

## Statutes Exempting or Prohibiting Public Record Disclosure

This document is intended to serve as a current list containing laws that Okanogan County believes exempts or prohibits public disclosure of specific information or records which we receive, maintain or create as part of conducting business. More than one exemption may apply to specific information or records. The failure to list an exemption shall not limit the assertion or claim of any exemption that may apply.

Code	Exemption	Brief Explanatory Description	Statute/Rule/Case
01	DOL photographs, Social Security Number, Driver Identification Number, Name, Address, Phone Number, Medical/Disability Information	Highly restricted personal information about any individual obtained by the department in connection with a driver/motor vehicle record without the express consent of the person to whom such information applies shall not be disclosed. . . "highly restricted personal information" means an individual's photograph or image, social security number, driver identification number, name, address, phone number, medical/disability information. . .	Driver's Privacy Protection Act – 18 USC 123 Sec. 2721(b)(11) & (12); 18 USC 123 Sec 2725(3); 18 USC 2722(a) and RCW 42.56.230(7)
02	NCIC (National Crime Information Center) Reports/Restricted Files	Proper access to, use, and dissemination of data from NCIC restricted files shall be consistent with the access, use, and dissemination policies concerning the III described in Title 28, Part 20, CFR and the NCIC Operating Manual. The restricted files shall be protected as Criminal History Record Information.	RCW 10.97.030, .040 & .050; RCW 42.56.070(1); RCW 43.43.834(5); RCW 43.43.710; 28 CFR 513.20(b) and (c); 28 USC Sec 534(b); RCW 10.97.120. Secondary dissemination is prohibited
03	Criminal History	Information contained in the files and records of the section relative to the commission of any crime by any person shall be considered privileged and shall not be made public or disclosed. Non-conviction information may not be produced to the public. Any law enforcement agency that received information under this rule may not disseminate such information outside of such agency.	RCW 10.97.030, .040 & .050; RCW 42.56.070(1); RCW 43.43.834(5); RCW 43.43.710; 28 CFR 513.20(b) and (c); 28 USC Sec 534(b); RCW 10.97.120.
04	Social Security Numbers	Social Security account numbers and related records that are obtained or maintained by authorized persons pursuant to a provision or law enacted on or after October 1, 1990, shall be confidential, and no authorized person shall disclose any such social security account number or related record.	42 USC Sec 405(c)(2)(C)(viii)(I); 5 USC Sec. 552(a); RCW 42.56.070(1)

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05	Abstract of Driving Record	Specific driver's license information (abstract and certified copies of driving records) is protected.	RCW 46.52.130
06	Vehicle Registration Information	The name or address of an individual vehicle or vessel owner shall not be released.	RCW 46.12.635
07	Financial Information	Credit card numbers, debit card numbers, electronic check numbers, card expiration dates, social security numbers, bank or other financial information identified in RCW 9.35.005. Account balances and transactional information.	RCW 42.56.230(4), (5), and (6); RCW 9.35.005(1)(a)(b)(c)
08	Jail Records & booking photographs	The records of a person confined in jail shall be held in confidence and shall be made available only to criminal justice agencies.	RCW 70.48.100(2)(4)(a)
09	Identity of Witness, Complainant, or Victim – name or photograph	Information revealing the identity of persons who are witnesses to or victims of crime or who file complaints with investigative, law enforcement, or penology agencies, other than the commission, if disclosure would endanger any person's life, physical safety, or property. If at the time a complaint is filed the complainant, victim, or witness indicates a desire for disclosure or nondisclosure, such desire shall govern.	RCW 42.56.240(2)
10	Informants. Identity of Confidential Informants	Information relating to the identity of a confidential informant, the nondisclosure of which is necessary for the protection of the informant and the safety and/or security of people and/or a facility, including information that could be used alone or in combination with other knowledge, to deduce the identity of the informant.	RCW 42.56.240(1) & (2), <i>Haines-Marchel v. State, Dept. of Corrections</i> , 183 Wash.App 655, 334 P.3d 99 (2014), 5 USC 552(b)(7)(D), CrR 4.7((f)(2), and RCW 5.60.060.
11	Body camera images – for protection of right to privacy	Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.	RCW 42.56.240(14)

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12a to 12d	Attorney-Client Privilege Communication - Communication between client and attorney for the purpose of obtaining or providing legal advice is exempt.	12a: Communication between client and attorney for the purpose of obtaining or providing legal advice. 12b: Communication between attorney and client regarding litigation. 12c: Communication between attorneys regarding litigation. 12d: Communication between attorneys regarding client advice.	RCW 42.56.070(1); RCW 5.60.060(2)(a)
12e and 12f	Attorney Work Product – Records between attorney and client that reveals opinions/impressions of attorney or information prepared/collected/assembled in litigation or anticipation of litigation or related to client advice is exempt.	Records that are relevant to a controversy to which an agency is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts. 12e: Attorney work product – communications between attorney and client 12f: Attorney work product – communication between attorneys	RCW 42.56.070(1); RCW 5.60.060(2)(a); RCW 42.56.290
12g	Attorney Work Product - Drafts/notes/memoranda, research regarding opinions/impressions of attorney or attorney's agent prepared, collected, assembled in litigation or in anticipation of litigation or related to client advice is exempt.	Attorney work product- records that reveal attorney's mental impressions and thought processes in connection with completed, existing, or anticipated litigation	RCW 42.56.070(1); RCW 5.60.060(2)(a); RCW 42.56.290.
12h	Attorney Work Product - Communications between attorneys who have a common interest or a joint defense agreement that reveals opinions or mental impressions of attorney, or information prepared, collected, or assembled in litigation or in anticipation of litigation is exempt.	Attorney work product- common interest or joint defense protection	RCW 42.56.070(1); RCW 5.60.060(2)(a); RCW 42.56.290. See also <i>Kittitas County v. Allphin</i> , 195 Wn.App 355, 381 P.3d 1201 (2016), review granted in part, 187 Wn.2d 1001 (2017).
13	Child Victims and Witnesses	Child victims and witnesses have the right to not have their names, addresses, nor photographs of the living child victim or witness disclosed.	RCW 7.69A.030(4)
14	Identity of Child Victims of sexual assault	Information revealing the specific details that describe an alleged or proven child victim of sexual assault under age eighteen, or the identity or contact information of an alleged or proven child victim of sexual assault who is under age eighteen. Identifying information includes the	RCW 42.56.240(5); RCW 7.69A.030(4), .050; RCW 10.52.100; RCW 10.97.130

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		child victim's name, addresses, location, photograph, and in cases in which the child victim is a relative, stepchild, or stepsibling of the alleged perpetrator, identification of the relationship between the child and the alleged perpetrator. Contact information includes phone numbers, email addresses, social media profiles, and user names and passwords.	
15	Child forensic interviews – audio or video	Any and all audio or video recordings of child forensic interviews as defined in chapter 26.44 RCW. Such recordings are confidential and may only be disclosed pursuant to a court order entered upon a showing of good cause and with advance notice to the child's parent, guardian, or legal custodian. However, if the child is an emancipated minor or has attained the age of majority as defined in RCW 26.28.010, advance notice must be to the child.	RCW 42.56.240(18)
16	Records pertaining to healthcare, including mental health services.	Health care information is personal and sensitive information that if improperly used or released may do significant harm to a patient's interests in privacy, health care, or other interests. It is the public policy of this state that a patient's interest in the proper use and disclosure of the patient's health care information survives even when the information is held by persons other than health care providers.	RCW 10.77.210; RCW 70.02.005(4), .020, .030, .230 and .270; HIPAA; 45 CFR Part 160, 164
17a and 17b	Investigative, law enforcement, and crime victims.	17a: Records contained in an active, on-going criminal investigation - this is a "categorical" exemption, meaning the records are exempt as a whole in their entirety. 17b: Specific intelligence information compiled by law enforcement, the nondisclosure of which is essential to effective law enforcement because to release the information would reveal law enforcement techniques, capabilities, limitations, and the extent of law enforcement knowledge which would jeopardize investigations/prosecutions and /or	RCW 42.56.240(1); RCW 42.56.050

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		assist individuals in criminal activity.	
18	Autopsy Records	Reports and records of autopsies or postmortems shall be confidential.	RCW 68.50.105 & RCW 11.02.005
19	Postmortem photographs and investigation scene photos of deceased	Right to privacy for which disclosure would be highly offensive and there is no legitimate public concern. Exempt from disclosure because a decedent's family has a constitutional right to privacy over the death images of the decedent.	RCW 42.56.050; <i>Lee v. City of Seattle</i> , 3 Wash.App.2d 1055, <i>Marsh v. County of San Diego</i> , 680 F.3d 1148 (2012). <i>NARA v. Favish</i> , 541 US 157 (2004)
20	Juvenile records	All records other than the official juvenile court file are confidential.	RCW 13.50; <i>Deer v. Department of Social and Health Services</i> 122 Wn. App. 84 (2004); <i>Amber Wright v. State of Washington, Department of Social and Health Services</i> 176, Wn. App.585 (2013)
21	Security	Regarding the public and private infrastructure and security of computer and telecommunications networks, consisting of security passwords, access codes and programs.	RCW 42.56.420
22	Crime Victim benefits	Information regarding victims of crimes – compensation, assistance.	RCW 7.68.140; RCW 7.68.145
23	Non-Business Related emails – Public Employees	Personal emails or messages sent on a county device may be “public record” if the county has some use or purpose in retaining them, such as retention for termination or litigation. However, if the content is personal, unrelated to a government purpose and of no public interest, the content is exempt from public disclosure.	RCW 42.56.230(1)(2), <i>Tiberino v. Spokane County</i> , 103 Wn. App. 680, 13 P.3d 1104 (2000)
24a and 24b	Public Employees/Volunteers – Employee Hiring	24a: Test questions, scoring keys, and other examination data used to administer a license, employment, or academic examination.  24b: Applications for public employment, including applicant names, resumes, and other related materials submitted. (However, this exemption does	RCW 42.56.250(1)(a)  RCW 42.56.250(1)(b)

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		<p>not apply to applications for vacancies in elective office.)</p> <p>Background checks and pre-employment polygraphs are included within the meaning of "other materials submitted with respect to an applicant." See <i>Sheats v. East Wenatchee</i> (2018).</p>	
24c to 24f	Public Employees/Volunteers – Employee/Official Personal Information	<p>24c: Private personal information about employees, appointees, or elected officials stored in public agency files is exempt.</p> <p>24d: The following information held by any public agency in personnel records, public employment related records, volunteer rosters, or included in any mailing list of employees or volunteers of any public agency: Residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, driver's license numbers, identicard numbers, payroll deductions including the amount and identification of the deduction, and emergency contact information of employees or volunteers of a public agency, and the names, dates of birth, residential addresses, residential telephone numbers, personal wireless telephone numbers, personal email addresses, social security numbers, and emergency contact information of dependents of employees or volunteers of a public agency.</p> <p>24e: Photographs and month and year of birth in the personnel files are exempt. <i>However, the news media as defined in RCW 5.68.010(5) can gain access to this information.</i></p> <p>24f: Any employee's name and other personally identifying information if they or a dependent are survivors of domestic violence,</p>	<p>RCW 42.56.230(3)</p> <p>RCW 42.56.250(1)(d)</p> <p>RCW 42.56.250(1)(h)</p> <p>RCW 42.56.250(1)(i)</p>

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		sexual assault, sexual abuse, stalking, or harassment, or if they participate in the address confidential program under chapter 40.24 RCW	
24g	Public Employees/Volunteers GPS residence location	The global positioning system data that would indicate the location of the residence of a public employee or volunteer using the global positioning system recording device is exempt.	RCW 42.56.250(1)(j)
24h	Public Employees/Volunteers Investigative records	Investigative records compiled by an employing agency in connection with an investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws or an employing agency's internal policies prohibiting discrimination or harassment in employment. Records are exempt in their entirety while the investigation is active and ongoing. After the agency has notified the complaining employee of the outcome of the investigation, the records may be disclosed only if the names of complainants, other accusers, and witnesses are redacted, unless a complainant, other accuser, or witness has consented to the disclosure of his or her name. The employing agency must inform a complainant, other accuser, or witness that his or her name will be redacted from the investigation records unless he or she consents to disclosure	RCW 42.56.250(f)
25	Right to Privacy	A person's right to privacy is invaded or violated only if disclosure of information about the person: (1) Would be highly offensive to a reasonable person, and (2) is not of legitimate concern to the public.	RCW 42.56.050. <i>Bainbridge Island Police Guild v. City of Puyallup</i> , 172 Wash.2d 398 (2011)
26	Employment Security Department records	Information related to employment security is exempt from disclosure.	RCW 50.13; RCW 42.56.410
27	Child Support Records	Information and records concerning individuals who owe a support obligation or for who support enforcement services are being provided.	RCW 26.23.120
28	Child Welfare Records.	Child welfare records are confidential and exempted from the	RCW 13.50.100, <i>Deer v. Dep't of Social &amp; Health</i>

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		PRA. Other agencies authorized to exchange information with Child Welfare Services may not further disseminate or release the information.	<i>Servs</i> , 122 Wash. App 84, 93 P.3d 195 (2004), <i>Wright v. State</i> , 176 Wash. App 585, 309 P.3d 662 (2013), RCW 26.44.030(9)
29	Tax information	Tax information (confidential income data and proprietary business information that has been communicated in confidence in connection with the assessment of property and that has not been publicly disseminated by the taxpayer, the disclosure of which would be either highly offensive to a reasonable person and not a legitimate concern to the public or would result in an unfair competitive disadvantage to the taxpayer) is confidential and privileged and may not be disclosed. Information obtained pursuant to RCW 84.40.340 to determine the assessed value of a taxpayer's property is confidential and may not be disclosed.	RCW 42.56.230(4); RCW 84.08.210