

Idaho Public Records Requests

Requirements, best practices, and difficult-request how to for counties

**Idaho Code
Title 74,
Chapter 1**

**County
workflow**

**Scenario
exercises**

**REQUEST
REVIEW
REDACT
RESPOND**

For county officials, clerks, deputies, elected officials, law enforcement administrators, and public records custodians.

Session roadmap

1. The legal frame

Presumption of openness; public record; custodian role; requester limits.

2. The response

Intake, assignment, search, extension, fee estimate, production log.

3. Exemptions & redactions

Privacy, law enforcement, personnel, attorney-client/work product, statutes outside Title 74.

4. Difficult requesters

Voluminous, vague, hostile, commercial, litigation-related, social media/texts, elected officials.

5. Court risk

Burden of proof; narrow exemptions; fee exposure; records retention when denied.

The operating principle

The county should be transparent by default and careful by statute.

OPEN



UNLESS



EXEMPT

Default rule

Every person has the right to examine and copy public records; records are presumed open at reasonable times.

County burden

When withholding, **the agency must identify the statute and justify the exemption.**

Practical stance

Do not ask “why do you want it?” unless the statute permits the inquiry. **Ask instead:** what record, what date range, where would we search?

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" means every recording including letters, words, pictures, sounds, video/film, or symbols.

Public business + writing

Any writing containing information about the conduct or administration of the public's business.

Prepared, owned, used, or retained

If the county uses or retains it for public business, it likely enters the records analysis.

Regardless of form

The definition is broad; the storage location is not the legal test. Paper, email, text, audio, video, maps, photos, databases, and electronic copies.

Best practices:

- Public business conducted on personal devices or accounts may still create public records.
- Do not assume "confidential," "draft," "text message," "private email," or "not in the file" ends the analysis.
- Ask departments where records are actually kept, not where they ideally should be kept.

HYPO: 1- If a citizen asks for “the sheriff budget” or “all emails about the road” ---RESPONSE?

What must the request contain?

The statute now gives counties more tools to require specificity.

- 1** **Clearly a public records request**
The request must clearly indicate that it is a public records request.
- 2** **Specific enough to locate**
Subject matter, records sought, and date range should allow a reasonable search.
- 3** **Contact + residency declaration**
Name, mailing address, email, phone, and written declaration of Idaho residency status.

Practical caution

Don't: reject for technicality- unless truly necessary.

Tip: If they don't state PRR, ask “is this a PRR?”

Do: Confirm scope in writing and document the agreed search terms.

County form

TIP: A standard form is helpful, but do not require a special form if the request otherwise meets the statute.

HYP0- Friday afternoon PRR, “I expect response within 3 days.”

Deadlines differ based on residency status and working days.

WHEN DOES CLOCK START? Receipt by designated custodian starts the response clock

Idaho resident

Grant/deny within 3 working days. If more time is needed to locate/retrieve, written notice and production no later than 10 working days.

Nonresident

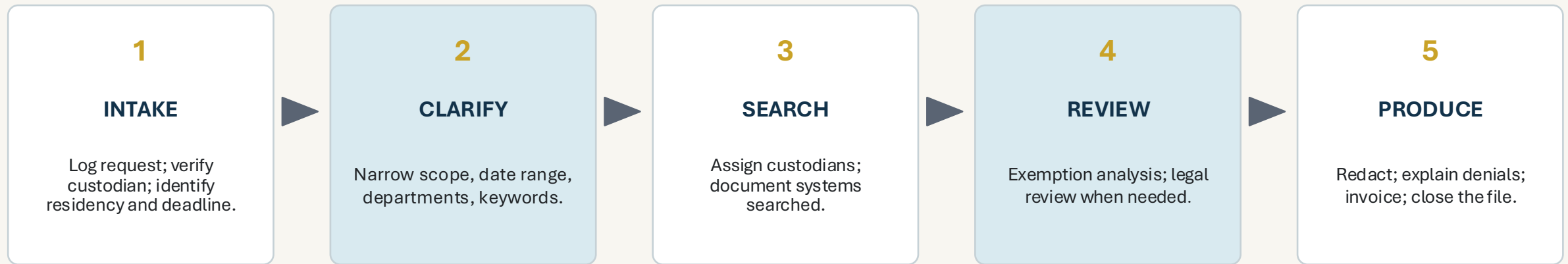
Grant/deny within 21 calendar days. If more time is needed, written notice and production no later than 35 calendar days.

No response = deemed denied

If the county misses the statutory time to respond, the request is treated as denied. That creates avoidable litigation risk.

The defensible workflow

Make the process consistent, documented, and repeatable.



Documentation rule

If you deny, redact, extend, charge, or ask for clarification, preserve the reason. It may become Exhibit A.

Quality control rule

The production should be reviewed as the requester will see it: filenames, redaction labels, missing pages, cover letter, fee calculation.

HYPO- PRR for “EVERYTHING about County Ordinance #1234.”

The county must make a good-faith search reasonably calculated to locate responsive records.

Where to search

Department shared drives, email, archives, paper files, case management, financial systems, text messages used for public business, vendor portals.

How to document

Custodian notes: who searched, systems searched, keywords/date ranges, people contacted, and results.

What not to do

Do not create new records, answer interrogatories, provide legal research, or compile data that does not exist unless the county elects to do so.

What if we miss one?

Search duty: reasonable, not perfect.

Practical script:

“We understand your request to seek public records about [topic] from [date range]. The County will search [departments/systems]. Please let us know promptly if that does not capture the records you intend to request.”

Fees: charge carefully, itemize always

Fees should be a tool for cost recovery and narrowing, not a punishment.

Resident baseline

No charge for first 2 hours of labor or first 100 paper pages, except where other Idaho law authorizes/prescribes fees.

When fees may apply

More than 100 pages, redactions required, or actual labor exceeds 2 person-hours.

Itemization

Show per-page costs, hourly rates, actual time, and separate nonresident schedules if adopted. No lump sums.

- **DO:** Use the lowest paid qualified employee necessary for resident labor charges.
- Attorney redaction time may be charged only within the statutory rate limits.
- **DO:** Request advance payment- it's is permitted; refund any excess over actual cost.
- Maybe offer/recommend narrowing record production before invoicing/issuing a large estimate.

Denials and partial denials-

A denial should be clear enough to defend in court.

Required mindset

Withhold only what is exempt.
Separate exempt and nonexempt material.

Cover letter should include

Records produced; records withheld/redacted; statutory authority; appeal/judicial remedy language; fee calculation; closeout.

Avoid

Blanket denials, vague citations, unexplained delays, redactions with no legal basis, or “we do not like the requester.”

Rule of thumb: a partial denial letter should read like a short, neutral affidavit of the custodian’s decision.

Don’t: make assumptions or accusations against the requester.

Exemptions: a working map

Do not: memorize every exemption; build a reliable issue-spotting habit.

Personnel / privacy

Applications, personnel records, home contact data, victims, juveniles, medical info.

Law enforcement

Investigatory records; active proceedings; identities and safety concerns.

Attorney-client / work product

Legal advice, litigation strategy, attorney mental impressions.

Security / critical infrastructure

Systems, vulnerability details, emergency plans where statute protects.

Trade secrets / proprietary

Business records protected by statute or confidentiality claim.

Other law/statutes

HIPAA, CJIS, juvenile, tax, voter, driver, adoption, court rules, etc.

Best practice: cite the exact Idaho Code section, subsection, or other confidentiality statute used for each category of redaction.

Narrow construction and burden of proof

Burden of proof is on the County to overcome presumption of transparency.

Presumption

Public records are presumed open unless a statute expressly provides otherwise.

Narrow exemptions

Idaho courts narrowly construe exemptions to the disclosure presumption.

Agency burden

The withholding agency must show cause that the records fit within a narrow exemption.

TIP: Ask these questions to ask before a denial:

- Can we identify the exact statutory exemption?
- Can we explain how it applies to these records, not just generally?
- Have we segregated nonexempt material?
- Would in camera review help if challenged?
- Did we preserve the disputed records through the appeal period?

Cases: *Bolger v. Lance*, 137 Idaho 792 (2002); *Wade v. Taylor*, 156 Idaho 91 (2014); *Cover v. Idaho Board of Correction*.

HYPOTHESIS- Defense attorney asks Sheriff's Office to "Provide all policy manuals, procedures and SOP's regarding evidence." You know he intends to use this to point out flaws in pending case.

Law enforcement records: do not use "ongoing" as a magic word

Investigatory records need a record-specific analysis.

Start with the definition

Is it information about an identifiable person/entity compiled under statutory investigatory authority for a specific act or omission?

Then analyze harm/exemption

Will disclosure interfere with enforcement, deprive a fair trial (for whom?), invade privacy, disclose confidential source/technique, or endanger safety?

Then segregate

Even within an investigative file, nonexempt information may need to be separated and disclosed.

Practical approach for prosecutors/sheriffs:

- Ask: who currently has the file and why? (if LEO then probably still investigating)
- Check charging decision status, pending proceedings, victims/juveniles, body cam, reports, 911/CAD/audio, and discoverability. (may take time and resources that need charged)
- Use careful partial production with redactions where possible.
- Coordinate with the prosecutor before releasing records that may affect a pending case. (consider- fair trial, privacy,)

Cases: *Wade v. Taylor*; *Hymas v. Meridian Police Department*. Statutes: Idaho Code §§ 74-101(6)-(7), 74-124.

Requester motive: usually irrelevant

The record is public or it is not.

Do not ask motive

The county generally may not inquire into why the requester wants a record.

Limited permissible questions

Identity verification, mailing/telephone list prohibition, and personal information protected by motor vehicle/federal law.

No “private disclosure” workaround

If a record is nonexempt, a court cannot limit disclosure only to certain individuals for certain purposes.

Ugh. Hard truth: the county cannot deny a public record merely because the requester is hostile, political, in litigation, a 49ers fan or likely to post the records online.

Authority: Idaho Code § 74-102(5); *Wade v. Taylor*; *Cover v. Idaho Board of Correction*.

Electronic records, texts, and social media

The device is not the answer; public business is the answer.

Email

County accounts, personal accounts used for county business, attachments, calendar invites, chains.

Texts / messaging apps

Responsive if containing public business and prepared, owned, used or retained by the agency or official.

Social media

Posts, comments, DMs, screenshots, and moderation logs may be records if used for public business.

Training rule

County business belongs in county-controlled systems. Personal devices create search, retention, privacy, and credibility problems.

Hypothetical: “All emails about the sheriff”

During an election year when the sheriff is in a hotly contested election, a resident emails the county clerk at 4:45 p.m. Friday: “I want every email, text, memo, and complaint about the sheriff from the last five years. I want records of every executive session of the BOCC which dealt with the sheriff. I want it by Monday. Don’t delete anything. I know you’re hiding records.”

Discuss

1. Is it a valid request?
2. What can be clarified?
3. How do you preserve and search?
4. What written response is due?

Look for

Date range, systems, custodians, personnel/privacy, law enforcement, attorney-client, fees, extension, etc.

Hypothetical 1: model answer

A professional response reduces conflict and preserves defenses.

- 1 Acknowledge and log**
Treat as public records request; clock begins when custodian receives it.
- 2 Clarify without delaying improperly**
Ask for subject/date/system narrowing; document if requester declines.
- 3 Send timely extension if needed**
Resident: written notice within 3 working days; produce no later than 10 working days if more time needed.
- 4 Search and review**
Sheriff, HR, clerk, commissioners, prosecutor, email/text systems, complaints; redact with citations.
- 5 Estimate fees if justified**
First 2 hours/100 pages free for resident; itemize actual time and lowest qualified employee rates.
- 6 Close the loop**
Production letter, redaction explanation, denial rights, retain disputed records.

Difficult requesters: keep the county boring

Neutral, consistent process beats personality-driven responses.

Hostile requester

Do not debate. Acknowledge, clarify, give dates, cite statutes, produce or deny.

Repeat requester

Track requests separately, but aggregate only where statute allows and subjects are related.

Litigation opponent

Do not deny because of litigation motive. Coordinate with counsel; public records and discovery are separate.

Media requester

Treat the same as any requester. Accuracy, deadline discipline, and clear explanations matter.

Commercial requester

Mailing/telephone list restrictions may permit limited questions; do not overreach.

Anonymous or incomplete requester

Use statutory request requirements neutrally; ask for required information in writing.

Pro Tips: When the request is difficult, make the process more formal, not more defensive. Remember a Judge might be reading what you write. Kill ‘em with kindness.

Vague, overbroad, or “all records” requests

The county should help narrow but cannot ignore the request.

Bad response

“This is too broad. Denied.”

Better response

“Please clarify date range, departments, people, and search terms. We understand the current request to include...”

Best response

Offer targeted categories and fee/time consequences; proceed with a defensible interpretation if no clarification arrives.

Practical narrowing menu, ask:

- Date range: “January 1, 2025 through June 30, 2025?”
- Custodians: “commissioners, clerk, sheriff, prosecutor?”
- Record types: “emails only, or emails/texts/attachments?”
- Keywords: “road name, project number, vendor, parcel number?”
- Format: “electronic PDF production acceptable?”

Redaction practice: make the invisible defensible

A clean production looks professional and survives scrutiny.

Before redaction

Duplicate working copy; preserve original; identify statutory basis; decide consistent categories.

During redaction

Use reliable redaction tools; label redactions by exemption when practical; page-check final copy.

After redaction

Export flattened PDF; compare pages; keep log; explain redactions in cover letter.

Never rely on black boxes, highlights, or “print to PDF” shortcuts without checking that text and metadata are actually removed.

Personnel and privacy records

Common county pressure point: employees, applicants, and elected officials.

Usually public or partly public

Position, salary or wage, employment dates, final employment actions, public duties, contracts.

Often protected/redacted

SSNs, medical records, personal contact info, victims/juveniles, sensitive identifiers, private family details.

Case-by-case

Discipline, complaints, internal investigations, resignation letters, applications, references, and background materials.

Practice tip: notify counsel early when requests target named employees, sexual harassment complaints, law enforcement discipline, or pending HR investigations.

Verify current exemption language in Idaho Code §§ 74-106 and 74-124 and other confidentiality statutes before final response.

Attorney-client, work product, and litigation files

Privilege is not a blanket label for every communication involving a lawyer.

Attorney-client

Confidential communications for the purpose of seeking or providing legal advice.

Work product

Materials prepared in anticipation of litigation, especially mental impressions and strategy.

Not automatically privileged

Facts, final public decisions, invoices with nonprivileged information, records merely copied to counsel.

- Use a privilege/redaction log when withholding substantial legal files.
- Segregate nonprivileged attachments and factual records.
- **Warning:** Privilege can be lost if shared. **Do not:** to forward privileged advice broadly or quote it in public meetings.
- Coordinate public records response with litigation hold and discovery obligations.

Hypothetical: body camera and pending prosecution

A reporter requests body cam, 911 audio, CAD logs, photos, and reports from a deputy-involved shooting. ISP completed its investigation and sent the file to the county prosecutor. No charging decision has been made. The suspect says he wants the records for a civil claim.

Issues

Active investigatory record? charging decision? victim/witness privacy? fair trial? segregable records? use of public records vs discovery?

Hypothetical 2: model answer

Coordinate, do not categorically deny.

1 Freeze and identify the file

Who has the file? ISP, sheriff, prosecutor, dispatch, hospital?
Preserve all potentially responsive records.

2 Coordinate with prosecutor

Determine charging status and whether release would interfere with enforcement or fair trial rights.

3 Segregate by record type

CAD/911 may be different from body cam/photos/interviews/charging analysis. Avoid one blanket answer.

4 Protect legally sensitive content

Victim/witness identifiers, juveniles, medical/health info, tactical details, confidential sources, attorney work product.

5 Respond with statute and facts

Use written extension if needed; partial production; statutory basis for redactions/withholding; retain disputed records.

6 Do not promise limited use

If nonexempt, requester motive and intended use generally do not limit disclosure.

Mailing and telephone lists

A recurring trap for counties.

Permitted inquiry

Ask whether the requester intends to use the records for a prohibited mailing or telephone list. Can require certification that will not be used for prohibited list use (even by 3rd party)

Practical examples

Voter/permit/license/utility/customer lists, event participant lists, taxpayer names with addresses.

Best practice

Use a standard certification on requests likely to implicate list restrictions; apply neutrally.

TIP: Do not stretch this rule to avoid releasing ordinary records. Use the precise statutory certification and document the requester's response.

Vendors, contractors, and outsourced systems

Who uses JUSTFOIA? The county cannot contract its way out of the Public Records Act, be aware who bears risks.

Legal rule

A public agency shall not prevent examination or copying by contracting with a nongovernmental body to perform agency duties.

Contract clause checklist

Data ownership; retention; search capability; timely export; costs; confidentiality; litigation hold; end-of-contract transfer.

TIP: be careful of contracts with 3rd parties that change who is custodian of record or makes records requests more difficult to comply with.

Hypothetical: private phone text messages

A citizen requests “all text messages between any county commissioner and Road & Bridge about the gravel pit.” One commissioner says, “Those are on my personal phone, so they are not public records.” Another says, “I deleted them because my phone was full.” R&B supervisor claims the request is only made so citizen can make a claim against County for competing with his gravel pit business.

Issues

Public business, personal device, search certification, retention, deletion, privacy segregation, training, policy gaps, motive.

Hypothetical 3: model answer

Personal device does not end the inquiry.

1 Define responsive public business

Texts about the gravel pit and county road operations are likely public records if prepared/used/retained for county business.

2 Instruct custodians to search

Send written search instruction to commissioners/Road & Bridge; include date range and search terms.

3 Separate private material

Do not collect unrelated personal texts. Produce only responsive public business records after review/redaction.

4 Address deletion honestly

Do not recreate facts. Document deletion, retention policy, and whether any backups or recipients exist.

5 Fix the system

Adopt policy: public business through county systems; preservation directions; official training; archive where practical.

6 Respond neutrally

Produce located records; explain no additional responsive records after reasonable search if true.

What if we don't?

Bad-faith and litigation risk . The biggest risk usually is not a hard request; it is an undocumented response.

Court remedy

Aggrieved requester's sole remedy is a petition in district court; petition within 180 calendar days of denial/partial denial.

Court review

Court may order disclosure or show cause; may review records in camera.

Costs/fees/penalties

Fees if request/refusal was frivolously pursued; additional penalty for bad-faith noncompliance.

Pro Tip: Avoid Avoidable litigation triggers:

- Missed deadline or no written extension.
- Blanket denial without segregating nonexempt records.
- No statutory citation for redactions.
- Inconsistent treatment of similar requests.
- Failure to preserve disputed records.

County public records policy: what it should contain

Policy should make compliance easier than improvisation.

Governance

Designated custodian(s); department liaisons; escalation to elected official/counsel; training cycle.

Intake and tracking

Standard request form; clock calculation; request ID; deadline reminders; communication templates.

Search and retention

Custodian search certification; systems list; personal-device process; retention of disputed records.

Fees and production

Resident/nonresident fee schedules; itemized estimates; advance payment; redaction standards; closeout letters.

Special records

Law enforcement, personnel, attorney-client, medical/health, juvenile, prosecutor files, vendor data.

One-page checklist for difficult requests

Use this before denying, redacting, extending, or charging.

- | | |
|--|---|
| ☐ Request logged and custodian identified | ☐ Nonexempt material segregated |
| ☐ Deadline calculated using residency status | ☐ Fees itemized and advance payment/refund handled |
| ☐ Scope clarified or reasonable interpretation documented | ☐ Production quality-checked and redaction flattened |
| ☐ Departments and systems searched are documented | ☐ Denial/partial denial letter explains remedy |
| ☐ Exemptions verified by exact statute/subsection | ☐ Disputed records preserved through appeal period |

When in doubt: slow down enough to be right, but not long enough to miss the deadline.

THIS IS A TEST: choose the safest answer

vote A/B/C.

1. Request lacks date range

- A. Deny.
- B. Ask for date range and state how county will proceed if no clarification.
- C. Ignore until fixed.

2. Records include exempt/private info

- A. Withhold whole file.
- B. Redact exempt material and produce nonexempt portions.
- C. Produce everything.

3. Angry requester threatens suit

- A. Argue back.
- B. Follow same written workflow.
- C. Stop communicating.

4. Deputy texted public business

- A. Not public because phone is personal.
- B. Search/review responsive public-business texts.
- C. Tell deputy to delete.

5. Large request will take 9 hours

- A. Extension + fee estimate if authorized.
- B. Deny as burdensome.
- C. Wait until completed.

Answers?

Instructor legal outline

For speaker notes and handout adaptation.

- I. Purpose and presumption: open records unless exempt by statute.
- II. Definitions: public agency, custodian, public record, writing, investigatory record, resident.
- III. Request intake: writing, specificity, date range, contact information, resident declaration.
- IV. Deadlines: resident 3 working days / 10 working days; nonresident 21 / 35 days.
- V. Search: reasonable systems/custodians; document search; no duty to create new records.
- VI. Fees: first two hours and 100 pages for residents; actual costs; itemized; advance payment.
- VII. Review/redaction: exact exemption; segregation; privilege; privacy; law enforcement.
- VIII. Difficult requests: vague, voluminous, hostile, personal devices, vendors, litigation.
- IX. Denials/litigation: 180-day petition, in camera review, fees, penalties, disputed-record retention.
- X. Best practices: templates, logs, policies, training, production QA.

Case law appendix: working principles

Use these cases as guideposts, then verify pin cites before written legal advice.

- Bolger v. Lance, 137 Idaho 792, 53 P.3d 1211 (2002): exemptions are narrowly construed; withholding agency bears burden.
- Fox v. Estep, 118 Idaho 454, 797 P.2d 854 (1990): informal/raw notes can fall within public records analysis.
- Henry v. Taylor, 152 Idaho 155, 267 P.3d 1270 (2011): public business records are not insulated by private account/format; IPRA fee provision controls fee awards.
- Cowles Publishing Co. v. Kootenai County Board of Commissioners, 144 Idaho 259, 159 P.3d 896 (2007): emails and settlement-related records can be public records; privacy interests are analyzed carefully.
- Wade v. Taylor, 156 Idaho 91, 320 P.3d 1250 (2014): exemption status is objective; requester purpose does not permit limited disclosure; active investigatory records may be exempt.
- Hymas v. Meridian Police Department, 159 Idaho 594, 364 P.3d 295 (Idaho Ct. App. 2015): law-enforcement ongoing-investigation denials require careful justification; later production does not automatically establish frivolous denial.
- Cover v. Idaho Board of Correction, 2020 Idaho decision: agencies receive no special deference; courts apply the statute and burden of proof.
- Sentry Dynamics v. Ada County (2025-2026)

Template language: acknowledgment / extension

Use local letterhead and tailor to the request.

Acknowledgment

“The County received your public records request on [date]. We understand the request to seek [records] for [date range]. The request has been assigned to [custodian/dept.].”

Clarification

“To help locate records with reasonable effort, please clarify [date range/custodians/search terms]. Unless clarified, the County will process the request as follows: [reasonable interpretation].”

Extension

“Additional time is needed to locate, retrieve, review, and/or redact responsive records. The County will provide responsive nonexempt records no later than [statutory deadline].”

Fee estimate

“The estimated charge is itemized below. Processing will continue upon advance payment. Any excess advance payment will be refunded.”

Template language: denial / partial denial

A denial letter should be neutral, specific, and preserved.

“The County has produced responsive nonexempt records enclosed/linked. Portions of the records have been redacted and/or withheld under the following authorities: [specific Idaho Code section/subsection or other confidentiality law]. The County has separated exempt from nonexempt material where required. This is a [partial] denial as to the withheld information. The County will retain disputed records as required by Idaho Code § 74-115.”

Include

Specific statute, brief factual explanation, production inventory, fee itemization, remedy notice, contact person.

Avoid

“Confidential,” “privacy,” “ongoing investigation,” or “attorney-client” without exact legal basis and segregability review.

Takeaways

The safest county response is timely, neutral, and documented.

LOG

Every request and
deadline.

CLARIFY

Scope before cost
explodes.

SEARCH

Reasonably and
document it.

SEGREGATE

Release nonexempt
material.

EXPLAIN

Cite statutes and
preserve disputed
records.