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Wisconsin's Public Records Law Overview for Sub-Units

Inspection: THE PRESUMPTION

- **Public policy favors the inspection of government records. There is a statutory (legal) presumption in favor of access to government records. The policy underlying this statute is that an informed electorate is essential to the proper functioning of a free and democratic society.**

Who Is A Custodian of Records

- Boards, Commissions & Committees have a staff person assigned who will fulfill this role
- In absence of such person the custodian is the Chairperson

The Request for Public Records

- Request may be oral or in writing
- The Requestor may remain anonymous

The Request for Public Records

- No Reason Required
- The request must be liberally construed

Information vs. Records

- The Public Records Law does not require creation of a record
- The Public Records Law is not a barrier to discussing non-confidential information.

Determining the Existence of a Record

- A record is virtually everything containing information, if it has been created or is being kept by government officials/bodies (including email)
- Records produced or collected by a private contractor for the City are public records

Records: Exceptions to the Rule

- Drafts - are not records if they are not circulated beyond the approving authority – however, a document in progress is not always a draft
- Personal Documents – materials maintained for your own personal use MAY not be public records

Records: Exceptions to the Rule

- Personal Notes – used solely to refresh your recollection at a later date BUT ONLY IF THEY ARE NOT SHARED WITH OTHERS OR MAINTAINED TO MEMORIALIZE AGENCY ACTION
- Computer Programs/Trade Secrets – are not public records

Records: Exceptions to the Rule

- Copies – copies of documents which your agency receives from another agency for purely informational purposes and which do not affect the functions of your agency are not public records

Records: Exceptions to the Rule

- Published/Copyrighted Materials – materials which are available at the library, are published on the internet or which are available for sale are not public records

Inspection: Who Decides What is Released?

- Requests for Records are processed by staff
- Staff must consult with City Attorney before denying access to any Public Records

Inspection: Reasons For Denying Access

- Statutes – Public Records Exemptions(i.e. Informants, federal laws), Juvenile Records, Mental Health Records
- Common Law – case made law i.e. DA's exception, harassment investigations
- Balancing Test

Inspection: The Balancing Test

Whether the harm to public interest from inspection of the records outweighs the public interest favoring inspection of such records.



Inspection: Redactions



- Sometimes we black out (redact) portions of records which cannot be released and release the rest
- The record copy should be provided to the requestor in the same format as the original record – electronic records emailed

Providing the Records: Costs & Fees



- APM Sets fees – Staff will administer
- Where possible email records at no charge
- May require prepayment if costs exceed \$5.00

Denial of Request

- If request was made orally – denial may be made orally
- Requestor may make a demand for a written explanation within 5 days of the denial

Denial of Request

- If request was written – denial must be in writing and state specific reasons supporting the denial

Court Review



- The requestor may ask a court to review a denial (or partial denial), or they may request the Attorney General or the local District Attorney to review the denial
- They will only consider those reasons for denial that were set forth in the written denial

Destruction of Records

- No record may be destroyed while a request is pending or at anytime within 60 days after a request has been denied

If You Receive a Subpoena

- Do Not Lose nor Ignore the Subpoena
- Do Not Release Records Just Because They Have Been Subpoenaed
- Immediately Inform Your Assigned Staff and Contact the City Attorney's Office



We have reached the end. Thank you for your participation.