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**General Administration Policies and Procedures**

**Public Records Policy and Procedures**

Policy Number: **102**

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Policy

It is the policy of the State Public Defense Commission (PDC) to identify the general subject matter of all public records kept or maintained by the agency, identify the custodian of the public records and identify the physical location of such documents.

Purpose

This policy is established under the requirements of Idaho Code § 74-119 that directs the PDC to “adopt guidelines that identify the general subject matter of all public records kept or maintained by the state agency or independent public body corporate and politic, the custodian, and the physical location of such documents.”

****References****

**Idaho Code** § 74-101

Idaho Code § 74-102

Idaho Code § 74-103

Idaho Code § 74-113

**Idaho Code** § 74-119

Table of Contents

[1. Definitions 2](#_Toc506879785)

[2. Subject Matter of Public Records 2](#_Toc506879786)

[3. Custodian of Public Records 2](#_Toc506879787)

[4. Physical Location of Public Records 2](#_Toc506879788)

[5. Retention Policy for Public Records 2](#_Toc506879789)

[6. Public Records Request Requirements 2](#_Toc506879790)

[7. Response to Public Records Request 3](#_Toc506879791)

[8. Compiled Information 3](#_Toc506879792)

[9. Computer System Access Policy 3](#_Toc506879793)

[10. Fees 3](#_Toc506879794)

[11. Records Exempt From Disclosure 3](#_Toc506879795)

[12. Denial of a Public Records Request 3](#_Toc506879796)

[Appendix 4](#_Toc506879797)

# Definitions

1. **Electronic Record**: A record that exists as
2. Electronic representations of text or graphic documents;
3. An electronic image, including a video image, of a document, exhibit or other thing;
4. Data in the fields or files of an electronic database; or
5. An audio or visual recording, analog or digital, of an event of notes in an electronic file from which a transcript of an event can be prepared, irrespective of whether it also exists in physical form.

**Public Record**: Includes but is not limited to any writing or electronic record containing information relating to the conduct or administration of the public’s business prepared, owned, used or retained by the PDC, regardless of physical form or characteristics. Idaho Code § 74-101(13).

**Writing**: Information maintained in many forms, including typewritten or hand written documents as well as pictures, maps, tapes, magnetic or punched cards, and computer media. Idaho Code §74-101(16).

# Subject Matter of Public Records

The general subject matter of public records maintained by the PDC is related to the PDC’s mission to improve indigent defense in Idaho. The PDC maintains records related to the adoption of standards and administrative rules, the implementation and oversight of compliance with such standards and rules and records related to the indigent defense grant and extraordinary litigation grant programs operated by the PDC to provide financial assistance to Idaho’s counties.

# Custodian of Public Records

The custodian of all the public records held by the PDC is the Executive Director of the PDC, who can be reached by email at [info@pdc.idaho.gov](mailto:info@pdc.idaho.gov) or by telephone at (208) 332-1735.

# Physical Location of Public Records

All public records of the PDC are held at the PDC office, located at 816 W. Bannock St., Ste. 201, Boise, ID 83702.

# Retention Policy for Public Records

The PDC maintains public records in accordance with best business practices. Public records are maintained for at least one year after their creation. Public records are only disposed of when it becomes logistically unfeasible to maintain them.

# Public Records Request Requirements

A public records request must be submitted in writing and must include the requestor’s name, signature, telephone number, mailing address and email address. A request for public records and delivery of the public records may be made by electronic mail. The request must identify the public records requested in sufficient detail to permit a response so the custodian or his designee can locate the record without doing extensive research. Continuing requests for documents not yet in existence will not be considered. The custodian may provide the requester information to help the requester narrow the scope of the request or to help the requester maker the request more specific when the response to the request is likely to be voluminous.

Consistent with Idaho Code § 74-102(5), the custodian or his designee will make no inquiries of any person who requests records except to verify the requester’s identity in accordance with Section 74-113, Idaho Code, or to ensure that the requested record or information will not be used for purposes of a mailing or telephone list prohibited by Section 74-120, Idaho Code.

A *Public Defense Commission Public Records Request* form must be submitted to request public records, as provided in Idaho Code § 74-102(4). *See* Appendix. The form may be submitted in hard copy, by email, or by fax.

# Response to Public Records Request

The PDC will respond to public records requests as required by Idaho Code. Idaho Code § 74-103 provides that a response to a public records request must be made within three (3) working days. If more time is necessary to furnish a response the PDC will notify the requestor and will endeavor to respond within ten (10) working days, as permitted by Idaho Code § 74-103.

Delivery of the public records may be made by electronic mail or other electronic means if electronic format is initially requested or if the requester subsequently agrees to accept fulfillment of the request in electronic form.

# Compiled Information

Any member of the public may request copies of existing compiled information that consists solely of information that is not exempt from disclosure. The PDC may compile and provide the information if it determines, in its discretion, that the resources are available to compile the information and that it is an appropriate use of public resources. The PDC may delegate to its staff the authority to make the initial determination as to whether to provide the compiled information.

# Computer System Access Policy

In order to maintain the integrity of the PDC’s computer systems, public access to such systems is not permitted. Any public record maintained electronically can be accessed by making a request for such record.

# Fees

The Idaho Public Records Act, Idaho Code § 74-102(10), permits the charging of fees for copies exceeding 100 pages or for the labor associated to responding to a public records request that exceeds two person-hours. The PDC reserves the right to charge such fees, and require advanced payment of such fees, in a manner consistent with Idaho Code. The PDC will not charge the requester a fee if the request meets any of the exemptions outlined in Idaho Code § 74-102(f)(10)(i-iii).

# Records Exempt From Disclosure

Pursuant to Idaho Code §74-105(18), limited records are exempt from disclosure by the PDC:

Records related to the administration of the extraordinary litigation fund by the state public defense commission, pursuant to section 19-850(2)(e), Idaho Code, to the extent that such records contain information protected by, or exempted from disclosure by, or under rules adopted by the Idaho supreme court, attorney work product or as attorney-client privileged communication. This exemption does not include the amount awarded based upon an application for extraordinary litigation funds.

# Denial of a Public Records Request

If a public records request is denied in whole or in part, that denial will be communicated to the requestor in writing. Such a denial will only be made after a determination that the public records are exempt from disclosure under Idaho Code. If necessary, legal counsel will be sought from the Idaho Attorney General’s office. The written denial will state the statutory authority for denial and will discuss the requestor’s right to appeal the denial and the time frame for doing so.

## Appendix

Form: *Public Defense Commission Public Records Request*

*Idaho Public Records Law Manual: Idaho Code §§ 74-101 through 74-126*, Office of the Attorney General, also located at <http://www.ag.idaho.gov/publications/legalManuals/PublicRecordsLaw.pdf>