

INTERGOVERNMENTAL AFFAIRS



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COUNTIES AND THE LEGISLATURE

- Process
- Dillon's Law vs. Home Rule
- Legislative oversight of local government audits and financial reporting
- Importance of building positive working relationships



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COUNTIES AND THE EXECUTIVE BRANCH

- **The Governor:**
 - Appoints to fill vacancies on BOCC
 - Appoints county commissioners to state commissions, task forces, and working groups.



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STATE AGENCIES

- Idaho Transportation Department
- Idaho State Tax Commission
- Idaho Public Defense Commission
- Idaho State Police
- Idaho Office of Emergency Management
- Idaho Department of Health and Welfare
- Secretary of State



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COUNTIES AND THE JUDICIARY

- Idaho's unified court system
 - Magistrate Court
 - District Court
 - Supreme Court
- Administrative Office of the Court
 - Shared employees



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LOCAL UNITS OF GOVERNMENT

- General purpose governments
 - Counties
 - Cities (urban service provider)
- Special purpose governments
 - Highway Districts
 - School Districts
 - Cemetery Districts
 - Fire Districts
 - Etc.
- Key Differences



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QUESTIONS



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PUBLIC RECORDS ACT AND COUNTY RECORDS RETENTION



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QUICK LINKS

Idaho Public Records Law

<https://legislature.idaho.gov/wp-content/uploads/statutesrules/idstat/Title74/T74CH1.pdf>



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TITLE 74
TRANSPARENT AND ETHICAL GOVERNMENT

CHAPTER 1
PUBLIC RECORDS ACT

74-101. DEFINITIONS. As used in this chapter:

(1) "Applicant" means any person, firm, or seeking a paid or volunteer position with a public agency. "Applicant" does not include any person seeking appointment to a position currently filled by election.

(2) "Copy" means transcribing by handwriting, photocopying, duplicating machine and reproducing by any other means as long as the public record is not altered or damaged.

(3) "Custodian" means the person or persons having personal custody and control of the public records in question.

(4) "Independent public body corporate and politic" means the Idaho Housing and Finance Association as created in chapter 61, title 67, Idaho Code.

(5) "Insight" means the right to listen, view and read notes of public records as long as the public record is not altered or damaged.

(6) "Investigatory request" means information with respect to an identifiable person, group of persons or activities compiled by a public agency or independent public body corporate and politic pursuant to the statutory authority in the course of investigating a specific act, omission, failure to act, or other conduct over which the public agency or independent public body corporate and politic has regulatory authority or law enforcement authority.

(7) "Law enforcement agency" means any state or local agency given law enforcement power of which has authority to investigate, enforce, prosecute or punish violations of state or federal criminal statutes, ordinances or regulations.

(8) "Local agency" means a county, city, school district, municipal corporation, district, public health district, political subdivision, or any agency thereof, or any committee of a local agency, or any combination thereof.

(9) "Person" means any natural person, corporation, partnership, firm, association, joint venture, state or local agency or any other recognized legal entity.

(10) "Prisoner" means a person who has been convicted of a crime and is either incarcerated or on parole for that crime or who is being held in custody for trial or sentencing.

(11) "Public agency" means any state or local agency as defined in this section.

(12) "Public official" means any state, county, local district, independent public body corporate and politic or governmental official or employee, whether elected, appointed or hired.

(13) "Public record" includes, but is not limited to, any writing consistently heretofore relating to the conduct of administration of the public's business prepared, owned, used or retained by any state agency, independent public body corporate and politic or local agency regardless of physical form or characteristics.

(14) "Reproducer" means the person depositing examination and/or copying of public records pursuant to section 74-102, Idaho Code.

COUNTY RECORDS RETENTION STATUTE

Section 31-871, Idaho Code

<https://legislature.idaho.gov/statutesrules/idstat/Title31/T31CH8/SECT31-871/>



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TITLE 31
COUNTIES AND COUNTY LAW

CHAPTER 8
POWERS AND DUTIES OF BOARD OF COMMISSIONERS

31-871. CLASSIFICATION AND RETENTION OF RECORDS. (1) County records shall be classified as follows:

(a) "Law enforcement media recording" means a digital record created by a law enforcement agency in the performance of its duties that consists of a recording of visual or audible components or both.

(b) "Permanent records" shall consist of, but not be limited to, the following: proceedings of the governing body, ordinances, resolutions, building plans and specifications for commercial projects and government buildings, bond register, warrant register, budget records, general ledger, cash books and records affecting the title to real property or liens thereon, and other documents or records as may be deemed of permanent nature by the board of county commissioners.

(c) "Semi-permanent records" shall consist of, but not be limited to, the following: claims, contracts, canceled checks, warrants, duplicate warrants, license applications, building applications for commercial projects and government buildings, departmental reports, purchase orders, vouchers, duplicate receipts, bonds and coupons, financial records, and other documents or records as may be deemed of semi-permanent nature by the board of county commissioners.

(d) "Temporary records" shall consist of, but not be limited to, the following: correspondence not related to subsections (1) and (2) of this section, building applications, plans, and

YOUR DESK REFERENCE

Idaho Public Records Law Manual

[https://www.ag.idaho.gov/
content/uploads/2018/04/
PublicRecordsLaw.pdf](https://www.ag.idaho.gov/content/uploads/2018/04/PublicRecordsLaw.pdf)

Office of the
Attorney General

Idaho Public Records Law Manual

Idaho Code §§ 74-101 through 74-126



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WHAT IS A PUBLIC RECORD?

- "Public record" includes, but is not limited to, any writing containing information relating to the conduct or administration of the public's business.
- "Writing includes ... every means of recording including letters, words, pictures, sounds, or symbols ...
- Section 74-101, Idaho Code



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PUBLIC RECORDS IN THE DIGITAL AGE

- What is public and what is private?
- Keep private and public records separate:
 - Use county email for county business, and
 - Use your personal email for personal business.
 - TIP: If your county does not have email, create a new personal county account for personal business.
- NOTE: Same applies to text messages and other means of electronic communication.



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OTHER CONSIDERATIONS FOR THE DIGITAL AGE

- Documents stored in the “cloud”
- Voicemail messages
- Social media posts (Facebook, Twitter, Instagram, etc.)
- Personal blogs, blog posts, forum posts, etc.



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PUBLIC'S RIGHT TO EXAMINE RECORDS

- Right to inspect the record (read, view, listen to, make notes, etc.)
- Right to copy the record (print, record, photograph, etc.)
- Section 74-102(1), Idaho Code



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ACCESSING A PUBLIC RECORD

- Formal request
 - Form of the county, include name, address, phone number, etc.
- Verbal request
- Email request
- Section 74-102(4), Idaho Code



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AREAS OF CAUTION

- You cannot ask why the record is being requested
- Three days vs. ten days
- Fees for accessing public records (are allowed, but cannot exceed actual costs)
- Section 74-102(10), Idaho Code



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FEE SCHEDULE

- The county commissioners must adopt a fee schedule in order for the county to collect fees for public records requests.
- Fees charged cannot exceed the actual costs of processing the records request.
- Fees cannot be used to restrict access to legitimate public records.
- You cannot charge fees for:
 - The first 100 pages of copied records
 - The first two hours of labor to process the request
- Section 74-102(10), Idaho Code



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SOME CONSIDERATIONS

- County is prohibited for using public records to develop mailing or telephone lists (but good luck enforcing).
- Public officials have immunity for actions based on a "good faith" attempt to comply (consulting with prosecuting attorney's office).
- Civil penalty up to \$1,000 for bad faith denial of a record.



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NOT ALL RECORDS ARE DISCLOSABLE

- Exemptions:
 - Personnel Records
 - Medical Records
 - Appraisal Records
 - Trade Secrets
 - Title Insurance Policies and Land Records
 - Attorney Client Communications
 - What else?



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ROLE OF BOARD OF COUNTY COMMISSIONERS

- Designate custodian(s)
- Establish a fee schedule
- Provide access to the prosecuting attorney (civil)
- Adopt a records retention policy



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DESIGNATING A CUSTODIAN

A public agency, elected official or independent body corporate and politic shall designate a custodian or custodians for all public records... (Section 74-102(16), Idaho Code).



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COUNTY RECORDS RETENTION - MINIMUM RETENTION TIMEFRAMES

- Permanent Record: 10 years
- Semi-Permanent Record: 5 years
- Temporary Record: 2 years
- Records can be retained in a digital medium
- Law Enforcement Media Recordings: 200 days
 - No evidentiary value (not affixed to building): 60 days
 - No evidentiary value (affixed to building): 14 days



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COMMON PROBLEMS

- Not always clear in which category a record belongs.
- Not clear what to do with digital records:
 - Text messages
 - Emails
 - Voicemail messages



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RECORDS RETENTION RECOMMENDATIONS

- Use available resources
- Create a retention policy with your county prosecuting attorney
- Err on the side of retention
- Scan, then shred
- Back up data offsite



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RESOURCES

- Idaho Code 31-871
- IAC Records Retention Manual
- IAC Sample Retention Schedule
- IAC Webinar: Records Retention – aired April 2015
- Retention schedules for various state agencies



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