



November 17, 2025

Hon. Nice Brown
State Attorney General
Olympia, WA 98504

By Email: agorulemaking@atg.wa.gov

Re: Comments on proposed rulemaking CR 102

Dear Attorney General:

I am writing to voice the City of Sumner's opposition to the changes to the PRA Model Rules proposed in CR 102. Sumner is submitting comments CR 102 to ensure that your office receives the perspective of a smaller city. Sumner views the proposed changes as negatively impacting smaller cities' ability to both serve the public interest and efficiently fulfill public records requests of their citizens.

Sumner is serious about its PRA obligations and fully staffs its public records operations. The city employs four staff whose primary duty is the fulfillment of public records requests. In addition, responding to requests is a prominent duty of three other staff members. More importantly, all city staff are tasked with assisting with the collection of requested records. All employees are regularly instructed in the PRA basics so they can efficiently contribute to the city's compliance with the Act. This group effort is facilitated by the core PRA staff persons who meet weekly to discuss various records requests and provide instruction on records collection to all departments.

Yet, in a city of 137 staff persons there is little room for accommodating additional burdens and obligations related to the PRA. Already, the many various exemptions and court interpretations of the Act's provisions make the process of fulfilling the Act's mandates time-consuming and complicated. Several changes proposed in CR 102 increase these burdens.

For instance, the changes to 44-14-040(1) & (3) require that a public records officer judge whether each request constitutes a "simple" or "complex" request, whether it is practical to produce the requested records in the timeframe provided by the requester, and to judge the legitimacy of a requester's claim that "time is of the essence". In practice, requiring the sorting of requests into imprecise and unconnected boxes like "simple" vs. "complex," urgent vs. routine, and practical vs. impractical timelines may be difficult and time-consuming to make. Requests may appear simple on their face but on closer inspection prove to be complex. A request seeking a single police report may take several hours to process when it is discovered that it contains numerous references to juvenile witnesses and victim information. And a public

records officer may have very little basis to judge, without performing some type of investigation, whether a request is truly urgent or is a function of a contrived emergency. Nearly every requester has a reason that the City should produce the requested records as soon as possible.

Sumner recognizes that these proposed additions are drafted as best practices. However, that may not prevent courts in future PRA-related litigation from looking to and manipulating the vague phrases to determine liability. Consequently, if the new provisions are adopted, they may influence Sumner and other cities to implement the new standards although cities are not required to do so directly. If that occurs, there will be little benefit to open government at the cost of greater uncertainty and delay. Sumner staff already triage record requests and prioritize prompt turnaround of responses. One function of Sumner's weekly PRA meeting is to review the status of all open requests in order to identify roadblocks or issues that may delay a quick response. This effort is aided by software that updates staff of the "age" of each records request. There is no need to add further processing steps

The proposed revisions to 44-14-040(6) add further uncertainty and the potential for delay to the Model Rules. Inserting into the rules the "irreparable harm" standard for third-party notice will force public records officers to make a determination that the officers are not able to make. It is unlikely that a public records officer will have sufficient information to judge whether disclosure of a record will present irreparable harm to a third party. Requiring officers to make this determination will create confusion and the need for time-consuming discussions with legal counsel whenever a request raises the possibility for third-party notice.

Likewise, the proposed requirement that agencies "be diligent when processing requests by installment" is unclear and unneeded. Since diligence is already mandated by RCW 42.56 and the Model Rules, the proposed phrase could be read to create an additional standard unique to responses provided in installments. This confusion may deter public records officers from using the installments option. An officer will naturally avoid exposing a city's records practices to court micromanaging if a requester challenges the city's response.

The CR 102 proposal seems predicated on a view that the current Model Rules function poorly. This is not Sumner's experience and, based on the nearly non-existent complaints or negative feedback received from requesters, the experience of the requesters of Sumner records. Sumner already makes every effort to fulfill requests, from the media and citizens alike, in a prompt fashion. The City's turnaround time for what might be classified as a "simple" request is already 5-days or less. The proposal will not improve that response time, and risks both lengthening that time and burdening Sumner's performance of its other duties.

Thank you for the opportunity to comment on CR 102.

Sincerely,

Ruth
Deputy City Attorney