

	LANE COUNTY SHERIFF'S OFFICE POLICY	Number: G.O. 11.03
		Issue Date: May 12, 2005
		Revision Date: Mar 21, 2005
CHAPTER: Operations Support		Related Policy: AG's Public Records and Meeting Manual, by Hardy Myers, Jan 2004
SUBJECT: Public Records		Related Laws: ORS 192.410(4), ORS 192.420, ORS 192.410 (1)(b), ORS 192.430, ORS 192.440, ORS 192.001-192.190

POLICY: The Oregon Legislature enacted the Public Records laws in 1973. These laws underscore the state's policy that the public is entitled to know how the public's business is conducted. Thus, the written record of the conduct of the public's business is, with some important exceptions, available to any citizen.

RULE: Under ORS 192.420 "every person" has a right to inspect any nonexempt public records of a public body in Oregon. Generally, the identity, motive, and need of the person requesting access to public records are irrelevant; however, the identity and motive of the person seeking disclosure of a particular record may be relevant in determining whether a record is exempt from disclosure under a conditional exemption.

DEFINITION: Public records are defined as all government records of any kind, including: any writing containing information relating to the conduct of the public's business, and also including, but not limited to, court records. Writing is defined expansively to mean handwriting, typewriting, printing, photographing, and every means of recording, including letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, files, facsimiles, or electronic recordings. Writing also includes information stored on computer tape, microfiche, and e-mail. Even deleted e-mail is a public record.

PROCEDURES:

I. Inspection of Public Records

- A Requests for records must be made under the Oregon Public Records Law, not the federal Freedom of Information Act (FOIA). Nevertheless, we should not deny a request because the requester calls it a FOIA request; however, we are not bound by the timeframes or other requirements of FOIA.
- B. We may require the records request to be in writing. This assists us in identifying the records requested and also establishes the reason we released the records, if releasing the records results in a legal action.

II. Records Custodian:

- A. The duty to make nonexempt public records available for inspection and copying under the Public Records Law is on the “custodian” of the public records.
- B. The Sheriff of Lane County is the official custodian of records for the Lane County Sheriff’s Office. However, for practical purposes, Division Captains will identify/assign a Divisional custodian of records for the various programs within their scope of authority.
- C. The term “custodian” is defined as that public body mandated to create, maintain, care for, or control the records. However, the term does not include a public body that has custody of a public record as an agent for another public body that is the custodian, unless the record is otherwise not available. Division Captains within the Lane County Sheriff’s Office will identify/assign a custodian of records for the various programs within their areas of responsibilities.

III. Proper and Reasonable Opportunity to Inspect:

ORS 192.430 requires a custodian of public records to provide “proper and reasonable opportunities for inspection and examination of the records in the office of the custodian” during usual business hours to persons seeking access to public records.

IV. Protection Rules:

The Public Records law expressly authorizes a public body to take reasonable measures to preserve the integrity of records and to maintain office efficiency and order.

V. Fees:

- A. The Law expressly authorizes a public body to establish fees “reasonably calculated to reimburse it for its actual cost in making such records available”. The statute also expressly permits a public body to include in its fees “costs for summarizing, compiling or tailoring a record, either in organization or media, to meet the person’s request.”
- B. “Actual cost” may include a charge for the time spent by staff in locating the requested records, reviewing the records in order to delete exempt material, supervising a person’s inspection of original documents in order to protect the records, copying records, certifying documents as true copies, or sending records by special methods such as express mail. “Actual costs” may also include the cost of attorney time reviewing and segregating records at our request, but cost of legal assistance to determine parameters of the law is not a recoverable cost.

VI. Destruction/Retention of Public Records:

Rulemaking authority relating to retention and destruction of public records belongs to the State Archivist. The Lane County Sheriff's Office will comply with the minimum standards set by the State Archivist; however, we may retain records longer than the standards state.

V. Exempt from Disclosure:

A. The Public Record law is primarily a *disclosure* law, rather than a confidentiality law. Exemptions are limited in their nature and scope of application because the general policy of the law favors public access to government records. Accordingly, a public body that denies a records inspection request has the burden of proving that the records information is exempt from disclosure.

VI. Records Requests:

A. Divisional Custodians of Records will establish practices to provide "proper and reasonable opportunities for inspection and examination of records" within the scope of their program areas, will take reasonable measures to preserve the integrity of records, and to maintain office efficiency and order.

B. When a public records request is made to this Sheriff's Office, the first staff person handling the request may release the appropriate information and charge the appropriate fees IF the staff person clearly understands public records disclosure laws and is confident the requested information is not exempt from disclosure. Otherwise, refer the requesting person to the Divisional custodian of records for your respective program area.

C. Other than routine day-to-day disclosure, all requests for public records should be in writing using the appropriate form.