These comments are submitted on behalf of the Washington State Law Enforcement Information and Records Association (LEIRA) Legislative Committee. LEIRA is a non-profit organization and a liaison partner with the Washington Association of Sheriff and Police Chiefs. We have over 400 members from more than 150 criminal justice agencies throughout the state.

An overarching concern with the proposed changes to the model rules is the lack of differentiation based on agency size or the nature and complexity of the records requested. The current framework relies primarily on the broad classifications of "simple" and "complex" requests or those involving "a single, specific identifiable record." This approach does not adequately account for the substantial variance in the time, resources, and legal considerations required to fulfill certain categories of requests.

In particular, many law-enforcement-related records including body-worn camera footage, 911 phone and radio audio, and lengthy investigative reports involving juveniles are inherently time-intensive to review, process, and properly redact. These records often require detailed legal and privacy assessments and substantial staff time, which is not reflected in the proposed updates.

Without acknowledging these distinctions, the proposed rules risk creating unrealistic expectations for response timelines and may place disproportionate burdens on agencies with limited staffing or high volumes of complex requests.

A central theme of the proposed updates is the expectation that agencies must produce records more quickly. The implication is that agencies are currently failing to provide records within a reasonable timeframe. Establishing rules that suggest records can routinely be produced within a matter of days creates an impression that such timelines are universally achievable and appropriate. If that were not the case, it is unclear why the Attorney General would propose these standards.

We respectfully urge the Attorney General to reconsider this approach. The proposed timelines do not reflect the realities faced by many agencies, particularly those managing high volumes of complex requests, resource limitations, and significant legal or privacy review obligations.

WAC 44-14-020 Agency description—Contact information—Public records officer. Section (3)

The added language is too subjective and would likely be interpreted as requests should be completed in a time frame that is unrealistic for most law enforcement agencies.

WAC 44-14-030 Availability of public records. (2) Records index.

Specifying which type of records is a de facto index. That is precisely what is unduly burdensome about maintaining an index. An index of all records held by any agency is an antiquated concept that does not translate into the digital age.

WAC 44-14-030 Availability of public records (3) Organization of records.

It appears the intent of this added language is to have public records staff have direct access to all agency records and to perform the searches themselves. If that is the intent, it fails to recognize the complexity of modern databases and software programs, which is where a lot, if not most, agency records live. It is unrealistic to expect an agency to train public records staff to access and pull data from what could literally be hundreds of disparate programs across an agency. This concept also does not

recognize that subject matter experts for the records being requested are usually in the best position to know what is responsive to the request, especially if the request is for technical records or records in a specialized field.

WAC 44-14-040 Processing of public records requests—General. Section (1)

This addition is the most problematic to LEIRA members. This would never be practicable for most agencies. But, as written, gives the impression to requesters that this is reasonable and doable. What a requester sees as simple request, could for a variety of factors, actually be quite complex to produce. Likewise, a single, specific, identifiable record does not equal simple, and therefore cannot necessarily be produced quickly. A homicide report could rightly be considered a single, specific, identifiable record, yet is hundreds of pages of documents that need to be carefully reviewed for redactions.

WAC 44-14-040 Processing of public records requests—General. Section (3)

"Time is of the essence" is an incredibly subjective term and puts extra burden upon public records staff to evaluate reasons why a request is submitted. Such evaluations would be rife with inconsistency due to the inherent subjectivity. Additionally, this approach would allow certain requesters who know how to frame their request in this way to effectively to jump the line. In some agencies with a large volume of requests, it may not be even possible to process requests where "time is of the essence" and also continue to process the other incoming requests and backlogged requests.

WAC 44-14-040 Processing of public records requests—General. Section (6) ~~((Protecting rights of others.))~~ Third party notice and preventing irreparable harm.

The proposed modification is inconsistent with the plain language and intent of RCW 42.56.540, which assigns to the court, not the agency holding the record, the responsibility for determining whether the release of a record "would clearly not be in the public interest and would substantially and irreparably damage any person."

Statute provides that an agency may notify persons named in a record prior to its release. The statute itself contains no requirement that such notification be predicated upon the existence or assertion of a specific exemption. Additionally, the phrase "would substantially and irreparably damage any person" is inherently subjective and context-dependent. This is especially compelling in the law enforcement world where we are responsible for records that could cover a spectrum from a no arrest domestic dispute to a violent rape or graphic assault. Agency staff are not in a position to determine whether disclosure of a record would substantially or irreparably harm someone. Persons named in these sensitive records are best situated to evaluate and assert potential harm. Imposing upon the agency the burden of making such determinations—rather than upon the affected individual or the court—is contrary to the legislative intent underlying RCW 42.56.540 and removes all power from named individuals.

The assertion that agencies employ third-party notice to improperly withhold non-exempt records is unfounded. In fact, providing such notice imposes additional administrative obligations on agencies, including monitoring statutory timeframes and managing related correspondence. It would be far more expedient for an agency to simply release all records without providing notice. Moreover, the judicial process is inherently complex and not easily navigated by individuals who lack legal training. Public records officers and plaintiffs have no authority over court scheduling or docket management. Accordingly, the proposed ten-day deadline (which is not limited to business days) is impracticable, as it

fails to afford sufficient time for an affected individual to understand what they are facing, to obtain legal counsel, prepare and file a motion for injunctive relief, and secure a hearing date.

In closing, it is critical to recognize that most of us processing public records are not attorneys—we are records professionals doing our best to comply with the law. However, the proposed model rule changes raise significant concern. The use of ambiguous and subjective terminology risks creating new grounds for costly and time-consuming litigation. Our member agencies fear these proposed changes could evolve into de facto requirements that increase liability for agencies that are already overextended.

For agencies or individuals who willfully delay or withhold records, existing remedies already provide a means of accountability. The vast majority of agencies, however, are acting in good faith and are committed to timely and transparent disclosure. The real challenge is the sheer volume and complexity of modern requests, which frequently require coordination across multiple departments—all while balancing the provision of other critical public services.

Records request backlogs are not a result of neglect or indifference; they are a symptom of overwhelming demand and insufficient resources. We respectfully urge the Attorney General's Office to consider the operational realities of agencies struggling under current workloads. Please do not move forward with rules that are ambiguous, subjective, or that impose unrealistic expectations on already burdened public agencies**.**