

FACC 2026 SUMMER CONFERENCE AND ACADEMY

Records Management and Emerging Challenges

This presentation was created with the assistance of AI tools



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Public Trust & Public Service

"A public office is a public trust and the people shall have the right to secure and sustain that trust against abuse."

Article II, Section 8, Fla. Const.

Public Records

Why, What, Who, When, & How



Why

The Public Trust



Public Records: An Investment in the Public Trust

*"Every person has the **right to inspect or copy any public record** made or received in connection with the official business of any public body, officer, or employee of the state, or persons acting on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution."*

Article I, §24(a), Fla. Const.

*"It is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. **Providing access to public records is a duty of each agency.**"*

Fla. Stat. § 119.01(1)

A Constitutional **Right** & Statutory **Duty**

Public Records: An Investment in the Public Trust

*"Every person who has custody of a public record **shall permit the record to be inspected and copied** by any person desiring to do so, **at any reasonable time, under reasonable conditions**, and under supervision by the custodian of the public records."*

Fla. Stat. §119.07(1)

What

is a Public Record?



What is a Public Record: Statutory Definition

*"All documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, **regardless of the physical form, characteristics, or means of transmission, made or received** pursuant to law or ordinance or **in connection with the transaction of official business** by any agency."*

Fla. Stat. §119.011

What is a Public Record: Judicial Analysis

What constitutes a public record is a question of law.

State v. City of Clearwater, 863 So.2d 149, 151 (Fla. 2003)

All public records, **regardless of whether they are in final form**, are open for public inspection unless exempted.

Wait v. Florida Power & Light Company, 372 So. 2d 420 (Fla. 1979)

All materials made or received by a City . . . which are used to **perpetuate, communicate or formalize** knowledge.

Shevin v. Byron, 379 So. 2d 633, 640 (Fla. 1980)

The public records act is to be **construed liberally in favor of openness**. Any doubt is resolved in favor of disclosing the documents.

Lightbourne v. McCollum, 969 So.2d 326, 332-33 (Fla. 2007)

Not limited to traditional written documents; **includes items in digital form**.

NCAA v. AP, 18 So. 3d 1201 (Fla. 1st DCA 2009)

What is a Public Record: Generally

It is a public record if it was made or received by a public official or employee in fulfillment of their work as an official or employee.

It perpetuates, communicates, or formalizes some knowledge of the agency in its official capacity.

The source, form, medium, platform, device, or account ordinarily **DO NOT MATTER** if the public record requisites are otherwise satisfied.



Questions

Who

Is responsible for Public Records?



Who is Responsible: Generally

All Agencies in Florida

*"Agency" means any state, county, district, authority, or **municipal officer**, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, **and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.***

Fla. Stat. §119.011(2)

Who is Responsible: Generally

Government Bodies

Including elected officials, employees, and agents

Private Entities Created by a Public Agency

- Community Development Districts
- Community Redevelopment Agencies
- Dependent Districts
- Utilities and Other Authorities

Private Entities Doing Business with the Public Agency

Contracts require compliance with Florida's public records law.

Does not apply to all of the private entity's records — essentially only those related to the public business.

Advisory Boards

All advisory and quasi-judicial boards

Who is Responsible: The Custodian

"Custodian of public records" means the elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.

Fla. Stat. §119.011(5)

"Every person who has custody of a public record shall permit the record to be inspected and copied..."

Fla. Stat. §119.07(1)



You do not have to be the 'custodian of public records' to have public records responsibilities if you have custody of a public record.

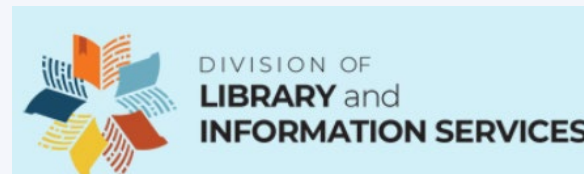
Who is Responsible: The RMLO

Records Management Liaison Officers

Every agency is required by law to appoint an RMLO to serve as a point of contact between the agency and the Division of Library and Information Services' records management program.

Typical duties might include:

- › Reports agency's compliance statement annually to the Division.
- › Helps ensure proper disposition of eligible records.
- › Trains and advises agency staff in records management practices.
- › Responds to questions from the public regarding agency records.
- › Works with the Division to establish retention schedules.
- › Inventories agency records.
- › Participates in agency decisions regarding microfilming, imaging, storage and disposal.
- › For Tallahassee-area agencies who are [State Records Center](#) customers, manages Total Recall users.



Identified to State via form on [Division of Library and Information Services website](#).

RECORDS MANAGEMENT LIAISON OFFICER (RMLO) DESIGNATION

Please provide current information about your agency RMLO in the space below. Thank you.

Who is Responsible: Personal Exposure

Records in the exclusive possession of a public official or employee may require them to:

Spend personal time recovering and providing records

Provide access to personal email or social media accounts for review

Turn over personal devices to municipal officials or contractors for review

Assume exposure to liability for failure to fulfill their public records obligations



Questions

When:

Public Records Timelines and Timing Concerns



When: Acknowledgment and Response

*"A custodian of public records and his or her designee **must acknowledge requests** to inspect or copy records **promptly** and respond to such requests in good faith."*

Fla. Stat § 119.07 (1) (c)

*"Every person who has custody of a public record **shall permit the record to be inspected** and copied by any person desiring to do so, **at any reasonable time, under reasonable conditions**, and under supervision by the custodian of the public records."*

Fla. Stat § 119.07 (1) (c)

When: Response Times

Reasonable Retrieval Time

The time to fulfill the request is limited to the reasonable time allowed the custodian to retrieve the record and delete portions the custodian asserts are exempt.

Depends on Nature and Volume

Reasonable time depends on the nature of the request and the nature and volume of the documents involved.

Unjustified Delay = Unlawful Refusal

An unjustified or arbitrary delay in producing documents has been deemed an unlawful refusal to provide public records.

When: Retention & Disposal



- The law requires the Florida Division of Library and Information Services to establish retention schedules and disposal procedures for public records.
- Individual agencies should have an established records management policy and procedure implementing established retention schedules.
 - Balance the agency's needs to manage, store, and access public records with the public's right to review records on timely issues related to official business.
- Dispose of all records eligible for disposal in a manner consistent with applicable law.
 - If you still have it, you have to produce it!
- The RMLO plays a meaningful role in this process.
- Set up regular retention review and disposal (e.g., annual) using prescribed templates.



Questions

How

to Handle Public Records Requests



How to Handle Public Records Requests

1. Promptly Acknowledge Request

2. Identify whether request seeks records in the agency's custody

3. Determine and disclose any anticipated costs

4. Make reasonable efforts to locate the record

5. Retrieve responsive records

6. Redact & remove confidential or exempt content

7. Collect all lawful charges

8. Release the Production



How to Handle Requests: Key Questions

Q1: Is it a public record?

Apply the statutory and judicial tests.

Q2: Is the content subject to an exemption or confidentiality requirement?

Check applicable statutory exemptions before producing.

Q3: Does the record exist?

Did it ever exist? | Was it disposed of per retention guidelines? | Was it destroyed in a natural disaster?

How to Handle Requests: Scope & Limitations

The Law Does NOT Require:

The agency to create a document that does not exist.

The agency to answer questions about the document or the matters contained in it.

Medium & Format:

The agency is required to provide the record in the medium or format requested, but only if the agency maintains the record in the specified medium or format.

Although not required by law, agencies can establish a process to allow remote access to public records.

How to Handle Requests: Charges

Per-Page Copies

Specified charges apply for one-sided and two-sided copies under Florida law.

Certified Copies

An agency may charge up to \$1 per copy for a certified copy of a public record.

Special Service Charge

Where there is ***extensive use of information technology resources*** or ***extensive clerical or supervisory assistance***, the agency may charge a reasonable special service charge based on the actual cost of labor or technology resources incurred.

How to Handle Requests: Exemptions & Redactions

All exemptions are created by the Legislature and fall into one of two categories:

Exempt in Their Entirety

Records that are confidential or exempt in their entirety.

Examples: Autopsy photographs, active criminal investigation materials.

Contain Exempt Information

Records that contain confidential or exempt information within an otherwise disclosable document.

Examples: Home addresses and telephone numbers of certain individuals.

There is no single definitive list of exemptions — each must be researched on a case-by-case basis.

How to Handle Requests: Redaction Requirements

Cite the Authority

Each claim of an exemption must be supported by a reference to the specific statutory or constitutional provision on which the agency relies.

Redact and Produce

If the record contains information that is exempt from disclosure AND other information that is not, the custodian must redact the exempt information and provide the redacted record to the requester.

Inadvertent vs. Willful Disclosure

Inadvertent disclosure does not ordinarily lead to liability, but willful violations can constitute a criminal or ethical violation.

DO NOT CREATE Conditions



DO NOT insist upon any of the following:

Getting the person's name

Getting the person's contact information

Getting a reason for the request

Getting the request in writing

Requester using your online platform



Questions

Public Records:

Liability and Exposure



Municipal Liability

After receiving a request, an agency may NOT respond to that request by filing an action for declaratory relief against the requester to determine whether the record is a public record or the status of the record as confidential or exempt.

Fla. Stat. §119.12 — Attorney Fees

- At least five (5) business days before filing suit re: denial of a public records request, the complainant must provide written notice identifying the public record to the city's custodian of public records.
- Must not have requested records or maintained suit for an improper purpose.
- To receive this protection requires prominent posting of the required notice.
- This section does not create a private right of action for monetary damages — payments by the responsible agency may include only the reasonable costs of enforcement, including reasonable attorney fees, directly attributable to a civil action brought to enforce the provisions of this chapter.

Individual Liability

Fla. Stat. §119.10(2)(a)

Violation; Penalties — up to \$500 noncriminal; suspension, removal, or impeachment; willful and knowing violations may be felonies.

Fla. Stat. §112.313(6)

Misuse of Public Position

Fla. Stat. §817.034(4)(a)(3)

Organized Scheme to Defraud

Fla. Stat. §112.313(8)

Disclosure of Confidential Information

Fla. Stat. §831.01

Forgery

Fla. Stat. §817.569

Criminal use of a public record; providing false information

Fla. Stat. §838.022

Misuse of Public Office

Contractor Liability — Fla. Stat. §119.0701

Specific contract language is required for any entity that enters into a contract for services with a public agency and is acting on behalf of the public agency.

Attorney Fees — If the agency must sue the contractor, fees recoverable if:

1. The contractor unlawfully refused to comply within a reasonable time, AND
2. The agency provided the contractor with legal notice at least 8 business days before filing suit, and they still failed to comply.

Best Practice: Include §119.0701-compliant language in every service contract template and verify during procurement.



Questions

Best Practices Moving Forward

Records are your most important commodity — without records you cannot perform essential functions like run elections, collect pay, pay bills, and more.

Often neglected for lack of resources, expertise, management support, or motivation — addressing these gaps is a leadership priority.

Notices, Policies, & Plans:

- Training Employees
- Legal Notice for Suits
- Retention Policies
- Records Inventory
- Public Records Task Forces or Quarterly Reviews



Best Practices Moving Forward

You Are Not Alone!!

- Work with your peers and FACC resources.
- The Division of Library and Information Services will provide training and help — subject to resources — with policy preparation and implementation.

Have a Plan Addressing:

1. Access: Who can request, how requests are received, acknowledged, and fulfilled.

2. Preservation: How records are maintained and protected from alteration or loss.

3. Retention: How long each record category is kept per established schedules.

4. Disposal: How eligible records are disposed of in a lawful and documented manner.

Emerging Challenges

Technology | AI | Digital Records

Emerging Challenge: Records Requests by and among City Officials

- Elected officials and employees may request public records just like any member of the public — the agency cannot condition disclosure on identity or purpose.
- Requests made by commissioners or council members in their official capacity may themselves generate public records (e.g., the request and the response).
- Inter-agency and intra-agency document requests are still subject to Chapter 119 to the extent they are made or received in connection with official business.
- Counsel should be consulted when official-to-official records requests implicate attorney-client privilege, work product, or litigation strategy.
- Consider establishing a policy on charges for requests from elected officials

**THE CALL
IS COMING
FROM INSIDE
THE HOUSE**

Emerging Challenge: Multiplying Platforms

As governmental entities multiply the media and platforms used, so too does the number of records. It is becoming increasingly difficult to control all vectors for the creation of public records given all the platforms used by individual employees, officials, and departments.

Email

Text / SMS

Social Media

Messaging Apps

Cloud Storage

Body Cameras

AI Tools

Mobile Devices

Digitization of Public Records

Ref: State of Florida Guide on Managing Florida's Public Records (2021)

For electronic records with a retention longer than 10 years, agencies need to test a statistical sample every year and test the entirety of the record every 10 years to ensure the information has not degraded over time.

Using a Checksum — FAC 1B-26.003:

"Checksum" means a hashing algorithm or procedure for checking that electronic records have not been altered by transforming a string of characters into a usually shorter fixed-length "hash value" or key that represents the original string.

WORK WITH YOUR IT DEPARTMENT

Digitization of Public Records — Rule 1B-26.003, F.A.C.

- Provides standards for the creation, maintenance, and backup of electronic public records, including standards for digitizing records of long-term or permanent value.
- Establishes procedures for regular recopying, reformatting, and other necessary maintenance to ensure the retention and usability of electronic records throughout their authorized life cycle.
- Provides for transfer of electronic records and any related documentation and indexes to the State Archives of Florida at the time specified in the records retention schedule, if applicable.
- Establishes requirements for destruction of electronic records in accordance with Rule 1B-24, F.A.C.
- Agencies must ensure that records scheduled for destruction are disposed of so that any confidential or exempt information cannot practicably be read or reconstructed.
- Recording media previously used for confidential or exempt records must not be reused if the previously recorded information could be compromised.

Digital Redaction: A Cautionary Note

High-profile redaction failures have exposed confidential information when electronic redaction was improperly applied (e.g., black-box overlays not permanently removing underlying text).

Best Practices for Digital Redaction

- Use dedicated redaction software — properly flatten the document after redacting.
- Verify redacted PDFs by attempting to copy/paste from the redacted area before release.
- Establish a written digital redaction policy and provide training to all staff handling exempt records.
- Retain unredacted originals separately per applicable retention schedules.

Emerging Challenge: Social Media

- The Attorney General's Office has stated that the placement of material on a city's Facebook page presumably would be in connection with the transaction of official business and thus subject to Chapter 119, F.S.
- Social media activity can create public records if communications (regardless of platform) are sent or received in connection with public business.
- If a post or communication is a public record, it must be retained and available for copying and inspection if a request is made.
- Social media as a dynamic record presents particular challenges for retention — agencies cannot solely rely on private social media companies. Consider additional archiving software and integrations.
- Lists of blocked users may be public records.
- Key distinction: Custodian vs. Person With Custody.



Emerging Challenge: Text Messages, Emojis, & Emoticons

- Text messages sent or received by public officials or employees in connection with official business are public records — regardless of whether sent on a government or personal device.
- Emojis and emoticons embedded in government communications may constitute part of a public record and must be retained in a format that preserves their meaning.
- The retention period for text messages depends on the subject matter, not the medium. Content governs the applicable retention schedule.
- Agencies should adopt policies governing the use of personal devices for official business (BYOD policies) and ensure text message content can be captured, retained, and searched.
- Courts have found that informal communication channels — including group chats and messaging apps — can create binding public records obligations.

Body Worn Cameras

Records, Retention & Exemptions

Body Worn Cameras: Retention & Exemptions

Minimum Retention:

Body camera recordings have a minimum retention of 90 days under Florida law. The retention period may be extended if the record falls into a separate category (e.g., arrest, use of force, complaint).

Exempt — Interior of a Residence:

A body camera recording, or a portion thereof, is confidential and exempt if it is taken within the interior of a private residence.

Exempt — Reasonable Expectation of Privacy:

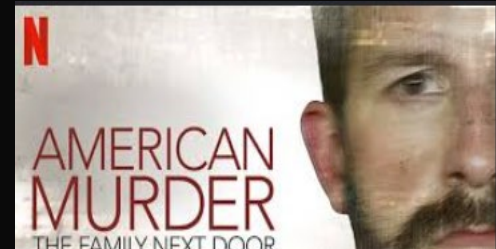
A recording is also exempt if taken in a place where a reasonable person would expect to be private.

Exempt — Killing of a Minor:

A photograph or video or audio recording that depicts or records the killing of a minor is confidential and exempt from public disclosure.

Body Worn Cameras

Your Records as “Content”



Emerging Challenge: E-mail Management

- Any given day, your organization can generate hundreds or thousands of e-mails.
- What IT protocols are in place to inventory, back up, and search this content?
- When searching troves of data, how does your organization locate and assemble responsive productions?

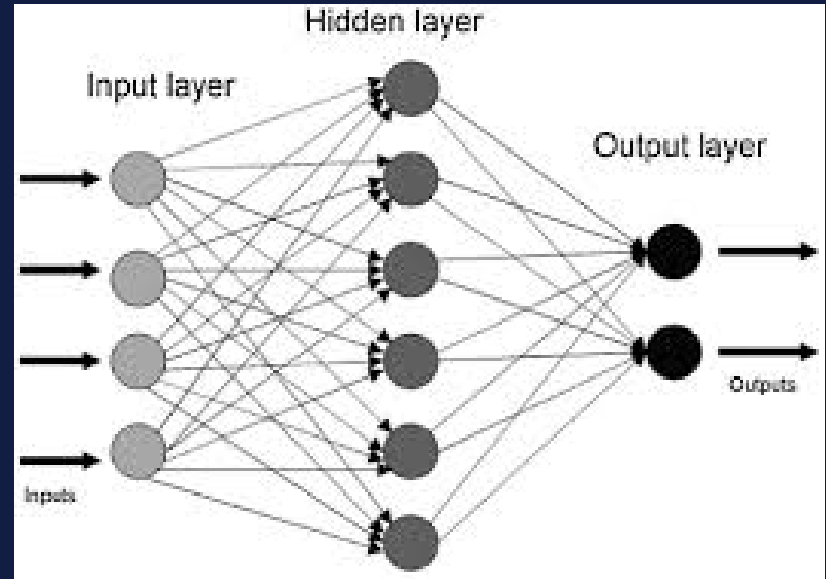
Best Practices for E-mail Management

- Implement an enterprise e-mail archiving solution with robust search capability.
- Establish clear policies for auto-deletion and litigation or records hold procedures.
- Train staff on the difference between transient and non-transient e-mail records.

Artificial Intelligence (AI)

“Under the hood, chatbots and the A.I. bots they power are nothing but a series of static math computations strung together in rapid succession. . . They give the impression of being much more than they are, perhaps even having consciousness—All A.I. systems today are built around neural networks, which, despite their fanciful name, are just math formulas.—the latest A.I. chatbots are estimated to have trillions of parameters. But the size doesn’t change the fact that they are mere formulas”

Noah Giansiracusa, “There’s a Simple Reason Why I’m Sure A.I. Won’t Achieve Consciousness”, Slate.com (May 2026)



Dataset or Knowledge Base

Owning and controlling the knowledge base controls the output.

Artificial Intelligence (AI)

Neural Network: Multiple layers of information passing from one layer to another to learn and improve accuracy over time.

Deep Machine Learning: A more intricate and layered neural network — the foundation of modern AI systems.

Agentic AI: AI systems that can independently set goals, make decisions, and execute multi-step workflows without constant human supervision. Known for relentless, continuous operation.

Analysis: AI models work by analyzing input from a user against many sources to create a word sequence and predictive response, generating an answer.

Artificial Intelligence (AI)



AI Concerns Generally

Misinformation — RISK: Being the UNINTENTIONAL Source

False or inaccurate information (hallucinations) — AI programs have been known to generate responses seemingly without factual basis for support.

Disinformation — RISK: Being the TARGETED VICTIM

False information intended to mislead, especially propaganda or deepfakes issued by a rival power or malicious actors.

Infodemic — RISK: Erosion and Loss of the Public Trust

An overabundance of information — both accurate and inaccurate — making it hard for people to find trustworthy sources and reliable guidance.

Data Integrity / Reliability — RISK: Compromised Agency Records

AI-generated or AI-modified content may be difficult to authenticate; agencies must ensure records integrity is not undermined.

AI Public Records Concerns: A Universe of Unresolved Inquiries

Fabrication or Falsification of Public Records

AI tools may generate realistic but fictitious documents — raising serious concerns about authenticity verification and potential criminal exposure.

Agentic AI Requests

If any person can make a records request, what is the impact when relentless Agentic AI is making requests with no clear guardrails — especially where agencies cannot insist on requester identification? Does this satisfy an 'improper purpose' analysis? Could Agentic AI be used to bypass Sunshine Law requirements?

AI Prompts and Outputs as Public Records

Agency use of AI tools may generate records — prompts, outputs, and system interactions may be subject to public records obligations depending on their connection to official business.

Consider retention category: commonly transitory but can create content with higher standards

Retention and Control

Who controls AI-generated content? How is it retained, identified, and disposed of? Agencies must address these questions in their records management policies.

Artificial Intelligence (AI): Disclosure?

A Template Any City Can Use

For cities that want a starting point, here is sample language that can be adapted for a website, agenda packet, or public notice:

"The City of [Name] uses AI tools to assist staff with tasks such as [meeting transcription / document drafting / translating public notices]. All AI-generated content is reviewed by city staff before publication. AI does not make decisions about permits, enforcement, or city services.

For a full list of AI tools the city uses, visit [link]. Questions? Contact [department/phone/email]."

That kind of disclosure takes five minutes to write, costs nothing to post, and addresses the four things residents most want to know.

<https://www.flcities.com/wp-content/uploads/2026/03/How-Cities-Can-Communicate-Clearly-and-Honestly-About-AI-Use.pdf>



Questions & Open Discussion

Conclusions

Don't Panic

Remember the Basics

Develop, Stick to, & Review Policies



Thank You!

Records Management and Emerging Challenges

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FLORIDA ASSOCIATION
OF CITY CLERKS

