



Member Spotlight on Public Records

Special Guest: Kelly Gonzalez,
Public Records Officer for Clallam County

PLEASE NOTE:

- Microphones are muted
- Use the **Q&A** feature to submit questions
- Use the **Chat** feature for technical difficulties
- This is not being recorded – materials will be linked on WCRP's County Connection page
- Quick survey at the end!

CLALLAM COUNTY PUBLIC RECORDS

WCRP PoolCast
12/10/2020

What is a Public Record?

- A writing
- Containing information relating to the conduct of government or the performance of any governmental or proprietary function that is...
- Prepared, owned, used, or retained by any state or local agency (POUR)
- Format doesn't matter!

Writing...

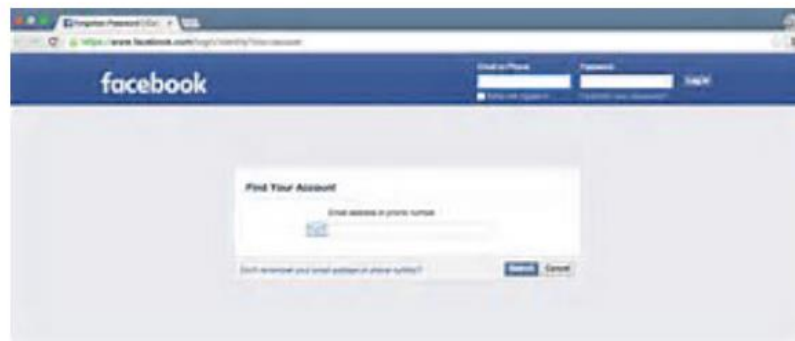
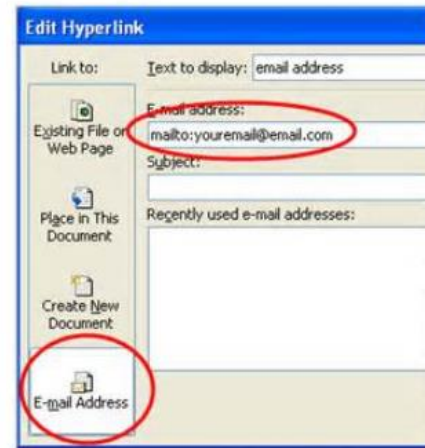
“**Writing**” includes “handwriting, typewriting, printing, photostating, photographing, and **every other means of recording any form of communication** or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic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

~ RCW 42.56.010



Note: Public Records Include...

...records of agency business when they are created or retained by agency employees or officials on **home computers or devices, or in non-agency email accounts or files.**



The Public Records Act

- Passed in 1972 – Initiative 276
- RCW 42.56 (formerly RCW 42.17)
- Open Government Laws like the PRA are often called “Transparency Laws” or “Sunshine Laws” because they
 - Shine light on government
 - US Supreme Court Justice Louis Brandeis once famously said, “Sunlight is the best disinfectant.”



The Public Records Act Purpose

- The people of this state do not yield their sovereignty to the agencies that serve them.
- The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.
- The people insist on remaining informed so that they may maintain control over the instruments that they have created. RCW 42.56.030.



Your attention please

Examples of Public Records Act penalty orders, judgments and settlements following lawsuits by requesters alleging PRA violations by a public agency

- \$600,000 – Snohomish County
- \$575,000 – Snohomish County
- \$550,000 – Clallam County
- \$502,827 – Department of Labor & Industries
- \$500,000 – Board of Accountancy
- \$488,000 – Bainbridge Island

Incomplete searches and lack of follow up. Inconsistent responses.

Real cost is MUCH HIGHER!

Changes Made in Clallam County

- Updated Public Records Policy May 2017
(http://www.clallam.net/bocc/documents/321PublicRecords_003.pdf)
- Established county-wide public records request process
- Updated response templates
- Proposed fee waiver (policy change)
- Scheduled recurring weekly meetings between PRO, CCSO and Legal Counsel to go over pending requests
- Implemented various staff trainings
- Online payments now accepted

Clallam County Public Records Team

Every County Employee!!

HR/Risk Management Deputy Director – Tom Reyes

Public Records Officer – Kelly Gonzalez

Public Records Analyst – Afton Beck

Clallam County Deputy Prosecuting Attorney-Elizabeth Stanley

Public Records Specialists (PRSs) in every Department

Information Technology

Archivists

GovQA Technical Support

Public Records Officer

- Oversee and monitor, through fulfillment, the County's response to all requests.
- Prepare and organize the County's responses to requests including determination if records are wholly or partially exempt.
- Retain a copy of the records and any exemption logs sent to a requester along with any correspondence between the County and the requester relating to the request.
- Facilitate the management of departmental records with Public Records Specialists
- Assist Public Records Specialists in any department to obtain records in order to fulfill a request.

Public Records Specialist (PRS)

- Notify and forward new requests to the PRO.
- Locate, collate, and organize any and all responsive records for review and processing, including assisting the PRO in determining if records are exempt.
- Work with the PRO to determine if clarification of the request is needed and to identify reasonable time frames to provide records.
- Act as the “go-to” person in the Department by managing and maintaining all public records.
- Stay up on new laws relating to the Public Records Act, including attendance at training or seminars as resources allow.

Processing Public Records Requests

There are many steps to processing a request, including

- Receiving Request (Every Employee)
- Acknowledging request within 5 days (PRO)
- Searching for and gathering records (PRS, PRO, Every Employee)
- Reviewing and redacting records (PRO)
- Releasing records to requester (PRO)

Request Form

REQUEST FOR PUBLIC RECORDS CLALLAM COUNTY

223 E. 4th Street, Suite 16, Port Angeles WA 98362
Phone: 360-417-2234 Fax: 360-417-2550

Note: All records requests should be directed to the Public Records Office (PRO) located in the Human Resources/Risk Management Office located in the basement of the Clallam County Courthouse. Email address for the PRO is listed below.

Did you know that requests for public records can be managed on-line through the Clallam County on-line portal at <https://websrv7.clallam.net/PRR/>? Using this portal helps streamline communication and tracks the status of your request. If you have questions using the portal, please contact the Public Records Officer at 360-417-2234.

- Agencies must accept all requests made during business hours.
- They do not have to be in writing and can be anonymous
- For walk ins – encourage requesters to complete this form
- For phone calls or walk ins who do not complete form – record information on form
- Cannot ask why they want the records
 - Unless list of individuals is requested-RCW 42.56.070(8)
- Send completed form to:
PRO@co.clallam.wa.us as soon as possible

Name of Requestor (Print)	Date of Request
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Mailing Address	City	State	Zip
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E-mail address	Phone
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Please select the form in which you want to receive the records. (Records fee schedule on reverse.)

<input type="checkbox"/>	ELECTRONIC FILE(S)
<input type="checkbox"/>	PRINTED REPORT(S)
<input type="checkbox"/>	ON-SITE INSPECTION We'll call to set-up an appointment when records are ready.

Please identify the particular record or class of records that you are seeking to have disclosed. Note: Failure to provide an adequate description of the record(s) that you are seeking to have disclosed may delay the processing time for your request and/or result in your request being denied.

☐ See attached -or-

Signature of requestor	Date
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Office Use Only:

Received by: _____ Date: _____

Date forwarded to PRO: _____ Email form to PRO@co.clallam.wa.us

Updated 2/12/18

Responding to Requests

- Response to requester is the responsibility of the Public Records Office.
- The five day response must do at least one of the following:
 - Provide Records
 - Deny request
 - Seek clarification
 - Give an estimate of time

Failure to respond within 5 days is a violation of the PRA and a fine can be imposed.

Responding to Requests

- Explain the process
- Be honest
- Be flexible, if needed
- Conversing in-person or by phone? Listen patiently
- Don't take anything personally
- Document conversations
- Follow up phone/in-person communications in writing (make sure your interpretation was correct)
- Always give an estimate of time for next installment

Searching for Records

- Public Records Office works with department PRSs on initializing the search.
- PRS coordinates with department staff.
- Staff must search all locations where the records are “reasonably likely to be found.”
- Includes desks, drawers, filing cabinets, current and former employees’ records, local drives, network drives, emails, handheld devices, archives, and ALL OTHER LOCATIONS WHERE A RECORD MIGHT BE!
- Employees may need to search their own personal devices and email accounts.
- PRSs are the county’s department records experts – a good partnership with them is key when searching for records!

Searching for Records

- The focal point of the judicial inquiry is the agency's search process, not the outcome.
- The agency bears the burden of proof to show the adequacy of the search. RCW 42.56.520; Neighborhood Alliance; Hobbs
- Create search plan and document progress.
- A search form should be completed for every search.
- The search form is especially important for “any and all” requests and requests with no responsive records.

Search Form

- Form to be completed for every search.
- Records should be saved in K: Drive, GovQA or transferred to the PRO in another agreed format.
- Hard copies of records should be scanned.
- Electronic records should be saved in native format.

PUBLIC RECORDS SEARCH FORM

Public Records Specialist and/or Clallam County employee searching for records in response to public records requests, please fill out the information below:

Name: Department:

PRR #: Requestor Name:

YES	NO	LOCATIONS SEARCHED
<input type="checkbox"/>	<input type="checkbox"/>	Local computer (C:/ drive, Desktop/Documents folders)
<input type="checkbox"/>	<input type="checkbox"/>	All applicable file servers/department shared: (Home or mapped drives, such as H:/, J:/, K:/ etc.)
<input type="checkbox"/>	<input type="checkbox"/>	Former employee(s) files searched: List name(s) _____
<input type="checkbox"/>	<input type="checkbox"/>	Removable media: (external hard drives, USB flash drives, CD-DVD, SD Cards)
<input type="checkbox"/>	<input type="checkbox"/>	Email: (Outlook, archived email searches are now required to be completed by all individuals who might reasonably have responsive emails.)
<input type="checkbox"/>	<input type="checkbox"/>	Handheld devices: (cell Phones, PDA's like iPads, tablets, laptops, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	Clallam County internet/database resources: (Website, SharePoint, PACS, etc.) Name of areas searched: _____
<input type="checkbox"/>	<input type="checkbox"/>	Hardcopy documents (paper documents, hardcopy files, etc.)
<input type="checkbox"/>	<input type="checkbox"/>	Archives (basement, offsite, other)
<input type="checkbox"/>	<input type="checkbox"/>	Other locations (*home or remote office*, personal email, handheld devices, laptop) - please specify

Were Responsive Records Located?

- ☐ **Yes** (If yes, please complete the following)
How were records transmitted to the Public Records Office?
☐ Interoffice mail ☐ Delivered to Public Records Office ☐ Electronically: (choose one)
☐ GovQA ☐ K drive ☐ E-mail
- ☐ **No** By checking "No", I verify that I have completed a thorough search for records, and report that I do not have any records that are responsive to this request.

Does your department have any social media accounts?

- ☐ **Yes** (If yes, please complete the following) ☐ **No**
If yes, is it reasonable to perform a search on your social media accounts?
(The PRO will work directly with IT to search your department's social media if you feel a search is reasonable.)
☐ Yes ☐ No

Do you know of any other Clallam County staff members or locations that should be consulted?

If so, please list department and/or staff names here: _____

Time Spent (including searching, compiling and review) _____

No. of Pages Scanned _____

Date Search Completed _____

This completed form will be preserved as part of the official public records file.

Affidavit of Search

AFFIDAVIT OF PUBLIC RECORDS SEARCH

I, _____, being first duly sworn upon oath, depose and say:

I

1. That I am a _____ employed in the Clallam County _____.
2. That on _____, I conducted a good faith search of my personal computer(s), personal portable devices, personal social medial sites/files, and all other devices/locations where I might have public records responsive to PRR# _____.

COPY REQUEST HERE

3. That I have:

☐ Compiled all documents constituting public records and turned them over to the Clallam County Public Records Officer for review/assembly/processing.

Or

☐ Determined that I do not have any responsive records.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Date: _____

Signature

Reviewing and Releasing Records

- Not all gathered records are given to requester. Records may be withheld or redacted. Requester must be informed of all redactions and withheld records and a brief explanation provided.
- All relevant records should be given to the Public Records Office in unredacted form.
- Input from Department PRSs about special circumstances requiring records to be withheld is extremely helpful.
- Adobe Acrobat software is used to redact using overlay text to code the redaction.
- An explanation for the redaction is provided by providing a master exemption key.
- Records provided to the requester in the format we have them in.

Reviewing and Releasing Records

- Documents can be provided in installments.
- Collection of fees and transfer of records is the responsibility of the Public Records Office.
- Fees for records are set out in Clallam County Code. Fee waiver just went into effect in March 2018 - if total fees are under \$10, fees are waived.
- Log of withheld documents and a master exemption key is given to requester when records are released.
- Include language in correspondence how to decipher redaction(s) and paragraph on appeals process.
- Can't adopt a rule that requires administrative review before a person can file a lawsuit. Kilduff v. San Juan County 12/12/19

Releasing Records

- Adobe Acrobat Overlay example

White Male, DOB 06/27/1985, 6'1", 230 lbs., red auburn hair, blue eyes, WA DOL 5a Address: 40 Palmer St, Sequim, WA 98382	By.
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Releasing Records

- Master Exemption Key example

Clallam County Public Records Office Common Exemption Explanation Key

Code	Statute/Rule/Case	Brief Explanation of Exemption
4f	Public Employees or Volunteers: RCW 42.56.250(8)	Photographs and month and year of birth in the personnel files of employees and volunteers of public agencies are exempt from disclosure, except the media shall be permitted access.
4g	Public Employees: Evaluation RCW 42.56.230(3), <u>Dawson v. Daly</u> , 120 Wn.2d 782, 845 P.2d 995 (1993)	Routine employee performance evaluations that do not contain discussion of specific instances of misconduct are exempt from disclosure.
5a	Personal Information: Financial Information RCW 42.56.230(5); RCW 9.35.005	Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, account numbers and balances, transactional information concerning an account, codes, passwords, social security numbers, tax identification numbers, driver's license numbers, identicard numbers, and other information held for the purpose of account access or transaction initiation are exempt from disclosure.
5b	Personal Information: Social Security Number RCW 42.56.230(4); 42 USC 405(c)(2)(C)(viii)(I)	Disclosure of social security numbers, or any other information required of any taxpayer in connection with the assessment or collection of any tax, is prohibited by federal law.
5c	Personal Information: Agency Clients 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 is exempt from disclosure.
5d	Personal Information: From Department of Licensing 18 USC 2721, 2725(3)	Personal information including photograph, social security number, driver identification number, name, address (not zip code), telephone number, and medical or disability information may not be disclosed by a government agency who received such information from a state department of licensing, except as allowed by 18 USC 2721(b).

Releasing Records

- *Some of the records that are being provided to you have been redacted in part pursuant to applicable law. The redactions appear as black boxes on various pages of the responsive documents. Within the redaction box there is overlay text designating a code for the statutory exemption applicable to the redacted information. Brief explanations of the basis for the redactions are provided on the Clallam County Public Records Office Common Redaction Explanation Key. As you review these responsive records, you can refer to the explanations listed on the Explanation Key to identify the exemption and its applicability.*
- If we are withholding records, will also provide language explaining the withholding log.

Releasing Records

- *The Public Records Office has attempted to apply consistent redactions on documents that contain the same information. In the event that you locate documents that contain redactions that are not applied consistently, please contact the Public Records Office. Please also contact the Public Records Office if you believe records were improperly redacted or withheld.*
- *Pursuant to the Clallam County Administrative Policies and Procedures, any person who objects to the partial denial or redaction of a request for a Public Record may petition the Public Records Officer for a review of that decision. The petition must be in writing and include the petitioner's name and contact information. The petition must be filed within 10 days of the denial.*

Problems with Public Records

- Ignored Requests
- Incomplete Searches
- Poor records management, organization, and retention
- Monetary penalties of up to \$100 per day per record may be imposed for public records act violations. RCW 42.56.550
- Aggravating factors include – lack of staff training, lack of supervision for PRA compliance, bad faith, requester deadline ignored, personal loss because of denial
- Mitigating factors – helpful and well trained staff, reasonableness, good faith. TRAINING IS KEY!
- JLARC metrics can be hard to track

Records Management Duties

Duties as defined in the Clallam County Public Records Policy
321

- “Each department shall *adopt and enforce* reasonable procedures to protect public records from damage, disappearance, disorganization, or premature destruction.”
(321-9.9)
- Public Records Officer: “*Facilitate* the management of departmental records with Public Records Specialists including destruction and/or transfer to the Washington State Archives.”
(321-6.1)
- Public Records Specialists: “Act as the *go-to* person in the Department by managing and maintaining all public records.”
(321-7.1)

Good Records Management

- Improves integrity of Public Records Request searches
- Reduces liability
 - Organized files make the search process more efficient
 - Large volume and messy files are NOT good excuses for poor searches
- Clear records management guidelines help employees be more confident managing their records
- Create a Records Management Plan
- Implement a plan for stored records, including maintaining a records inventory to track retention and destruction

Records Management

- All Government Records are Public Property
- As a public servant, you are required to keep public records for the amount of time listed in the records schedules
- There can be criminal liability for willful destruction or alteration of a *substantive* public record.

Types of Public Records

- Transitory Records can be destroyed when no longer needed
- Substantive Records need to be saved at minimum the time period found on Local Government Common Records Retention Schedule (C.O.R.E.)
- *Content* is the key when determining if a record needs to be retained

Substantive County Records

- Provide evidence of a county business transaction/function
- Provide information on actions related to county projects and activities
- Document legal or audit issues
- Retain according to retention period using the appropriate Local Government Records Retention Schedule
- RCW [40.16.010](#) Injury to public record
 - Class C felony
- RCW [40.16.020](#) Injury to and misappropriation of record
 - Class B felony

Transitory County Records

- Definition: Records that have minimal retention value that can be destroyed as soon as they are no longer needed for agency business.
 - Short-term value
 - Not needed as evidence of a business transaction
 - Not covered by a particular records series

Remember that these records are still subject to disclosure while they exist

Transitory Records Cheat Sheet

These records can be deleted or recycled when "[no longer needed for agency business](#)" but are **still subject to disclosure** while they exist.

<p><u>GS 50-02-02 Rev. 1</u> BLANK FORMS & PUBLICATIONS</p> <p>Blank forms or extra copies of reports, brochures, newsletters.</p> <p><u>Excludes:</u> Numbered forms like checks and master set of blank forms. One copy of all publications must be sent to WA State Library.</p>	<p><u>GS 2016-002 Rev. 0</u> BRAINSTORMING</p> <p>Post-it notes, Whiteboards, Flipcharts, or staff notes from brainstorming sessions.</p> <p><u>Excludes:</u> Drafts, edits, comments, or brainstorming with other agencies or outside consultants.</p>	<p><u>GS 2016-003 Rev. 0</u> CONTACT INFORMATION</p> <p>Business cards, Outlook contacts, mailing lists, listservs and requests to be added/removed, or mail returned as undeliverable.</p> <p><u>Excludes:</u> Emergency/Disaster Preparedness contact lists.</p>
<p><u>GS 2016-004 Rev. 0</u> DRAFTING & EDITING</p> <p>Drafts, edits, comments, mockups from INTERNAL staff.</p> <p><u>Excludes:</u> Final versions and draft comments or edits from EXTERNAL sources like other agencies or outside consultants.</p>	<p><u>GS 2016-005 Rev. 0</u> UNSIGNED DIGITAL DOCUMENT</p> <p>Digital documents or document templates used to create official, signed, paper copies, like official letters or signed meeting minutes.</p> <p><u>Excludes:</u> Copies of signed and sent letters.</p>	<p><u>GS 50-02-03 Rev. 0</u> SPAM & MAILERS</p> <p>Catalogs, brochures, bulletins, newsletters, advertisements, or notices <u>NOT</u> created by the agency, not requiring any action by the agency, and not required for agency business.</p>
<p><u>GS 50-02-05 Rev. 2</u> FYTS & MEMO'S</p> <p>Cookies in the breakroom, Bob out sick today, email read receipts, or out-of-office notices.</p> <p><u>Excludes:</u> Leave records, records documenting or informing agency decisions or actions.</p>	<p><u>GS 2016-006 Rev. 0</u> BROWSING HISTORY</p> <p>Cookies, cache, temp files, saved passwords or web form autofill info, Google searches, or bookmarks.</p> <p><u>Excludes:</u> Internet activity logs monitored by IT staff to ensure appropriate use.</p>	<p><u>GS 2016-008 Rev. 0</u> TO-DO LISTS & TASKS</p> <p>Records monitoring work in progress, like To-Do lists, Outlook 'Tasks', routing slips, workflow notifications, or status logs.</p> <p><u>Excludes:</u> Strategic plans or unit level work plans.</p>
<p><u>GS 2016-009 Rev. 0</u> RAW DATA CAPTURED ELSEWHERE</p> <p>Raw data or temp records (i.e. survey responses or written notes) documented by formal record.</p> <p><u>Excludes:</u> AV recordings of official meetings, electronic records that have been printed (i.e. emails).</p>	<p><u>GS 2016-010 Rev. 0</u> REFERENCE INFO</p> <p>Materials gathered from outside sources for reference use which are not evidence of the agency's business transactions. Conference handouts/materials, cheat sheets, white papers, copies of articles, listserv/RSS feeds.</p>	<p><u>GS 50-02-01 Rev. 1</u> BASIC AGENCY INFO</p> <p>Requests for hours of operation, mailing address, directions, front desk phone/fax #, web address.</p> <p><u>Excludes:</u> Public records requests, advice or assistance given as part of agency's mission.</p>
<p><u>GS 2016-011 Rev. 0</u> SCHEDULING</p> <p>Invitations, checking availability, cancellations and rescheduling, and venue arrangements.</p> <p><u>Excludes:</u> Calendars, meeting materials, and financial records.</p>	<p><u>GS 50-02-04 Rev. 2</u> SECONDARY COPIES</p> <p>Printouts of database records, webpages, emails, CC's, convenience copies.</p> <p><u>Excludes:</u> Copies of records held by other agencies or external organizations.</p>	<p><u>GS 2016-012 Rev. 0</u> UNSOLICITED INFO</p> <p>Info not requested/used by agency, extra info included with applications, unfinished forms, and unwanted donated records.</p> <p><u>Excludes:</u> Records received as part of regular agency business.</p>

Retention Schedule Example (CORE)

<https://www.sos.wa.gov/archives/recordsretentionschedules.aspx>



Local Government Common Records Retention Schedule (CORE) Version 4.0 (May 2017)

5.4 PUBLIC DISCLOSURE

The activity of responding to requests for access to the public records of the local government agency in accordance with chapter 42.56 RCW.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
GS2010-014 Rev. 3	<p><i>Public Disclosure/Records Requests</i></p> <p>Records relating to requests from the general public for access to the agency's public records in accordance with <u>chapter 42.56 RCW</u>.</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none">• Internal and external correspondence relating to the request;• Legal advice/opinions;• Records documenting the public records provided to the requestor (copies or lists of the records provided, etc.);• Records documenting the public records (or portions) withheld (exemption logs, copies of portions redacted, etc.);• Records documenting administrative reviews relating to the request;• Tracking logs. <p>Excludes the records that are the subject of the public records request (which must be retained in accordance with the applicable records series).</p>	<p>Retain for 2 years after public records request fulfilled <i>then</i> Destroy.</p>	NON-ARCHIVAL NON-ESSENTIAL OPR

Destroying Records

- Refer to Records Retention Schedule
- Set up a recurring destruction schedule
- Keep a Destruction Log

Clallam County Treasurer's Public Records Destruction Log

RECORDS SERIES	INCLUSIVE DATES	DISPOSITION AUTHORITY	DATE OF DISPOSAL
Ad Valorem - Special Purpose District Budgets - secondary	2011	GS50-03D-01	1/23/2018
Annual Report of Collections	2011	CT01-05-18	1/23/2018
Application for Duplicate Instrument Affidavit	2011	GS50-03B-10	1/23/2018
Audits of Internal Cash Counts	2011	GS2011-184	1/23/2018
Budget Resolutions - secondary copies	2011	GS50-05S-16	1/23/2018
Budget Workpapers	2011	CT01-03-03	1/23/2018
Finance Committee Graphs	2011	GS2011-184	1/23/2018
Finance Committee Meetings - secondary	2011	GS2011-175	1/23/2018
Hotel/Motel	2011	GS2011-184	1/23/2018
Jefferson County Remittance Advice	2011	GS2011-184	1/23/2018
REET Statement of Taxes Collected	2011	GS2011-184	1/23/2018
School Apportionment	2011	GS2011-184	1/23/2018



There are times when you must hang on to records even if their retention requirements have been met:

- Litigation holds
- Open public records request

WA State Archives Link

- WA State Archives-Records Management:
<https://www.sos.wa.gov/archives/recordsmanagement/managing-county-records.aspx>



Member Spotlight on Public Records

Special Guest: Kelly Gonzalez,
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Discussion

[Click here](#) to access a copy of the Q&A!

*A copy of the presentation will be made available on
WCRP's County Connection webpage.*





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Special Guest: Kelly Gonzalez,
Public Records Officer for Clallam County

Thank you!

Kelly Gonzalez

Email: kgonzalez@co.clallam.wa.us

WCRP Staff

Email: MemberServices@wcrp.wa.gov

*Please take a moment to complete the brief survey appearing
in your web browser after the PoolCast ends.*

