in nature including unclear requests that lead to overly broad numbers of documents, staff shall request clarification from the requestor to ensure that the appropriate records are identified. Clarification shall focus on information needed to identify responsive records. Any information provided about the purpose of the request shall not be used as a basis for denying the request. The City shall not deny a request for otherwise identifiable public records solely on the basis that the request is overbroad.

When appropriate, as part of the clarification process, staff may work with the requestor to find ways to narrow the request. When a requestor agrees to narrow a request, nothing prevents the requestor from later expanding the request back to its original scope.

Large or complex requests may be fulfilled through an installment process as described in this policy and procedure. When installments are provided and are not claimed or inspected, the City may postpone compilation of subsequent installments or treat the request as abandoned and closed. In such cases, staff shall consult with the Public Records Officer before postponing compilation of an installment.

## **4.0 Procedure**

### **4.1 Applicability**

This policy and procedure shall apply to all employees of the City of Mount Vernon, the Mount Vernon Elected Officials, and all advisory boards and commissions of the City of Mount Vernon. This policy and procedure does not apply to responses to legal discovery requests governed by State or Federal Rules of Civil Procedure.

### **4.2 Public Records Officer**

The Public Records Officer shall oversee the City's compliance with the Public Records Act and shall serve as primary point of contact for public records access. The Public Records Officer shall have the following responsibilities:

- Oversee compliance with disclosure laws;
- Serve as primary point of contact for the public for access to public records;
- Serve as a single point of contact to coordinate the City's response when a request involves multiple record holders, is broad in scope, or is otherwise complicated to fulfill;
- Direct the public to appropriate Records Liaisons in possession of particular records;
- Serve as a resource to staff on topics related to disclosure of public records;
- Maintain a list of department Records Liaisons;
- Consult with Records Liaisons and other staff about fulfillment of records requests;
- Approve forms for use in processing records requests;
- Disseminate legal updates and policy changes affecting records requests;
- Collect and analyze relevant information related to the City's performance of public records disclosure; and
- Maintain the City of Mount Vernon Public Records webpage.

Current names and contact information for all Records Liaisons and backups shall be provided by City departments to the Public Records Officer.

#### **4.3 Form of Request**

No official format is required for making a records request; however, the City may recommend that requestors submit requests using City provided form or web page. It is recommended that public records requests be made in writing using the City's approved submittal form. Requests shall include, at a minimum, the following information:

- An indication that the request is being made for access to a public record pursuant to the Public Records Act;
- The requestor's name, address, and convenient means of contact such as email address, phone number, fax, etc.;
- The date of the request;
- A description of the records requested sufficient to identify the records;
- Whether the requestor wants to inspect records or wants copies.

When paper copies are requested, the requestor should indicate if they wish to be contacted by the City if copy costs will exceed twenty dollars (\$20.00).

Written requests submitted by mail, email, fax, personal delivery, or other means should include a completed request form. When a written request is received that does not include a completed request form or the information listed above, staff may ask the requestor to complete and submit a form to obtain information needed to identify records or respond effectively. In cases where a requestor refuses to submit a request form, staff shall transcribe the request for the requestor, ask the requestor to verify in writing that it correctly memorializes the request, and consult with the Public Records Officer to ensure an appropriate response.

## **Receipt by Staff**

Records requests may be accepted by any department staff person under the general direction of the Public Records Officer. Such requests shall be receipt stamped or dated on the face of the request and forwarded to the Public Records Officer by electronic means or cc'd to the Public Records Officer if forwarded to the Records Liaison. If the staff person does not have the immediate capability to forward the request to the Public Records Officer, the staff member shall inform and provide the supervisor or Records Liaison with the request for immediate transmittal to the Public Records Officer.

Until the Public Records Officer provides confirmation, the request is the responsibility of the department supervisor or Records Liaison.

## **Unnoticed Requests**

It is the requestor's obligation to provide the City with fair notice that a Public Records Act request has been made. When a requestor does not use an official request form, or makes a request to an employee who is not a Records Liaison or the Public Records Officer, or includes a request as part of other documents provided to the City for reasons other than making a Public Records Act request, the requestor may not be providing fair notice to the City. To ensure fair notice is provided, requestors are encouraged to use official forms, make the request through the Clerk's office, and/or take other steps to clearly identify their request. For example, when a request is submitted with other documents not related to disclosure of public records, it shall be the responsibility of the requestor to provide reasonable notice that a public records request is included. This notice may be in the form of an entry on a cover or transmittal sheet.

## **Lists of Individuals**

Requests for public records that include lists of individuals require a signed certification by the requestor that such lists shall not be used for commercial purposes. A certification provision is included on the City's official records request form. The Public Records Officer may do research to confirm that the request is not for commercial purposes.

### **4.4 Personnel and Employment Records**

All personnel and employment records must be reviewed by the Human Resources Department prior to release.

### **4.5 Police Records**

The Public Records Officer shall transfer all requests for police records received by the City Clerk's Office or other City departments to the Police Department and document the transfer. The Public Records Officer will also provide the requestor with information confirming the transfer and contact information. The Public Records Officer will log all transferred requests with notation and date of transfer.

Once transferred, coordination, tracking, and fulfillment of the request becomes the responsibility of the Police Department and no further oversight or action will be required of the Public Records Officer. The Police Department shall maintain files and tracking logs for all Police requests as required by this policy and procedure.

### **4.6 Municipal Court Records**

Although not covered under the Public Records Act or under this policy and procedure, any public records request received by Mount Vernon Municipal Court for other City department records should be forwarded to the Public Records Officer immediately upon receipt.

#### **4.7 Five (5) Day Response**

The five-day (5) response period begins on the business day immediately following receipt of the request. Business days do not include weekends or City holidays.

The initial response to the requestor will be made within five (5) business days of receipt of a request, shall acknowledge receipt of the request, and may take one of the following forms:

- Providing the requested records.
- If the records requested are available via the City website, staff may provide the internet address and link to the requestor to the online documents. This option should not be used if the requestor has requested a hard copy of the document unless the requestor expressly agrees to accept the link in lieu of a different format. Appropriate care shall be taken to ensure that this option is not mistaken as a refusal to provide the requested record in paper or other approved format. This option should not be used if requestor notifies the City that he or she cannot access records through the internet unless City and requestor can reach agreement to view copies using a City computer.
- An initial response acknowledging that the City has received the request and asking the requestor to provide clarification for a request that is unclear if needed to identify the record requested, and providing, to the greatest extent possible, a reasonable estimate of the time the City will require to respond to the request if it is not clarified.
- An initial response may indicate that the City does not have records responsive to the request and it is therefore denied.
- If the City does not have records responsive to the request and is therefore denied, the initial response may direct the requestor to another agency believed to have the records requested.
- If the initial response acknowledging that the City has received the request does not include copies of the requested records, the City shall provide a reasonable estimate of when the request can be fulfilled. When providing a reasonable estimate of time required to fulfill a public records request, the Records Liaison may take into account the time required to refine or clarify a request, locate or retrieve requested records, redact or withhold exempt records and create associated documentation, consult with appropriate staff regarding potential exemptions, and notify third parties or other agencies of requests for information of a sensitive nature consistent with the provisions of RCW 42.56.540.
- An initial response may propose fulfilling large or complicated requests on an installment basis if it also provides an estimated time frame for preparation of the first installment and an estimate of when the request will be completed.
- An initial response may be a written denial of the request based on exemptions under Washington State Law.

**Records Liaisons must respond to the Public Records Officer within two (2) business days** as to whether the records can be provided within five (5) business days or provide an estimated date for fulfillment if to exceed five (5) business days.

Records liaisons shall advise department record holders of the five-day response deadline when forwarding records requests and consult with record holders when estimating the fulfillment date.

#### **4.8 Locating Responsive Records**

Staff shall make a reasonable effort to identify and locate any and all responsive records. When identifying records, the Records Liaison or Public Records Officer may ask the requestor for clarification or refinement of the request. Such clarifications may be verbal or in writing. In the case of verbal clarification, staff involved in the conversation shall document the clarification in writing and include the information in the request file. Staff shall not conclude that a request is overly broad or does not adequately identify the records requested without attempting to obtain clarification from the requestor.

Records Liaisons and staff are not required to create new records in response to a request for public records, but shall when deemed feasible, tailor existing informational databases or indexes to provide a report responsive to a request that otherwise would not be produced in the normal course of business. The determination of the feasibility of creating such reports shall take into account the ability to redact or withhold exempt information. When the production of a tailored report requires additional resources such as customized programming or fact-specific analysis, or would otherwise interfere with other essential functions, the City is not required to produce such tailored reports but should instead consult with the requestor.

The City is only required to provide records that exist at the time a request is made. The City cannot fulfill “standing” requests or requests for records that may be created at a future date.

Fulfillment of requests should be processed in the order that provides the timeliest response. Requests may be fulfilled in the order of receipt as long as easily fulfilled requests are not postponed behind larger or more complicated requests strictly because they were received later.

#### **4.9 Immediate Provision or Inspection of Records “Over the Counter”**

Staff may respond immediately to verbal requests for records without the need for completion of a written request, entry into a request log, or a written response by the City when all of the following conditions exist:

- The records requested are easily accessible to staff;
- The requested records do not contain lists of individuals;
- The requestor is seeking only inspection of records and no copies are provided by the City;
- Staff can fulfill the request without referring it to Records Liaisons or the Public Records Officer; and
- The request is not for records that are subject to withholding or redaction due to disclosure exemptions or confidentiality considerations.

When a request is received in writing and the requested records are provided to the requestor in person at the time of the request, a separate written response by staff is not required. In such cases, a notation shall be made on or attached to the request listing the records produced, the number of copies made, the fees charged, if any, the name of the staff person providing the record, and the date of fulfillment.

#### **4.10 Internal Review Prior to Public Inspection**

##### **Questions of Exemption**

Record holders and/or departments are responsible for identifying potential exempt records or records that contain potentially exempt information. When doubt arises as to whether records or portions of records subject to a request are exempt from disclosure, the Records Liaison shall consult the Public Records Officer and City Attorney, who may inspect the subject records before authorizing the

disclosure. Records Liaisons or record holders will be responsible for redacting exempt information from departmental records.

### **Questions of Unclear Requests**

If staff isn't able to identify with confidence, the records sought by a requestor, or when such an unclear request appears to result in an overly broad request and unsuccessful attempts have been made to obtain clarification from the requestor, staff shall consult with the Public Records Officer who shall review the request and provide direction to staff regarding its fulfillment. Staff may also consult with the City Attorney on such requests and shall do so in the absence of the Public Records Officer.

### **4.11 Forms of Response**

Final responses shall either include copies of the requested records, appropriate denials with attached explanation pursuant to state law, or provide direction to the requestor to arrange for inspection of the records (if wanted by the requestor). When the City is not able to provide requested records within five (5) business days, the Public Records Officer shall provide a written updated estimate to the requestor at the earliest possible opportunity.

### **Inspection of Responsive Records**

Requestors may choose to inspect requested records prior to City staff making copies and should be encouraged to do so, especially when the volume of records is large. Inspection prior to copying may serve to narrow the scope of the request and can be useful for identifying and providing the appropriate responsive records to requestors. Requestors may make arrangements with the Public Records Officer to inspect records on City premises during normal business hours at a mutually convenient time. Staff shall make every effort to accommodate reasonable requests for appointment times while ensuring the security of public records during inspection.

The Records Liaison fulfilling the request shall provide for the security of records during inspection, which shall be supervised by City staff as deemed appropriate. Requestors shall return all records inspected to the Records Liaison in the condition and order they were provided. Records shall not be altered in any way, rearranged, or removed from folders or removed from City premises during inspection. A requestor may flag selected pages for copying but shall not alter the original record.

The City reserves the right to make copies of records for inspection rather than provide the original records for inspection. The requestor will not be responsible for copy costs if the requestor only inspects records.

### **Electronic Copies**

Records available in electronic form that do not require redaction may be provided to a requestor in native format unless the requestor specifically asks that they be provided in paper or other form. When requested and deemed feasible, electronic records may be converted from one format to another provided such conversion is not unduly burdensome to staff.

### **Installments**

If appropriate, records requests may be fulfilled in partial installments to provide the fullest assistance to requestors. Installments are subject to the same deadlines for claiming and inspecting records

described in this section. **If an installment is not claimed, or if arrangements for inspection of an installment are not made prior to 30 calendar days from notification of availability, the City may discontinue compiling subsequent installments of the same disclosure request.** The Public Records Officer may attempt to contact the requestor prior to deeming an installment request abandoned, but is not required to make such contact when a requestor has been previously warned of this consequence.

### **Requestor Responsibility**

Requestors shall arrange to inspect records or claim copies of requested records within 30 calendar days following notification by the City that responsive records are available for inspection or copying. The 30 calendar days begins on the business day immediately following the City's notice that the records are available and includes weekends and City holidays. The Public Records Officer may extend this time period as appropriate to ensure fullest assistance to requestors. Requestors must respond to requests for clarification within 30 calendar days of being contacted. If the requestor fails to respond to a request to clarify the request, and the entire request is unclear, the City shall deem the entire request abandoned. Otherwise, the City shall continue to respond to those portions of the request that are clear.

**If a requestor fails to claim or arrange for inspection of requested records after the expiration of the 30 calendar days, the request shall be deemed abandoned and closed.**

Prior to closing the request, the Public Records Officer may attempt to confirm whether the requestor still wants the requested records, but is not required to do so.

### **Multiple Requests by Same Party**

When the same requestor simultaneously submits multiple, separate requests or makes one or more additional requests when previous requests are open, staff may queue the requests in the order in which they were received. Staff is not required to work on an additional request until the initial requests are completed and closed. Requestors are responsible for informing the Public Records Officer if they want to reprioritize the fulfillment of their requests.

## **4.12 Exemption from Disclosure**

### **Withholding or Redaction of Records**

Requested records may be subject to exemption from disclosure under the Public Records Act or other statutes. Exempt records shall be withheld or redacted, when necessary, consistent with statutory requirements and the withholding or redaction shall be documented for the requestor in accordance with the requirements of RCW 42.56.210 and this policy and procedure.

The presence of exempt content does not necessarily exempt an entire record from disclosure. Exempt portions of an otherwise disclosable record shall be redacted, when necessary, prior to inspection or copying.

Prior to withholding exempt records or redacting portions of records, the Records Liaison shall consult with the Public Records Officer and City Attorney. Departments may adopt standard procedures for withholding or redacting portions of commonly requested exempt records.

When requested records are redacted, the Records Liaison shall keep a copy of the redacted records for the request file. A listing only of the redacted records provided to the requestor is not sufficient in accordance with the provisions of the official Washington State records retention schedules.

### **Exemption Log**

When records are withheld or redacted, the requestor shall be informed in writing of the reason and be provided the statutory citation supporting the exemption. An exemption log shall be prepared for the requestor listing:

- i) A description of the record or type (e.g. e-mail, letter, memo etc.. ) identifying the document,
- ii) The date of the document if it can be ascertained from inspection of the record,
- iii) The author of the record if it can be ascertained from inspection of the record,
- iv) The recipient of the record (if any) if it can be ascertained from inspection of the record
- v) A general description the information withheld that provides sufficient facts to allow the requestor to understand how the statutory exemption applies to the redaction or withheld record (e.g. record containing an individual's social security number). and
- vi) The statutory basis for the redaction if withholding of the record.

Individual occurrences of the same redaction may be listed generally in the exemption log. For example, an exemption log need not list separately every occurrence of the redaction of an individual's social security number, but may list one time that the number has been redacted throughout the record.

### **Administrative Review of Denial**

A requestor may ask for review of a decision to withhold or redact exempt records by submitting a written petition to the Public Records Officer that includes a copy of or detailed description of the City's statement of withholding. The request for review and any relevant information shall be forwarded immediately to the City Attorney, who shall consider the petition and either reverse or affirm the denial within five business days of the City's receipt of the petition. The City and the requestor may mutually agree to a longer period of time for consideration of a petition for review. If the withholding or redaction is affirmed, the decision shall be considered the City's final action for the purposes of judicial review. If the decision to withhold or redact is reversed, the Public Records Officer shall make the subject records available to the requestor for inspection in accordance with the provisions of this policy and procedure.

## **4.13 Requests Log, Reports, Retention, Records Index**

### **Requests Log**

The Public Records Officer shall maintain a log of all requests and associated documents.

Records Liaisons shall maintain logs of public records requests received for their departments that shall include at a minimum:

- The request tracking number from the Public Records Officer;
- The identity of the requestor if provided by the requestor and convenient contact information for the requestor;

- Date of receipt;
- Due date of request;
- The text of the original request;
- A description of the records produced in response to the request;
  
- A description of the records redacted or withheld and the reasons therefor;
- Search efforts performed to acquire records;
- Description of any clarifications of the request;
- A dated notation of the closure of the request.

Requests logs are a public record subject to disclosure and retention in accordance with the requirements of the official Washington State records retention schedules and this policy and procedure. On a quarterly basis, Records Liaisons shall provide tracking reports to the Public Records Officer.

### **Reports to Washington State Joint Legislative Audit and Review Committee**

To improve best practices for dissemination of public records the City through its Public Records Officer shall report to the joint legislative audit and review committee identified by Chapter 303, Laws of 2017 Section 6 subsection (5) by July 1st of each subsequent year the following metrics, measured over the preceding year:

- (a) An identification of leading practices and processes for records management and retention, including technological upgrades, and what percentage of those leading practices and processes were implemented by the City;
- (b) The average length of time taken to acknowledge receipt of a public records request;
- (c) The proportion of requests where the City provided the requested records within five days of receipt of the request compared to the proportion of requests where the City provided an estimate of an anticipated response time beyond five days of receipt of the request;
- (d) A comparison of the City's average initial estimate provided for full disclosure of responsive records with the actual time when all responsive records were fully disclosed, including whether the City sent subsequent estimates of an anticipated response time;
- (e) The number of requests where the City formally sought additional clarification from the requestor;
- (f) The number of requests denied and the most common reasons for denying requests;
- (g) The number of requests abandoned by requestors;
- (h) To the extent the information is known by the City, requests by type of requestor, including individuals, law firms, organizations, insurers, governments, incarcerated persons, the media, anonymous requestors, current or former employees, and others;
- (i) Which portion of requests were fulfilled electronically compared to requests fulfilled by physical records;
- (j) The number of requests where the City was required to scan physical records electronically to fulfill disclosure;
- (k) The estimated City staff time spent on each individual request;
- (l) The estimated costs incurred by the City in fulfilling records requests, including costs for staff compensation and legal review, and a measure of the average cost per request;
- (m) The number of claims filed alleging a violation of chapter 42.56 RCW or other public records statutes in the past year involving the City, categorized by type and exemption at issue, if applicable;

- (n) The costs incurred by the City litigating claims alleging a violation of chapter 42.56 RCW or other public records statutes in the past year, including any penalties imposed on the City;
- (o) The costs incurred by the City with managing and retaining records, including staff compensation and purchases of equipment, hardware, software, and services to manage and retain public records<sup>36</sup> or otherwise assist in the fulfillment of public records requests;
- (p) Expenses recovered by the City from requestors for fulfilling public records requests, including any customized service charges;
- (q) Measures of requestor satisfaction with City responses, communication, and processes relating to the fulfillment of public records requests.

The Public Records Officer shall consult with the joint legislative audit and review committee to develop a reporting method and clearly defined the standardized metrics.

### **Retention**

Public records requests and associated logs are considered a public record subject to disclosure and retention in accordance with the requirements of the Washington State Local Government Common Records Retention Schedule.

### **Records Index**

As permitted under RCW 41.17.260(4) (re-codified as RCW 42.56.070 (4)). Mount Vernon adopted Ordinance 3256 (passed May 4, 2005 and published May 24, 2005) issuing a formal order finding that the creation and maintenance of a records index of the City's Public Records is unduly burdensome causing a likelihood of interference with City operations. Ordinance No. 3256 is hereby incorporated herein by reference as if set forth fully herein.

### **5.0 Fees**

The City finds that the calculation of actual costs incurred for providing public records remains a highly complex task and that the City continues to have limited resources in staff and budget and no surplus within either to provide for any study to support such calculation. For many years, creating and maintaining (including but not limited to periodically updating) a records fee schedule based on actual costs has been and continues to be unduly burdensome to the City. Thus, the City shall continue to charge state statutory rates provided for the provision of public records. This regulation does not result in a change to this practice. This policy supplements current practice by adopting in addition to statutory photocopy rates, statutory rates for the production of electronic records newly passed into state law.

Fees for the provision of responsive records totaling more than ten (10) pages will be based on cost in accordance with RCW 42.56.120. A current fee schedule is available on the City's website and posted in the City Finance Department. The fee schedule will be maintained by the City's Finance Director.

There is no charge for inspection of records. Fees may be waived if a request is made by a state or local agency. Fees may be waived when the number of responsive records totals fewer than ten (10) pages of records or ten e-mails that do not contain attachments. Such costs will not be waived, however, when it appears that the request has been tailored to take advantage of this waiver.

Copy charges may be remitted by cash, check, money order, MasterCard, or Visa payment. The City Finance Department shall provide for collection of copy fees if a department is not able to do so. A deposit of up to ten percent of the estimated total cost may be required for large requests before records are copied. When requested records are provided on an installment basis, fees shall be collected for copies prior to provision of the next installment. Failure to pay for an installment shall place compilation of subsequent installments on hold.

If payment arrangements are not made within 30 calendar days of notice that records are available, the entire request may be deemed abandoned and closed. A reasonable attempt shall be made by the Public Records Officer to contact the requestor prior to deeming a request abandoned and closed.

**5.1 Fee Schedule** The City has adopted the following fee schedule:

- (i) Fifteen cents per page for photocopies of public records, printed copies of electronic public records when requested by the person requesting records, or for the use of City equipment to photocopy public records;
- (ii) Ten cents per page for public records scanned into an electronic format or for the use of City equipment to scan the records;
- (iii) Five cents per each four electronic files or attachment uploaded to email, cloud-based data storage service, or other means of electronic delivery; and
- (iv) Ten cents per gigabyte for the transmission of public records in an electronic format or for the use of City equipment to send the records electronically. The City shall take reasonable steps to provide the records in the most efficient manner available to the City in its normal operations; and
- (v) The actual cost of any digital storage media or device provided by the City, the actual cost of any container or envelope used to mail the copies to the requestor, and the actual postage or delivery charge.

Charges may be combined to the extent that more than one type of charge applies to copies produced in response to a particular request. The City shall not impose copying charges under this section for access to or downloading of records that the City routinely posts on its public internet web site prior to receipt of a request unless the requestor has specifically requested that the City provide copies of such records through other means.

**5.2 Customized Service Charge.** In addition to the charge imposed for providing copies of public records and for the use by any person of City equipment copying costs, the City may include a customized service charge.

A customized service charge may only be imposed if the City estimates that the request would require the use of information technology expertise to prepare data compilations, or provide customized electronic access services when such compilations and customized access services are not used by the City for other City purposes. The customized service charge may reimburse the City up to the actual cost of providing the services.

**Notice Required.** The City may not assess a customized service charge unless the City has notified the requestor of the customized service charge to be applied to the request, including an explanation of why the customized service charge applies, a description of the specific expertise, and a reasonable estimate

cost of the charge. The notice also must provide the requestor the opportunity to amend his or her request in order to avoid or reduce the cost of a customized service charge.

**5.3 Deposit.** The City may require a deposit in an amount not to exceed ten percent of the estimated cost of providing copies for a request, including a customized service charge. If the City makes a request available on a partial or installment basis, the City may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed, the City is not obligated to fulfill the balance of the request.

## **6.0 References**

Chapter 42.56 RCW

Chapter 40.14 RCW

Chapter 82.12 RCW

Chapter 44-14 WAC

Chapter 434-615 WAC

Washington State Local Government Common Records Retention Schedule

Mount Vernon Ordinance No. 3256

## **7.0 General duty**

It is expressly the purpose of this policy to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this policy. It is the specific intent of this policy that no provision nor any term used in this policy is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this policy is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this policy by its officers, employees or agents.

## **8.0 Corrections**

The City Clerk is authorized to make necessary corrections to this policy including, but not limited to, the correction of scrivener's/clerical errors, references, numbering, section/subsection numbers and any references thereto.

## Appendix A

### City of Mount Vernon Organizational Chart and Public Records Officers

#### City of Mount Vernon Public Records Officer (PRO):

**Becky Jensen**

Telephone: 360-336-6207

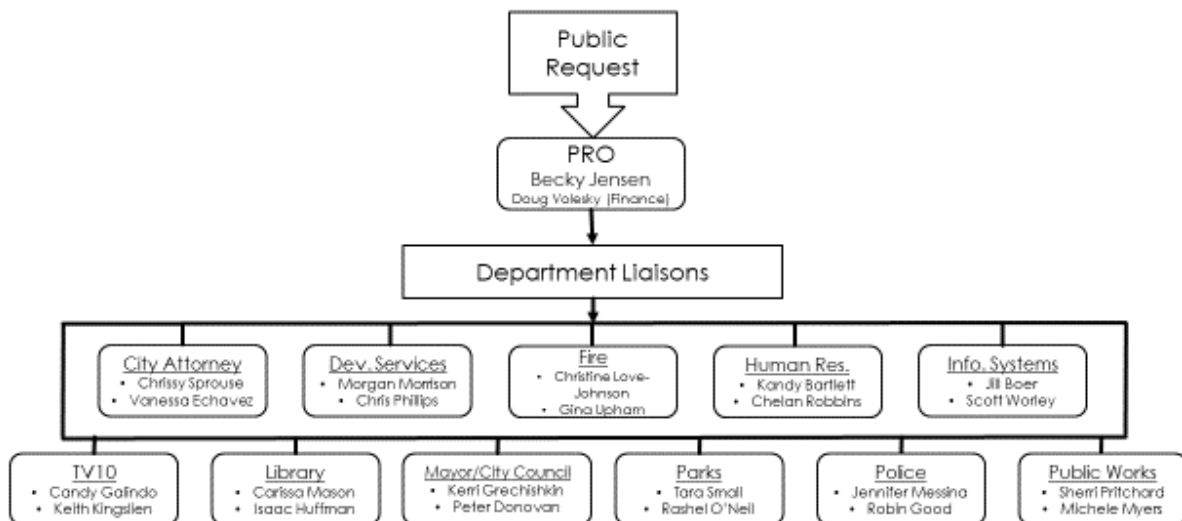
Email: [mvfinance@mountvernonwa.gov](mailto:mvfinance@mountvernonwa.gov)

#### Citizen request for General Government or Fire Information:

<http://www.mountvernonwa.gov/FormCenter/Finance-5/Information--Document-Request-Form-45>

#### Citizen request for Police Information:

<http://mountvernonwa.gov/formcenter/police-7/public-records-request-61>



### Department General Obligations and Public Record Liaisons

#### **Mayor**

The Mayor is the chief executive administrative officer of the City, and is responsible for all City departments (Parks, Finance, Development Services, Information Services, Public Works, Police, Fire, Human Resources and Legal).

*Public Records Liaison: Kerri Grechishkin*

*Alternate: Peter Donovan*

### **Finance Department**

The Finance Department processes all payroll and payment of bills for the City, and provides billing, receipting, and account management. Also, prepares annual budgets and the City's financial reporting.

*Public Records Liaison: Becky Jensen*

*Alternate: Doug Volesky*

### **City Attorney**

The City Attorney's primary responsibility is to resolve legal questions which arise during the development and implementation of City projects and programs as well as review and approve all city laws, contracts and agreements.

*Public Records Liaison: Chrissy Sprouse*

*Alternate: Vanessa Echavez*

### **Human Resources**

Human Resources is responsible for recruitment and selection management, administering employee wages and benefit programs, and providing for the consistent and uniform administration of collective bargaining agreements.

*Public Records Liaison: Kandy Bartlett*

*Alternate: Chelan Robbins*

### **Police Department**

The City Police Department provides services for the protection of persons and property. These activities include general law and traffic enforcement, criminal investigations, animal control, and emergency service coordination and support.

*Public Records Liaison: Jennifer Messina*

*Alternate: Robin Good*

### **Fire Department**

The City Fire Department is responsible for fire prevention and investigation, fire suppression, emergency medical services, as well as Emergency Management for the City.

*Public Records Liaison: Christine Love-Johnson*

*Alternate: Gina Upham*

### **Public Works/Engineering**

This department provides general oversight and administrative services to the public works department, identifies and implements public works capital projects and infrastructure programs and provides engineering and public works management services to the City.

*Public Records Liaison: Sherri Pritchard*

*Alternate: Michele Myers*

### **Development Services**

This department provides overall leadership, management and coordination of the department by assisting with the creation of and implementing the goals and work plans established by the Mayor and City Council. There are three distinct divisions within the Department that include: Building, Engineering, GIS and Planning.

*Public Records Liaison: Morgan Morrison*

*Alternate: Chris Phillips*

### **TV10**

TV10 provides the local community with quality TV production, covering local topics and agendas. This includes coverage of City Council meetings, City events and City departmental videos along with productions for our TV10 partners including the Mount Vernon School District, Skagit Regional Health, Skagit County, Skagit Valley College and Community Action Agency of Skagit County.

*Public Records Liaison: Candy Galindo*

*Alternate: Keith Kingslien*

### **Information Systems (IS)**

The IS Department provides information services for the City staff and create orderly growth and development of the City's technological infrastructure. It assists departmental growth with technology, standards and a shared knowledgebase. It is responsible for citywide systems and telecommunications operations, support, management, implementation, and integration, and also develops policies and standardization for City infrastructure, network, systems and software.

*Public Records Liaison: Jill Boer*

*Alternate: Scott Worley*

### **Parks and Enrichment Services**

Parks and Enrichment Services provides safety and access to the City's 850 acres of parkland and 14 miles of City pathways and trails. It also provides recreational services and youth programs, as well as works with the City's Court system by running a program which provides community service work.

*Public Records Liaison: Tara Small*

*Alternate: Rashel O'Neil*

### **Library**

Mount Vernon City Library serves to enrich and educate citizens' lives through information, programming, and material. It offers services to support the informational, educational, and recreational needs of the community.

*Public Records Liaison: Carissa Mason*

*Alternate: Isaac Huffman*

Appendix B  
List of Common Exceptions and Exceptions Outside the Public Records Act

**List of Common Exceptions**

RCW 19.108	Records that are protected by trade secrets law;
RCW 42.56.270 (1)	Valuable formulae, designs, drawings, computer source code or object code, and research data obtained by the City within five years of the request for disclosure when disclosure would produce private gain and public loss
RCW 42.56.230(3) & .250(3)	Personal information in files maintained for council members and City employees to the extent that disclosure would violate their right to privacy, including but not limited to addresses, phone numbers, Social Security numbers, driver license numbers, voluntary deductions, marriage status, information about dependents, and any garnishment deductions;
RCW 42.56.280	Preliminary drafts, recommendations, and intra-agency memoranda in which opinions are expressed or policies formulated or recommended, except that a specific record shall not be exempt when publicly cited by the City in connection with any City action ;
RCW 42.56.250	All applications for public employment, including the names of applicants, resumes, and other related materials submitted with respect to an applicant;
RCW 42.56.240(1))	Records in investigative files, including police and code enforcement investigations, to the extent that nondisclosure is essential for effective law enforcement or for the protection of any person's right to privacy
RCW 42.56.240(2) & (5))	Identifying information for victims or witnesses of crimes under certain circumstances
RCW 42.56.290	Records created in anticipation of litigation;
RCW 5.60.060(2)	Records reflecting communications between attorneys and City employees where legal advice is sought or received

**Washington State Statues**

RCW 2.64.111	Judicial conduct commission investigations of judges and initial proceedings
RCW 4.24.550	Information on sex offenders
RCW 4.24.601	Trade secrets and confidential research, development or commercial information re: products or business methods
.611	
RCW 5.60.060	Privileged communications
RCW 5.60.070;	Mediation records
RCW 7.07.070	
RCW 7.68.140	Victims' compensation claims
RCW 7.69A.030(4)	Name, address and photograph of child victim or child witness
RCW 7.69A.050	Child victims and witnesses of certain crimes – protection of address
RCW 7.75.050	Records of Dispute Resolution Centers
RCW 9.02.100	Reproductive privacy
RCW 9.41.097(2)	Mental health information re persons buying pistols or applying for CPLs

RCW 9.41.129	Concealed pistol license applications
RCW 9.73.230	Name of confidential informants in written report on wire tapping
RCW 9.51.050	Disclosing transaction of grand jury
RCW 9.51.060	Disclosure of grand jury deposition
RCW 9.73.090(1)(c)	Prohibition on disclosure of law enforcement dash cam videos until final disposition of litigation
RCW 9A.44.138	Offender registration information given to high school or institution of higher education re an employee or student
RCW 9A.82.170	Financial institution records re criminal profiteering act
RCW 10.27.090	Grand jury testimony/evidence
RCW 10.27.160	Grand jury reports – release to public only by judicial order
RCW 10.52.100	Records identifying child victims of sexual assault
RCW 10.77.205	Information re victims, next of kin, or witnesses requesting notice of release of person found not guilty of a sex, violent, or felony harassment offense by reason of criminal insanity and the notice itself
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, with some exceptions
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 10.97.130	Information about victims of sexual assault under age eighteen
RCW 10.101.020(3)	Information given by an accused regarding determination for indigent defense
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 offender records
RCW 13.50.100	Juvenile/children records not relating to offenses
RCW 13.60.020	Missing children or endangered person information
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 19.34.240(3)	Private digital signature keys
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 26.33.380	Adoption – identity of birth parents confidential

RCW 26.44.010	Privacy of reports on child abuse and neglect
RCW 26.44.031	Information related to reports of child abuse or neglect
RCW 26.44.125	Reports, reviews and hearings related to a review of abuse finding
RCW 27.53.070	Records identifying the location of archaeological sites
RCW 29A.08.720	Voter registration records – place of registration and any decision not to register to vote confidential
RCW 29A.08.710	Voter registration records – certain information exempt
RCW 35.102.145	Municipal business and occupation tax – local ordinance can protect return or tax information
RCW 36.28A.060(8)	Tactical and intelligence information provided to WASPC
RCW 39.10.470(2)	Alternative public works - trade secrets or other proprietary information submitted by bidder in connection with an alternative public works transaction if data identified and reasons stated in writing
RCW 39.10.470(3)	Alternative public works – proposals submitted by design-build finalists until notification of highest scoring finalist is made
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 43.43.762	Contents of statewide criminal street gang database
RCW 46.52.065	State toxicologist records relating to analyses of blood samples
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 – limited disclosure
RCW 48.62.101	Local government insurance/risk management liability reserve funds established to settle claims
RCW 50.13.060	Access to employment security records by local government agencies
RCW 50.13.100	Disclosure of confidential employment security records allowed if identifying information deleted or with consent
RCW 51.28.070	Worker's compensation records confidential – limited disclosure
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 – confidential – limited disclosure
RCW 68.50.320	Dental identification records – available to law enforcement agencies
Ch. 70.02 RCW	Medical records – access and disclosure – entire chapter (information from 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 70.28.020	Local health department TB records – confidential
RCW 70.41.200	Hospital quality improvement committee records and accreditation reports
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 70.94.205	Washington Clean Air Act – confidentiality of data.
RCW 70.96A.150	Registration and other records of alcohol and drug abuse treatment programs
RCW 70.123.075	Client records of domestic violence programs

RCW 70.125.065	Records of community sexual assault program and underserved populations provider in discovery
RCW 71.05.425	Notice of release or transfer of committed person after offense dismissal
RCW 71.05.445	Release of mental health information to Dept. of Corrections
RCW 71.05.620	Access to court records related to mental health cases under chapter 71.05 RCW
RCW 71.24.035(5)(g)	Mental health information system – state, county and regional support networks – confidentiality of client records
RCW 71.34.335	Mental health treatment of minors – records confidential
RCW 71A.14.070	Records regarding developmental disability – confidentiality
RCW 72.09.345	Notice to public about sex offenders – department of corrections access to information
RCW 72.09.585	Disclosure of inmate records to local agencies – confidentiality
RCW 73.04.030	Veterans discharge papers exemption (see related RCW 42.56.440)
RCW 74.04.060	Applicants and recipients of public assistance
RCW 74.04.520	Food stamp program confidentiality
RCW 74.13.075(5)	Juvenile’s status as a sexually aggressive youth and related info
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**

18 USC § 2721 - 2725	Driver and License Plate Information
20 USC § 1232g	Family Education Rights and Privacy Act
23 USC § 409	Evidence of certain accident reports
42 USC 290dd-2	Confidentiality of Substance Abuse Records
42 USC § 405(c)(2)(C)(viii) (I)	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	Grants to States for Child Abuse and Neglect Prevention and Treatment Programs
45 CFR 160-164	HIPAA Privacy Rule
46 CFR 40.321	USCG regulations regarding confidentiality