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Office of the  
Inspector General  
Commonwealth of Massachusetts

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Advisory for Local Officials:  
Public Records

February 2006

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As public officials, we deal with public records on a daily basis. The Public Records Law, M.G.L. c.4, §7 (26), broadly defines public records to include:

“all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose...”.

Government business should be conducted in the open unless specifically prohibited by law. All citizens have the right to access most public information. Public records are important for a variety of reasons. Public records are the official record of government activity, are a record of taxpayer involvement with the government, and are a record of how taxpayer money is spent. Access to public records helps to keep governmental activities transparent and helps maintain the integrity of governmental actions. In other words, an open process helps to deter fraud, waste, and abuse. An oversight agency will readily criticize any jurisdiction with sloppy or deficient record keeping.

**Laws and Regulations**

The Secretary of the Commonwealth’s Division of Public Records is the entity responsible for enforcing the Public Records Law. The Public Records Law governs all public records on the local and state level. While the Secretary of the Commonwealth enforces the Public Records Law, it is the responsibility of every public official to maintain, preserve, and uphold the integrity of the public records in their possession or control in accordance with the law.

Every citizen of the commonwealth has a right to access public information. This includes the right to examine, copy, or have copies made (for a reasonable fee) of all

public records unless specifically exempt by law. Requests for public records can be made orally, in writing, in person, or by electronic mail by any citizen.

The public records statute contains fifteen exemptions that allow your jurisdiction to withhold documents in whole or in part. As a public official, you should be aware of these exemptions and use proper discretion when appropriate. Examples of public records that are exempt from the public records law include personnel and medical records. These exemptions can be found at [www.mass.gov/legis/laws/mgl/4-7.htm](http://www.mass.gov/legis/laws/mgl/4-7.htm). In addition to the fifteen exemptions listed in the public records statute, specific exemptions in other statutes supersede the Public Records Law. Records protected by these other statutes include census, adoption, and hospital records.

Public officials must also be aware of the length of time that records should be stored. The Supervisor of Public Records provides specific disposal schedules for city and town departments. Records may not be disposed of before the retention schedule for that specific record. Retention schedules vary from one year for the annual list of dog owners in a jurisdiction to twenty years for civil service forms and approvals. Such schedules can be found online at [www.sec.state.ma.us/arc/arcmu/rmurds/rdsmds.htm](http://www.sec.state.ma.us/arc/arcmu/rmurds/rdsmds.htm).

### **Public Employee Responsibilities**

Public employees should be aware of the laws and policies that regulate public records. Every public employee is responsible for becoming familiar with the appropriate internal and state regulations, policies, and laws that deal with public records.

### **Management Responsibilities**

Management is responsible for ensuring that all employees are aware of the Public Records Law and any internal policies and procedures. Managers are also responsible for establishing internal policies regarding records management, records retention, safeguarding of records, electronic records storage, and responses to public records requests. This type of policy should be part of any internal control process used by your jurisdiction. The lack of internal public record related policies may leave your jurisdiction vulnerable to violations of the Public Records Law.

A violation of the Public Records Law can lead to action by the Office of the Attorney General or your District Attorney. M.G.L. c.66, §10 allows the Attorney General to "take whatever measures he deems necessary to insure compliance with the provisions of this section".

### **Records Officer**

Each jurisdiction should designate a records officer who is responsible for the ensuring that all public records are accessible and available to the public. The records officer should ensure that all public records are maintained in accordance to the Supervisor of Public Record's retention schedules. In addition, the officer should supervise all public records requests to make sure that they are dealt with properly. Overall, the records officer should answer all questions by employees and citizens alike concerning public records, should ensure that all public records are maintained and stored accurately, and should ensure that all public records are available to the public upon request.

### **Links and Helpful Resources**

#### Code of Massachusetts Regulations

950 CMR 32.00: Public Records Access

<http://www.sec.state.ma.us/pre/prepdf/pubreclaw.pdf#page=7>

<http://www.lawlib.state.ma.us/900-999cmr.html>

#### General Laws of Massachusetts

Chapter 4, Section 7(26). Public Records Law

<http://www.mass.gov/legis/laws/mgl/4-7.htm>

Chapter 268A. Conflict of Interest Law.

[www.mass.gov/legis/laws/mgl/gl-268a-toc.htm](http://www.mass.gov/legis/laws/mgl/gl-268a-toc.htm)

#### Secretary of the Commonwealth

[www.mass.gov/sec](http://www.mass.gov/sec)

*A Guide to the Massachusetts Public Records Law*

<http://www.sec.state.ma.us/pre/prepdf/guide.pdf>

Supervisor of Public Records Bulletins

<http://www.sec.state.ma.us/arc/arcmu/rmubul/bulidx.htm>

Statewide Records Retention Schedules

<http://www.sec.state.ma.us/arc/arcmu/rmurds/rdssrds.htm>

State Agency Transfer or Destruction of Records Procedures

<http://www.sec.state.ma.us/arc/arcmu/rmurds/StateAgencyTransferorDestructionofRecordsProcedures.doc>

Municipal Disposal Schedules and Instructions

<http://www.sec.state.ma.us/arc/arcmu/rmurds/rdsmds.htm>

#### Massachusetts State Ethics Commission

*Introduction to the Conflict of Interest Law for the Public Officials and Public Employees.*

[www.mass.gov/ethics/public\\_sector.html](http://www.mass.gov/ethics/public_sector.html)

*Commission Advisory No. 05-01: The Standards of Conduct (Section 23).*

[www.mass.gov/ethics/adv0501.htm](http://www.mass.gov/ethics/adv0501.htm)

#### Massachusetts Office of the Inspector General

[www.mass.gov/ig](http://www.mass.gov/ig)

*Advisory to Local Officials: Telephone Usage Policies, (May 2005).*

[www.mass.gov/ig/publ/teleadv.pdf](http://www.mass.gov/ig/publ/teleadv.pdf)

*Advisory to Local Officials: Computer Usage Policies, (May 2005).*

[www.mass.gov/ig/publ/compadv.pdf](http://www.mass.gov/ig/publ/compadv.pdf)

*Guide to Administering and Complying with Vehicle Management Policies, (December 2004).*

[www.mass.gov/ig/publ/vmadv.pdf](http://www.mass.gov/ig/publ/vmadv.pdf)

*Recommended Code of Conduct for Public Employees, (August 1998).*

[www.mass.gov/ig/publ/code.pdf](http://www.mass.gov/ig/publ/code.pdf)