

**WAC 44-14-01001 Scope of coverage of Public Records Act.** The act applies to an "agency." RCW 42.56.070(1). "'Agency' includes all state agencies and all local agencies. 'State agency' includes every state office, department, division, bureau, board, commission, or other state agency. 'Local agency' includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency thereof, or other local public agency." RCW 42.56.010(1).

Court records, judges' files, and the records of judicial branch agencies are not subject to the act.<sup>1</sup> Access to these records is governed by court rules and common law. The model rules, therefore, do not address access to court or judicial branch records.

An entity which is not an "agency" can still be subject to the act when it is the functional equivalent of an agency. Courts have applied a four-factor, case-by-case test. The factors are:

- (1) Whether the entity performs a government function;
- (2) The level of government funding;
- (3) The extent of government involvement or regulation; and
- (4) Whether the entity was created by the government.<sup>2</sup>

Some agencies, most notably counties, are a collection of separate quasi-autonomous departments which are governed by different elected officials (such as a county assessor and prosecuting attorney). The act includes a county "office" as an agency. RCW 42.56.010(1). However, the act also includes the county as a whole as an "agency" subject to the act. *Id.* (local agency includes every county and local office). Therefore, some counties may have one public records officer for the entire county; others may have public records officers for each county official or department. The act does not require a public agency that has a records request directed to it to coordinate its response with other public agencies; however, for example, if a request is directed to an entire county, then coordination in some manner among county offices or departments may be necessary.<sup>3</sup> Regardless, public records officers must be publicly identified. RCW 42.56.580 (2) and (3) (agency's public records officer must "oversee the agency's compliance" with act).

Notes: <sup>1</sup>*Nast v. Michels*, 107 Wn.2d 300, 730 P.2d 54 (1986); *West v. Washington State Assoc. of District and Municipal Court Judges*, 190 Wn. App. 931, 361 P.3d 210 (2015). See the courts' General Rule 31 and 31.1 regarding access to court records.  
<sup>2</sup>*Telford v. Thurston County Bd. of Comm'rs*, 95 Wn. App. 149, 162, 974 P.2d 886 (1999); *Fortgang v. Woodland Park Zoo*, 187 Wn.2d 509, 387 P.3d 690 (2017). See also Op. Att'y Gen. 2 (2002) and Op. Att'y Gen. 5 (1991).  
<sup>3</sup>*Koenig v. Pierce County*, 151 Wn. App. 221, 211 P.3d 423 (2009).

[Statutory Authority: RCW 42.56.570. WSR 18-06-051, § 44-14-01001, filed 3/2/18, effective 4/2/18. Statutory Authority: 2005 c 483 § 4, RCW 42.17.348. WSR 06-04-079, § 44-14-01001, filed 1/31/06, effective 3/3/06.]