

A pragmatic approach to Public Records Requests and responses

Public Records Act

- Responsibility as a publicly-funded institution
 - Chapter 42.56 RCW
 - WAC 478-276
 - UW APS 57.9
- Records –content counts, not format
- Timing, communication, clarification
- HSA process, role through life cycle

“fullest assistance” principle.....

.....“most timely possible action”

“devote sufficient staff time to processing”.....

.....should not be an “excessive interference”
with agency’s “other essential functions”

“burden of proof for adequacy of search”

.....New Public Records Request: PR-2015-00147 (HSUS)

duty

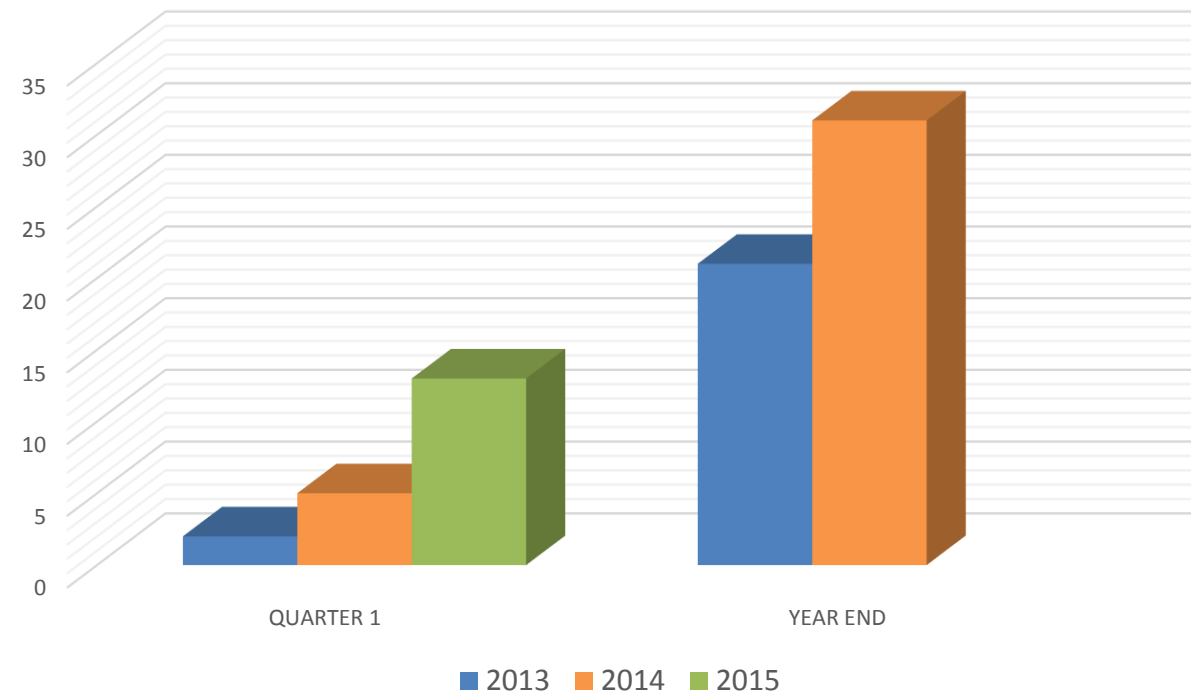
Who? You.

- State/local government agencies (Legislature limited)
- HSA, HSA Units, Office of Public Records (OPR)
 - 2013 change in process
 - 2014 Public Records Act (amended) records training required
 - 2015 IBC clarification
- Roles
 - OPR; “agency” authority, interacts with requestor, process records
 - HSA; dean’s level oversight, interactions with OPR and units
 - HSA Units; produce and delivers records to OPR

Impact

Priority
Personnel allocation
Collateral staff involvement
Budget impact
Document

HSA PUBLIC RECORDS HISTORY



What is a ...?

- Request
 - Formal request for records (not necessarily information) from *any* member of the public
 - Washington State Public Records request (PR)
 - Freedom of Information request (FOIA)
- Record
 - Regardless of physical form or characteristic
 - Email, photos, contracts, audio, tweets, texts, minutes, facebook, etc....
 - No duty to create a record that doesn't exist
 - Specific exemptions apply

What's an exemption?

- Information legally withheld from release of records
 - Narrowly construed by law; records presumed **open**
 - *Common: certain student (FERPA), employment, attorney-client privileged, pending investigative records, protected health care information (PHI)*
 - No general “privacy” exemption
- Not a simple process to access, apply or understand
 - **Several hundred** exemptions in PRA and related laws
 - OPR develops exemption log, Unit flags records
- Concerned but not a specific exemption?
 - Develop table, flag records
 - Schedule discussion with Office of Public Records

What does retention have to do with it?

- Compliance, prevention, preservation
- RCW 40.14
- UW Records Management *Services*
 - Training
 - Email and records best practices
 - Consultation
 - General Schedule
 - Departmental Schedules

5 point guidelines

1. Almost every communication is a public record
2. Most records may be disclosed
3. Keep informal communications offline
4. When there is a request: a. Do search b. Don't delete*
5. Rely on the UW Office of Public Records

*c. produce, don't create d. keep record intact (HSA edit)

source: UW IT Connect www.washington.edu/itconnect/work/appropriate-use/public-records-act/

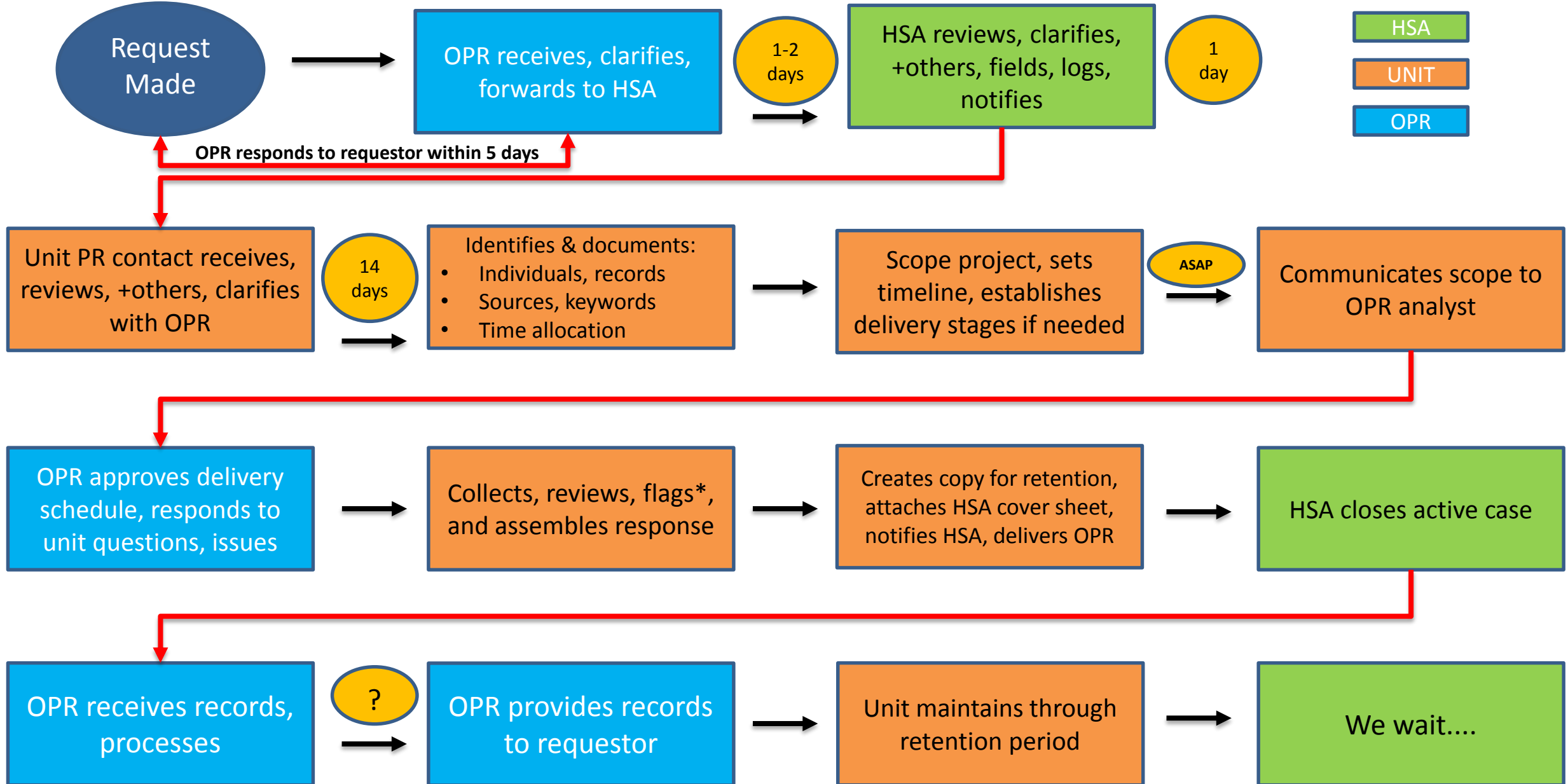
Can I ignore this?

- No, you'll likely be a principal or collateral responder
- Recent headlines
- It's our responsibility to be transparent:
 - to comply
 - to manage and produce responsive records
 - UW – primary responsibility rests at OPR, President's Office
 - HSA Executive Director – accountable for 9 HSA units, HSA office
 - avoid increasing penalties

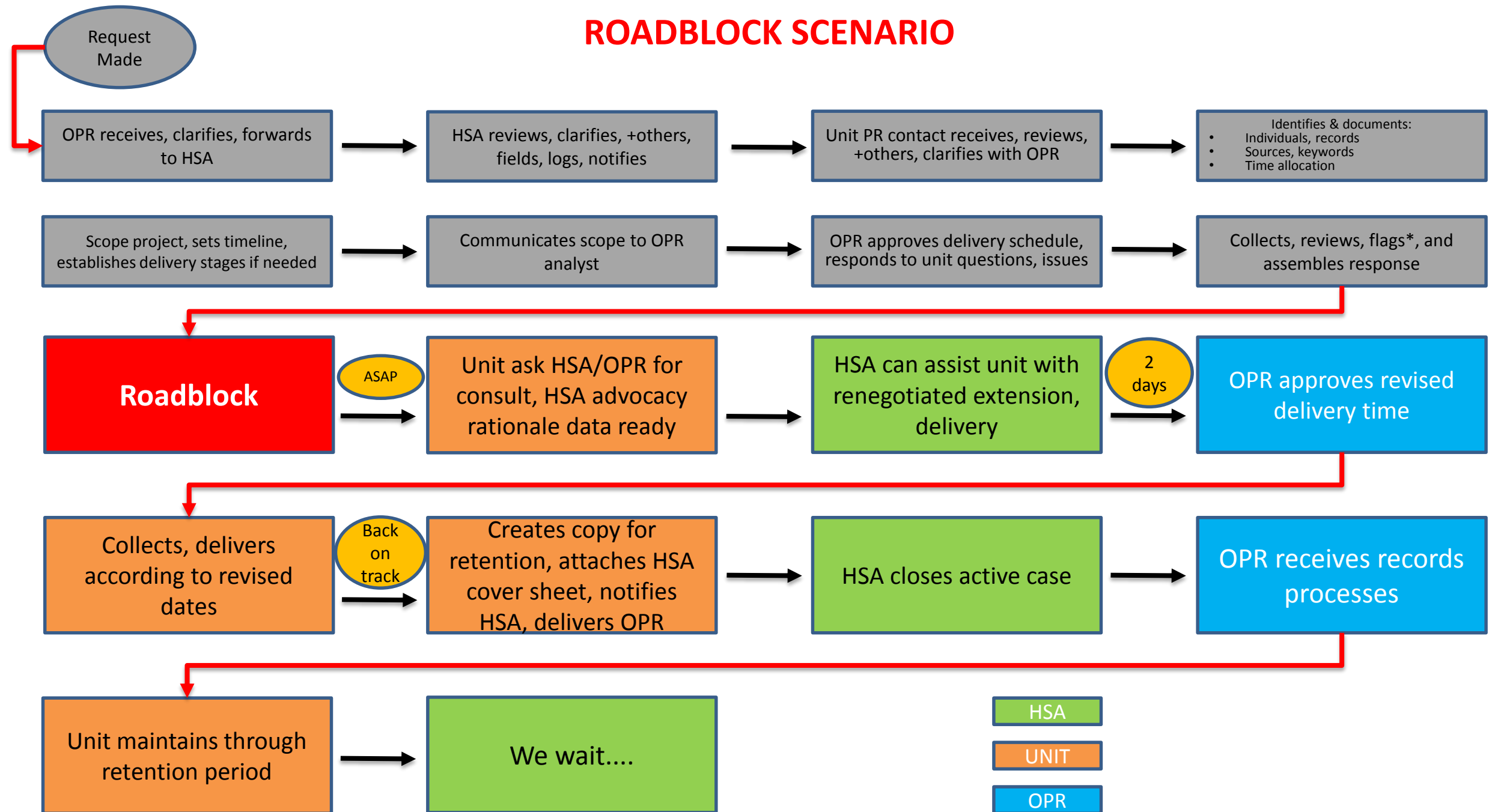
Can I prepare?

- Know your unit's contact, process, SOP
- Follow HSA guidelines
- Additional training
 - Attorney General's Office
 - UW Records Management Services
 - Unit best practices

IDEAL SCENARIO



ROADBLOCK SCENARIO





AFTERNOON RAIN
OR SNOW
High, 36. Low, 32.
> B10

The Seattle Times

WINNER OF A 2010 PULITZER PRIZE



75¢ \$1.00 outside King, Pierce,
Snohomish, Kitsap counties

Independent and locally owned since 1896 | seattletimes.com
1.6 million readers weekly in Western Washington, in print and online

APR
07



No New Animal Lab Phone Action: Call UW Leadership!
Your Phone
65 guests

USA
TODAY

SOMEONE,
NOT SOMETHING.

STAND UP.
SPEAK OUT.
GET INVOLVED.

JULY 31, 2014
5:00 PM
3010 WESTERN AVE
SEATTLE, WA



PETA (People for the Ethical Treatment of Animals)
17 minutes ago

Hundreds of incriminating emails found in recent public records requests. Including home address + personal cell phone contacts for lab researchers and staff

WANPRC
WASHINGTON NATIONAL PRIMATE RESEARCH CENTER

PETA India
Yesterday • Edited

From:
Sent: Monday, June 09, 2014 9:18 AM
To:
Subject: Certification Process

Trying to be professional but failing miserably....

Resources

- Attorney General Office Training - Lesson 2
www.atg.wa.gov/OpenGovernmentTraining.aspx or
www.youtube.com/watch?v=38k1XPpT9Po
- [UW Public Records and Open Meetings Office](#)
- UW Records Management Services
<http://f2.washington.edu/fm/recmgt/>
- UW IT Connect
<http://www.washington.edu/itconnect/work/appropriate-use/public-records-act/>
- HSA website: templates and process
<http://depts.washington.edu/uwhsa/login/>

- Guidelines for the Release of UW Records, APS 57.9
www.washington.edu/admin/rules/policies/APS/57.09.html
- What to Do When You Receive a "Litigation Hold" Notice
www.washington.edu/admin/ago/litigationhold.pdf
- Guidelines for Electronic Discovery at the UW
<http://www.washington.edu/admin/ago/ediscovery.pdf>
- Attorney General Model Rules
<http://www.atg.wa.gov/model-rules-public-disclosure>
- Guidelines for Electronic Discovery at the UW
<http://www.washington.edu/admin/ago/ediscovery.pdf>