

# Open Public Meetings and Records

January 25, 2019



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# Open Public Meetings Act RCW 42.30

- Public agencies exist to aid in the conduct of people's business and actions/deliberations should be open.
- All meetings of the governing body of a public agency shall be open and public and all persons shall be permitted to attend any meeting except as otherwise provided in law.
- An email exchange can constitute a meeting.

# The Public Records Act RCW 42.56



- All records of an agency are subject to disclosure.
- Agencies must respond promptly and provide fullest assistance to requestors.
- Agencies must have a specific exemption/statute to redact or withhold any information.
- Records from this workgroup are subject to disclosure thus [supportschedule@dshs.wa.gov](mailto:supportschedule@dshs.wa.gov)

RCW 26.23.120  
RCW 74.04.060



# What is a public record?

Any writing containing information relating to the conduct of government or the performance of governmental function.

Writing includes pretty much anything recorded for communication...photographs, voice recordings, GPS coordinates, text messages, sticky notes.

RCW 42.56.010(4)



**Prepared, owned used, or retained** by any state or local agency regardless of physical form or characteristics.

RCW 42.56.010(3)

In *Nissen*, the Supreme Court held that an elected county prosecutor's work-related text messages prepared on his private cell phone in his official capacity and within the scope of his employment were public records subject to disclosure under the PRA. 183 Wn.2d at 882-83, 888. The court rejected the argument that an agency employee can create a public record only when using agency property. *Id.* at 877. The court stated that "employees can use their own property and still be within the scope of their employment."

In *Vermillion*, this court held that e-mails a Puyallup City Council member sent and received on his personal computer through a personal e-mail account were subject to disclosure under the PRA if they otherwise met the definition of a public record.

If an employee claims that information in personal accounts are not public records, he or she must submit an affidavit or declaration stating facts sufficient to support that claim. *Nissen*, 183 Wn.2d at 886.

## Is it a Public Records Request?

### YES

- ✓ By any form or method including verbal
- ✓ For identifiable records
- ✓ For existing records
- ✓ Even if confidential
- ✓ “All my DSHS records” or “all with my name”

### NO

- ✓ Requests for information
- ✓ Not Yet Created
- ✓ Discovery/Lawsuits
- ✓ Sharing with workgroup

## ESA PUBLIC DISCLOSURE UNIT (PDU)

The PDU processes public records requests for DCS. As a workgroup member you may:

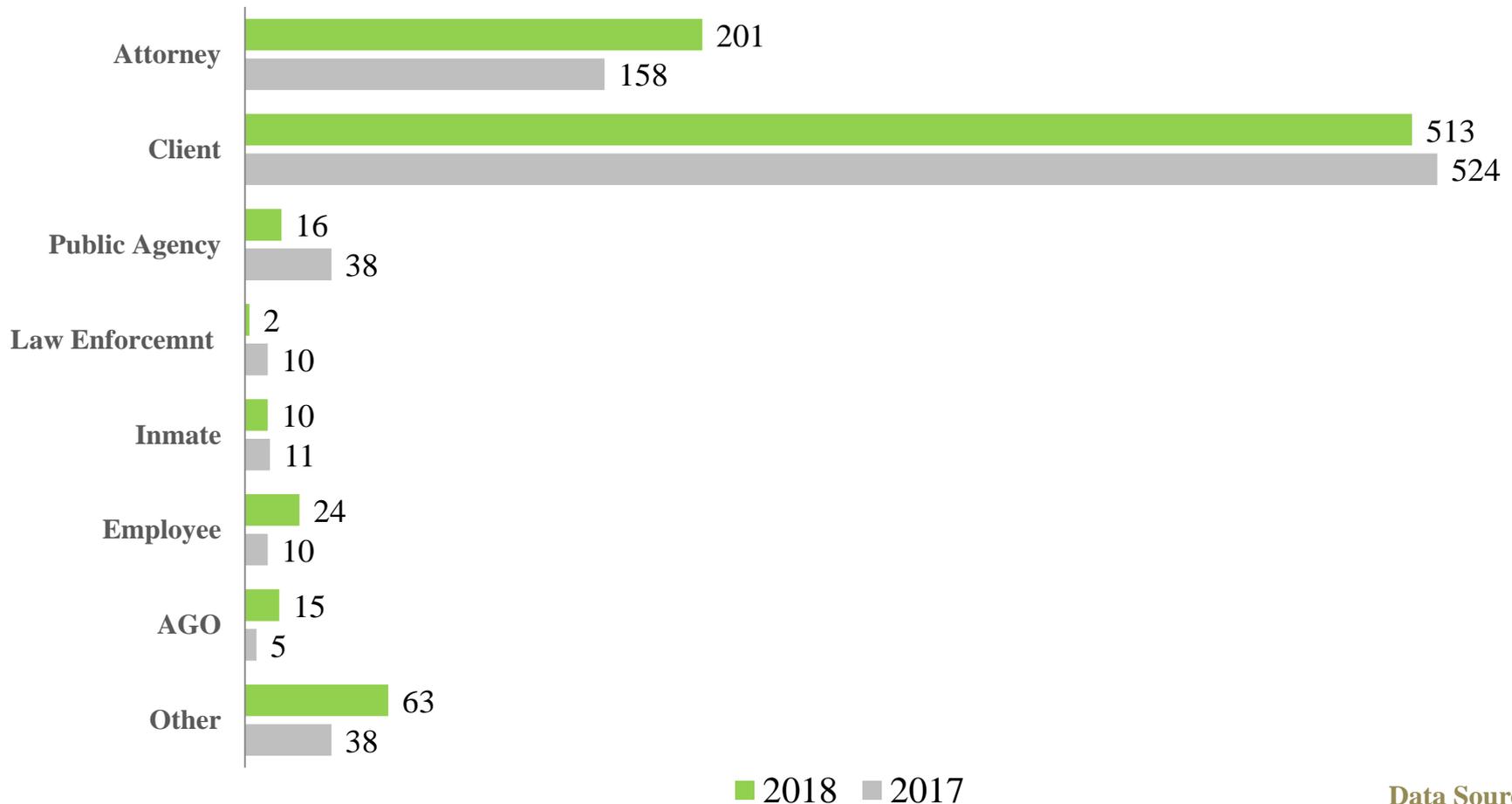
- Receive a call or email from the PDU asking for records
- Have a question about public records
- Receive a request for records from a citizen
  - Immediately send that request to the PDU
  - Remember verbal requests count!

**[ESAPRR@dshs.wa.gov](mailto:ESAPRR@dshs.wa.gov)**

**Mainline: (360) 725-4777**

## 2017-2018 Requester Type for DCS

DCS received 844 public disclosure requests and 419 address disclosure requests in 2018. Clients are the most frequent requesters in DCS. DCS experienced a 12% increase in requests from an attorney.



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# QUESTIONS?

