# No. 83700-1-I Court of Appeals of Washington, Division 1

# Doe v. Seattle Police Dep't

Decided Jun 26, 2023

83700-1-I

06-26-2023

JOHN DOES 1, 2, 4, 5, Appellants/Cross **SEATTLE** Respondents, v. POLICE DEPARTMENT and the SEATTLE POLICE OFFICE **DEPARTMENT** OF **POLICE** ACCOUNTABILITY, Respondents, JANE DOE 1 and JOHN DOE 3, Plaintiffs, and SAM SUEOKA, Respondent/Cross Appellant, **JEROME** DRESCHER, ANNE BLOCK, and CHRISTI LANDES, Respondents. Category Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Category RCW Description Date

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DWYER, J.

## **OPINION**

DWYER, J.

"There are rights of constitutional stature whose exercise a State may not condition by the exaction of a price." *Garrity v. State of New Jersey*, 385 U.S. 493, 500, 87 S.Ct. 616, 17 L.Ed.2d 562

(1967). Among these are the rights guaranteed by the First Amendment to our federal constitution. *Garrity*, 385 U.S. at 500. Police officers "are not relegated to a watered-down version of [such] rights." *Garrity*, 385 U.S. at 500. \*2

In this Public Records Act litigation, the trial court failed to heed this pronouncement. Accordingly, we reverse the trial court's order requiring disclosure of certain unredacted records. We affirm the ancillary orders of the trial court and remand the matter for further proceedings.

I

Soon after the United States Supreme Court pronounced that police officers are not condemned to a "watered-down version" of core constitutional rights, the voters of our state passed by popular initiative the predecessor to Washington's Public Records Act<sup>1</sup> (PRA). *See Progressive Animal Welfare Soc'y v. Univ. of Wash.*, 125 Wn.2d 243, 250-52, 884 P.2d 592 (1994) (*PAWS*) (noting approval of the public disclosure act in November 1972). Thus, since the day of the enactment of our state's public records law, police officers in Washington have been entitled to the same federal constitutional protections as are all other Washingtonians. It is by adherence to this principle that we decide this case.

<sup>1</sup> Ch. 42.56 RCW.

We are presented today with the question of whether the Seattle Police Department (SPD) and the City of Seattle (the City) may disclose in investigatory records the identities of current or former Seattle police officers who were investigated regarding potential unlawful or unprofessional conduct during the events of January 6, 2021, in Washington, D.C. John Does 1, 2, 4, and 5 (the Does) sought judicial declaratory and injunctive relief after being informed that SPD, their employer, intended to publicly disclose the unredacted investigatory \*3 records in response to several PRA requests. Investigators have determined that allegations

against the Does of unlawful or unprofessional conduct were "not sustained." The Does contend that their identities should thus not be disclosed in the requested records, which include transcripts of interviews in which they were compelled to disclose and discuss their political beliefs and affiliations.

The trial court denied the Does' motion for a preliminary injunction, concluding that the exceptions to permitted disclosure set forth in the PRA are inapplicable. The Does appealed from the trial court's order. In addition, Sam Sueoka, a member of the public who filed a records request to obtain copies of the investigatory records, cross appealed, asserting that the trial court erred by permitting the Does to proceed pseudonymously in this litigation.

The United States Supreme Court has recognized a First Amendment right to privacy that protects against state action compelling disclosure of political beliefs and associations. Thus, only if the state actor (here, the City) demonstrates a compelling interest in disclosure, and that interest is sufficiently related to the disclosure, can the state actor lawfully disclose the Does' identities in the investigatory records. Because there is here established no compelling state interest in disclosing the Does' identities, the trial court erred by denying the Does' motion for a preliminary injunction.

The trial court properly concluded, however, that the Does should be permitted to use pseudonyms in litigating this action. Because the Does assert a First Amendment privacy right, it is federal constitutional law-not state law-that controls their request to litigate pseudonymously. Pursuant to federal First \*4 Amendment open courts jurisprudence, plaintiffs may litigate using pseudonyms in circumstances wherein the injury sought to be prevented by prevailing in the lawsuit would necessarily be incurred as a result of the compelled disclosure of the plaintiffs' identities, required as a condition of commencing the very

lawsuit in which vindication of the constitutional right is sought. Accordingly, the Does may remain anonymous in this action.

Π

The Does are current or former SPD officers<sup>2</sup> who attended former President Donald Trump's "Stop the Steal" political rally on January 6, 2021 in Washington, D.C. Upon returning to Washington State, the Does received complaints from SPD's Office of Police Accountability (the OPA) alleging that they might have violated the law or SPD policies during their attendance at the rally.

<sup>2</sup> John Doe 1 resigned from SPD in December 2021 "as a direct result of the pressure" from the investigation and "public backlash arising" therefrom, as well as his concern "over retribution" from the incident.

The Does thereafter submitted to OPA interviews in which they were "ordered to answer all questions asked, truthfully and completely," and informed that "failure to do so may result in discipline up to and including termination." In addition to inquiring regarding the Does' whereabouts and activities on January 6, the OPA also inquired regarding their political beliefs and associations, including whether they attended the rally "to articulate [their] political views," whether they were "affiliated with any political groups," and "[their] impressions of, and reactions to, the content of the Rally." Because the Does were under \*5 standing orders to do so, they answered these questions "truthfully and as completely as possible."

Sueoka and other members of the public submitted records requests pursuant to the PRA, chapter 42.56 RCW, seeking disclosure of the investigatory records pertaining to police officers who participated in the events of January 6, 2021, in our nation's capital. In response to the records requests, SPD informed the Does that it intended to disclose both records regarding its ongoing investigation and the Does' personnel files.

On February 23, 2021, the Does filed a complaint for declaratory relief and preliminary and permanent injunction in the trial court.<sup>3</sup> They concurrently filed a motion for permission to proceed pseudonymously and a motion for a temporary restraining order (TRO) and order to show cause why the preliminary injunction should not issue.

<sup>3</sup> The complaint was filed by Jane and John Does, 1 through 6. Jane Doe 1 and John Doe 3 are not parties in this appeal. While litigation was ongoing in the trial court, the OPA determined that Jane Doe 1 and John Doe 3 had violated both the law and SPD policies on January 6, 2021, and their employment by SPD was terminated.

On February 24, 2021, the trial court granted the Does' motion for a TRO, enjoining production of the requested records until a show cause hearing was held. On March 9, 2021, the trial court granted the Does' motion to proceed pseudonymously, ruling that the order would "remain in effect at least until the merits of Plaintiffs' PRA claims are resolved."

Following the show cause hearing, held on March 10, 2021, the trial court denied the Does' motion for a preliminary injunction. The Does sought review of the trial court's ruling in this court, and review was granted. Sueoka thereafter \*6 moved to transfer the cause to our Supreme Court. Then, on June 28, 2021, the OPA concluded its investigation. The OPA determined that allegations that the presently-litigating Does had violated the law or SPD policies or had engaged in unprofessional conduct were "not sustained."

On August 4, 2021, our Supreme Court granted Sueoka's motion to transfer the cause to that court. However, following oral argument on November 9, 2021, the court determined that, "in light of changed circumstances," review of the preliminary injunction was moot. The court dismissed review of the matter and remanded the cause to the trial court for further proceedings.

The trial court proceedings at issue herein then commenced. On January 5, 2022, Sueoka filed a "motion to change the case title and bar the use of pseudonyms." On January 12, 2022, the Does filed an additional motion for a preliminary injunction, again requesting that the trial court redact their identities in any disclosed records.<sup>4</sup>

<sup>4</sup> Jane Doe 1 and John Doe 3 were no longer parties at that point in the litigation. Accordingly, the motion was filed by the "Represented Doe Plaintiffs," who are the same individuals as the Does in this appeal.

Following a January 28, 2022 hearing, the trial court again denied the Does' motion for a preliminary injunction, ruling that the Does had not "met their burden of proof that they have a privacy right that falls within an exemption under the [PRA]." The court additionally concluded that the record contains "insufficient evidence" that disclosure will cause the Does to "experience a level of harassment that will result in a chilling effect on their First Amendment rights." \*7 The trial court also denied Sueoka's motion to preclude the Does from proceeding in pseudonym.

The Does appeal from the trial court's order denying their motion for a preliminary injunction. Sueoka cross appeals, asserting that the trial court erred by denying his "motion to change the case title and bar the use of pseudonyms." Sueoka also requests that we change the case title and bar the use of pseudonyms in this appeal.

Ш

The Does assert that the trial court erred by determining that they were unlikely to succeed on the merits of their claim that their identities are exempt from disclosure in the requested records and, accordingly, denying their motion for a preliminary injunction precluding such disclosure. We agree. The First Amendment, made applicable to the states though the due process clause of the Fourteenth Amendment, *Gitlow v. New York*, 268 U.S. 652, 45 S.Ct. 625, 69 L.Ed. 1138 (1925), confers a right to privacy in one's political beliefs

and associations that may be impinged only on the basis of a subordinating state interest that is compelling.

Our Supreme Court's decisional authority, the profusion of legislatively enacted exceptions to disclosure, and the policy underlying the PRA indicate that there is no compelling state interest in disclosing to the public the identities of public employees against whom unsustained allegations of wrongdoing have been made. Therefore, we hold that the trial court erred by denying the Does' \*8 request for a preliminary injunction precluding disclosure of their names and other identifying information in the requested records.

Α

1

The party seeking an injunction pursuant to the PRA has the burden of proof. *Lyft, Inc. v. City of Seattle*, 190 Wn.2d 769, 791, 418 P.3d 102 (2018). When a party seeks a preliminary injunction or a TRO, "the trial court need not resolve the merits of the issues." *Seattle Children's Hosp. v. King County*, 16 Wn.App. 2d 365, 373, 483 P.3d 785 (2020). "Instead, the trial court considers only the *likelihood* that the moving party ultimately will prevail at a trial on the merits." *SEIU Healthcare 775NW v. Dep't of Soc. & Health Servs.*, 193 Wn.App. 377, 392-93, 377 P.3d 214 (2016).

We stand in the same position as the trial court when, as here, "the record consists of only affidavits, memoranda of law, and other documentary evidence, and where the trial court has not seen or heard testimony requiring it to assess the witnesses' credibility or competency." *Bainbridge Island Police Guild v. City of Puyallup*, 172 Wn.2d 398, 407, 259 P.3d 190 (2011). "Whether requested records are exempt from disclosure presents a legal question that is reviewed de novo." *Wash. Pub. Emps. Ass'n v. Wash. State Ctr. for Childhood Deafness & Hearing Loss*, 194 Wn.2d 484, 493, 450 P.3d 601 (2019).

2

"The PRA ensures the sovereignty of the people and the accountability of the governmental agencies that serve them by providing full access to \*9 information concerning the conduct of government." Predisik v. Spokane Sch. Dist. No. 81, 182 Wn.2d 896, 903, 346 P.3d 737 (2015). Its basic purpose "is to provide a mechanism by which the public can be assured that its public officials are honest and impartial in the conduct of their public offices." Cowles Publ'g Co. v. State Patrol, 109 Wn.2d 712, 719, 748 P.2d 597 (1988). To that end, the act requires state and local agencies to "make available for public inspection and copying all public records," unless the record falls within a specific exemption in the PRA or an "other statute which exempts or prohibits disclosure of specific information or records." RCW 42.56.070(1).

We have interpreted the "other statute" provision to incorporate exemptions set forth not only in other legislative enactments, but also those deriving from the state or federal constitutions. Wash. Fed'n of State Emps., Council 28 v. State, 22 Wn.App. 2d 392, 511 P.3d 119 (2022), review granted, 200 Wn.2d 1012, 519 P.3d 585 (2022); see also White v. Clark County, 188 Wn.App. 622, 354 P.3d 38 (2015). Although our Supreme Court has not directly held that RCW 42.56.070(1)'s "other statute" provision incorporates constitutional protections against disclosure, the court has acknowledged that such an argument "has force." Yakima County v. Yakima Herald-Republic, 170 Wn.2d 775, 808, 246 P.3d 768 (2011) (addressing the argument that provisions of the United States Constitution qualify as "other statutes").

Moreover, the high court has recognized that, even absent legislative incorporation of constitutional guarantees in the PRA, Washington courts must nevertheless protect such rights. *Seattle Times Co.* v. *Serko*, 170 Wn.2d 581, 594-96, 243 P.3d 919 (2010). \*10 In the context of fair trial rights, the

court explained that while "[t]here is no specific exemption under the PRA that mentions the protection of an individual's constitutional fair trial rights, . . . courts have an independent obligation to secure such rights." *Seattle Times Co.*, 170 Wn.2d at 595. Indeed, because "the constitution supersedes contrary statutory laws, even those enacted by initiative," "the PRA must give way to constitutional mandates." *Freedom Found. v. Gregoire*, 178 Wn.2d 686, 695, 310 P.3d 1252 (2013).

In addition to setting forth exemptions to the mandate for disclosure of public records, the PRA includes an injunction provision stating that disclosure may be enjoined only "examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions." RCW 42.56.540. Based on this statutory provision, our Supreme Court has held that "finding an exemption applies under the PRA does not ipso facto support issuing an injunction." Lyft, 190 Wn.2d at 786. Rather, for the disclosure of records to be precluded due to a statutory exemption, the court has held that the PRA's standard for injunctive relief must also be met. Morgan v. City of Federal Way, 166 Wn.2d 747, 756-57, 213 P.3d 596 (2009); see also Soter v. Cowles Publ'g Co., 162 Wn.2d 716, 757, 174 P.3d 60 (2007) (plurality opinion) ("[T]o impose the injunction contemplated by RCW 42.56.540, the trial court must find that a specific exemption applies and that disclosure would not be in the public interest \*11 and would substantially and irreparably damage a person or a vital government interest.").

3

Our analysis of the issues presented relies on the holdings of our nation's highest court establishing that the First Amendment to the United States Constitution confers a privacy right in an individual's political beliefs and associations. Accordingly, we must explore the decisional authority establishing the contours of that right.

The United States Supreme Court has recognized "political freedom of the individual" to be "a fundamental principle of a democratic society." Sweezy v. New Hampshire, 354 U.S. 234, 250, 77 S.Ct. 1203, 1 L.Ed.2d 1311 (1957). "Our form of government," the Court explained, "is built on the premise that every citizen shall have the right to engage in political expression and association," a right "enshrined in the First Amendment." Sweezy, 354 U.S. at 250. Indeed, "[i]n the political realm . . . thought and action are presumptively immune from inquisition by political authority." Sweezy, 354 U.S. at 266.5 Thus, the federal constitution protects not only the right of individuals to engage in political expression and association, but also to maintain their privacy in so doing.

5 See also Gibson v. Florida Legis.

Investigation Comm., 372 U.S. 539, 570,
83 S.Ct. 889, 9 L.Ed.2d 929 (1963)
(Douglas, J., concurring) ("The First
Amendment in its respect for the
conscience of the individual honors the
sanctity of thought and belief. To think as
one chooses, to believe what one wishes
are important aspects of the constitutional
right to be let alone." (quoting Pub. Utils.
Comm'n of Dist. of Columbia v. Pollak, 343
U.S. 451, 468, 72 S.Ct. 813, 96 L.Ed. 1068
(1952) (Douglas, J., dissenting))).

Indeed, the Court has "repeatedly found that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by \*12 the First Amendment." Buckley v. Valeo, 424 U.S. 1, 64, 96 S.Ct. 612, 46 L.Ed.2d 659 (1976) (citing Gibson v. Florida Legis. Investigation Comm., 372 U.S. 539, 83 S.Ct. 889, 9 L.Ed.2d 929 (1963); Nat'l Ass'n for Advancement of Colored People v. Button, 371 U.S. 415, 83 S.Ct. 328, 9 L.Ed.2d 405 (1963); Bates v. City of Little Rock, 361 U.S. 516, 80 S.Ct. 412, 4 L.Ed.2d 480 (1960); Shelton v. Tucker, 364

U.S. 479, 81 S.Ct. 247, 5 L.Ed.2d 231 (1960); Nat'l Ass'n for Advancement of Colored People v. Alabama, 357 U.S. 449, 78 S.Ct. 1163, 2 L.Ed.2d 1488 (1958) (NAACP)); see also Doe v. Reed, 561 U.S. 186, 232, 130 S.Ct. 2811, 177 L.Ed.2d 493 (2010) (Thomas, J., dissenting) ("This Court has long recognized the 'vital relationship between' political association 'and privacy in one's associations,' and held that '[t]he Constitution protects against the compelled disclosure of political associations and beliefs." (alteration in original) (citation omitted) (quoting NAACP, 357 U.S. at 462; Brown v. Socialist Workers '74 Campaign Comm. (Ohio), 459 U.S. 87, 91, 103 S.Ct. 416, 74 L.Ed.2d 250 (1982))). Thus, the Court has recognized a "pervasive right of privacy against government intrusion" that is "implicit in the First Amendment." Gibson, 372 U.S. at 569-70 (Douglas, J., concurring). This "tradition of anonymity in the advocacy of political causes . . . is perhaps best exemplified by the secret ballot, the hard-won right to vote one's conscience without fear of retaliation." McIntyre v. Ohio Elections Comm'n, 514 U.S. 334, 343, 115 S.Ct. 1511, 131 L.Ed.2d 426 (1995); see also Sweezy, 354 U.S. at 266 ("It cannot require argument that inquiry would be barred to ascertain whether a citizen had voted for one or the other of the two major parties either in a state or national 13 election."). \*13

The Supreme Court's jurisprudence regarding this constitutional right to privacy evolved in response to legislative investigations seeking to compel the disclosure of individuals' political beliefs. In the 1950s, the Court considered the constitutional limits of legislatures' authority to inquire into belief and activity deemed to be subversive to federal or state governments. *Uphaus v. Wyman*, 360 U.S. 72, 79 S.Ct. 1040, 3 L.Ed.2d 1090 (1959); *Watkins v. United States*, 354 U.S. 178, 77 S.Ct. 1173, 1 L.Ed.2d 1273 (1957); *Sweezy*, 354 U.S. 234; *Wieman v. Updegraff*, 344 U.S. 183, 73 S.Ct. 215, 97 L.Ed. 216 (1952). This "new kind of [legislative] inquiry unknown in prior periods of

American history . . . involved a broad-scale intrusion into the lives and affairs of private citizens," Watkins, 354 U.S. at 195, thus requiring the Court to ensure that such inquiry did not "unjustifiably encroach upon an individual's right to privacy." Watkins, 354 U.S. at 198-99. In considering this "collision of the investigatory function with constitutionally protected rights of speech and assembly," Uphaus, 360 U.S. at 83 (Brennan, J., dissenting), the Court recognized the state interest in "self- preservation, 'the ultimate value of any society." Uphaus, 360 U.S. at 80 (quoting Dennis v. United States, 341 U.S. 494, 509, 71 S.Ct. 857, 95 L.Ed. 1137 (1951)). However, the Court rejected any notion that exposure itself was a valid state interest:

We have no doubt that there is no congressional power to expose for the sake of exposure. The public is, of course, entitled to be informed concerning the workings of its government. That cannot be inflated into a general power to expose where the predominant result can only be an invasion of the private rights of individuals.

\*14 Watkins, 354 U.S. at 200 (footnote omitted); see also Uphaus, 360 U.S. at 82 (Brennan, J., dissenting) (recognizing the "investigatory objective" therein to be "the impermissible one of exposure for exposure's sake"). The Watkins Court recognized the governmental intrusion resulting from such legislative inquiry, as well as the "disastrous" consequences that may ensue as a result of compelled disclosure of the individual's political beliefs.

The mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of governmental interference. And when those forced revelations concern matters that are unorthodox, unpopular, or even hateful to the general public, the reaction in the life of the witness may be disastrous.

354 U.S. at 197; see also Uphaus, 360 U.S. at 84 (Brennan, J., dissenting) ("[I]n an era of mass communications and mass opinion, and of international tensions and domestic anxiety, exposure and group identification by the state of those holding unpopular and dissident views are fraught with such serious consequences for the individual as inevitably to inhibit seriously the expression of views which the Constitution intended to make free.").

However, it is not only those individuals compelled to disclose their beliefs who may be impacted. To the contrary, the Court recognized an additional "more subtle and immeasurable effect upon those who tend to adhere to the most and orthodox uncontroversial associations in order to avoid a similar fate at some future time." Watkins, 354 U.S. at 197-98. Moreover, that the injury was not inflicted solely by government actors did not nullify the constitutional infirmity; rather, that the "impact [was] partly the result of non-governmental \*15 activity by private persons [could not] relieve the investigators of their responsibility for initiating the reaction." Watkins, 354 U.S. at 198.

Supreme Court further defined constitutional privacy interest in response to legislative action seeking to compel the disclosure of organizational membership. NAACP, 357 U.S. 449; Bates, 361 U.S. 516; Shelton, 364 U.S. 479; Gibson, 372 U.S. 539. In 1958, the Court considered whether Alabama could, consistent with our federal constitution, compel the NAACP to disclose its membership list to the Alabama Attorney General. NAACP, 357 U.S. at 451. "It is beyond debate," the Court held, "that freedom to engage in association for the advancement of beliefs and ideas is an inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech." NAACP, 357 U.S. at 460. Although the state itself had "taken no direct action" in the challenged contempt judgment, the Court recognized "abridgement that of [First

Amendment] rights, even though unintended, may inevitably follow from varied forms governmental action." NAACP, 357 U.S. at 461. Indeed, "[t]he governmental action challenged may appear to be totally unrelated to protected liberties." NAACP, 357 U.S. at 461. Nevertheless, the Court held, the State could require disclosure of the membership lists only if there existed a "subordinating interest of the State [that is] compelling." NAACP, 357 U.S. at 463 (quoting Sweezv, 354 U.S. at 265); see also Bates, 361 U.S. at 524 ("Where there is a significant encroachment upon personal liberty, the State may prevail only 16 upon showing a subordinating \*16 interest which is compelling."). The Court concluded that it discerned no such state interest. NAACP, 357 U.S. at 464.

The Court again considered whether the First Amendment, incorporated through the due process clause, precluded the compelled disclosure of NAACP membership lists in *Bates*, 361 U.S. 516. There, the organization asserted the rights of its "members and contributors to participate in the activities of the NAACP, anonymously, a right which has been recognized as the basic right of every American citizen since the founding of this country." Bates, 361 U.S. at 521. Again, the Court recognized that it was not simply a "heavy-handed frontal attack" against which First Amendment freedoms are protected, but "also from being stifled by more subtle governmental interference." Bates, 361 U.S. at 523. In concurrence, Justices Black and Douglas recognized that mere exposure impinge government can the these constitutional protections. Bates, 361 U.S. at 528 (Black & Douglas, JJ., concurring). "First Amendment rights," the Justices recognized, "are beyond abridgement either by legislation that directly restrains their exercise or by suppression or impairment through harassment, humiliation, or exposure by government." Bates, 361 U.S. at 528 (Black & Douglas, JJ., concurring) (emphasis

added). As in *NAACP*, the *Bates* Court discerned no sufficient state interest to compel the disclosure of the membership lists. 361 U.S. at 525.

That same year, the Court addressed the constitutionality of an Arkansas statute requiring public school teachers to disclose, as a condition of employment, all organizations with which they had been associated in the \*17 previous five years. Shelton, 364 U.S. 479. Recognizing the State's undoubtedly legitimate interest in investigating the fitness and competency of its teachers, the Court nevertheless observed that the statute's "scope of inquiry" was "completely unlimited." Shelton, 364 U.S. at 485, 488. Significantly, the statute would have required "a teacher to reveal the church to which he belongs, or to which he has given financial support. It [would have required] him to disclose his political party, and every political organization to which he may have contributed over a five-year period." Shelton, 364 U.S. at 488. This "comprehensive interference with associational freedom," the Court held, "goes far beyond what might be justified in the exercise of the State's legitimate inquiry into the fitness and competency of its teachers." Shelton, 364 U.S. at 490.

As in NAACP, the Supreme Court in Shelton again recognized that exposure by the State could impinge constitutional privacy rights. Because the Arkansas statute nowhere required confidentiality of the information involuntarily disclosed to the government, the Court considered that the other teachers' religious, political, and associational ties could additionally be disclosed to the public. Shelton, 364 U.S. at 486-87. The Court was clear that such an intrusion into the teachers' privacy would further impinge their constitutional rights. Such "[p]ublic exposure, bringing with it the possibility of public pressures upon school boards to discharge teachers who belong to unpopular or minority organizations, would simply operate to widen and aggravate the impairment of constitutional liberty." Shelton, 364 Four Justices dissented in Shelton, disagreeing with the majority's holding that, under the circumstances presented, the extent of constitutional infringement resulting from compelled disclosure was sufficient to override the countervailing legitimate state interest.6 Nevertheless, even the dissenting opinions in Shelton recognized both the existence of a constitutional privacy interest and the potential for public exposure of associational ties to impinge upon those rights. For instance, Frankfurter, distinguishing NAACP and Bates due to the absence of a legitimate state interest presented in those cases, recognized "that an interest in privacy, in non-disclosure, may under appropriate circumstances claim constitutional protection." Shelton, 364 U.S. at 490 (Frankfurter, J., dissenting). Similarly, Justice Harlan suggested that public disclosure of the teachers' associational ties, beyond simply the compelled disclosure to their school boards, might impinge their liberty rights: "I need hardly say that if it turns out that this statute is abused, either by an unwarranted publicizing of the required associational disclosures or otherwise, we would have a different kind of case than those presently before us." Shelton, 364 U.S. at 499 (Harlan, J.,

6 See Shelton, 364 U.S. at 496 (Frankfurter, J., dissenting) (concluding that "the disclosure of teachers' associations to their school boards" is not "without more, such a restriction upon their liberty . . . as to overbalance the State's interest in asking the question"); Shelton, 364 U.S. at 497 (Harlan, J., dissenting) (concluding that the statute's disclosure requirement "cannot be said to transgress the constitutional limits of a State's conceded authority to determine the qualifications of those serving it as teachers").

dissenting).

Three years later, the Court was "called upon once again to resolve a conflict between individual rights of free speech and association and governmental interest in conducting legislative

U.S. at 486-87. \*18

investigations." Gibson, 372 U.S. \*19 at 543. There, a Florida legislative committee sought to subpoena NAACP membership lists, presumably to investigate suspected communist involvement. Gibson, 372 U.S. at 540-41. The Supreme Court again affirmed that such an investigation, "which intrudes into the area of constitutionally protected rights of speech, press, association and petition," is lawful only when the State can "convincingly show a substantial relation between information sought and a subject of overriding and compelling state interest." Gibson, 372 U.S. at 546. The Court held that "all legitimate organizations are the beneficiaries of these protections," but noted that the protections "are all the more essential . . . where the challenged privacy is that of persons espousing beliefs already unpopular with their neighbors." Gibson, 372 U.S. at 556-57. In such circumstances, "the deterrent and 'chilling' effect on the free exercise of constitutionally enshrined rights of free speech, expression, and association is consequently the more immediate and substantial." Gibson, 372 U.S. at 557.

In the decades that have followed, the Supreme Court has continued to hold that First Amendment rights may be impinged when the government compels disclosure of political beliefs and associations. In 1982, the Court again affirmed that "[t]he Constitution protects against the compelled disclosure of political associations and beliefs." *Brown*, 459 U.S. at 91. "Such disclosures," the Court recognized, "can seriously infringe on privacy of association and belief guaranteed by the First Amendment." *Brown*, 459 U.S. at 91 (quoting *Buckley*, 424 U.S. at 64). Again, the Court held that only by demonstrating a compelling interest can the State lawfully impinge such rights: \*20

The right to privacy in one's political associations and beliefs will yield only to a "subordinating interest of the State [that is] compelling," *NAACP*[, 357 U.S. at 463] (quoting *Sweezy*[, 354 U.S. at 265]) (opinion concurring in result), and then only if there is a "substantial relation between the information sought and [an] overriding and compelling state interest." *Gibson*[, 372 U.S. at 546].

*Brown*, 459 U.S. at 91-92 (some alterations in original).

Over a decade later, in declaring unconstitutional an Ohio statute prohibiting the distribution of anonymous campaign literature, the Supreme Court once again "embraced [the] respected tradition of anonymity in the advocacy of political causes." McIntyre, 514 U.S. at 343 (citing Talley v. California, 362 U.S. 60, 80 S.Ct. 536, 4 L.Ed.2d 559 (1960)); see also Watchtower Bible & Tract Soc'y of New York, Inc. v. Vill. of Stratton, 536 U.S. 150, 122 S.Ct. 2080, 153 L.Ed.2d 205 (2002) (recognizing a right to anonymity in declaring unconstitutional an ordinance requiring individuals to obtain and display a permit to engage in door-to-door advocacy). In McIntyre, constitutional Court recognized the significance of "core political speech," describing the speech involved therein- the "handing out [of] leaflets in the advocacy of a politically controversial viewpoint"-as "the essence of First Amendment expression." 514 U.S. at 347. Acknowledging that the reasons for anonymity could be many,<sup>7</sup>, <sup>8</sup> the Court held that the freedom to remain anonymous, whether in "the literary realm" or "in the field of political rhetoric," "is an aspect of the freedom of speech protected by the 21 \*21 First Amendment." McIntyre, 514 U.S. at 342-43. For Justice Stevens, writing in *McIntyre*, the value of anonymity in political speech could not be overstated:

> 7 "The decision in favor of anonymity," the Court noted, "may be motivated by fear of economic or official retaliation, by concern

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about social ostracism, or merely by a desire to preserve as much of one's privacy as possible." *McIntyre*, 514 U.S. at 341-42.

8 "Even the Federalist Papers, written in favor of the adoption of our Constitution, were published under fictitious names. It is plain that anonymity has sometimes been assumed for the most constructive purposes." *Talley*, 362 U.S. at 65.

Under our Constitution, anonymous pamphleteering is not a pernicious, fraudulent practice, but an honorable tradition of advocacy and of dissent. Anonymity is a shield from the tyranny of the majority. See generally J. Mill, On Liberty and Considerations Representative Government 1, 3-4 (R. McCallum ed. 1947). It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to individuals protect unpopular from retaliation-and their ideas from suppression-at the hand of an intolerant society.

#### 514 U.S. at 357.

For nearly a century, the rights afforded by the First Amendment have been protected against intrusion by the States as an "inseparable aspect of the 'liberty' assured by the Due Process Clause of the Fourteenth Amendment, which embraces freedom of speech." NAACP, 357 U.S. at 460; see Gitlow, 268 U.S. 652. During this time, the Supreme Court has repeatedly recognized that encompassed within this liberty interest is the right of individuals to privacy in their political beliefs and associations, wherein "thought and action are presumptively immune from inquisition by political authority." Sweezy, 354 U.S. at 266 (Frankfurter, J., concurring). This privacy interest "yield[s] only to a 'subordinating interest of the State [that is] compelling,' and then only if there is a 'substantial relation between the information sought and [an] overriding and compelling state

interest." *Brown*, 459 U.S. at 91-92 (second and third alterations in original) (citation and internal quotation marks omitted) (quoting *Sweezy*, 354 U.S. at 265; *Gibson*, 372 U.S. at 546). \*22

It is with cognizance of these principles that we consider whether SPD and the City may disclose the Does' identities in the investigatory records at issue.

В

The Does assert that the disclosure of their identities in the requested records will violate their First Amendment right to political anonymity. They contend that the trial court erred by determining that no constitutional privacy interest is implicated in this situation. We agree.

9 The parties' initial appellate briefing primarily concerns whether the Does are entitled to a preliminary injunction pursuant to statutory exemptions set forth in the PRA. However, the Does additionally contended that disclosure would violate their First Amendment rights. Following oral argument, the parties submitted supplemental briefing addressing this issue more thoroughly. Because the answer to the Does' request for a remedy is found in First Amendment jurisprudence, we need not address the parties' arguments regarding PRA statutory exemptions to disclosure.

Both the Does' attendance at the January 6 rally and their compelled statements to investigators implicate the First Amendment. Exposure by the government of this information, through disclosure of the unredacted requested records, would impinge the Does' constitutional right to anonymity in their political beliefs and associations.

Pursuant to United States Supreme Court decisional authority, the State must demonstrate that disclosure of the unredacted requested records would further a compelling state interest and that such disclosure is narrowly tailored to achieve that

state interest. Because no compelling state interest exists to justify disclosure of the unredacted records, the Does are entitled to an injunction prohibiting exposure by the government of their identities. \*23

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The Does assert that disclosure of their identities in the requested records, both with regard to their attendance at the January 6 rally and their statements made to investigators concerning their political views and affiliations, will violate their First Amendment right to privacy. They aver that the trial court erred in two respects. First, the Does contend that the trial court erroneously concluded that, because the January 6 rally was a public event, the Does had no right to privacy in attending that event. Second, they argue that the trial court erred by concluding that they had not demonstrated a sufficient probability of a "chilling effect" on their constitutional rights to be entitled to the relief sought.

Sueoka contends, on the other hand, that the Does' attendance at the January 6 rally is not protected by a constitutional privacy right. He further contends that, even if disclosure of the Does' identities in the requested records implicates a First Amendment right, the Does relinquished that right by cooperating with the OPA's investigation. Finally, Sueoka asserts that the trial court properly determined that the Does have not shown a sufficient probability of harm to establish a constitutional right to privacy.

The Does' contentions, consistent as they are with United States Supreme Court decisional authority, are the more persuasive. We conclude that the Does have a First Amendment privacy right in their identities in the requested records.

(a)

The First Amendment to the United States Constitution, as incorporated through the due process clause of the Fourteenth Amendment, "protects against \*24 the compelled disclosure of

political associations and beliefs." Brown, 459 U.S. at 91; see also Buckley, 424 U.S. at 64 (noting that the Court had "repeatedly found that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment"). Even when the State takes "no direct action" to abridge an individual's First Amendment rights, those rights may be impinged by "varied forms of governmental action" that "may appear to be totally unrelated to protected liberties." NAACP, 357 U.S. at 461. In other words, it is not solely a "heavy-handed frontal attack" by government that may abridge an individual's First Amendment rights; such constitutional transgression may also arise from "more subtle governmental interference." Bates, 361 U.S. at 523. Indeed, simple "exposure by government" may be sufficient to impinge such rights. Bates, 361 U.S. at 528.

Here, the trial court concluded, and Sueoka presently asserts, that the Does have no right to privacy in having attended a public political rally. The trial court reasoned:

Whether a person attended a public rally is not the type of intimate detail that courts in Washington have said should remain private. Washington courts have not previously found an inherent right to privacy in attendance at a public political rally. Attending a public rally is not an act that is inherently cloaked in privacy.

In so ruling, the court was clearly referring to Washington law concerning whether an individual has a *statutory right to privacy* pursuant to the PRA. <sup>10</sup> We \*25 do not evaluate, however, whether disclosure of the Does' identities is precluded by a statutory right to privacy.

Because the PRA does not define "right to privacy," our Supreme Court adopted the common law tort definition of the term, which provides, in part, that the privacy right is implicated when the "intimate details of [a person's] life are spread before the public gaze in a manner highly offensive to the ordinary reasonable [person]." Hearst Corp. v. Hoppe, 90 Wn.2d 123, 136, 580 P.2d 246 (1978) (quoting Restatement (Second) of Torts § 652D, at 386 (Am. Law Inst. 1977)). The trial court referenced this language in ruling that the Does' attendance at the January 6 rally does not implicate a privacy right. Because, at common law, sovereign immunity precluded actions against the government, it comes as little surprise that in this case-wherein the actions of government are directly at issue-the answer is found not in the common law but in the First and Fourteenth Amendments- which are each solely directed at governmental action.

Rather, we conclude that, pursuant to United States Supreme Court decisional authority, the disclosure by the government of the Does' identities in the requested records would violate their federal constitutional right to anonymity in political belief and association. See, e.g., Watchtower Bible, 536 U.S. 150; McIntvre, 514 U.S. 334; Brown, 459 U.S. 87; Buckley, 424 U.S. 1; Gibson, 372 U.S. 539; Shelton, 364 U.S. 479; Talley, 362 U.S. 60; Bates, 361 U.S. 516; Uphaus, 360 U.S. 72; NAACP, 357 U.S. 449; Watkins, 354 U.S. 178; Sweezy, 354 U.S. 234; Wieman, 344 U.S. 183. Such governmental action would expose to the public not only records evidencing the Does' attendance at the January 6 rally, but also the transcripts of interviews in which the Does were compelled to "articulate [their] political views," discuss whether they were "affiliated with any political groups," and describe "[their] impressions of, and reactions to, the content of the Rally." The requested records thus implicate the Does' personal political views and their affiliations, if 26 any, with political organizations. 11 "It cannot \*26 require argument," the United States Supreme Court has stated, "that inquiry would be barred to ascertain whether a citizen had voted for one or the other of the two major parties either in a state or national election." *Sweezy*, 354 U.S. at 266. If such direct governmental action would impinge the Does' constitutional privacy interests, then so, too, does exposure by the government of that same information pursuant to a records request. *See Bates*, 361 U.S. at 523; *NAACP*, 357 U.S. at 461.

11 The trial court did not consider whether the Does' statements regarding their political beliefs and associations, compelled to be disclosed during the OPA investigation, implicated either a statutory constitutional right to privacy. Instead, the court found that there was "no evidence . . . indicating whether the requested records sought contain explicit information about the Does' political beliefs or associations." The record does not support this finding. The Does' declarations state that each was "ordered to answer all questions asked, truthfully and completely, and that failure to do so may result in discipline up to and including termination." These questions included "why [they] attended" the rally, whether they attended "to articulate [their] political views," whether they were "showing support for a political group" or were "affiliated with any political groups," and what were their "impressions of, and reactions to, the content" of the rally. In their declarations, each of the Does stated: "Because I believed I was under a standing order to answer these personal questions, I did so truthfully and as completely as possible." declarations These themselves evidence that the requested records contain statements regarding the Does' political beliefs and affiliations.

Sueoka nevertheless contends that our Supreme Court's decision in *Spokane Police Guild v. Liquor Control Board*, 112 Wn.2d 30, 769 P.2d 283 (1989), "puts to rest any claim" that the Does' attendance at the January 6 rally is protected by a constitutional privacy right.<sup>12</sup> In that case, the court considered whether a statutory exemption precluded disclosure of an investigatory report that identified police officers who had attended a party

on Spokane Police Guild Club premises. Spokane Police Guild, 112 Wn.2d at 31. The party, "variously referred to as a bachelor party, stag show and strip show," had been determined to violate regulations of the liquor board. Spokane Police Guild, 112 Wn.2d at 31. Our Supreme Court held that disclosure of the report would not violate the statutory right to privacy conferred by the statutory predecessor of the PRA. Spokane Police Guild, 112 Wn.2d at 37-38. Recognizing that this privacy right pertains "only to the intimate details of one's personal and private life," the court reasoned that there was "no personal intimacy involved in one's presence or \*27 conduct at such a well attended and staged event which would be either lost or diminished by being made public." Spokane Police Guild, 112 Wn.2d at 38.

12 Br. of Resp't/Cross Appellant at 31.

According to Sueoka, this holding compels the conclusion herein that the Does' attendance at the January 6 rally-occurring, as it did, in a public location<sup>13</sup>-does not implicate a right to privacy. However, in so asserting, Sueoka confuses the statutory privacy right bestowed by the PRA with the constitutional privacy right deriving from the First Amendment. In Spokane Police Guild, the disclosure of the officers' political beliefs and associations was not at issue; accordingly, the court considered only whether a statutory exemption prohibited disclosure of the investigative report. 112 Wn.2d at 37-38. Moreover, in focusing solely on the Does' attendance at a public event, Sueoka disregards that disclosure of the requested records would additionally expose the Does' statements regarding their political beliefs and associations, which the Does were compelled to disclose during the OPA investigation. In short, Sueoka asserts that Washington Supreme Court decisional authority concerning a statutory right to privacy stemming from the common law of torts precludes a determination that a federal constitutional right prohibits disclosure by a government. This contention is wholly unavailing.

13 The Capitol Police issued six permits authorizing gatherings on January 6, 2021 on property under its control. Jason Leopold, *The Capitol Police Granted Permits For Jan. 6 Protests Despite Signs That Organizers Weren't Who They Said They Were*, Buzzfeed News (Sept. 17, 2021),

https://www.buzzfeednews.com/article/jaso nleopold/the-capitol-police-said-jan-6unrest-on-capitol-grounds [https://perma.cc/LWM5-P3MN].

Sueoka additionally contends that the United States Supreme Court's decisional authority regarding the First Amendment right to political anonymity is \*28 inapposite because, he argues, the Does "cannot be compared to members of small and powerless political or religious groups," and are not "seeking anonymity from the government itself." Again, we disagree.

14 Br. of Resp't/Cross Appellant at 32.

Contrary to Sueoka's assertion, the United States Supreme Court has not limited the applicability of the First Amendment's privacy right to members of "small and powerless political or religious groups." To the contrary, the Court has recognized that "the deterrent and 'chilling' effect on the free exercise of constitutionally enshrined rights of free speech, expression, and association" is "the more immediate and substantial" when "the challenged privacy is that of persons espousing beliefs already unpopular with their neighbors." Gibson, 372 U.S. at 556-57. Nevertheless, the Court was clear that, "of course, all legitimate organizations are the beneficiaries of these protections." Gibson, 372 U.S. at 556.15 Moreover, the question is not whether an individual is a member of a "small and powerless" group, as Sueoka asserts, but whether the individual "espous[es] beliefs . . . unpopular with their neighbors," Gibson, 372 U.S. at 557, such that exposure of those beliefs could discourage the exercise of constitutional rights.

15 In Gibson, a Florida legislative committee sought to subpoena NAACP membership lists, 372 U.S. at 540-41, hence the Court's reference to "organizations." However, it was the constitutional rights of the individuals whose identities would be disclosed in the membership lists that was at issue. In any event, we see no reason to distinguish between "organizations" and individuals on this point.

Thus, it is the opprobrium that the community has for the individual's beliefs that is material to any "chilling effect" on constitutional rights. 16 We are \*29 cognizant that, in the Seattle community, the Does would likely face opprobrium were their disclosed.<sup>17</sup> identities This likely notwithstanding the fact that the **OPA** investigation determined that any allegations of unlawful or unprofessional conduct against the Does were unsustained. We reach this conclusion with an awareness of the events of recent years, including the Department of Justice finding of the systemic use of excessive force by SPD officers (necessitating the federal district imposition of a consent decree), the horrific killing of George Floyd and other unarmed Black individuals throughout our country, and the eruption of protests, including in Seattle, in response to those incidents. 18 Whether correctly or not, as Sueoka's briefing demonstrates, the Seattle community is likely to presume that the Does' attendance at the January 6 rally indicates that they are white supremacists who sought to undermine our nation's democracy. But whatever various individuals might infer, it remains true that all \*30 citizens, including public employees, may benefit from the constitutional right to privacy in their political beliefs espoused by our nation's highest court. 19

> 16 As discussed infra, case law does not support Sueoka's assertion that the Does were required to demonstrate a more substantial "chilling effect" to establish a First Amendment privacy right in the requested records.

- 17 In 2016, Donald Trump received 8 percent of the vote in Seattle precincts. Here's How Seattle Voters' Support for Trump Compared to Other Cities', Seattle Times 17, (Nov. 2016), https://www.seattletimes.com/seattlenews/politics/heres-how-seattle-voterssupport-for-trump-stacks-up-to-other-u-scities/ [https://perma.cc/4PNL-G68W]. In 2020, he again received 8 percent of the vote in Seattle. Danny Westneat, Don't Look Now, but Trump Did Better in Blue King County Than He Did the Last Time, Seattle Times (Nov. 11, 2020), https://www.seattletimes.com/seattlenews/politics/dont-look-now-but-trumpdid-better-in-blue-king-county-than-he-didthe-last-time/ [https://perma.cc/N8F8-TFHL].
- Whether records are subject to disclosure must be determined without regard to the motivation of the records requestor. RCW 42.56.080 ("Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons."); see also Livingston v. Cedeno, 164 Wn.2d 46, 53, 186 P.3d 1055 (2008) (holding that the Department of Corrections, in "its capacity as an agency subject to" the PRA, "must respond to all public disclosure requests without regard to the status or motivation of the requester"). However, when the impingement of constitutional protections for speech and association are at issue, it is clear that courts may consider the pertinent political and cultural atmosphere in determining whether exposure could discourage the exercise First Amendment rights.

19 Concurring in *Wieman*, 344 U.S. at 193, Justice Black recognized the importance of ensuring that First Amendment protections are secured for all individuals:

Our own free society should never forget that laws which stigmatize and penalize thought and speech of the unorthodox have a way of reaching, ensnaring and silencing many more people than at first intended. We must have freedom of speech for all or we will in the long run have it for none but the cringing and the craven. And I cannot too often repeat my belief that the right to speak on matters of public concern must be wholly free or eventually be wholly lost.

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As the Court has held, the mere compelling of an individual to disclose "beliefs, expressions or associations is a measure of governmental interference." Watkins, 354 U.S. at 197. When these "forced revelations concern matters that are unorthodox, unpopular, or even hateful to the general public, the reaction in the life of [that individual] may be disastrous." Watkins, 354 U.S. at 197; see also Uphaus, 360 U.S. at 84 (Brennan, dissenting) ("[E]xposure and identification by the state of those holding unpopular and dissident views are fraught with such serious consequences for the individual as to inevitably inhibit seriously the expression of views which the Constitution intended to make free."). While we have no sympathy for those who sought to undermine our democracy on January 6, 2021, the fact here is that the allegations that the Does were engaged in unlawful or unprofessional conduct were not sustained. They did not forfeit their First Amendment rights.

As our nation's highest court long-ago made clear,

[a] final observation is in order. Because our disposition is rested on the First Amendment as absorbed in the Fourteenth . . . our decisions in the First Amendment area make[] plain that its protections would apply as fully to those who would arouse our society against the objectives of the petitioner. *See*, *e.g.*, *Near v. Minnesota*, 283 U.S. 697[, 51 S.Ct. 625, 75 L.Ed. 1357 (1931)]; *Terminiello v. Chicago*, 337 U.S. 1[, 69 S.Ct. 894, 93 L.Ed. 1131(1949)];

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Kunz v. New York, 340 U.S. 290[, 71 S.Ct. 312, 95 L.Ed. 280 (1951)]. For the Constitution protects expression and association without regard to the race, creed, or political or religious affiliation of the members of the group which invokes its shield, or to the truth, popularity, or social utility of the ideas and beliefs which are offered.

Button, 371 U.S. at 444-45.

Returning to Sueoka's contentions, we are similarly unpersuaded by his assertion that the Does cannot establish a First Amendment right to privacy because, according to him, they are not "seeking anonymity from the government itself."<sup>20</sup> In fact, as Sueoka notes, the Does have already been compelled to disclose their political beliefs and associations to SPD and the City. However, the government need not take "direct action" in order to unlawfully impinge an individual's constitutional privacy right. NAACP, 357 U.S. at 461. Rather, "abridgement of such rights, even though unintended, may inevitably follow from varied forms of governmental action," including action that "may appear to be wholly unrelated to protected liberties." NAACP, 357 U.S. at 461.

<sup>20</sup> Br. of Resp't/Cross Appellant at 32.

Indeed, the United States Supreme Court has held that "First Amendment rights are beyond abridgement either by legislation that directly restrains their exercise or by suppression or impairment through harassment, humiliation, or *exposure by government.*" *Bates*, 361 U.S. at 528 (Black & Douglas, JJ., concurring) (emphasis added); *see also Shelton*, 364 U.S. at 486-87 ("Public exposure, bringing with it the possibility of public pressures upon school boards to discharge teachers who belong to unpopular or minority organizations, would simply operate to widen and aggravate the impairment of constitutional liberty."). \*32

Here, the state action challenged is the government's exposure, pursuant to state statute, of the Does' identities in the requested records, which implicate their political beliefs and associations. Sueoka's insinuation that the City's disclosure of the Does' identities would not constitute governmental action is simply wrong.

(b)

Sueoka additionally asserts that, even if disclosure of the Does' identities would impinge their constitutional rights, the Does willingly relinquished their right to privacy. This is so, Sueoka contends, because the Does "had a right to keep their political opinions private," knew that their employer was subject to the PRA, but nevertheless attended the January 6 rally and "then informed their employer of their activities." We disagree. Contrary to Sueoka's assertion, the Does did not relinquish their constitutional rights.

<sup>21</sup> Br. of Resp't/Cross Appellant at 27-28.

The facts are these. The Does submitted to interviews during an investigation in which they were alleged to have violated the law or SPD policies during their attendance at the January 6 rally. They were "ordered to answer all questions asked, truthfully and completely." They were informed that "failure to do so may result in discipline up to and including termination." They were then questioned regarding their reasons for attending the January 6 rally, their political beliefs and affiliations with political groups, if any, and

their impressions of the content of the rally. The Does answered these questions "truthfully and as completely as possible" because they were under standing orders to do so. \*33

In other words, the Does did not "ha[ve] a right to keep their political opinions private." Nor, contrary to Sueoka's assertion, did the Does voluntarily "inform[] their employer of their activities." Rather, the Does were placed in the untenable position of either refusing to answer investigators' questions, thus risking their livelihoods, or cooperating with the investigation, thereby compromising their constitutional rights.<sup>22</sup>

Adopting Sueoka's assertion that the Does' cooperation in the investigation was voluntary would also lead to the problematic conclusion that police officers need not cooperate in such investigations. Little public good would flow from such a holding.

Nearly a century ago, the United States Supreme Court rejected the notion that an indirect assault on constitutional protections due to a purported "choice" is less insidious than is direct impingement of such rights. Frost v. RR Comm'n of State of Cal., 271 U.S. 583, 593, 46 S.Ct. 605, 70 L.Ed.2d 1101 (1926). There, a California statute precluded private carriers from the privilege of using public highways for "transacting private business thereon" unless they submitted to regulation lawfully imposed on common carriers. Frost, 271 U.S. at 591. The Supreme Court struck down the statute, which, it concluded, was intended to protect the business of common carriers by controlling competition. Frost, 271 U.S. at 591, 593. In so doing, the Court held that a state may not require the relinquishment of a constitutional right as the basis to confer a privilege. Frost, 271 U.S. at 593. Were it otherwise, "constitutional guaranties, so carefully safeguarded against direct assault, [would be] open to destruction by the indirect but no less effective process of requiring a surrender, which, though in form voluntary, in fact lacks none of the elements of compulsion." *Frost*, 271 U.S. at 593.

\*34 \*34 To be given only "a choice between the rock and the whirlpool," wherein the option is to forego one's livelihood or "submit to a requirement which may constitute an intolerable burden," is in reality, the Court announced, no choice at all. *Frost*, 271 U.S. at 593.

Four decades later, the Supreme Court explicitly rejected the proposition advanced by Sueoka herein-that statements obtained from police officers as a result of those officers cooperating (in compliance with a lawful request to do so) in investigations conducted by their employer or at their employer's direction are deemed voluntary. Garrity, 385 U.S. 493. In Garrity, police officers were ordered to cooperate in an investigation by the New Jersey Attorney General regarding "alleged irregularities in handling cases in the municipal courts" of certain New Jersey boroughs. 385 U.S. at 494. Prior to questioning, each officer was warned "(1) that anything he said might be used against him in any state criminal proceeding; (2) that he had the privilege to refuse to answer if the disclosure would tend to incriminate him; but (3) that if he refused to answer he would be subject to removal from office." Garrity, 385 U.S. at 494. After cooperating in the investigation, the officers were convicted of conspiracy to obstruct the administration of the traffic laws, and "their convictions were sustained over their protests that their statements were coerced, by reason of the fact that, if they refused to answer, they could lose their positions with the police department." Garrity, 385 U.S. at 495 (footnote omitted). \*35

The Supreme Court held that, where the officers were given the choice between self-incrimination and losing their livelihoods, their statements were not voluntary:

The choice given petitioners was either to forfeit their jobs or to incriminate themselves. The option to lose their means of livelihood or to pay the penalty of selfincrimination is the antithesis of free choice to speak out or to remain silent. That practice, like interrogation practices we reviewed in Miranda v. Arizona, 384 U.S. 436, 464-65[, 86 S.Ct. 1602, 16 L.Ed.2d 694 (1966)], is "likely to exert such pressure upon an individual as to disable him from making a free and rational choice." We think the statements were infected by the coercion inherent in this scheme of questioning and cannot be sustained as voluntary under our prior decisions.

Garrity, 385 U.S. at 497-98 (footnote omitted). Police officers, the Court concluded, "are not relegated to a watered-down version of constitutional rights." *Garrity*, 385 U.S. at 500. Moreover, the Court therein confirmed that the rights secured by the First Amendment are among those "rights of constitutional stature whose exercise a State may not condition by the exaction of a price." *Garrity*, 385 U.S. at 500.

As in Garrity, the Does here were informed by SPD, their employer, that their continued employment could be contingent on their cooperation with the investigation. The answers elicited from the Does during interviews directly implicate speech protected by the Amendment. The Does, as with the police officers in Garrity, were afforded a choice "between the rock and the whirlpool," 385 U.S. at 496 (quoting Stevens v. Marks, 383 U.S. 234, 243, 86 S.Ct. 788, 15 L.Ed.2d 724 (1966)), whereby only by relinquishing their constitutional privacy interests 36 could the Does ensure their continued \*36 "[D]uress is inherent" when employment. statements are thusly obtained. Garrity, 385 U.S. at 498.

As the precedent of our nation's highest court makes clear, the Does' statements to investigators were not voluntary. We reject Sueoka's assertion that the Does relinquished their constitutional rights by cooperating with the OPA's investigation.

(c)

Sueoka next contends that the Does have not set forth sufficient evidence that harm would result from disclosure of their identities in the requested records, such that they should be entitled to an injunction precluding such disclosure. He asserts that the Does must demonstrate that disclosure would create a "chilling effect" on their constitutional rights and that they have not done so. Again, we disagree. Adhering to precedent from our Supreme Court, and cognizant that federal courts have determined that a "chilling effect" may, at times, be assumed, we hold that the evidence submitted by the Does is sufficient to meet the necessary showing of potential harm.

In Doe v. Reed, the United States Supreme Court considered whether, pursuant to Washington's PRA, the disclosure of referendum petitions, and thereby of the identities of the petition signers, would violate the First Amendment. 561 U.S. 186. The Court therein concluded that disclosure would not violate the First Amendment with respect to referendum petitions in general. Reed, 561 U.S. at 202. However, the Court articulated the standard it had applied "in related contexts," that "those resisting disclosure can prevail under the \*37 First Amendment if they can show 'a reasonable probability that the compelled disclosure [of personal information] will subject them to threats, harassment, or reprisals from either Government officials or private parties." Reed, 561 U.S. at 200 (alteration in original) (quoting *Buckley*, 424 U.S. at 74).

Our Supreme Court applied this standard in evaluating the constitutionality of a discovery order compelling the disclosure of meeting minutes of the Freedom Socialist Party. See

Snedigar v. Hoddersen, 114 Wn.2d 153, 156, 786 P.2d 781 (1990). In that case, the court reversed a decision of this court, in which we had held that the party resisting the discovery order was required to make "an initial showing of actual infringement on First Amendment rights." Snedigar, 114 Wn.2d at 158. This was wrong, our Supreme Court explained, because "[t]he party asserting the First Amendment associational privilege is only required to show some probability that the requested disclosure will harm its First Amendment rights." Snedigar, 114 Wn.2d at 158. And, indeed, in that case, the Party's national secretary submitted affidavits stating that (1) "Party members and supporters had been subjected to acts of reprisal and harassment in the and (2) that "the expectation confidentiality in internal discussions [was] essential to the Party's survival." Snedigar, 114 Wn.2d at 163. These affidavits, our Supreme Court held, were sufficient to demonstrate that disclosure would "chill" the Party's constitutional rights. Snedigar, 114 Wn.2d at 164.

In evaluating whether sufficient probability of harm was shown, our Supreme Court in Snedigar recognized that some courts have explicitly held that "a concrete showing of 'chill' is unnecessary" 38 to determine that disclosure would \*38 impinge First Amendment rights. 114 Wn.2d at 162 (citing Black Panther Party v. Smith, 661 F.2d 1243, 1267-68, (D.C. Cir. 1981); Britt v. Superior Court, 20 Cal.3d 844, 855, 574 P.2d 766, 143 Cal.Rptr. 695 (1978)). Indeed, the court noted, some courts "have overlooked the absence of a factual record of past harassment and . . . assumed that disclosure of information" would chill such rights. Snedigar, 114 Wn.2d at 162 (citing Shelton, 364) U.S. at 485-86; Talley, 362 U.S. at 64; Local 1814, Longshoremen's Ass'n, AFL-CIO Int'l Waterfront Comm'n of New York, 667 F.2d 267, 272 (2d Cir.1981); *Pollard v. Roberts*, 283 F.Supp. 248, 258 (E.D. Ark. 1968), aff'd, 393 U.S. 14, 89 S.Ct. 47, 21 L.Ed.2d 14 (1968)).

Moreover, as the Second Circuit has recognized, "a factual record of past harassment is not the only situation in which courts have upheld a First Amendment right of non-disclosure." *Int'l Longshoremen's Ass'n*, 667 F.2d at 271. Rather,

[t]he underlying inquiry must always be whether a compelling governmental interest justifies any governmental action that has "the practical effect discouraging' the exercise of constitutionally protected political rights," "even if any deterrent effect . . . arises . . . as an unintended but inevitable result of the government's conduct in requiring disclosure."

Int'l Longshoremen's Ass'n, 667 F.2d at 271 (citation omitted) (quoting NAACP, 357 U.S. at 461; Buckley, 424 U.S. at 65). Based on this principle, courts, including the United States Supreme Court, have in various circumstances "adopted a commonsense approach [that] recognized that a chilling effect was \*39 inevitable." Int'l Longshoremen's Ass'n, 667 F.2d at 272 (citing Shelton, 364 U.S. at 486; Pollard, 283 F.Supp. at 258).<sup>23</sup>

23 Such a "commonsense approach"-which assumes a "chilling effect" on speech and associational rights-has been utilized when disclosure was required to be made to a public employer and when the individuals seeking anonymity espoused beliefs unpopular in their communities. For instance, in Shelton, the Supreme Court recognized that impingement of teachers' rights to free association "is conspicuously accented when the teacher serves at the absolute will of those to whom the disclosure must be made." 364 U.S. at 486. "[T]he pressure upon a teacher to avoid any ties which might displease those who control his professional destiny would be constant and heavy." Shelton, 364 U.S. at 486; see also Int'l Longshoremen's Ass'n, 667 F.2d at 272 (recognizing that the investigatory body had "pervasive control

over the economic livelihood" of those seeking anonymity). Likewise, in *Pollard*, there was "no evidence" that the individuals seeking anonymity had "been subjected to reprisals on account of" their contributions to the Arkansas Republican Party. 283 F.Supp. at 258. Nevertheless, given the unpopularity of the party in the state at that time, the court held that "it would be naïve not to recognize" that disclosure would subject the contributors to "potential economic or political reprisals," discouraging the exercise constitutional rights. Pollard, 283 F.Supp. 258. The court described constitutional injury thereby inflicted thusly:

To the extent that a public agency or officer unreasonably inhibits or discourages the exercise by individuals of their right to associate with others of the same political persuasion in the advocacy of principles and candidates of which and of whom they approve, and to support those principles and candidates with their money if they choose to do so, that agency or officer violates private rights protected by the First Amendment.

Pollard, 283 F.Supp. at 258.

Here, the Does' declarations state that they have "a significant fear that disclosure of [their] attendance at the January 6 Rally would result in significant jeopardy to [their] personal safety and [their] ability to provide effective law enforcement to the community." Two of the Does described their fears for the safety and well-being of their families were their identities disclosed, one noting "the extreme volatility that has gone hand in hand with politics in this region over the last year enforcement." The regarding law Does additionally submitted the declarations of other SPD officers who stated that they had endured harassment and threats made against them and their families from members of the public. \*40

Consistent with the cases cited above, we conclude that the Does have submitted sufficient evidence that disclosure of their identities would discourage the exercise of political speech and associational rights.<sup>24</sup> In so holding, we are mindful that it is not only the Does' constitutional rights that may be "chilled" by disclosure here, but also those of other public employees whose employers are subject to the PRA. Indeed, as the United States Supreme Court has recognized, in addition to the impact on the exercise of rights by those seeking anonymity, there is a "more subtle and immeasurable effect upon those who tend to adhere to the most orthodox and uncontroversial views and associations in order to avoid a similar fate at some future time." Watkins, 354 U.S. at 197-98.

<sup>24</sup> We reach this conclusion notwithstanding Sueoka's assertion, in supplemental briefing, that the identities of the Does are already publicly known. As our Supreme Court has held, an individual's statutory right to privacy is not nullified because some members of the public may already know that individual's identity. Bainbridge Island Police Guild, 172 Wn.2d at 414 (" [J]ust because some members of the public may already know the identity of the person in the report does not mean that an agency does not violate the person's right to privacy by confirming that knowledge through its production."). The same is certainly true of the right to privacy inhering in the First Amendment to the United States Constitution.

We conclude that disclosure of the Does' identities in the requested records constitutes governmental action that would impinge their First Amendment rights. This is so despite the public nature of the January 6 rally. We find unmeritorious Sueoka's contentions that the Does relinquished their constitutional rights by cooperating with the OPA's investigation or that they failed to demonstrate that disclosure would discourage the exercise of such rights. Having so concluded, we must determine whether the State's interest in impinging those rights is sufficient to nevertheless mandate disclosure. \*41

(d)

Before we do so, however, we must address a related contention. In a statement of additional authorities submitted following oral argument, Sueoka asserts that, because the Does did not notify the attorney general of any intent to challenge the constitutionality of the PRA, we cannot consider whether the PRA violates the federal constitution if it is construed so as to require disclosure of unredacted records in this case.

This ground has been previously trod. Indeed, the District Court of the Western District of Washington considered this very issue in *Roe v. Anderson*, 2015 WL 4724739 (W.D. Wash. 2015), which we cite as evidence of our state attorney general's official position on this aspect of PRA analysis. In the cited case, certain erotic dancers and managers of an erotic dance studio sought to enjoin the disclosure of their personal information pursuant to a PRA request. *Anderson*, 2015 WL 4724739, at \*1. They asserted that disclosure would violate their constitutional rights to privacy and free expression and sought a declaration that the PRA, as applied to them, was unconstitutional. *Anderson*, 2015 WL 4724739, at \*1.

At the court's invitation, the Washington attorney general filed an amicus brief asserting that the PRA "does not require the disclosure of information protected from disclosure by the Constitution" because "its exemptions incorporate any constitutionally-required limitation on such disclosures." Anderson, 2015 WL 4724739, at \*1 (emphasis added). The "other statute[s]" provision, RCW 42.56.070(1), the attorney general explained, is a "catch all' \*42 saving

clause" that "does not require a disclosure that would violate the Constitution." Anderson, 2015 WL 4724739, at \*2 (emphasis added). Citing decisional authority from our Supreme Court, the attorney general clarified that

"[i]f the requested records are constitutionally protected from public disclosure, that protection exists without any need of statutory permission, and may constitute an exemption under the PRA even if not implemented through an explicit statutory exemption."

"In other words, it is not necessary to read the PRA in conflict with the Constitution when the Act itself recognizes and respects laws (including constitutional provisions) that mandate privacy or confidentiality."

Anderson, 2015 WL 4724739, at \*2-3 (emphasis added).

The district court held that "[t]he State is correct." Anderson, 2015 WL 4724739, at \*3. "The PRA, by design, cannot violate the Constitution, and constitutional protections (such as freedom of expression) are necessarily incorporated as exemptions, just like any other express exemption enumerated in the PRA." Anderson, 2015 WL 4724739, at \*3.

We agree with and adopt this analysis. Thus, once the constitutional right is established and the constitutional injury that disclosure would cause is shown, it is entirely unnecessary for the citizen to establish an additional entitlement to an injunction in order to preclude disclosure. The law is clear and the principle simple-the government may not violate a person's First Amendment rights, even in the absence of an injunction specifically forbidding it from doing so.<sup>25</sup>

<sup>25</sup> See discussion infra § III C.

2

The United States Supreme Court has repeatedly 43 affirmed that \*43

> [t]he right to privacy in one's political associations and beliefs will yield only to a "subordinating interest of the State [that is] compelling," NAACP[, 357 U.S.] at 463 (quoting *Sweezy*, 354 U.S. [at 265] (opinion concurring in result)), and then only if there is a "substantial relation between the information sought and [an] overriding and compelling state interest." Gibson[, 372 U.S. at 546].

Brown, 459 U.S. at 91-92 (some alterations in original). Thus, having concluded that disclosure of the Does' identities in the requested records would impinge their First Amendment rights, we must determine whether an overriding and compelling state interest nevertheless requires such disclosure.

For its part, the City contends that a less stringent standard should apply because, according to the City, "public employees have diminished First Amendment rights, even for purely private speech."26 Not so. Police officers, such as the Does, "are not relegated to a watered-down version of constitutional rights." Garrity, 385 U.S. at 500. The City's assertion to the contrary, reliant as it is on inapposite decisional authority, is unpersuasive.

<sup>26</sup> City of Seattle, Suppl. Mem. at 2.

We conclude that the State has no compelling interest in disclosing the Does' identities in the requested records. The state interest in disclosing the entirety of a particular public record is illuminated by the purpose of the PRA and its scope, as determined by our legislature and Supreme Court. Such considerations demonstrate that the state interest here falls short of the standard required to impinge the Does' First Amendment rights. We thus hold that the State has no compelling interest in disclosing the Does' 44 identities in the requested records. \*44

(a)

We first address the City's argument, set forth in supplemental briefing, that the state actor need not demonstrate a compelling interest in order to impinge the Does' constitutional rights. The City, itself an employer of vast numbers of public employees, asserts that "public employees have diminished First Amendment rights, even for purely private speech." Hence, the City contends, the constitutional rights of public employees, unlike those of other citizens, can be impinged absent the demonstration of a compelling state interest. We disagree.

<sup>27</sup> City of Seattle, Suppl. Mem. at 2.

When the State seeks to compel disclosure of an individual's political beliefs and associations, it can do so only by demonstrating a compelling state interest with sufficient relation to the information sought to be disclosed. See, e.g., Brown, 459 U.S. at 91-92; Gibson, 372 U.S. at 546; NAACP, 357 U.S. at 463; Sweezy, 354 U.S. at 265. That the State's interest must be compelling reflects the United States Supreme Court's recognition that "political freedom of the individual" is a "fundamental principle of a democratic society," Sweezy, 354 U.S. at 250, and that "compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment." Buckley, 424 U.S. at 64.

Moreover, as we have discussed, our nation's highest Court has rejected the notion that public employees are not entitled to the same stature of constitutional rights as are other citizens. In 1967, the Court in *Garrity* \*45 considered whether police officers, by virtue of being compelled to cooperate in an investigation by the New Jersey Attorney General, relinquished the constitutional right against self-incrimination. 385 U.S. at 494-98. The Court determined that the statements of the police officers, who were given the choice between self-incrimination and losing their livelihoods, were not voluntary. *Garrity*, 385 U.S.

at 497-98. In so holding, the Court "conclude[d] that policemen, like teachers and lawyers, are not relegated to a watered-down version of constitutional rights." *Garrity*, 385 U.S. at 500.

In asserting to the contrary-that the Does are, indeed, condemned to a diluted version of First Amendment rights-the City urges us to apply the "balancing test" set forth by the Supreme Court in *Pickering v. Board of Education of Township High School District 205, Will County, Ill.*, 391 U.S. 563, 88 S.Ct. 1731, 20 L.Ed.2d 811 (1968).<sup>28</sup> The City's reliance on *Pickering* is misplaced.

28 See City of Seattle, Suppl. Mem. at 6 ("It is this balancing test, not strict scrutiny, that applies to disclosure of the public records containing employees' speech.").

In *Pickering*, a public school teacher submitted to a local newspaper a letter regarding a proposed tax increase that was critical of the manner in which the school board and superintendent had "handled past proposals to raise new revenue for the schools." 391 U.S. at 564. The teacher was dismissed from his position pursuant to an Illinois statute that permitted such dismissal for actions detrimental to the interests of the school system. *Pickering*, 391 U.S. at 564-65. He thereafter filed suit, asserting that the Illinois statute was unconstitutional as \*46 applied pursuant to the First and Fourteenth Amendments. *Pickering*, 391 U.S. at 565.

In considering the constitutionality of the Illinois statute, the Court recognized that "the State has interests as an employer in regulating the speech of its employees that differ significantly from those it possesses in connection with regulation of the speech of the citizenry in general." *Pickering*, 391 U.S. at 568. Thus, the Court announced what has come to be known as the "*Pickering* balancing test," which seeks to "arrive at a balance between the interests of the [public employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an

employer, in promoting the efficiency of the public services it performs through its employees." *Pickering*, 391 U.S. at 568.

29 See, e.g., Garcetti v. Ceballos, 547 U.S. 410, 418, 126 S.Ct. 1951, 164 L.Ed.2d 689 (2006) (describing the "two inquiries to guide interpretation of the constitutional protections accorded to public employee speech" as set forth in "Pickering and the cases decided in its wake"); Moser v. Las Vegas Metro. Police Dep't, 984 F.3d 900, 904-05 (9th Cir. 2021) (describing the "Pickering balancing test"). Neither of these opinions, both of which are cited by the City, is apposite to the circumstances presented in this case.

However, the teacher's statements in *Pickering* were "neither shown nor [could] be presumed to have in any way either impeded the teacher's proper performance of his daily duties in the classroom or to have interfered with the regular operation of the schools generally." 391 U.S. at 572-73 (footnote omitted). The Court held that, in such circumstances, "the interest of the school administration in limiting teachers' opportunities to contribute to public debate is not significantly greater than its interest in limiting a similar contribution by any member of the general public." Pickering, 391 U.S. at 573. In other words, the "Pickering balancing test," which the 47 City urges us to apply here, is applicable \*47 only when a public employee's speech may affect the employer's operations. See also Garcetti v. Ceballos, 547 U.S. 410, 418, 126 S.Ct. 1951, 164 L.Ed.2d 689 (2006) ("A government entity has broader discretion to restrict speech when it acts in its role as employer, but the restrictions it imposes must be directed at speech that has some potential to affect the entity's operations." (emphasis added)). Only then may a government employer have "an adequate justification for treating the employee differently from any other member of the general public," thus permitting it to restrict the public employee's speech. Garcetti, 547 U.S. at 418.

Indeed, in *Pickering*, the United States Supreme Court explicitly rejected the proposition that public employees are entitled to lesser constitutional protections simply by virtue of their public employment:

To the extent that the Illinois Supreme Court's opinion may be read to suggest that teachers may constitutionally be compelled to relinquish the First Amendment rights they would otherwise enjoy as citizens to comment on matters of public interest in connection with the operation of the public schools in which they work, it proceeds on a premise that has been unequivocally rejected in numerous prior decisions of this Court. E.g., Wieman v. Updegraff, 344 U.S. 183[, 73 S.Ct. 215, 97 L.Ed.2d 216] (1952); Shelton v. Tucker, 364 U.S. 479[, 81 S.Ct. 247, 5 L.Ed.2d 231] (1960); Kevishian v. Board of Regents, 385 U.S. 589[, 87 S.Ct. 675, 17 L.Ed.2d 629] (1967)."[T]he theory that public employment which may denied altogether may be subjected to any conditions, regardless of how unreasonable, has been uniformly rejected." Keyishian[, 385 U.S.] at 605-06.

391 U.S. at 568 (some alterations in original).

Put simply, the notion that the Does, as public employees, "have curtailed First Amendment rights," as the City brazenly asserts, 30 is directly contradicted \*48 by United States Supreme Court decisional authority. Unlike this case, each of the cases cited by the City involves an adverse employment action based on a speech restriction that precluded public employees from engaging in speech alleged to injuriously impact their employer's operations. Indeed, it is only when a public employee's speech "has some potential to affect [the employer's] operations" that the employer may have "an adequate justification for treating the employee differently from any other member of the general public." *Garcetti*, 547 U.S.

at 418. This rule is premised on the recognition that the government possesses a "legitimate purpose in 'promot[ing] efficiency and integrity in the discharge of official duties, and . . . maintain[ing] proper discipline in the public service." *Connick v. Myers*, 461 U.S. 138, 150-51, 103 S.Ct. 1684, 75 L.Ed.2d 708 (1983) (some alterations in original) (quoting *Ex parte Curtis*, 106 U.S. 371, 373, 1 S.Ct. 381, 27 L.Ed. 232 (1882)).<sup>32</sup> Such principles do not apply to the facts of this case.<sup>33</sup> \*49

- 30 City of Seattle. Suppl. Mem. at 5.
- 31 See Progressive Democrats for Soc. Just. v. Bonta, 588 F.Supp.3d 960 (N.D. Cal. 2022); Garcetti, 547 U.S. 410; City of San Diego, Cal. v. Roe, 543 U.S. 77, 125 S.Ct. 521, 160 L.Ed.2d 410 (2004); Waters v. Churchill, 511 U.S. 661, 114 S.Ct. 1878, 128 L.Ed.2d 686 (1994); Pickering, 391 U.S. 563; Hernandez v. City of Phoenix, 43 F. 4th 966 (9th Cir. 2022); Moser, 984 F.3d 900; Berry v. Dep'. of Soc. Servs., 447 F.3d 642 (9th Cir. 2006). For the reasons described above, each of these cases is inapposite here.
- 32 In Connick, Justice Brennan disagreed with the majority's balancing of the competing considerations set forth in Pickering. 461 U.S. at 157-58 (Brennan, J., dissenting). However, as pertinent here, he adeptly explained that the government, as a public employer, has an interest in regulating employee speech only when such speech may impact the government's ability to perform its duties. He wrote:

The balancing test articulated in *Pickering* comes into play only when a public employee's speech implicates the government's interests as an employer. When public employees engage in expression unrelated to their employment while away from the workplace, their First Amendment rights are, of course, no different from those of the general public.

Connick, 461 U.S. at 157 (Brennan, J., dissenting) (citing *Pickering*, 391 U.S. at 574).

33 The City also asserts that our Supreme Court's decision in Service Employees International Union Local 925 v. University of Washington, 193 Wn.2d 860, 447 P.3d 534 (2019) (SEIU), indicates that "disclosure of public records is mandated by the PRA notwithstanding any speech rights or a chilling effect thereon." City of Seattle, Suppl. Mem. at 3. We disagree. In that decision, our Supreme Court addressed only whether particular faculty e-mails relating to union organizing constitute "public records" pursuant to the PRA. SEIU, 193 Wn.2d at 867-76. Although the labor union seeking to enjoin disclosure of the requested e-mails asserted that "their release would chill union organizing efforts, restrain speech, and violate individuals' privacy rights," SEIU, 193 Wn.2d at 865, our Supreme Court explicitly stated that its "holding on the 'scope of employment' test does not dispose of" the labor union's other arguments, including "assertions of statutory and constitutional exemptions from PRA coverage." SEIU, 193 Wn.2d at 876. Contrary to the City's assertion, our Supreme Court did not suggest in that decision that the constitutional rights of our state's citizens can be summarily dismissed on the basis of a legislative enactment. While we agree with the City that the PRA is an important statute, it nevertheless remains merely a statute. *See Freedom Found.*, 178 Wn.2d at 695.

Here, the Does' employer, SPD, did not impose a restriction on the Does' speech. Nor does the speech at issue-the Does' attendance at a political rally and their statements regarding their political views and affiliations-have any impact on their employer's operations. Indeed, any allegation that the Does engaged in conduct contrary to their employer's policies was found to be unsustained.

We decline the City's invitation to contravene United States Supreme Court decisional authority in order to restrict public employee speech in circumstances beyond those in which such speech may interfere with the public employer's operations. Instead, we take the United States Supreme Court at its word that police officers "are not relegated to a watered-down version of constitutional rights." Garrity, 385 U.S. at 500; see also Pickering, 391 U.S. at 568. Similarly, we the Supreme recognize Court's repeated affirmations that "[t]he right to privacy in one's political associations and beliefs will yield only to a 'subordinating interest of the State [that is] compelling,' and then only if there is a 'substantial relation between the information sought and [an] overriding and compelling state interest." Brown, 459 U.S. at 91-92 (second and third \*50 alterations in original) (citation and internal quotations marks omitted) (quoting Sweezy, 354 U.S. at 265; Gibson, 372 U.S. at 546). Accordingly, only if an overriding and compelling state interest exists to impinge the Does' constitutional rights may their identities be disclosed in the requested records. As discussed below, we determine that no such compelling interest exists.

(b)

The scope of the State's interest in public record disclosure-and, thus, whether the City, as a state actor, has a compelling interest in disclosing the Does' identities-is illuminated by the purpose of the PRA's disclosure mandate. "The basic purpose

of the [PRA] is to provide a mechanism by which the public can be assured that its public officials are honest and impartial in the conduct of their public offices." Cowles Publ'g Co., 109 Wn.2d at 719. The statute "ensures the sovereignty of the people and the accountability of the governmental agencies that serve them by providing full access to information concerning the conduct of government." Predisik, 182 Wn.2d at 903. Similarly, our legislature has defined the policy of the PRA as such: "That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society." RCW 42.17A.001(11); see also In re Request of Rosier, 105 Wn.2d 606, 611, 717 P.2d 1353 (1986) (recognizing the policy underlying the statute as "allow[ing] public scrutiny of government, rather \*51 than . . . promot[ing] scrutiny of particular individuals who are unrelated to any governmental operation").

To this end, while the PRA contains a broad mandate for disclosure, our legislature also included in the statute an exemption whereby "[p]ersonal information in files maintained for employees . . . of any public agency" are not subject to disclosure "to the extent that disclosure would violate their right to privacy." RCW 42.56.230(3). This "right to privacy" is "invaded or violated," such that the statutory exemption applies, when disclosure of the information would be "highly offensive to a reasonable person" and is "not of legitimate concern to the public." RCW 42.56.050.

We do not hold that the personal information exemption, RCW 42.56.230(3), a statutory exemption set forth within the PRA, precludes disclosure of the Does' identities in the requested records. Rather, as discussed *supra*, it is the First Amendment to the United States

Constitution that precludes such disclosure, absent an overriding and compelling state interest. Nevertheless, the purpose of the PRA and the scope of its disclosure mandate, as set forth by our legislature and decisional authority interpreting the act, illuminates the state interest here at issue.

The PRA does not define the "right to privacy." Our Supreme Court thus sought to "fill [this] definitional void" by adopting the common law tort definition set forth in the Restatement. Cowles Publ'g Co., 109 Wn.2d at 721 (quoting Hearst Corp. v. Hoppe, 90 Wn.2d 123, 136, 580 P.2d 246 (1978)); see Restatement (Second) of Torts §652D (Am. Law Inst. 1977). Employing this definition, and consistent with the purpose of the PRA, our Supreme Court has deemed significant to the question of privacy whether a public employee's conduct "occurred in the course of public service." Cowles Publ'g Co., 109 Wn.2d at 726. "Instances of misconduct of a police officer while on the job are not private, intimate, personal details of the 52 officer's life," but rather, "are matters \*52 with which the public has a right to concern itself." Cowles Publ'g Co., 109 Wn.2d at 726. Premised on this principle, the court held that "a law enforcement officer's actions while performing his public duties or improper off duty actions in public which bear upon his ability to perform his public office" are not within the ambit of conduct exempt from disclosure due to statutory "personal privacy." Cowles Publ'g Co., 109 Wn.2d at 727.

In addition, in determining whether a public employee's statutory right to privacy is implicated, the distinguished court has between "substantiated" and "unsubstantiated" allegations. "[W]hen a complaint regarding misconduct during the course of public employment is substantiated or results in some sort of discipline, an employee does not have a right to privacy in the complaint." Bellevue John Does 1-11 v. Bellevue Sch. Dist. No. 405, 164 Wn.2d 199, 215, 189 P.3d 139 (2008). However, the court has held that public employees have a statutory right to privacy in their identities in connection with unsubstantiated allegations of sexual misconduct, "because the unsubstantiated allegations are matters concerning [the employees'] private lives." *Bainbridge Island Police Guild*, 172 Wn.2d at 413; *see also Bellevue John Does*, 164 Wn.2d at 215-16. "An unsubstantiated or false accusation," the court reasoned, "is not an action taken by an employee in the course of performing public duties." *Bellevue John Does*, 164 Wn.2d at 215.

Similarly, our Supreme Court has concluded that whether allegations against a public employee are substantiated bears on whether disclosure of the employee's identity is a matter of "legitimate" public concern. \*53 Bainbridge Island Police Guild, 172 Wn.2d at 416; Bellevue John Does, 164 Wn.2d at 221. Thus, consistent with the PRA's purpose to enable the public to oversee governmental agencies, the court determined that the public has no legitimate interest in the identities of public employees against whom unsubstantiated allegations of misconduct were asserted. Bellevue John Does, 164 Wn.2d at 220. This is because, when the allegations are unsubstantiated, precluding disclosure of the employee's identity would "not impede the public's ability to oversee" government investigations into alleged employee misconduct. Bellevue John Does, 164 Wn.2d at 220. Rather, disclosure in such circumstances, the court reasoned, "serve[s] no interest other than gossip and sensation." Bellevue John Does, 164 Wn.2d at 221 (quoting Bellevue John Does 1-11 v. Bellevue Sch. Dist. No. 405, 129 Wn.App. 832, 854, 120 P.3d 616 (2005)).

The state interest in disclosure pursuant to the PRA is to uphold the purpose of the statute-that is, to enable the public to ensure "that its public officials are honest and impartial *in the conduct of their public offices.*" *Cowles Publ'g Co.*, 109 Wn.2d at 719 (emphasis added); *see also* RCW 42.56.030 ("The people insist on remaining informed so that they may maintain control over the instruments that they have created."). To that

end, in the context of defining the scope of statutory exemptions to disclosure, our Supreme Court has determined that disclosure of the identities of public employees is not permitted when (1) the allegations asserted against the employees are unsubstantiated and (2) the conduct did not occur in the course of public service or occur off-duty and impact the performance of public duties. \*54 *Bainbridge Island Police Guild*, 172 Wn.2d at 413; *Bellevue John Does*, 164 Wn.2d at 213-16, 221; *Cowles Publ'g Co.*, 109 Wn.2d at 726. In other words, in such circumstances, the State does not have an interest in disclosing the employees' identities.

Significantly, in those cases, whether disclosure of the public officials' identities was precluded was determined pursuant to statutory exemptions, not premised upon the disclosure's impingement on constitutional First Amendment rights. Thus, the public officials' interests at issue in those cases. not being of constitutional import, were less significant than those presented here, where the Does' First Amendment rights are implicated. Nevertheless, here, as in those cases, the Does' alleged misconduct did not occur in the course of their public duties, and the allegations against the Does were determined to be unsustained.<sup>35</sup> Even when constitutional rights were not implicated by disclosure, those same circumstances have been deemed by our legislature and Supreme Court to fall outside the ambit of the state interest in such disclosure. Thus, here, where the Does' constitutional rights would be impinged by disclosure, the state interest cannot be said to be such disclosure would compelling, that 55 nevertheless be permitted. 36 \*55

We note that, while some of the OPA's findings were "not sustained" because the allegations were determined to be "unfounded," others were unsustained because the investigation as to those findings was deemed to be "inconclusive." However, an "inconclusive" finding remains a finding that the allegations were

- unsustained; it neither constitutes a finding against the officer nor authorizes disciplinary action. Accordingly, we treat the "inconclusive" unsustained findings in the same manner as the "unfounded" unsustained findings.
- <sup>36</sup> Sueoka asserts that the trial court properly determined that the public has a legitimate interest in disclosure of the Does' identities in the requested records because OPA Director Andrew Myerberg may have previously represented one of the Does in a civil rights case. This purported conflict, Sueoka contends, may have undermined the investigation. However, even when only a statutory privacy interest is implicated, Washington courts have held that complete records need not be disclosed for the public interest of government oversight to be achieved. See, e.g., Bainbridge Island Police Guild, 172 Wn.2d at 416 ("Although lacking a legitimate interest in the name of a police officer who is the subject of an unsubstantiated allegation of sexual misconduct, the public does have a legitimate interest in how a police department responds to and investigates such an allegation against an officer."); Bellevue John Does, 164 Wn.2d at 220 ("Precluding disclosure of the identities of teachers who are subjects unsubstantiated allegations will not impede the public's ability to oversee school districts' investigations of alleged teacher misconduct."). Indeed, our Supreme Court has made plain that a public employee's "right to privacy does not depend on the quality of the [public employer's] investigations." Bellevue John Does, 164 Wn.2d at 223. Here, given constitutional right at stake, we hold that the State has no compelling interest in disclosure of the Does' identities for this purpose. Moreover, "[a]n agency should look to the contents of the document and not the knowledge of third parties when deciding if the subject of a report has a

right to privacy in their identity." Bainbridge Island Police Guild, 172 Wn.2d at 414. In Bainbridge Island Police Guild, our Supreme Court held that notwithstanding the fact that some members of the public might know the identity of the individual identified in the records, the agency must nevertheless refuse to disclose those records if an exemption exists. 172 Wn.2d at 414. Otherwise, agencies would be required to "engage in an analysis of not just the contents of the report" but also of outside knowledge regarding the incident described therein. Bainbridge Island Police Guild, 172 Wn.2d at 414. The same logic applies here. Additionally, the City, in evaluating a records request, cannot be charged with presuming the need to disclose individuals' identities investigative records on the chance of potential conflict of interest of the investigator that is not established in the records themselves. Such a presumption would gut the disclosure exemptions of the PRA.

The United States Supreme Court has recognized that "[t]he public is, of course, entitled to be informed concerning the workings of its government. That cannot be inflated into a general power to expose where the predominant result can only be an invasion of the private rights of individuals." *Watkins*, 354 U.S. at 200 (footnote omitted). Here, disclosure of the Does' identities would fulfill only the "impermissible [objective] of exposure for exposure's sake." *Uphaus*, 360 U.S. at 82 (Brennan, J., dissenting).

Based on our legislature's and Supreme Court's delineation of the purpose of the PRA's disclosure mandate, we conclude that the State has no compelling interest in disclosure of the Does' identities in the requested records. Accordingly, because the Does have established a constitutional privacy right that would be impinged by

disclosure, the superior court erred by denying the Does' motion for a preliminary injunction precluding such disclosure.<sup>37</sup> \*56

37 The Does sought a preliminary injunction precluding the disclosure of their identities in the requested records. They did not seek to prevent disclosure of redacted versions of those records. Thus, we do not consider whether the redacted records are subject to disclosure pursuant to the PRA. We do note, however, that once the Does' identities and other identifying information are redacted from the requested records, their constitutional rights are no longer implicated. Accordingly, it is the PRA, not federal constitutional principles, that dictate whether the redacted records may be disclosed. As no party seeks to preclude such disclosure, that issue is not before us. However, we note that, when a constitutional right would not thereby be infringed, the State has an interest in permitting disclosure of public records to enable government oversight, fulfilling the purpose of the PRA. See, e.g., Bainbridge Island Police Guild, 172 Wn.2d at 416 ("Although lacking a legitimate interest in the name of a police officer who is the subject of an unsubstantiated allegation of sexual misconduct, the public does have a legitimate interest in how a police department responds to and investigates such an allegation against an officer."); Bellevue John Does, 164 Wn.2d at 220 ("Precluding disclosure of the identities of teachers who subjects unsubstantiated allegations will not impede the public's ability to oversee school districts' investigations of alleged teacher misconduct."). See also RCW 42.56.210 (requiring disclosure of records when exempted information can be redacted therefrom). "[E]ven though governmental purpose be legitimate and substantial, that purpose cannot be pursued by means that broadly stifle fundamental personal liberties when the end can be more narrowly achieved." *Shelton*, 364 U.S. at 488. Here, the purposes of the PRA are achieved through disclosure of the redacted records.

(c)

We recognize that much of the United States Supreme Court's jurisprudence establishing a constitutional privacy right to anonymity in political belief and association, which is grounded in the First Amendment to the United States Constitution, predates the Court's modern formulation of the strict scrutiny standard applicable to governmental action impinging such rights. See Reed v. Town of Gilbert, Ariz., 576 U.S. 155, 167, 135 S.Ct. 2218, 192 L.Ed.2d 236 (2015) (recognizing that the Court's decision in Button, 371 U.S. 415, "predated [its] more recent formulations of strict scrutiny").<sup>38</sup> However, even applying these "more recent formulations" of the standard, Town of Gilbert, 576 U.S. at 167, the result herein remains unchanged. \*57

> 38 The Court in *Button* held that a Virginia state law purporting to regulate the legal profession unconstitutionally infringed on "the [First Amendment] right of the NAACP and its members and lawyers to associate for the purpose of assisting persons who seek legal redress for infringements of their constitutionally guaranteed and other rights." 371 U.S. at 428. This decision is among those cited by the Court for the proposition that "compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment." Buckley, 424 U.S. at 64 (citing Gibson, 372 U.S. 539; Button, 371 U.S. 415; Bates, 361 U.S. 516; Shelton, 364 U.S. 479; NAACP, 357 U.S. 449).

As demonstrated by the profusion of legislatively enacted exceptions to our state's public records law, there is no compelling government interest in disclosure of the unredacted requested records.

Rather, the constitutionally mandated narrow tailoring here requires precisely the remedy sought by the Does-the redaction of their names and personal identifying information from the requested records prior to disclosure. Thus, we hold that, applying the United States Supreme Court's modern formulation of the strict scrutiny standard, disclosure of the requested records in redacted form serves to protect the First Amendment interests at stake while allowing for the attainment of the government's legitimate interest in disclosure.

The Supreme Court's modern formulation of the strict scrutiny standard, as pertinent here, is articulated in *Citizens United v. Federal Election Commission*, 558 U.S. 310, 130 S.Ct. 876, 175 L.Ed.2d 753 (2010), in which the Court pronounced:

Speech is an essential mechanism for democracy, for it is the means to hold officials accountable to the people. The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it. . . .

For these reasons, political speech must prevail against laws that would suppress it, whether by design or inadvertence. Laws that burden political speech are "subject to strict scrutiny," which requires the Government to prove that the restriction "furthers a compelling interest and is narrowly tailored to achieve that interest."

Citizens United, 558 U.S. at 339-40 (citation omitted) (quoting Fed. Election Comm'n v. Wisconsin Right to Life, Inc., 551 U.S. 449, 464, 127 S.Ct. 2652, 168 L.Ed.2d 329 (2007)).<sup>39</sup> \*58 Thus, the Supreme Court's more recent formulations of the strict scrutiny standard require that government restrictions on protected speech be "narrowly tailored" to achieving the government's compelling interest, a mandate that

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was not explicitly articulated in the Court's previous jurisprudence establishing a First Amendment privacy right in political belief and association. *See*, *e.g.*, *Brown*, 459 U.S. 87; *Gibson*, 372 U.S. 539; *Bates*, 361 U.S. 516; *Shelton*, 364 U.S. 479; *NAACP*, 357 U.S. 449.

<sup>39</sup> We acknowledge that differing levels of scrutiny apply to various claims of infringement on federal constitutional rights. See, e.g., Town of Gilbert, 576 U.S. at 172 (in the context of federal free speech guarantees, distinguishing between those laws subject to strict scrutiny analysis and those "subject to lesser scrutiny"); Progressive Democrats for Soc. Just., 588 F.Supp.3d at 975-76 (describing differing levels of scrutiny in the context of the First and Fourteenth Amendments, including rational basis review and strict scrutiny). However, no party credibly seeks to establish that other such constructs are applicable in this case. We take the United States Supreme Court at its word in Citizens United, 558 U.S. at 340, that the strict scrutiny standard applies in cases such as this.

The *Citizens United* explication of the modern formulation is grounded in the Court's historical jurisprudence and finds its genesis in the Court's statement in *McIntyre* that "[w]hen a law burdens core political speech, we apply 'exacting scrutiny,' and we uphold the restriction only if it is narrowly tailored to serve an overriding state interest." 514 U.S. at 347.

As discussed above, our Supreme Court's decisional authority and the policies animating the PRA lead to the inexorable conclusion that, here, the government has no compelling interest in disclosure of the Does' identities in the requested records. Rather, the government's interest in the disclosure of public records is to uphold the PRA's purpose of enabling the public to ensure "that its public officials are honest and impartial in the conduct of their public offices." *Cowles Publ'g Co.*, 109 Wn.2d at 719. Further evidencing the

absence of a \*59 compelling state interest in total disclosure of all records, our legislature has enacted a plethora of exceptions to the PRA's disclosure mandate-in fact, as of March 2022, there were 632 such legislatively enacted exceptions. Without question, this proliferation of exceptions to the PRA's disclosure mandate renders implausible any argument that a compelling state interest in disclosure of the Does' identities exists here. Rather, the government's interest in disclosure of the requested records inheres only in making public a redacted version of those records.

40 See Appendix A ("Public Records Exemptions Accountability Committee - Sunshine Committee," Schedule of Review, updated March 2022). Original available at https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Schedule%20of%20Review%20Update%20March% 202022.pdf.

When applying the modern strict scrutiny standard, we must ensure that the government's application of the PRA-the state action at issue here-is narrowly tailored to serve its legitimate interest in the disclosure of public records. See Citizens United, 558 U.S. at 340. Such narrow tailoring compels us to identify the "least restrictive alternative" that will achieve the pertinent state interest. Ashcroft v. Am. Civ. Liberties Union, 542 U.S. 656, 666, 124 S.Ct. 2783, 159 L.Ed.2d 690 (2004). "The purpose of [this] test is to ensure that speech is restricted no further than necessary to achieve [government's] goal, for it is important to ensure that legitimate speech is not chilled or punished." Ashcroft, 542 U.S. at 666.

Here, the very remedy sought by the Doesredaction of their names and identifying information from the requested records-is 60 precisely the narrow \*60 tailoring that serves to protect the First Amendment rights at stake while simultaneously allowing for the attainment of the government's legitimate interest in public records disclosure. Thus, applying the United States Supreme Court's more recent formulations of strict scrutiny, which require that governmental action impinging on speech rights be narrowly tailored to serve a compelling state interest, we reach the same conclusion as when applying the Court's earlier jurisprudence. In both circumstances, we conclude that disclosure of the unredacted requested records would unconstitutionally impinge on the Does' federal privacy rights-rights that are grounded in First Amendment guarantees. The government's sole legitimate interest in disclosure here is in making public a redacted version of the requested records that excludes the Does' names and other identifying information.<sup>41</sup>

41 An appropriate grant of such relief, as articulated by the Ninth Circuit Court of Appeals, would preclude the disclosure of "all personally identifying information or information from which a person's identity could be derived with reasonable certainty." *Does 1-10 v. Univ. of Wash.*, 798 Fed.Appx. 1009, 1010 (9th Cir. 2020).

 $\mathbf{C}$ 

Sueoka and the City next assert that, even if the requested records are exempt from disclosure, the Does are nevertheless entitled to a preliminary injunction only if they can additionally demonstrate that they are likely to succeed on the merits of meeting the statutory injunction standard set forth in the PRA. We disagree.

When the disclosure of an individual's identity in public records would impinge a First Amendment right to privacy, the State may not place on that individual an additional burden to vindicate that right. In such a circumstance, \*61 the establishment of the right itself mandates the issuance of an injunction. This is consistent with our Supreme Court's jurisprudence establishing that, when a statutory right precludes disclosure, the individual seeking to vindicate that right must demonstrate not only that an exemption to disclosure applies, but also that the PRA's

injunctive relief standard is satisfied. Mindful as we are that we must, when possible, read statutes to avoid constitutional infirmity, we hold that the PRA does not require that its statutory injunctive relief standard be met when a First Amendment right to privacy precludes the disclosure of public records.

The PRA provides that "[t]he examination of any specific public record may be enjoined if . . . the superior court . . . finds that such examination would clearly not be in the public interest and would substantially and irreparably damage any person, or would substantially and irreparably damage vital governmental functions." RCW 42.56.540. This two-part injunctive relief provision "governs access to a remedy when records are found to fall within an exemption" to the PRA's disclosure mandate. Lyft, 190 Wn.2d at 789 (quoting *PAWS*, 125 Wn.2d at 258). Thus, when a statutory exemption to disclosure is asserted, the trial court may impose an injunction pursuant to RCW 42.56.540 only if the court finds that "a specific exemption applies and that disclosure would not be in the public interest and would substantially and irreparably damage a person or a vital government interest." Soter, 162 Wn.2d at 757.

Our Supreme Court so held in Lyft, 190 Wn.2d 769, wherein the court addressed whether the disclosure of certain public records could be enjoined pursuant to a statutory exemption to the 62 PRA's disclosure mandate. There, the \*62 parties seeking to enjoin disclosure asserted that the records at issue contained trade secrets protected by the federal Uniform Trade Secrets Act (UTSA). chapter 19.108 RCW. Lyft, 190 Wn.2d at 773. Our Supreme Court determined that portions of the public records likely met "the definition of 'trade secrets' under the UTSA." Lyft, 190 Wn.2d at 777, 780-84. The court nevertheless held that disclosure of the records could be enjoined only if the PRA's injunctive relief standard, set forth in RCW 42.56.540, was also satisfied. Lyft, 190 Wn.2d at 773. Thus, our Supreme Court held that

"finding an exemption applies under the PRA does not ipso facto support issuing an injunction." *Lyft*, 190 Wn.2d at 786.

It is on the basis of this decisional authority that Sueoka and the City contend that, in order to obtain the relief that they seek, the Does must demonstrate that they are likely to succeed on the merits of meeting the PRA's two-part statutory injunctive relief standard. However, because disclosure of the Does' identities in the requested records would impinge their First Amendment right to privacy, the argument advanced by Sueoka and the City is untenable. Requiring that parties seeking to vindicate such rights establish not only the First Amendment right itself, but also the requirements of the PRA's injunctive relief standard, would run afoul of the Supremacy Clause of our federal constitution, which mandates that courts "shall' regard the 'Constitution,' and all laws 'made in Pursuance thereof,' as 'the supreme Law of the Land." Armstrong v. Exceptional Child Ctr., Inc., 575 U.S. 320, 324, 135 S.Ct. 1378, 191 L.Ed.2d 471 (2015) (quoting U.S. Const. art. VI, cl. 2).42 We cannot interpret the PRA in a manner 63 \*63 that would render it unconstitutional. Utter ex rel. State v. Bldg. Indus. Ass'n of Wash., 182 Wn.2d 398, 434, 341 P.3d 953 (2015) ("We construe statutes to avoid constitutional doubt."). Nor does this resolution of the issue do so.

#### 42 The Supremacy Clause provides:

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding.

U.S. Const. art. VI, cl. 2.

Rather, we read the PRA as consistent with the federal constitution simply by recognizing the distinction between a legislatively created statutory right and a federal constitutional right. When the state legislature creates a right, such as a statutory exemption from the PRA's disclosure mandate, the legislature may impose conditions on the exercise of that right. This is precisely what the legislature has done in enacting the PRA's injunctive relief standard, RCW 42.56.540. Thus, as our Supreme Court has held, when a statutory right is implicated, a finding that an exemption applies "does not ipso facto support issuing an injunction." Lyft, 190 Wn.2d at 786. Rather, the two-part standard set forth in RCW 42.56.540 must also be satisfied, as the legislature has imposed this statutory condition on the exercise of the statutory right against disclosure.

However, here, the Does' claim of right does not depend upon a statutory exemption, and the disclosure of the unredacted records would not merely impinge a statutory right. Rather, the Does' First Amendment right to privacy in their political beliefs and associations would be impinged. The significance of this distinction is readily apparent. Our state legislature can impose a condition on the exercise of a right created by the legislature itself. 64 However, the \*64 legislature, having created neither the First nor Fourteenth Amendments, cannot condition the exercise of this federal constitutional right on whether the Does can satisfy the statutory injunctive relief standard. Put simply, such a requirement would authorize a state or local government to violate citizens' constitutional rights when they establish the impingement of such rights but are unable to also demonstrate satisfaction of an additional statutory requirement to obtain injunctive relief.<sup>43</sup> The PRA injunction standard cannot serve as a bar to the City's obligation under the Fourteenth Amendment to safeguard the First Amendment rights of Washington citizens in its application of state law. See, e.g., Seattle Times Co., 170 Wn.2d 581 (discussed infra at 9-10).

43 This very absurdity appears to be consistent with the City's understanding of its duty to Washington's citizens. In supplemental briefing, the City asserts that it has no "freestanding obligation to honor" the constitutional rights of our state's citizens. Specifically, the City contends that the third party notice provision set forth in the PRA is the proper means for it address exceptions to disclosure premised on a constitutional right. The City argues, in other words, that it has no obligation to independently honor the constitutional rights of third parties in response to records requests. We do not so hold. When, after receiving notice, an individual seeks injunctive relief premised on a constitutional right, and thereafter establishes both that the right would be impinged by disclosure and that no sufficient interest of the state permits disclosure, the City plainly has obligation under the Fourteenth Amendment not to violate the individual's constitutional right, notwithstanding the PRA's injunction standard. In other words, here, once the constitutional right is established, the City does not have unfettered discretion to either refuse to disclose the records, pursuant to the PRA, or to permit disclosure premised upon the RCW 42.56.540's standard not being met. Such unfettered discretion of government actors to either honor citizens' constitutional rights or refuse to honor such rights is anathema to the constitutional rule of law. The City need not serve as the lawyer for every individual mentioned in requested public records. However, when the constitutional right implicated by disclosure of particular requested records is clear, the City must refuse to disclose the records (or the relevant portions thereof). The City must then defend against any challenge to the action by the records requestor, unless, following notice, the individual whose rights are implicated does not object to disclosure. The City's

supreme obligation is to the federal constitution, not to the state statute. *See* U.S. Const. art. VI, cl.2.

Again, this analysis does not suggest a constitutional infirmity of the PRA. Rather, recognizing the distinction between legislatively created statutory rights and the First Amendment constitutional right implicated here, we note that the \*65 application of RCW 42.56.540 would necessarily mandate the issuance of an injunction. Given the State's paramount interest in affirming the federal constitutional rights of its citizens, disclosure that would impinge the Does' First Amendment right to privacy "would clearly not be in the public interest." RCW 42.56.540. Moreover, because the Does' constitutional rights would be impinged by disclosure of the unredacted records, such disclosure would of necessity "substantially and irreparably damage" the Does. RCW 42.56.540.

Thus, when disclosure is precluded by a First Amendment right to privacy, rather than a statutory exemption, the establishment of that constitutional right does, indeed, ipso facto mandate the issuance of an injunction. The State has no lawful authority to impose an additional requirement on parties seeking to vindicate their constitutional rights in order to trigger its obligations pursuant the Fourteenth Amendment. Because disclosure of the unredacted records would impinge their First Amendment rights, the Does cannot be required to additionally demonstrate satisfaction of an injunctive relief standard in order to obtain the relief they seek, unless that standard is one that is ipso facto satisfied by virtue of the establishment of the First Amendment right. Because the PRA standard is one such standard, the Does have met their burden.44

44 We acknowledge the existence of case law, primarily from lower federal courts, that occasionally applies non-PRA injunctive relief standards. Our Supreme Court has determined that PRA disclosure is regulated by only the PRA injunctive relief standard. *Lyft*, 190 Wn.2d at 784-85.

#### IV

In his cross appeal, Sueoka contends that the trial court erred by denying his motion to "change the case title and bar the use of pseudonyms" in this \*66 litigation. According to Sueoka, Washington's open courts principles, emanating from article I, section 10 of our state constitution, require that the Does litigate this matter using their actual names. We disagree.

In seeking to preclude the disclosure of their identities in the requested records, the Does assert a First Amendment right. Thus, it is federal open courts jurisprudence, which itself derives from the First Amendment, that here applies. Such jurisprudence permits litigants to proceed pseudonymously when the injury litigated against would be incurred as a result of the disclosure of their identities. Herein, that precise outcome would occur were the Does not permitted to litigate using pseudonyms.

Accordingly, we conclude that the trial court did not err in ruling that the Does could proceed in pseudonym in this litigation. For the same reason, we decline to grant Sueoka's request to preclude the use of pseudonyms on appeal.

### A

In these proceedings, both the trial court and our entertained commissioner have repeatedly Sueoka's argument that the Does should not be permitted to litigate pseudonymously. In each instance, they have rejected that argument. First, Sueoka objected to the Does' motion to proceed in pseudonym filed concurrent with their initial complaint for declaratory and injunctive relief. On March 9, 2021, Judge Cahan granted the Does' motion. Prior to so doing, Judge Cahan considered the factors for redaction set forth in Seattle Times Co. v. Ishikawa, 97 Wn.2d 30, 640 P.2d 716 (1982), and made the findings required therein. Judge Cahan also determined that the Does had complied with the \*67 relevant court rules, including General Rule (GR) 15. Three days later, on March 12, 2021, Judge Widlan denied the Does' complaint for injunctive relief, and the Does sought discretionary review.

Sueoka then filed a "motion to change the case title and bar the use of pseudonyms" in this court. He subsequently filed a notice of cross appeal, challenging Judge Cahan's order permitting the Does to litigate in pseudonym. Our commissioner denied Sueoka's motion to change the case title on April 9, 2021. The commissioner explained that there "appear[ed] to be no dispute that Judge Cahan evaluated the *Ishikawa* factors in reaching the March 9, 2021 decision and that no party asked Judge Widlan to revisit [that] order." The commissioner further reasoned that the "substance of Sueoka's motion to change the case title is inextricably tangled up with the merits of his appeal" and concluded that "maintaining the case name adopted by the trial court . . . appears to be necessary to allowing [this court] to reach the merits of this case."

Following transfer of the appeal from Division One to our Supreme Court, and that court's subsequent dismissal of review and remand to the superior court, Sueoka again filed a "motion to change the case title and bar the use of pseudonyms." Sueoka did not therein challenge Judge Cahan's order granting the Does' motion to proceed in pseudonym. Judge Widlan denied Sueoka's motion, reasoning that "the purpose of [the Does'] lawsuit is to procure an injunction to prevent disclosure of their names" and, thus, requiring use of their names in court filings "would effectively prevent them from seeking any relief." \*68

#### В

Washington's open courts jurisprudence derives from article I, section 10 of our state constitution, which requires that "[j]ustice in all cases shall be administered openly, and without unnecessary delay." Wash. Const. art. I, § 10. Because "[t]he openness of our courts 'is of utmost public importance," Washington courts begin "with the presumption of openness when determining whether a court record may be sealed from the public." Hundtofte v. Encarnacion, 181 Wn.2d 1, 7, 330 P.3d 168 (2014) (quoting *Dreiling v. Jain*, 151 Wn.2d 900, 903, 93 P.3d 861 (2004)). Whether redaction implicates article I, section 10's mandate of open access to courts and court documents "depends on application of the experience and logic test." State v. S.J.C., 183 Wn.2d 408, 412, 352 P.3d 749 (2015). When article I, section 10 applies, redaction is permitted only after consideration of the factors set forth in Ishikawa, 97 Wn.2d 30. When our state constitution is not implicated, GR 15 permits the redaction of names in pleadings if the court "enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record." GR 15(c)(2).

In a recent opinion, our Supreme Court reversed a decision of this court wherein we had determined that allowing the plaintiffs to litigate using pseudonyms did not implicate article I, section 10. *John Doe G v. Dep't of Corr.*,190 Wn.2d 185, 191, 410 P.3d 1156 (2018) (citing *John Doe G v. Dep't of Corr.*, 197 Wn.App. 609, 627-28, 391 P.3d 496 (2017)). The Supreme Court therein addressed a privacy right arising from a state statute. The questions \*69 presented were (1) whether special sex offender sentencing alternative evaluations are exempt from disclosure pursuant to statutory exemptions, and (2) whether "pseudonymous litigation was proper in [that] action." *Doe G*, 190 Wn.2d at 189.

On appeal before this court, we had looked to federal open courts jurisprudence for "guidance," recognizing the "parallel rights [to those derived from article I, section 10] under the First Amendment." *Doe G*, 197 Wn.App. at 627. We noted federal court holdings that the use of

pseudonyms is appropriate when "the injury litigated against would be incurred as a result of the disclosure of the plaintiff's identity." Doe G, 197 Wn.App. at 627 (quoting Doe v. Frank, 951 F.2d 320, 324 (11th Cir. 1992)). Based, in part, on this reasoning, we held that "[e]xperience and logic" demonstrated "that allowing [the] plaintiffs to proceed under pseudonyms [did] not implicate article I, section 10 where the public's interest in the plaintiffs' names is minimal and use of those names would chill their ability to seek relief." Doe G, 197 Wn.App. at 628. Thus, we affirmed the trial court's ruling permitting the plaintiffs to litigate using pseudonyms, notwithstanding that the trial court had not applied the *Ishikawa* factors. Doe G, 197 Wn.App. at 624.

Our Supreme Court reversed our decision, holding that "pseudonymous litigation was improper . . . because the trial court did not adhere to the requirements of article I, section 10 . . . and [GR] 15." *Doe G*, 190 Wn.2d at 189. In so holding, the court explained that it had "never used [the] analysis" set forth in the federal appellate court decisions on which we had relied for guidance. \*70 *Doe G*, 190 Wn.2d at 198. Instead, the court held, Washington courts "rely on GR 15 and *Ishikawa*." *Doe G*, 190 Wn.2d at 198.

C

Citing our Supreme Court's decision in *Doe G*, 190 Wn.2d 185, Sueoka contends that Judge Widlan "used the wrong legal standard" in denying his motion to preclude the Does from litigating pseudonymously. However, in so asserting, Sueoka misperceives the issue as one of Washington law. It is not. Accordingly, his argument fails.

<sup>45</sup> Br. of Resp't/Cross Appellant at 69-71.

We note that, if Washington law did apply here, Sueoka's contention would nevertheless be unavailing. As discussed above, Judge Cahan *did* apply GR 15 and the *Ishikawa* factors in ruling that the Does could proceed in pseudonym. Sueoka does

not challenge Judge Cahan's findings, which are, therefore, verities on appeal. *In re Welfare of A.W.*, 182 Wn.2d 689, 711, 344 P.3d 1186 (2015); *see also Doe AA v. King County*, 15 Wn.App. 2d 710, 717, 476 P.3d 1055 (2020) (accepting as true the trial court's *Ishikawa* findings that were unchallenged on appeal). Following Sueoka's subsequent motion seeking, once again, to preclude the Does from litigating in pseudonym, Judge Widlan simply declined to revisit Judge Cahan's earlier ruling.

Unlike in *Doe G*, in this case, the Does assert that disclosure of their identities would impinge a federal constitutional First Amendment right. Preventing the Does from proceeding in pseudonym would preclude their ability to obtain the relief that they seek in this action. In other words, requiring the Does to use their actual names in the case caption would undermine their ability to assert the First Amendment right that they seek to vindicate herein. Such a result would violate the Supremacy Clause, U.S. Const. art. VI, cl. 2, which mandates that we must not "give effect to state laws that conflict with federal laws." Armstrong, 575 U.S. at 324. When parties who assert that disclosure of their identities would violate a federal constitutional right seek to litigate \*71 pseudonymously, it is federal open courts jurisprudence, arising from the First Amendment itself, that we must apply.

This holding is consistent with our Supreme Court's decision in *Doe G*, 190 Wn.2d 185. There, the litigants seeking to use pseudonyms asserted that disclosure of their identities in the requested records was precluded by *statutory rights* arising from *statutory exemptions*, including an exemption enumerated within the PRA itself. *Doe G*, 190 Wn.2d at 189. Thus, our Supreme Court properly held that Washington's open courts jurisprudence applied and that we had erred by importing federal case law into Washington law. *Doe G*, 190 Wn.2d at 189, 198.

Here, however, the Supremacy Clause requires that First Amendment jurisprudence be applied, both as to the constitutional right at issue-whether disclosure of the Does' identities in the requested records would violate a constitutional privacy right-and as to the question of whether the Does may use pseudonyms in seeking to vindicate that right. Accordingly, because the Does assert an exemption from disclosure premised on a federal constitutional right, rather than a statutory exemption, the application of federal open courts jurisprudence does not conflict with our Supreme Court's decision in *Doe G* but does comport with the requirements of the Supremacy Clause.

Federal courts have made clear that "[p]ublic access [to plaintiffs' names in a lawsuit] is more than a customary procedural formality; First Amendment guarantees are implicated when a court decides to restrict public scrutiny of judicial proceedings." Doe v. Stegall, 653 F.2d 180, 185 72 (5th Cir. 1981); see also \*72 Roe II v. Aware Woman Ctr. for Choice, Inc., 253 F.3d 678, 688 (11th Cir. 2001) (Hill, J., concurrence in part). When federal law applies, "[t]he ultimate test for permitting a plaintiff to proceed anonymously is whether the plaintiff has a substantial privacy right which outweighs the 'customary and constitutionally-embedded presumption of openness in judicial proceedings." Frank, 951 F.2d at 323 (quoting *Stegall*, 653 F.2d at 186). "A plaintiff should be permitted to proceed anonymously only in those exceptional cases involving matters of a highly sensitive and personal nature, real danger of physical harm, or where the injury litigated against would be incurred as a result of the disclosure of the plaintiff's identity." Frank, 951 F.2d at 324 (emphasis added).

Thus, the First Amendment both confers privacy rights in political speech and also, in the standard regulating when a party can proceed in pseudonym, provides that these substantive rights cannot be extinguished merely because a party seeks to vindicate them. In other words, it

provides that concerns about public access to the courts cannot be applied to the detriment of First Amendment rights under federal law, such that the vindication of constitutional rights would be improperly conditioned on disclosure. In this action, the "injury \*73 litigated against" is disclosure of the Does' identities in the requested records. Were the Does not permitted to litigate pseudonymously, the very injury they seek to litigate against would be incurred. Pursuant to federal open courts jurisprudence, in this circumstance, "the almost universal practice of disclosure must give way . . . to the privacy interests at stake." *Stegall*, 653 F.2d at 186.

<sup>47</sup> In *NAACP*, 357 U.S. at 459-60, the United States Supreme Court relied on this principle-that federal law not be applied in a manner that precludes the vindication of individuals' constitutional rights to privacyin holding that the plaintiff organization had standing to assert the rights of its members. The Court held that the general principle that parties must assert only those constitutional rights "which are personal to themselves" is "not disrespected where constitutional rights of persons who are not immediately before the Court could not be effectively vindicated except through an appropriate representative before the Court." NAACP, 357 U.S. at 459. There, the NAACP challenged a court order mandating disclosure of its membership lists to the Alabama Attorney General, asserting that such disclosure would violate its members' constitutional privacy rights. NAACP, 357 U.S. at 451, 458. The Court held that the "right [was] properly assertable by the [NAACP]," reasoning that "[t]o require that [the constitutional right] be claimed by the [NAACP's] members themselves would result in nullification of the right at the very moment of its assertion." NAACP, 357 U.S. at 459. See also Pollard, 283 F.Supp. At 256 (recognizing "recent Supreme Court decisions establish[ing] organization made up of private individuals

has standing to protect those individuals from unwarranted invasions of government of their rights of association and privacy guaranteed by the First and Fourteenth Amendments"). Similarly, here, the Does would be precluded from vindicating their constitutional rights were they unable to litigate pseudonymously. First Amendment open courts jurisprudence prohibits disclosure in such circumstances. *Frank*, 951 F.2d at 324.

In summary, the Supremacy Clause prohibits the application of state open courts jurisprudence to a pending First Amendment claim when such application would cause the injury litigated against to be incurred, as federal open courts principles, arising as they do from the First Amendment itself, would not mandate the disclosure of the parties' names in that circumstance. If the Does ultimately prevail, they would be entitled to full protection of their First Amendment rights against the government-here, protection against disclosure of their identities within the requested records. State constitutional open courts provisions cannot be applied in contravention of First Amendment iurisprudence in a manner that frustrates protection of the citizen's federal constitutional rights.

Accordingly, we hold that the Does must be permitted to use pseudonyms in this action. The trial court did not err by so ruling. We additionally deny Sueoka's request that we change the case title in this appeal to require it to include the Does' actual names. \*74

D

The Does seek herein to vindicate rights enshrined in the federal constitution. Thus, applying the open courts principles arising from article I, section 10 of our state constitution to determine whether the Does may be permitted to litigate in pseudonym would contravene the Supremacy Clause's mandate of state law supersession. Accordingly, as discussed above, we must apply

federal law to this question. We nevertheless note that application of Washington open courts law would dictate the same resolution of this issue.

Again, this is due to the Supremacy Clause's mandate that we not give effect to state laws that conflict with federal laws. Precluding the Does from litigating in pseudonym pursuant to article I, section 10 would itself be a state action that would compel the disclosure of the Does' individual political beliefs and associations. Indeed, application by Washington courts of our state constitution is itself a state action. Thus, only by demonstrating that the disclosure of the Does' identities "furthers a compelling interest and is narrowly tailored to achieve that interest," Citizens United, 558 U.S. at 340 (quoting Fed. Election Comm'n, 551 U.S. at 464), could a Washington court require such disclosure when a party seeking to litigate in pseudonym asserts a federal First Amendment claim. Washington courts, too, are subject to the Supremacy Clause's mandate.

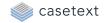
Here, as we have discussed, there is no compelling state interest in the disclosure of the Does' identities in the requested records. Similarly, there is no compelling state interest in requiring that the Does litigate using their actual \*75 names. Given the profusion of exceptions to the disclosure mandate, this conclusion is inescapable. Our state law currently includes 632 legislatively created exceptions to the PRA's disclosure mandate. *See* Appendix A. This proliferation of exceptions undoubtedly demonstrates the absence of a compelling state interest in the disclosure of the Does' identities here.

Moreover, neither our legislature nor our Supreme Court, in permitting broad categories of persons to retain their anonymity in court records, has engaged in the particularized analysis that would be required if the disclosure of those persons' identities implicated a compelling state interest. For instance, our legislature has determined that individuals are automatically entitled to

anonymity in certain court records, including records regarding adoptions, RCW 26.33.330; confidential name changes, RCW 4.24.130(5); child victims of sexual assault, RCW 10.52.100; juvenile nonoffender records, such as juvenile dependencies, parental terminations, and truancy, at risk youth, and child in need of services cases, RCW 13.50.100; juvenile offender records, RCW 13.50.050; mental illness commitments, RCW 71.05.620; and mental illness commitments of minors, RCW 71.34.335.

Similarly, by both court rule and order, Washington courts have deemed certain categories of persons to be exempt from the general mandate that court records include the actual names of the litigants. Washington court rule General Rule 15. consistent with article I, section 10 of our state constitution, "preserves a long-established principle that the complete names of parties are to be listed with the actions to which they are parties," subject to "carefully delimited" 76 exceptions. \*76 Hundtofte, 181 Wn.2d at 16 (Madsen, C.J., concurring). These exceptions, however, are not based on a particularized analysis of each case. Rather, like the legislative enactments discussed above, they exempt litigants in broad categories of cases from the disclosure mandate. For instance, in adopting Rule of Appellate Procedure (RAP) 3.4, our Supreme Court has determined that all juvenile offenders are entitled to anonymity in court records. 48 By order, the Washington Court of Appeals has similarly required that case titles in certain appeals-including those regarding adoption, civil commitment, dependency, termination of parental rights, truancy, at risk youth, child in need of services, and juvenile offender-use the parties' initials rather than their full names. Gen. Ord. for the Ct. of Appeals, In re Changes to Case Title (Wash.Ct.App. Aug. 22, 2018) (effective Sept. 1, 2018).

48 RAP 3.4 provides:



In a juvenile offender case, the parties shall caption the case using the juvenile's initials. The parties shall refer to the juvenile by his or her initials throughout all briefing and pleadings filed in the appellate court, and shall refer to any related individuals in such a way as to not disclose the juvenile's identity. However, the trial court record need not be redacted to eliminate references to the juvenile's identity.

Thus, neither our state legislature nor Washington courts, in adopting exceptions to our state open courts law, have deemed it necessary to conduct a particularized case-by-case analysis prior to permitting the redaction of parties' names in court records. Instead, whether by legislative enactment, court rule, or court order, our state has exempted broad categories of persons from the general disclosure requirement. Certainly, such broad exemptions do not indicate the narrow tailoring that would be necessary were the state interest in the disclosure of litigants' actual compelling. Thus, by exempting broad \*77 swaths of persons from article I, section 10's open courts mandate, both the Washington legislature and Washington courts have impliedly indicated that the state interest in disclosure of litigants' actual names is not a compelling one.

The Supremacy Clause prohibits the application of state open courts jurisprudence when, as here, the right asserted is established by the federal First Amendment. Nevertheless, even were we to apply Washington law to the question of whether the Does may litigate in pseudonym, we would reach the same conclusion-that not only "may" they so litigate, but that the federal constitution demands they be permitted to do so. Such a determination by a Washington court is, itself, state action. The broad exemptions to the open courts mandate, both enacted by our legislature and adopted by our

courts, demonstrate that the state interest in the disclosure of individuals' actual names in court records is not a compelling one. Absent such an interest, and given the Does' First Amendment right to anonymity in political belief and association, we cannot require the Does to litigate using their actual names here.

V

A

All members of the panel have taken an oath to "support the Constitution of the United States." RCW 2.06.085. Each panel member views the methods of analyses employed herein and the decisions reached as being in accord with this oath

Nevertheless, we are aware of the cultural and political tenor of our times. This includes an awareness that many Americans despair that judicial decisions \*78 have become result-oriented to achieve political ends. To disabuse those so inclined from defaulting to such a judgment concerning this opinion, and to assure the general public that its appellate court exists in a reality-based environment, we choose to acknowledge several of the pertinent facts that underlie the dispute at issue.

1

## The 2020 Presidential Election

1. Joseph R. Biden, Jr. won the 2020 presidential election, receiving 81,283,501 popular votes.<sup>49</sup> Donald J. Trump lost the 2020 presidential election, receiving 74,223,975 popular votes.<sup>50</sup> Biden received 7,059,526 more votes than did Trump.

49 U.S. Fed. Election Comm'n, Federal Elections 2020: Election Results for the U.S. President, the U.S. Senate, and the U.S. House of Representatives 5 (Oct. 2022), at 5, https://www.fec.gov/resources/cmscontent/documents/federalelections2020.pd f[https://perma.cc/5XDB-2XJA]

- <sup>50</sup> Federal Elections 2020, *supra*, at 5.
- 2. Biden's popular vote total was the largest ever received by a candidate for President of the United States.<sup>51</sup>
  - 51 Domenico Montanaro, President-Elect Joe Biden Hits 80 Million Votes in Year Of Record Turnout, Nat'l Pub. Radio (Nov. 25, 2020), https://www.npr.org/2020/11/25/937248659 /president-elect-biden-hits-80-millionvotes-in-year-of-record-turnout [https://perma.cc/4FZS-AWKK].
- 3. Biden received 51.3 percent of the popular vote.<sup>52</sup> This was the highest percentage of the popular vote attained by a challenger to a sitting president since 1932, when Franklin Roosevelt 79 defeated Herbert Hoover.<sup>53</sup> \*79
  - 52 Federal Elections 2020, supra, at 5.
  - 53 Presidential Election Margin of Victory, Am. Presidency Project (Mar. 7, 2020), https://www.presidency.ucsb.edu/statistics/ data/presidential-election-mandates [https://perma.cc/9MJG-RAHE]; Share of Electoral College and Popular Votes from Each Winning Candidate, in All United States Presidential Elections from 1789 to 2020, Statista (Dec. 2020), https://www.statista.com/statistics/1034688 /share-electoral-popular-votes-eachpresident-since-1789 [https://perma.cc/B5SE-NLLY].
  - 4. Biden earned 306 electoral votes. Trump earned 232.<sup>54</sup> In 2016, Trump earned 306 electoral votes, while Hillary Clinton earned 232.<sup>55</sup> Thus, Biden defeated Trump by the same Electoral College margin as Trump defeated Clinton.

55 2016 Presidential Election Results, N.Y. Times (Aug. 19, 2017, 9:00 AM), www.nytimes.com/elections/2016/results/pr esident.

2

The Rally on January 6, 2021

1. A "Stop the Steal" rally was held on January 6, 2021 on public property in the District of Columbia. Various permits were sought and obtained, authorizing use of the public property.<sup>56</sup>

56 See note 13, supra.

2. The theme of the rally was that the election had been "stolen" from Donald Trump. Thus, Trump and rally organizers urged, Congress should not finalize Biden's victory by certifying the Electoral College results (as the law required).<sup>57</sup>

57 H.R. Rep. No. 117-663, at 231-33, 499-502 (2022), https://www.govinfo.gov/content/pkg/GPO-J6-REPORT/pdf/GPO-J6-REPORT.pdf [https://perma.cc/UH8B-ZQ7D].

3. Trump, the sitting president, spoke at the rally.<sup>58</sup>

<sup>58</sup> H.R. Rep. No. 117-663, at 231-33.

3

The Insurrection at the Capitol

 As the rally ended, a civil disturbance began at the Capitol. Hundreds of persons illegally broke through security lines and eventually into the Capitol \*80 Building.<sup>59</sup>

59 Audrey Kurth Cronin, The Capitol Has Been Breached Before: This Time It Was Different, Am. Univ. Sch. of Int'l Serv. (Feb. 9, 2021), https://www.american.edu/sis/centers/security-technology/the-capitol-has-been-attacked-before-this-time-it-was-different.cfm [https://perma.cc/Y4NJ-7GE3]. See discussion H.R. Rep. No. 117-663, at 637-88.

<sup>&</sup>lt;sup>54</sup> Federal Elections 2020, *supra*, at 7.

- 2. Both the House of Representatives and the Senate were forced to adjourn and flee to safety.<sup>60</sup>
  - 60 H.R. Rep. No. 117-663, at 664-66.
- 3. In the riotous melee that ensued over 140 law enforcement officers were injured.<sup>61</sup> According to a U.S. Senate report, seven deaths were attributed to the violence that took place.<sup>62</sup>
  - 61 Comm. on Homeland Sec. & Governmental Affairs & Comm. on Rules & Admin., U.S. Senate, Examining the U.S. Capitol Attack: A Review of the Security, Planning, and Response Failures on January 6, at 33 (June 2021), https://www.rules.senate.gov/imo/media/doc/Jan%206%20HSGAC%20Rules%20Report.pdf [https://perma.cc/DL5Q-5XT3].
  - 62 Examining the U.S. Capitol Attack, *supra*, at 1.
- 4. The common goal of the rioters was to keep Congress from performing its lawful function-certification of Biden's presidential election victory. Some rioters, including those who chanted "Hang Mike Pence," had other goals, such as the killing or kidnapping of members of Congress. Congress.
  - 63 Examining the U.S. Capitol Attack, *supra*, at 1.
  - 64 H.R. Rep. No. 117-663, at 37-39; Cronin, supra.
- 5. For the first time since the War of 1812, the
   United States government lost physical control of
   the Capitol Building to a group of attackers.<sup>65</sup> \*81
  - 65 Cronin, supra; Amanda Holpuch, US Capitol's Last Breach Was More Than 200 Years Ago, Guardian (Jan. 6, 2021, 7:59 PM), https://www.theguardian.com/usnews/2021/jan/06/us-capitol-buildingwashington-history-breach [https://perma.cc/RU25-E3LP]; Amy Sherman, A History of Breaches and Violence at the U.S. Capitol, PolitiFact

- (Jan. 6, 2021), https://www.politifact.com/article/2021/jan/07/history-breaches-and-violence-us-capitol/[https://perma.cc/8A7C-5L2H].
- 6. Over 1,000 persons have been charged with crimes premised on actions occurring at the Capitol on January 6, 2021.<sup>66</sup> Over 630 have, to date, pleaded guilty or been found guilty after trial.<sup>67</sup>
  - 66 The Jan. 6 Attack: The Cases Behind the Biggest Criminal Investigation in U.S. History, Nat'l Pub. Radio (May 12, 2023, 5:25 PM), https://www.npr.org/2021/02/09/96547204 9/the-capitol-siege-the-arrested-and-theirstories [https://perma.cc/S38K-B8DK].
  - 67 The Jan. 6 Attack: The Cases Behind the Biggest Criminal Investigation in U.S. History, supra.
- 7. Many of the insurrectionists belonged to groups espousing white supremacist views. Others of the rioters, while not group members, were shown to possess such views.<sup>68</sup>
  - 68 See discussion H.R. Rep. No. 117-663, at 499-576; Sabrina Tavernise & Matthew Rosenberg, These Are the Rioters Who Stormed the Nation's Capitol, N.Y. Times 12, 2021), (May https://www.nytimes.com/2021/01/07/us/na mes-of-rioters-capitol.html; Deena Zaru, The Symbols of Hate and Far-Right Extremism on Display in Pro-Trump Capitol Siege, ABC News (Jan. 14, 2021, 2:01 AM), https://www.abcnewsgo.com/us/symbolshate-extremism-display-pro-trump-captiolsiege/story?id=75177671 [https://perma.cc/3T4R-2JRL]; Matthew Rosenberg & Ainara Tiefenthäler, Decoding the Far-Right Symbols at the Capitol Riot, N.Y. Times (Jan. 13, 2021), https://www.nytimes.com/2021/01/13/video /extremist-signs-symbols-capitol-riot.html.

Given all of these facts, it is easy to understand the concerns motivating the City and the requesters. Nevertheless, our duty to the United States Constitution, and the Constitution's embrace and protection of a right to anonymity in political activity, lead us to the decisions we announce today.

## В

The trial court's denial of the Does' motion for a preliminary injunction is reversed and remanded.

The trial court's issuance of a temporary restraining order is affirmed.

The trial court's order denying Sueoka's motion to preclude the Does' use of pseudonyms is affirmed.
\*82 Sueoka's motion to change the case title is denied.

Affirmed in part, reversed in part, and remanded.

83 \*83

## APPENDIX A

Public Records Exemptions Accountability Committee - Sunshine Committee

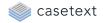
Schedule of Review - Updated March 2022

"Legislation" = bills with Committee recommendations + other bills related to Committee recommendations (+ some related bills where the Legislature independently introduced legislation)

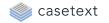
## Category RCW (thru Description 2012)

1	Agriculture	42.56.380(6)	Information on individua American ginseng growers of dealers
2	Personal Information -Research Data/Health Care	42.56.360(1) (f); [now (3) (a)]	
3	Personal Information -Research Data/Health Care	70.05.170	Medical records collected by a local department of health in the course of conducting a child mortality

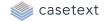
review



4	4 Legislative 42.56.010(2) Records [now (3)]		Definition of "public records" for the senar and the house are limited to definition of legislative records	DI te Se tc	7	Agriculture	42.56.380(2); 15.54.362	Information regarding business operations contained ir reports or commercial fertilizer
			records ir RCW 40.14.100 and budget personnel, travel records and certair reports. [Definition]	8	Agriculture	42.56.380(3)	boards and	
5	Personal Information -Public Employment	42.56.250(2)	Applications for publications employment including names, resumes	ic	9	Agriculture	42.56.380(4)	commissions (Relates to exemptions in 10 commission statutes)  Consignment information contained or phytosanitary certificates
6	Agriculture	42.56.380(1); 15.86.110	Business records the department of agriculture obtains regarding organic foot products	r€				issued by the department of agriculture



Financial and Financial commercial statements information provided to and records the held by the department department of agriculture 12 Agriculture 42.56.380(8) for purposes of agriculture for potentia of obtaining establishmen public livestock of г 10 Agriculture 42.56.380(5) commodity market board license **O**1 commission (Voluntary) regarding National domestic oi animal export identification marketing 13 Agriculture 42.56.380(9) systems -herc activities or inventory individual mgmt., production animal information disease Identifiable information \*84 collected by department of agriculture regarding packers 11 Agriculture 42.56.380(7) shippers o fruits anc vegetables for purposes of inspections and certification



84

Category RCW	Descriț	17 Agriculture 15.49.370(8)	Seeds: operation product informa
14 Agriculture 42.56.380(10);16	Animal 5.36 disease reportin	18 Agriculture 15.53.9018	Comme Feed r reports
15 Agriculture 42.56.270(17)	Farm that volunta develor with conserv district assistan	19 Agriculture 15.58.060(1)(c)	Washin Pesticic Control Busines informa a pro nature regardin pesticid formula
	Livesto nutrient manage informa Certain informa obtaine state ar agencie	20 Agriculture 15.58.065(2)	Washin Pesticic Control Privileg confide comme financia informa trade re: pest
16 Agriculture 42.56.610	dairies, feeding operatic requirec apply nationa pollutar discharg elimina system disclose only in that meanin informa public	21 Agriculture 15.65.510	Informa regardin agricult marketi agreem (includi from noncon hearing



	Busines related informa obtaine the dep of agr regardii entities certifies	25 Agriculture 22.09.045(7)	Financi informa provide applical a grain license departn agricult
22 Agriculture 15.86.110	handle process organic transitic food, entities applyin such certifica	26 Agriculture 43.23.270	Financi comme informa obtaine the dep of agr for market develor projects
23 Agriculture 17.24.061(2)	Insect 1 Plant I (includi trade se comme financia informa obtaine departn	27 Personal 1 28C.18.020 Information	List nomine director work training education board elimina
	agricult regardin insect noxious weeds, organis: affectin life	Personal 79A.25.150 Information	Names candida director interage commit outdoor recreati [Later
24 Agriculture 22.09.040(9)	Financi informa provide applical a wa license departn agricult	*85	elimina

85

Category  Personal Information	RCW 43.33A.025(2)	State investmen board criminal history record checks finalists f board positions	Personal Information	42.56.230(1)& (2)	Personal informatio in files f students public schools, patients clients public institution or publ health agencies, welfare programs
Personal Information: Employment and Licensing	42.56.250(4)	Address, phone numbers, email addresses, SSNs, drivers' license numbers, identicard numbers, payroll deductions and emergency contact informatio of publ employees or volunteers held l public	Public 32 Utilities & Transportation	& 42.56.330(3) n	(1); childre in liste programs (2)  Personal informatio in vanpoe carpool, ride-share programs



				,	
Public 33 Utilities Transportatio	& 42.56.330(4) n	Personal informatio of curre or form participant or applicants in trans services operated f those wi disabilities or elder	Misc. 36 Government Functions	42.56.290	Agency records relevant to controvers but which would not be availabed to anoth party und the rules pretrial discovery for caus
Personal Information	41.04.364 (repealed) 41.04.362 also see 42.56.360(1) (j) (same)	Personally identifiabl informatio in sta employee wellness program			pending the superi courts

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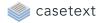
35 Utilities

Transportation

identifies	
person wh while agency employee: employing agency, order ascertain h or her righ in employing agency, order ascertain h or her righ in employing information this or h identity any identifying information employing agency.  Personal 42.56.250(6)  138 Personal Information  42.56.250(5)  142.56.250(5)  150 Personal Information  160 Person; an any identifying information employing agency.  150 Personal Information  150 Personal Informatio	s led by ying y cting t igation possipace chap RCW possipon fede or le itting mination by ee t mation ted free yers surnation ee

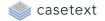
86 \*86

Personal	42.56.230(3 (formerly	Personal information files employees, appointees, elected	Public 43 Utilities & 42.56.330(8) Transportation	Personally identifying information an ID card to contains a c to facility border crossing.
Information	(2))	officials disclosure would vio their right privacy	Public 44 Utilities & 42.56.330(2 Transportation	Residential addresses ) phone numbin public utinecords
Court Proceedings	13.34.100	Background information regarding court appoir guardian litem.	Public 45 Utilities & 42.56.330(6) Transportation	Information obtained government agencies collected the use of motor car intelligent transportatic system comparable information equipment
Public 42 Utilities & Transportatio		Personally identifying information persons v use  7) transponders and ot technology facilitate payment tolls	Public 46 Utilities & 42.56.335 Transportation	Records of a person belonging to public utility district municipality owned electrical utility



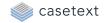
	Public 47 Utilities & 42.56.330(1) Transportation	Valuable commercial information, trade secr etc. supplied the utilities transportatio commission	51 Insurance & 48.102.030 Financial Inst.	Insurance viatical settlement broker recc which may required examined the insura
87	Public 48 Utilities & 80.04.095 Transportation	Utility recc filed v utilities transportatic commission containing valuable commercial information	*87	commission [later repeal
	49 Insurance & 42.56.400(2) Financial Inst.	Information obtained exempted the health c authority that transferred 2) facilitate developmen acquisition, implementat of s purchased health care		
	Insurance & 42.56.400(3) Financial Inst.	Names individuals 3) life insura policy settlements		

Category RCW  Insurance 52 & 42.56.400(4)	Description  Insurance antifraud plans	Insurance  57 & 42.56.400(8)  Financial Inst.	Information obtained by the insurance commissioner relating to market conduct examinations
Inst.  Insurance  \$\frac{\&}{\text{Financial}} 48.30\text{A.060}  Inst.	Insurance company antifraud plans submitted to the insurance commissioner	Insurance 58 & 42.56.400(12) Inst.	Documents obtained by the insurance commissioner to perform market conduct examinations. Report is disclosable
Insurance 54 & 42.56.400(5) Financial Inst.	Insurers' reports on material acquisitions and disposition of assets, etc. filed with the insurance commission	Insurance 59 & 42.56.400(13) Inst.	under RCW 48.37.060.  Confidential and privileged documents
Insurance 55 & 42.56.400(7) Inst.	Information provided to the insurance commissioner regarding service contract providers  Monthly	Insurance  60 & 42.56.400(14)  Financial Inst.	Information provided to the insurance commissioner by insurance company employees asserting market conduct
Insurance 56 & 48.110.040(3) Financial Inst.	financial reports made by service	Insurance 61 & 48.37.080 Financial Inst.	violations  Documents related to insurance commissioner's market conduct examination



Insurance 62 & 42.56.400(9) Financial Inst.	regarding health carrier holding	Insurance 67 & 48.17.595(6) Inst.	Information obtained by insurance commissioner in investigation of misconduct by agent/broker
Insurance  63 & 42.56.400(10)  Financial Inst.	Data filed with the insurance commissioner that reveals identity of claimant, provider, or insurer	Insurance  8 & 42.56.403  Financial Inst.	Documents that provide background for actuarial opinion filed with insurance commissioner  i oimulas, statistics,
Insurance  64 & 42.56.400(11)  Financial Inst.	Documents obtained by insurance commissioner relating to insurance fraud	Insurance 69 & 48.02.120 Financial Inst.	assumptions, etc. used by insurance companies to create rates; such information
Insurance  65 & 48.135.060  Inst.  Insurance  66 & 42.56.400(15)  Inst.	Documents obtained by insurance commissioner relating to insurance fraud  Documents obtained by insurance commissioner regarding misconduct by agent/broker	Insurance 70 & 48.05.385(2) Financial Inst.	that is submitted to the insurance  Statement of actuarial opinion is a public record. Documents that provide background for statement of actuarial opinion filed with insurance commissioner are exempt

88 \*88

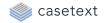


Category  Insurance  71 & Financial	<b>RCW</b> 48.03.040(6) (a)	Description  Examinations and investigations by sta	Insurance 76 & Financial Inst.	48.21.330	Proof nonresident pharmacy licensure use by insurance companies provide dru to residents
Inst.  Insurance 72 & Financial Inst.	48.03.050	insurance commissioner  Examinations and investigations by sta insurance commissioner	Insurance 77 & Financial Inst.		Proof nonresident pharmacy licensure use by insurance companies provide dru to residents
Insurance & Financial Inst.	48.05.465	Insurance companies richased capit (RBC) report and plans  Insurance	Insurance 78 & Financial Inst.	48.46.540	Proof nonresident pharmacy licensure usa by insuran companies provide dru to residents
Insurance 74 & Financial Inst.	48.43.335(1)	companies risbased capit (RBC) report and plant (should not bused compare insurance companies at are therefo confidential)	Insurance 79 & Financial Inst.	48.31B.015(2) (b)	Source consideration (identity of tl
Insurance 75 & Financial Inst.	48.20.530	Proof nonresident pharmacy licensure use by insurance companies provide dru to residents	Insurance 80 & Financial Inst. 81 Placeholde	48.62.101(2)	government self-insurance liability reserve funds

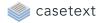
Insurance & Financial Inst.	48.94.010(5)	Summary reasoning f insurance commissione refusal to issi reinsurance intermediary license	;	Insurance & S5 Financial	70.149.090	Business an proprietary information insurers obtained by tl director of tl Washington state pollution liability
Insurance & 83 Financial Inst.	48.130.070	Records of tl interstate insurance product regulation compact involving privacy		Inst.		insurance agency, provide insurance owners heating tanks
		individuals at insurers' tracesecrets  Examination and proprieta records potential insurers obtained by the insurers obtained by the insurers insurers are insurers.	\$	Insurance & Financial Inst.	42.56.400(6)	Examination reports are information obtained by the department financial institutions from banking institutions
Insurance & & Financial Inst.	70.148.060(1)	director of tl Washington	•	Insurance & Financial Inst.	21.20.855	Reports an information from department financial services examinations
		reinsurance f owners underground storage tanks	•	Insurance & & Financial Inst.	30.04.075(1)	Information obtained by tl director financial institutions when examining banks and tru comnanies

		Insurance 89 & Financial	30.04.230(4) (a)	investigations		Category	RCW	Description
89	*89	Inst.		of out of sta banks	90	Insurance & Financia Inst.	131.12.565(1)	Examination reports and information obtained by the director of financial institutions while examining credit unions
					91	Insurance & Financia Inst.	132.04.220(1)	Information from examinations of mutual savings bmkr
					92	Insurance & Financia Inst.	133.04.110(1)	Information from examinations of savings and loan associations
					93	Insurance & Financia Inst.	132.32.228(3)	Findings disapproving conversion from mutual savings bank to capital stock savings bank

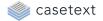
Insurance 94 & Financial 32.32.275 Inst.	Information applicants deem confidential relating to conversion of mutual savings bank to capital stock savings bank	Insurance 99 & Financial (d) Inst.	Name of lender financing the acquisition of a savings and loan, if requested by the applicant Personal information
Insurance 95 & Financial 7.88.020 Inst.	Financial institution compliance review documents Information	Insurance 100 & Financial 42.56.450 Inst.	on check cashers and sellers licensing applications and small loan
Insurance 96 & Financial 9A.82.170 Inst.	obtained from a financial institution's records pursuant to subpoena under the criminal profiteering act	Insurance 101 & Financial 31.35.070 Inst.  Insurance 102 & Financial 31.45.030(3)	endorsements  Reports on examinations of agricultural lenders  Addresses and phone numbers and trade secrets
Insurance 97 & Financial 21.30.855 Inst.	Reports and information from department of financial services examinations	Inst.	of applicants of a check casher or seller license
Insurance 98 & Financial 30.04.410(3 Inst.	Findings related to ) disapprovals of bank acquisitions		



Insurance 103 & Financial 31.45.077(2 Inst.	Addresses, phone numbers and trade secrets of applicants for a small loan endorsement to a check cashers or sellers license	L&I- 107 Injured 51.36.110( workers	Information (including patients' confidential information) obtained in audits of health care providers under industrial insurance
Insurance 104 & Financial 31.45.090 Inst.	Trade secrets supplied by licensed check cashers and sellers as part of the annual report to director of financial institutions	Personal 42.56.230( Information (3))	other financial information,
L&I- 105 Injured 51.16.070(2 workers	Information in employer's records obtained by 2) labor & industries under industrial insurance	Personal 42.56.2300 Information	violate
L&I- 106 Injured 51.28.070 workers	Information and records of injured workers contained in industrial insurance claim files	*90	taxpayers right of privacy



Category	RCW	<b>Descriptio</b> Personal financial	L&I-Injured workers	49.17.210	Identificati of employe employee labor industries studies
Personal 110 Information	42.56.230(5)	information related to small loan	L&I-Injured 115 workers	49.17.250(3)	Info obtains by labor industries in employer-requested consultation reduced in the safety health act-
Personal 111 Information	42.56.230(6)	Personal information required apply for driver's lica or identical	L&I-Injured 116 workers	49.17.260	Labor industries investigativ reports
L&I-Injured workers	49.17.080(1)	Name employee company seeking industrial safety health act	I & I-Injured	51.36.120	industrial catastrophe Financial valuable trinfo f health providers
113 L&I-Injured workers	49.17.200	Trade sec reported labor industries under Washington industrial safety health act	L&I-Injured 118 workers	42.56.400(1)	Board industrial insurance records pertaining appeals crime vict compensati claims



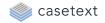
119 <sup>Fish</sup> Wildlife	& 42.56.430 (1)	Commercia fishing c data provi to department fish wildlife would resu unfair competitive disadvanta	Employment 123 and Licensing		Test questi scoring k and o exam information used licenses, employmen or academi
120 <sup>Fish</sup> Wildlife	& <sub>42.56.430</sub> (2)	Sensitive wildlife obtained the departn	Personal 124 Information	66.16.090	LCB shov individual purchases liquor-confidentia
121 Fish Wildlife	& 42.56.430 (3)	of fish wildlife  Personally identifying information persons acquire recreationa commercia licenses  Information subject confidentia requiremen of Magnus	Investigative law 125 enforcement and crime victims	42.56.240(9)	Personally identifying information collected law enforcement agencies pursuant local secular alarm system programs vacation or watch programs  Identity state emplo
Fish Wildlife	42.56.430(4)	Stevens fishery conservatic and managemer reauthoriza act of 2006	Investigative law 126 enforcement and crime victims	42.56.240(11)	or officer offiles complaint of an ethics be under R 42.52.420 reports improper governmen action to auditor other offici

		Employment 127 and Licensing	42.56.250(7)	Crimina history checks investme board	rec ent fin	Category	RCW	<b>D</b> E1 ar
91	*91			candida		Employment Licensing	and 42.56.250(7	in cc
						Employment Licensing	and 42.56.250(8	Pl m bi fil er m
						130 Real estate Apprais	als 42.56.260	Roar ag or prat lo

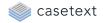
	ag	Investigative, 134 enforcement and victims	law crime 42.56.240(4)	In ar cc lic
	di m pr es er pe pr	Investigative, 135 enforcement and victims	law crime 42.56.240(5)	Id in re vi as
Investigative, law	Id  w of pe cc tii nc			
victims	di er lii sa pr ar	Investigative, 136 enforcement and victims	crime 42.56.240(6)	St da 43
	Ri in re by	Investigative, 137 enforcement and victims	law crime 42.56.240(7)	el tra (p
Investigative, law 133 enforcement and crime 42.56.240(3) victims	er ac	Investigative, 138 enforcement and victims	law crime 42.56.240(8)	id su of nc re sy nc re of

casetext

In w of of op de lik	Personal 140 Information/proprietary and tax information	RCW y 82.38.310(3	In fil de lic or de lic in ur s) ag pe in ur 42 (b ex pr in ar
	141 Lists of Individuals	42.56.070(9	Li in O) fo cc pt
	142 Juries	2.36.072(4)	In pr cc pr de of qu fo

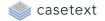


143 Personal Information	42.56.230 (7)(a)	Pe in re ar dr lic id	Financial, Commercial,  Financial, Commercial,  147 and  Proprietary 42.56.270(3)  Information  pe ex
144 Personal Information	42.56.230 (7)(b)	Pe de re se se Ri 46	Financial, Commercial,  148 and Proprietary 42.56.270(4)  Information lo
		Vi fo de dr re ot ag	Financial, Commercial, ob 149 and Proprietary 42.56.270(5) from Information are decomposed to the composition of the composit
Financial, Commercial 145 and Proprietar Information	l, y 42.56.270(1	w ) ye re di di w pr pr ar	Financial, Commercial, or 150 and Proprietary 42.56.270(6) Information m pu
Financial, Commercia 146 and Proprietar Information	l, y 42.56.270(2	lo Fi in su C) bi fe hi cc	Financial, Commercial,  Financial, Commercial,  Sulfamore 151 and Proprietary 42.56.270(7) are in in in commercial.

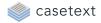


	Fi in ot th	Category	RCW	Descripti
Financial, Commercial, 152 and Proprietary 42.56.27 Information	W 0(8) ce se re m re pr Fi cc in	Financial, Commercial, 154 and Proprietary Information	42.56.270(10	Financial informati supplied applicatic liquor, g lottery 1 various r licenses
Financial, Commercial, 153 and Proprietary 42.56.27 Information	re	Financial, Commercial, 155 and Proprietary Information	42.56.270(11)	trade ser other inf submitted vendor ) departme social an services purposes purchased care
		Financial, Commercial, 156 and Proprietary Information	42.56.270(12 (a)(i)	Financial proprietal informati supplied DCTED furtheran state's $\epsilon$ and co developm efforts
		Financial, Commercial, 157 and Proprietary Information	42.56.270(12 (a)(ii)	Financial proprietal informati provided DCTED regarding businesse proposing locate in

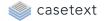
Financial, Commercial, 158 and 42 Proprietary Information	42.56.270(14	Financial commerc operation technical research	Archaeologica sites	<sup>1</sup> 42.56.300(3)	Informati identifyir location archaeolc sites
		'informati obtained life discovery authority	Library records	42.56.310	Library disclosinį identity library us
Financial, Commercial, 159 and 4 Proprietary Information	42.56.270(20)	Financial commerc informati submitted obtained	Educational Information	42.56.320(1)	Financial disclosure by vocations schools
		Universit Washingt relating investmen private fu	Educational Information	42.56.320(2)	Financial commerc informati relating purchase of tuition
Financial, Commercial,		Market sl submitted			Individua
160 and	42.56.270(21				identifiab
Proprietary		under	P1 (* 1		informati
Information		70.95N.1	Educational Information	42.56.320(3)	received WFTECI
		Prelimina drafts, recomme			research evaluatio purposes
Preliminary records  containing opinions o policy formulations	42.56.280 r	and int memos opinions expressec policies formulate recomme	Educational Information	42.56.320(4)	Informati gifts, gr bequests institution higher 6 (1975)
		unless cit agency	Educational Information	42.56.320(5)	The declaratic intent f parents for to receiv based ins



Category	RCW	Descriptio
Timeshare, 169 condominium owner lists	142.56.340	Membersh and list owners interests timeshare projects, condomini land developme common-in communiti regulated departmen licensing
Health 170 Professionals	42.56.350(1)	SSNs of care profession maintained files of departmen health
Health 171 Professionals	42.56.350(2)	Residentia address telephone numbers health providers maintained files of departmen health

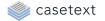


		Records pertaining license drivers' li	176 Health Care	42.56.360 (1) (e)	Physicians impaired physicians program
Investigative, law 172 enforcement and crime victims	42.56.230(7) (c)	or iden that may undercove work, confidentia public work, assistance or child s investigation	177 Health Care	RCW 70.05.170(3) -see also 42.56.360(3)	former
Employment 173 and Licensing	42.56.240(13	Criminal agency )employee/ residence data	Financial, Commercial, 178 and Proprietary Information	42.56.270(23)	Notice of oil transfer
	42.56.360(1)	Informatio documents created, collected, maintainec the health	179 Health Care	42.56.360(1) (f)	Complaint under the care profeuniform disciplinar
174 Health Care	(c)	services improvema program medical malpractic prevention program  Proprietary financial	Financial, Commercial, 180 and Proprietary Information	42.56.270(24)	Certain informatio supplied liquor cannabis per 69.50.325, 9.50.331, 69.50.342
175 Health Care	42.56.360(1) (d)	commercia informatio provided departmen health rela an al exemption	181 Health Care	42.56.360(1) (i)	69.50.345 Informatio collected departmen health chapter RCW.



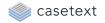
		182 Health Care	42.56.360(1) (k)	Claims da informatio provided statewide payer heal claims da that is a under 43.373.04(	Category  Financial,	RCW	Descriptio  Certain information and submitted obtained by
		183 Health Care	42.56.360(2) and 70.02	Health informatio disclosed health provider v patients permission	Commercial 184 and Proprietary Information	42.56.270(24)	liquor
95	*95				Health Care Marijuana	° 42.56.625	Records medical marijuana authorizati database RCW 69.51A.23
					Domestic Violence	42.56.370	Client recoff commissexual as program services underserve population [amended 2012]
					Agriculture 187 and Livestock	42.56.380(10)	Results animal te from san submitted the ar owner

Agriculture 188 and Livestock	42.56.380(11)	Records internation livestock importation that are disclosable the U.S. under fe law.	Insurance 192 Financial Inst.	& 42.52.400(17)	Documents materials, information obtained by insurance commissio under F 48.31.025 48.99.025
Agriculture 189 and Livestock	42.56.380(12)	Records re to entry prohibited agricultura products imported Washingto that are disclosable the U.S. under fe law	Insurance 193 Financial Inst.	& 42.56.400(18)	Documents material, information relating investment policies obtained by insurance commissio under F 48.13.151
Emergency 190 <sup>or</sup> Transitional Housing	42.56.390	Names individuals residing emergency transitional housing furnished t	Insurance 194 Financial Inst.	& 42.56.400(19)	(temporary
		department revenue ( county assi  Documents materials	Insurance 195 Financial Inst.	& 42.56.400(20); 48.19.040(5) (b)	component the pursuant RCW
		materials, information obtained by			48.19.040( (b)

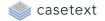


	Employmer Security	<sup>nt</sup> 42.56.410	Most rectand information supplied to employment security department	Category	RCW	<b>Descripti</b> Informati regarding
	198 Security	42.56.420(1)	Records relating criminal terrorist ac	201 Security	42.56.420(4	networks
			Records containing specific unique vulnerabili			extent t identify system vulnerabi
	199 Security	42.56.420(2)	assessment and emerg and es response 1 - adds commitme	202 Security	42.56.420(5	transporta () security fixed systems
	200 Security	42.56.420(3)	facilities  Compreher safe sc plans identify specific vulnerabili	Personal 203 Information	42.56.230(8	regarding individua resolutior settlemen agreemen submitted board of insurance
96 *96				Veterans' 204 discharge papers	42.56.440	Veterans' papers
				Fireworks, Explosives	42.56.460	Records a produced state firevechapter 70 and the W state explechapter 70 chapter 70

Correctional 206 industries workers	42.56.470	Records to continuatries work prog	Mediation 212 Communication 42.56.600	Records mediatior communi that are under the mediatior
Inactive 207 programs	42.56.480(1	railroad with the transports	213 Code Reviser 1.08.027	Code drafting s
		commissi to 7/28/9]	Judicial - 2.64.111 Investigative	Judicial commissi investigat initial pro
208 Inactive programs	42.56.480(2	information internation contact data	215 Health Care 4.24.250 Professions	Hospital committe on pi staff
209 Inactive programs	42.56.480(3	Data col department social and B) services to payme for boarding	Financial, Commercial, 4.24.601 and Proprietary Information	Trade se confident research, developm commercinformatic
Enumeration Data	42.56.615	Enumerat used by financial managem populatio estimates 43.43.435	Financial, Commercial, 217 and Proprietary Information	Trade confident research, developm commercinformatic concernin
Financial, Commercial, 211 and Proprietar Information; Marijuana	<sup>ry</sup> 42.56.620	Reports by research that proprietar information	*97	products business 1



Category 218 Claims	<b>RCW</b> 4.92.210	Descript  Informate centralize managere claime system  General	223 Health Care 7.68.080(9) Records (a)	The may corecords health provider notwiths any stat makes records privilege confider
219 Privileges	5.60.060	statemer privilege commun between persons various professie e.g., a or phys presuma	Financial, Commercial, and Proprietary Theorem 1.68.080(10)	At the of heal contract departments financial trade informat confider
Mediation Communication	5.60.070 on	applies records also # 27  Material in any ordered mediatic	225 Crime Victims 7.68.140 and Witnesses	Records Victims crimes confider not of inspection
Mediation Communication 222 Mediation Communication	7 07 070	Mediatic commun Mediatic commun	226 Crime Victims 7.69.A.030(4 and Witnesses	Name, or pho of child or child
			227 Mediation 7.75.050 Communication	County dispute resolutic center re



Financial, Commercial, 7.88.020 and Proprietary.30 Information  229 Health Care 9.02.100	Financia institutic complian review documen  General statemer fundame right reproduc privacy apply to	235 Crime Victim and Witnesses	72.09.712 as (recod et 8/1/09) (Se also # 451)	escapes, parole, released (formerl 9.94A.6
Health Care - 230 Concealed 9.41.097 Pistols	Mental info p on (2) buying or apply conceale licenses	236 Privileges	5.60.060	addiction sponsor privilege Records interstate commiss adult
Concealed 9.41.129	Conceal pistol applicati	Offender Information	9.94A.745	supervis would a affect privacy
232 Crime Victims 9.73.230 and Witnesses	Name confider informal written on wire	*98		proprieta interests
72.09.71 233 Crime Victims (recod and Witnesses 8/1/09) also # 45	notified eff drug o (See			

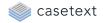
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234 Placeholder

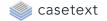
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## Crime Victims and Witnesses

Category	RCW	Descripti	Criminal		C1 :
			241 Proceeding Investigativ		Grand j reports
2389.94A.885	Information regarding victims, survivors	of	mvestiguer		
	victims, witnesses the	or at	Public	Electric utilities n	
	clemency hearing notices ma	oe .	242 Utilities Transportat	& 19.29A.100 tion	not discl private proprietal customer informati
Offender Information	released offender	Sex offender registratic informati given high sch or institution of hig education regarding employee	Insurance Financial I		Filing controllin person insurer seeking divest controllin interest confident until conclusio of transactic
Criminal 240 Proceedings Investigative	-10.27.090	student confident  Grand j testimony	law 244 enforcement	nt 42.56.240(14) ime	Body w camera recording

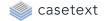


Investigative, law 245 enforcement 42.56.240(14 and crime victims	Records info in statewide sexual assault tracking system under R(43.43.	249 Crime Victims 10.97 and Witnesses	Privacy criminal records, including criminal history informati on arre detention indictmer informati
246 Crime Victims 10.52.100 and Witnesses	Identity child victims sexual assault Informati		or ot formal criminal charges made a 12/31/77 unless dispositic are include
Crime Victims 10.77.205 and Witnesses	about victims, next of 1 or witnes requesting notice release convicted sex violent	250 Crime Victims 10.97.130 and Witnesses	Names victims sexual assaults v are 18 ye of age younger
Offender 10.77.210 Information	offenders  Records persons committe for crimi insanity	Judicial - 251 Indigent 10.101.020 Defense	Informati given persons determine eligibility for indig defense



	Crime Victims 252 and Witnesses 13.40.150 - Juvenile	Sources confident informati in dispositic hearings juvenile offenses	Category	RCW	Description  Electronic research cor juvenile re maintains
	Crime Victims 13.40.215 and 253 and Witnesses 217	notice	Juvenile Records	13.50.010(12)	level
) *	- Juvenile	release juvenile convicted violent offense stalking	Juvenile Records	13.50.010(13)	Information records rel to the Washin state office public de retain confidential nature
			256 Juvenile Records	13.50.050(3)	Records commission juvenile crim
			257 Juvenile Records	13.50.010(14) (b)	Records juveniles receive a properties are confide including existence nonexistence the record
			258 Juvenile Records	13.50.100(2)	Juvenile just care aş records relating commission juvenile crim

Agriculture 259 and 15.19.080 Livestock	Information purchases, or productic ginseng individual growers dealers (see	265 Counselors	18.19.180	Information counselors acquire acknowledge of pradisclosure statements
Agriculture 16.65.030(1) 260 and (d) Livestock	42.56.380 (6  Financial statement in public live market li applications	266 Boarding Homes	18.20.120	Identity individual name of boa homes boarding licensing rec
Health 18.130.095(1 261 Care (a)	Complaints under un disciplinary for l professionals	Health 267 Care Professions	18.20.390	Information documents created, coll and maint by a quassurance
Health 262 Care 18.130.172(1 Professions	Summary stipulations ) complaints against l care professi			committee Implication information dentistry registration
Health 263 Care 18.130.175(4 Professions	Voluntary substance : records on h care professi	Health 268 Care Professions	18.32.040	records is accessible b registered p unless discl would
Health 18.130.057 (	Disciplining authority ma disclose information file that cor confidential c privileged	269 Placeholder		compromise examination process
264 Care 157 s 1(2)(b) Professions		Health 270 Care Professions	18.44.031(2)	information applications escrow licenses



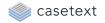
Health receive 271 Care 18.46.090 depart Professions health indiv	Information maternity h received department	Category RCW	Description
	health identi individuals maternity ho	Health Care Professions 18.53.200	Information records optometrists
100 *100		273 Health Care Professions 18.64.420	Records obtained department health regal various insurance companies
		Health Care Professions 18.71.0195	Contents physician disciplinary report
		275 Health Care Professions 18.71.340	Entry recunder impohysician program
		18.83.110 276 Privileges also 5.60.06 (# 219)	Communica between c and psychologis could apply records
		Other 277 Professions 18.106.320(2 -Plumbers	Info obta from contra on plum trainee hour
		Health Care 18.130.095(1) Professions (a)	Complaints under uni disciplinary for h professional

Health Care 18.130.172(1) Professions	against h care professional	Other 284 Professions -Business Licenses	Master lic service pro- licensing information confidential privileged except
Health ( are	Complaint ) unprofession d conduct ag health profe licensee	Financial,	provided in section
Health Care 18.130.175(4)	Voluntary substance a e) records health professional	Commercial 19.16.245 and Proprietary	Collection agency fina statements
Health Care 18.130.175(4) Professions	Substance ε treatment	Other 286 Professions 19.28.171 -Electrical	Info obta from elec contractors electrical tra hours
Elderly 18 220 050(2	On ref disclosure statement, include statement ) agency will	Other 287 Professions 19.28.171 -Electrical	Information obtained electrical contractor department licenses
283 Adults - (f) Referrals	client authorization obtain disclose confidential information	Security - 288 Electronic 19.34.240 Keys	Private under electronic authenticatic act
	mornation	Security - 289 Electronic 19.34.420 Keys	Electronic authentication info
		Financial, Commercial 290 and 19.108 Proprietary Information	Trade Se Act

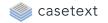
29	Juvenile 1 Records	13.50.010(14)	by th	rds rele ne cou state c ril lega		Category	RCW	Descri
29.	Financial, Commercial 2 and Proprietary - Mortgages	19.146.370(4)	supervinform inform subject subsection	relatineric visory mation mation ct ction ( section seeded	293	Money Transf Co's. Financial, Commercial at Proprietary		produc
101 *101						Information		state is a order
					295	Investigative Records	21.20.480	Securit investi;
					296	Financial, Commercial and Proprietary information Investigations	nd 21.30.170	Some inform obtaine departr financi institut
					297	Placeholder		
					298	Financial, Commercial and Proprietary information Nonprofits Mutuals	nd _24.06.480 &	Inform interro; of miscell and corpora secreta

299 Crime Victims 26.04.175 and Witnesses	Marria applica records particit address confide prograi	Archaeological 27.53.070 Records (42.56.300)  Comm on low archaed sites in records  Finance
300 Mediation 26.09.015 Communications	Divorc mediat procee may records procee	Financial, disclos  Commercial and 28B.85.020(2) provide Board  Information vocatic schools
301 Judicial - Court Files 26.12.080	Superior may family files or protect	Financial, Commercial and 28C.10.050(2) Proprietary Information Financ disclos private vocatic schools
302 Child Support 26.23.120(1)	Record concern persons child si	Voter and Origina registra forms
303 Child Support 26.23.150 Records	Social number collecte licensin agencie be disc	*102
304 Adoption 26.33.330 a.340 & .345	Adopti records by ord court & showin cause); contact prefere and medica	

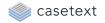
Category	RCW	Descriptio  The department licensing	313 Security	35.21.228(4)	Rail fi guideway system security emergency preparedne plan
Voter and 309 Election Information	29A.08.720	office which particular individual registers vote Minor pa	314 Security	35A.21.300(4)	Rail fi guideway system security emergency preparedne plan
	29A.20.191; recod to 29A.56.670	and independer	315 Security	36.01.210(4)	Rail fi guideway system security emergency preparedne plan
Voter and 311 Election Information	29A.32.100	submitted secretary state voters' pamphlet	316 Placeholder 317 Security	36.57.120(4)	Rail fi guideway system security
Financial, Commercial and Proprietary Information -Mortgages	31.04.274(4)	Chapter 42 RCW relate to discloss of supervise information any information described subsection of this section is superse by this section is supersection.	318 Security	36.57A.170(4)	emergency preparedne plan  Rail fi guideway system  security emergency preparedne plan



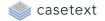
Financial, Commercial 319 and Proprietary Information	36.102.200	Financial i on ma tenant, concession team affili or sublease a pu stadium authority's facilities	Offender Records  Bill Draftin	40.14.070 (c)	washington association sheriffs police chie Bill draf records of
Financial, Commercial 320 and Proprietary Information	` '	Trade sec & proprier information from contractors under alternative spublic wo sproposals from desibuild final for alterna public wo until selectis made terminated	Crime 325 Victims an Witnesses		code revis office  Names persons domestic violence sexual ass programs; records address confidentia program  Salary fringe ben info identifying
Financial, Commercial and 321 Proprietary Information -Bids	39.26.030(2)	Competitive bids subject chapter 42 RCW except find disclosure until apparatuces ful bidder announced	326 Employmen Information		private employer from department personnel salary surv
Archive Records	40.14.030 (2)	Records transferred state archiv			



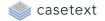
Category  Public 327 Employment Information	RCW 41.06.167	Descripti  Salary and benefit description collected private en	Financial, Proprietary 334 and Commercial Information	42.56.270(22)	portal to exemption
Collective Bargaining	41.56.029(2)	Collective bargaining authorizat of adult home workers	335 Juvenile Records	13.50.010(15)	needs c
Personal 329 Information Research	42.48.020 &	Personally identifiab records scientific	336 Placeholder		youth
Health Card Records	<sup>2</sup> 43.01.425	Crisis services communic and infort confidenti	Personal Information Printing	43.19.736	contracted private must vendor to a conf agreemen
331 Investigative Records	43.06A.050	Investigat records or family children's ombudsm	Vendors	Printing	materials sensitive personally identifiab informatio
Financial, Proprietary 332 and Commercial Information	43.07.100	Info businesse confidenti bureau of in secreta	338 Claims	43.41.350 Recod 43.19.781	Risk ma loss informatio
Investigative 333 Records Whistleblowe	-43.09.186(4) r	Identity and docureport to efficiency state audit			



Financial, Proprietary and Commercial Information Marijuana  42.56.270(25)	Marijuana transport, and drive and numbers access issued	Criminal justice training records from initial investigations  Category RCW	commission background Descripti
	traceabilit access p 69.50.325 9.50.331,0 69.50.345	Financial, Commercial 343 and 43.22.434 Proprietary Information	Info obta from contractor through audit
Financial, Commercial 340 and 43.21A Proprietary Information	Information unique processes the DOE	Deliberative Process - 344 Records 43.41.100 Provided to Governor	Confident reports n to governor director office financial managem
Proprietary Information Employer -	Proprietar informatic received state energy  Employer statistics	345 Investigative Records 43.43.710	Washington state prinformation recrelating to commission of any company pe
342 Labor 43.22.5 Statistics	290 provided departmen & industri	Records  Investigative Records  43.43.762 referenced 42.56.240(	street (
		347 Investigative Records 43.43.856	Washington state programized crime Investigat information

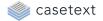


Financial, Commercial 348 and 43.52.612 Proprietary Information	42.52.612	Financial informatic provided operating agencies bid forms experienc provided	Health Care 353 Professions -43.70.075 Whistleblower	Identity whistleble who mak complaint the departmen health improper
	43.32.012	contractor a operating agency regarding bids constructi nuclear project	Health Care 43.70.510 Professions	Information and document created, collected maintaine by a quit assurance committee.
349 Health Care	43.70.050(2)	Health related identifyin patients providers obtained state ager	355 Health Care 43.70.695(5) Professions	Healthcar workforce surveys identifyin individual providers
350 Health Care	43.70.052	American Indian hadata Hospital reports informatia	356 Investigative Records 43.190.110	Complain and investigat records long-term care ombudsm
351 Health Care 43.70.056(2) (e)(ii)	on he care-associatec infections	Employment 357 Records, Investigative Records 43.101.400	2001; 202	
352 Health Care	42.56.360(4); 70.54	Info document relating maternal mortality reviews RCW 70.:	Investigative  Records Fatality Review  743.235.040(1)	Domestic violence fatality review in

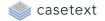


	Protocols may require release	Category	RCW	Descripti
Financial, Commercial 359 and 43.330. Proprietary Information	informatic that assoc 30.062 developm organizati client	360 Health Care	43.370.050(2	Individua in releas data for analysis
	company requested remain confidenti	Motor 361 Vehicle/Drive Records	46.12.380(1) r Recod 46.12.635	Names an motor v except fo other purp
105 *105		362 Placeholder		Check coa
		Motor 363 Vehicle/Drive Records	r 46.20.041	Info on mentally demonstra drive
		Motor 364 Vehicle/Drive Records	r 46.20.118	Photos licenses &
		Motor 365 Vehicle/Drive Records	r 46.52.065	Blood sa done by s
		Motor 366 Vehicle/Drive Records	46.52.080 & r .083	Most in accident r
		Motor 367 Vehicle/Drive Records	r 46.52.120	Individua driver rec
		Motor 368 Vehicle/Drive Records	r 46.52.130	Abstracts vehicle dr
		Motor 369 Vehicle/Drive Records	r 46.70.042	Application dealer li years

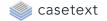
106	Motor 370 Vehicle/Drive Records  Financial, Commercial 371 and Proprietary Information	r (a) 46.35.030(1) r (a) 47.28.075	Information court or or discovery to public or Info department ransportation construction	Insurance Information  Information  Insurance Information	48.31.405(1) 48.74(6)	Commissi relating to any insure Information the course examinati
	Financial, Commercial 372 and Proprietary Information	47.60.760	Financial to qualify for ferry contracts			
	Personal Information	42.56.420(6)	Personally info of other sec private provider tinto a c informatic agreemen			
	374 Insurance Information	48.02.065(1)	Information the consinsurance examination			
	375 Insurance Information	48.05.510(4)	Insurer's insurance			
	376 Insurance Information	48.13.151	Information investmer provided commission confidential public rec			



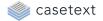
Category  Insurance Information	<b>RCW</b> 48.32.110(2)	Request examination into insurfinancial condition	Insurance 384 Information - 48.102.140(5 Investigations	Document and evide provided regarding settlement ) fraud investigati are confidenti and
380 Insurance Information	48.43.200(4)	Reports material transaction by certi health plan Reports	385 Insurance Information 48.104.050(1	registry
381 Insurance Information	48.44.530(4)	material transaction by he care servicontractor  Current licensure	Workers 386 Compensation 49.17.260 Records	Labor industries investigati reports industrial catastroph
Insurance Information	48.46.540	nonresider pharmacie through which insurer provides coverage	387 Investigative Records 49.60.240	Option human ri commissic complaint not to made publ
383 Insurance Information	48.46.600(4)	Reports material transaction by he maintenan organization	Agriculture 49.70.119(6) and Livestock(a)	Name employee seeking records agricultura pesticide application



Crime 389 Victims and Witnesses	49.76.040	Employee informatic regarding domestic violence	394	Insurance Information	48.43.730	Provider compensa agreement are confidenti
Crime 390 Victims and Witnesses	49.76.090	confidenti  Domestic violence leave informatic in files records employees confidenti and not o to pu inspection	395	Financial, Commercial and Proprietary Information	63.29.300(4)	Material obtained during examination under Robbinson Rob
Employment 391 Security Records	50.13.060(8)	Welfare reform in WorkI program	396	Health Care; Investigative Records		Records autopsies post mort
Financial, Commercial 392 and Proprietary Information	53.31.050	Financial commerci info records supplied port dis export trading company	397.	Health Care	68.64.190	Certain informatic released tissue organ procureme organization is confidenti
Financial, Commercial 393 and Proprietary Information	63.29.380	Info rela to unclain property is furnis to departmen revenue	*107			



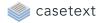
Category	RCW	<b>Description</b> Records a information	402 Health Care	· ·	Health ca info disclos to heath ca provider w patients permission
Financial, Commercial and Proprietary 398 Information; Health	42.56.360(1)	supplied drug manufacture and pharmaceutic	403 Health Care	70.24.022	Info gather by health ca workers fro interviews sexually transmitted diseases
Professions; Health Care	09.43.090	pharmacy quality assurance commission	404 Placeholder		Records hearings
399 Health Care	69.41.280	Info on lege drugs obtain by t pharmacy quality assurance commission	405 Health Care 406 Placeholder	70.24.034	dangerous sexual behavior sexually transmitted disease carriers
		Opinion a memo	407 Health Care	70.28.020	Tuberculosis records
Honormation (a)  Information (a)	48.74(1) (a)	submitted the insuran commissione under RC 48.74.025	408 Health Care	70.41.150	Department health info inspections hospitals
401 Health Care	69.51.050	Names persons participating controlled substances therapeutic research programs	Health Care Professions	70.41.200(3)	Info maintained a health ca services quality improvemen committee



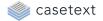
Health Care 70.41.220 Professions	Hospital records restricting practitioner's privileges possession medical disciplinary board	Financial, Commercial 417 and 70.94.205 Proprietary Information	Info provid to DOE processes or may affor competitive position relating to quality  Guidelines 1
411 Health Care 70.42.210	Identity person from whom specimens material wo taken at medical to site	Financial, Commercial 418 and 70.95.280 Proprietary Information	proprietary info on so waste management practices possession DOE [Sin this address
412 Health Care 70.47.150	Records medical treatment		guidelines, r clear if it is exemption.]
413 Law Enforcement 70.48.100	Jail regis records	*108	
414 Health Care 70.54.250	Cancer registry program		
415 Health Care 70.58.055(2	Info on birth manner delivery ke in bir certificate records		
416 Fireworks 70.77.455	Fireworks license recor		



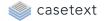
Category  Financial, Commercial	RCW	Proprieta info re.	Financial, Commercial 425 and Proprietary Information	70.105.170	Manufact or bus info Hazardot waste managem in posse of DOE
419 and	70.95C.040(4				
Proprietary Information		possessio DOE	Financial, Commercial 426 and	70.118.070	Trade info re: site se disposal
Financial,			Proprietary		possessio
Commercial		Waste	Information		DOE
420 and	70.95C.220(2				
Proprietary Information		plans  Some in	Investigative 427 Records Whistleblowe	-70.124.100 er	Name whistlebl in nu home or hospital
Financial, Commercial 421 and Proprietary Information	70.95C.240(1	executive summaric waste reduction efforts	428 Crime Victim and Witnesse	<sup>18</sup> 70.125.065	By implication records communities sexual a program
Financial, Commercial 422 and Proprietary	70.95N.140(4	Proprieta info electronic product recycling	429 Placeholder		underserv populatio provider
Information		reports	430 Health Care	70.127.190	Hospice records
423 Placeholder 424 Health Care	70.104.055	Reports pesticide poisoning	431 Health Care	70.129.050	Personal clinical records long-term residents



Financial, Commercial		Tobacco product manufact informati required	Category	RCW	Descriptio
432 and Proprietary Information	70.158.050	comply chapter RCW confident and shal be disclor	436 Health Care	70.230.110	Ambulator surgical facilities related to quality patient car
433 Health Care	70.168.070	Limitatio disclosur reports by ho trauma on-site roteams	437 Health Care	70.230.170	Informatic received departmen health reg ambulator surgical facilities
434 Health Care 435 Health Care	70.168.090 70.170.090	Patient re and q assurance records associate with tr care facil Charity informati	438 Health Care	71.05.425	Persons receiving and the of releas transfer person committee following dismissal offense
109 *109		hospitals	439 Health Care	71.05.620	Records mental treatment
			Investigative Records; 440 Attorney Client Privilege	74.34.035(10) 74.34.067	relating vulnerable adult; at client priv



Crime 441 Victims and 71.09.140(2) Witnesses	Names victims, n kin, witnesses are n	447 Health Care	72.05.130(1)	Reports regarding children behavioral problems
	when se violent pr escapes, parole, released	Offender 448 Records	72.09.116	Info correction industries program participan
442 Health Care 71.24.035(5) (g)	Mental retardation records	Offender Records	72.09.345(4)	applicant  Certain ir sex off
443 Health Care 71.34.340	Records mental treatment minors			Personally identifiabl used to do
444 Health Care 71.34.335	Mental court r are confid	450 Personal Information	70.39A.	quarterly expenditus reports
	Informatic furnished pursuant		certain term services	
	Medicaid		[Former	
Health Care; 74.66.030; 445 Investigative 74.66.120	false clair is exempt final dispo	Investigative law	(b)]	Names witnesses
Records 74.66.120	and all sea lifted; r	451 enforcement 72.09.710 notified		
	lifted; r and test	and crime victims	*	ffdrug off e released
	provided	Victinis	also ## 23:	
	civil		and 235)	
	investigati demand	452 Placeholder		
446 Health Care 71A.14.070	Confident: info developme disabled p			

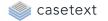


Investigative law	[Former, 9.94A.612(1)	Names victims, n kin, )] witnesses	Category	RCW	Description
453 enforcement and crime victims	72.09.712 (recod e 8/1/09)	are n when pr ff escapes, parole, released	458 Health Care	74.09.290(1	Medical records ) persons public assistance
454 Placeholder					A juwan
Public Assistance  Public Assistance	74.04.060 .062	Limited to infort in departir social & health se registry concerning parents dependent children  Child s	Juvenile 459 Records	74.13.075(5	A juven status as sexually aggressive youth related informatic are ) confidenti and subject public disclosure
Assistance	74.20.200	records			departmen
457 Public Assistance	74.04.520	Names recipients food stam			social health services
110 *110			Juvenile 460 Records	74.13.640	Child fata reports subject disclosure confidenti informatic may redacted
			Juvenile 461 Records	[Former 74.13.121] 74.13A.045 (recod)	Info f adoptive parents kids receiv public assistance
			460 D1 1 11		

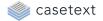
462 Placeholder

Juvenile Records  464 Placeholder	[Former 74.13.133] 74.13A.065 (recod)	Adoption support records	Investigative, law 471 enforcement 74.34.095(1 and crime victims	Info concerninţ )the abuse vulnerable adults
Juvenile Records  Juvenile Records;  466 Public	74.13.280(2 74.13.500 .525	Info on c in foster ( & ch family  Disclosure child wel	472 Whistleblower 74.34.180(1	Name whistleblo reporting abuse vulnerable adults various facilities
Assistance  Personal 467 information clients	-74.18.127(1	Personal maintained by departmen services	Investigative, law 473 enforcement 74.34.300 and crime victims	Files, used developed vulnerable adult fata reviews
Juvenile Records; Public Assistance	74.20A.360 & .370	the blind  Certain records division child supp	474 Health Care 74.42.080	Records nursing he residents Informatic and
Whistleblowe Investigative, 469 law enforcement and crim victims	74.34.040	Identity person making re on abuse vulnerable adult	Health Professions 74.42.640	documents created, collected maintained by a qua assurance committee
Investigative, law 470 enforcement and crim victims	74.34.090 ne	Identity persons records abused vulnerable adults	Financial, Commercial 78.44.085(5) and Proprietary Information	Surface mining inf

111 \*111



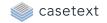
Category	RCW	<b>Descriptio</b> Well logs	482 Security	81.112.180(4)	Rail f guideway system ) security emergency preparedne plan
Financial, Commercial 477 and 78.52.260 Proprietary Information	oil capable being produced f a "wild well	Financial, Commercial and 483 Proprietary Information Tax Info	82.32.330(2)	Certain return and information	
Financial, Commercial 478 and Proprietary Information	[Former 79.76.230] recodified a 78.60.230	Geotherma records 1 w. departr of nat resources	Financial, Commercial and Proprietary	82.32.585	Taxpayer supplied survey is disclosable Amt of deferral is
Investigative law 479 enforcement and crime	79A.60.210	Certain boating accident reports provided tc parks	Information Tax Info 485 Placeholder	-	subject 82.32.330 confidentia provisions
victims  Investigative	·,	recreation commission	Financial, Commercial and		Info f tribes or tr retailers received by
law 480 enforcement and crime victims		Boating accident reports/cor	Proprietary Information Tax Info	82.38.310(4)	state unde special taxes agreement
481 Security	81.104.115(4	Rail f guideway system s)security emergency preparedne plan			



Financ Comm		Taxpayer supplied survey is disclosable	Category	RCW	Descript
Tax In	nation - fo	Amt of deferral is subject 82.32.330 confidentia provisions	Financial, Commercial and 490 Proprietary Information Tax Info	84.36.389	Income for retire disabled persons seeking property exemptio
Command 488 Proprior Information Tax In	82.32.808 etary	than \$10 claimed in tax prefere exceptions  Tax obtained	Financial, Commercial and 491 Proprietary Information Tax Info	84.40.020	Confiden income in proj tax listinį
Finance Command and Propride Information	84.08.210 etary action -	department revenue highly offensive 1 reasonable person and a legitir concern public would resu	Financial, Commercial 492 and Proprietary Information	84.40.340	Utilities transporta commissi records containin commerc info a determina confident
		unfair competitiva disadvantaį	Agriculture 493 and Livestock	90.64.190	Livestocl producer

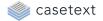
112 \*112

Financial, Commercial 494 and Proprietary Information 495 Health Care	149 (3 (uncodified) 70.02.220 .260	the widespreavailabili and use broadban technolog  -Health informati relating infant	Dairies, Animal Feeding Operations	42.56.610	Certain informati obtained state local agencies from da animal feeding operation not required to apply national pollutant discharge eliminatic system permit disclosab only ranges provide meaning informati to public
			Investigative law 498 enforcement and crim victims	1 9.95.260	Informati regarding victims, survivors victims, witnesses are pardon hearing notices not released offender



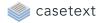
Instrume 113 \*113 creating charitable trust, Financial, possibly Commercial if 499 and 11.110.075 instrumeı Proprietary creates a Information for Trusts charitable and charitable purposes Informati juv on convictio adult crin 500 Juvenile Records 13.04.155; court giv 28A.320.163(5) school principal received school district st Records the inter compact juveniles would 501 Juvenile Records 13.24.011 adversely affect personal privacy r or propri interests Sources confident informati Boarding 502 in 13.40.150 Homes dispositio hearings juvenile offenses

Category	RCW	Descripti	Legal 512 proceedings; Privilege	7.77.140; 7.77.150; 7.77.160; 7.77.170	Confident collaborat proceedin
503 Placeholder  504 Employment Security	50.13.015, .020, .040 .050, .100 &	emnlovme	513 Emergency Information	38.32; 42.56.230(9); 38.52.575; 38.52.577	informatic
Financial, Commercial 505 and Proprietary Information	51.36.120	Financial trade info care prorequest	Investigative, law 514 enforcement and crim victims Investigative,	42.56.240(16)	Campus assault/do ) violence communic records
506 Health Care	70.05.170	Medical Child moi	law 515 enforcement and crim	42.56.240(17)	Law informatic firearms d
507 Juvenile Records	13.34.046	j-moimau regarding subject to is confide	Employment and Licensin	42.56.250(3)	Profession plans
508 Placeholder		as requiliawful cou	517 Employment and Licensin	42.56.250(10)	system
Investigative, law 509 enforcement and crime victims	79A.60.210 e79A.60.220	Certain accident provided & commissio	Financial, Commercial 518 and Proprietary	42.56.270(28)	Trade sec to license business,
Investigative, law 510 enforcement and crime victims	` .	Felony offense database firearm establishe 43.43.822	Information  Public 519 Utilities an  Transportatio	d42.56.330(9) n	Personally informatic complaint under ch.
Investigative, law 511 enforcement and crime victims		Security 1 informatic ) and mai department correction			

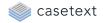


520 Insurance & 42.56.400(26 Financial Inst.	Non public health obtained discussed custody insurance commission	Category	RCW	Descrip
521 Insurance & 42.56.400(27 Financial Inst.	Data, document ) by commissio RCW 48.0			
		523 Fish Wildlife	& 42.56.430(4); 77.12.885	Reported depredat wolves or livesto
522 Fish & 42.56.430(3); Wildlife 77.12.885	Damage agreement preventati to minimize interaction			
		524 Fish Wildlife	& <sub>42.56.430(7)</sub>	Tribal 1 shellfish harvest informat departmentish & w
114 *114		525 Fish Wildlife	& 42.56.430(8)	Commer shellfish harvest informat departmentish & w

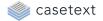
526 Juvenile Records	13.50.010(16)	Health/s informat from D departm commer youth in care ac to	Voter and Election 533 Information -42.56.230(10) Personal Information	Personal Identifia voter registrati informat individu under 18
527 Juvenile Records	13.50.010(17)	CRCs/H centers  DYF disclosur child abuse/ne and for care	Religious  Beliefs; Personal Information	Personal identifyi informat about individu religious beliefs
528 Personal Information	40.26.020	Biometri identifie	Investigative, law enforcement, 535 crime 42.56.240(18) victims; Juvenile Records	Audio video recordin child interviev regardin abuse neglect
529 Insurance Information	48.02.230	Informat used to c an ind health insuranc market s program	Election Information -  536 Employment and Licensing; Personal	Personal Identifia voter registrati informat individu
530 Health Care	50A.04.195(4)& (5)	k Family/r leave	Information	under 18
531 Health Care	50A.04.080(2) (b)	Family/r leave employe records		
532 Health Care	50A.04.205	Family/r leave ( surveys		



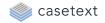
Financial, Commercial 537 and Proprietary Information	42.56.270(29)	Financia commercoperation technical research informat submitte the And cancer re endowm program pertaining grants chapter RCW,	Agriculture 539 and Livestock	<b>RCW</b> 42.56.380(13)	Informatic obtained f the fed governme exempt f disclosure under fed law personal financial
Financial, Commercial and Proprietary Information; Health Care	42.56.270(30)	revealed result in loss  Proprieta informat filed widepartment health	Agriculture 540 and Livestock	42.56.380(14)	informatic or proprie data obtai by departmer agriculture Hop gro lot numl and results
115 *115			Insurance & 541 Financial Inst.	42.56.400(28)	An insurcorporate governance annual disclosure and relatinformatic obtained the insuracommission



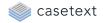
Insurance & Financial Inst.; Health Financial	Claims, health c and finar informatic submitted school districts	Parentage; 547 Personal Information	26.26A.050	Personally identifiabl informatic of the c and other parentage proceeding
Care 543 Firearms 9.41.350(6)	the office the insura commission and he care autho  Records regarding person's	Elections; 548 Personal Information	29A.08.720(2) (b)	The personally identifiabl voter registratio informatic of individ under 18
Agriculture 544 and 15.135.100(1) Livestock	voluntary waiver firearm ri Informatic obtained f the fed governme exempt f disclosure under fed law	Elections; 549 Personal Information	29A.08.770	The personally identifiabl voter registratio informatic of individ under maintaine by secretary state
Agriculture and Livestock; Personal  Information; Financial, Commercial, and Proprietary Information	Personal financial informatic or proprie data obtai by departmer agriculture	Elections; 550 Personal Information	29A.08.359	county auditors Personal informatic supplied obtain driver's license identicard
Child Abuse; Juvenile 546 Records; 26.44.187 Investigative Records	Recorded child interviews regarding child abus neglect			and used certify registered voters



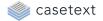
	551 Elections	29A 92 100(3)	A plaint filing of action regarding equal vo rights up the Washingto voting right act of 201	State  Government; 43.06C.060(3)  Investigative  Records	Informatic regarding investigati exchange between office of correction ombuds the departmer correction
116	School 552 District Insurance	41.05.890(2)	Claims, health c and finar informatic submitted school districts the office the insura commissic and he care autho	*116	correction
	553 State Government		Oversight board children, youth, families records, o the informatic otherwise confidenti under stat federal lav		



Category	RCW	Descript			Finance comminform provide	nerc nati ded
555 Insurance Information	48.195.040(1)	An inst corporate governan annual disclosur and re informati submitted the insul commission.	Financial, Commercial, 558 and Proprietary Information	42.56.270(15)	evider the depart license from fuel li or vehicl license	tme ing sp icei n le ees
Unwanted Medication Disposal; Financial, Commercial and Proprietary Information	69.48.170	Proprieta informati submittec the departme health regarding unwantec medicatic disposal	Financial, Commercial, 559 and Proprietary Information	42.56.270(18)	commoperate and to and inform submit health science service author private	nerc tion tech resc nati ittec n ces res ritic
Financial, Commercial, 557 and Proprietary Information	42.56.270(13)	Financial proprieta informati submitted or obta by departme ecology	Financial, Commercial, 560 and Proprietary Information	42.56.270(19)	was g	mati can fiec ular ess gath part

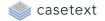


Health Care	Informati distribute a h professio board	Personal Information; Public Assistance	43.185C.030	Personal informati collected homeless census
561 Professionals; 42.56.355 Health Care	by interstate health professio	Juvenile Records	26.44.125(6)	Child a or ne review hearings
	licensure compact Registrat informati	Juvenile Records	74.13.285(4)	Informati on a chi foster ca child's fa
562 Marijuana 42.56.630	of men of me marijuana cooperati submitted the liquol cannabis	Health Professionals; Personal Information	74.39A.275(5)	Personal informati of vulne adults inhome providers
Health 563 Professionals; 42.56.640 Personal	board  Personal identifyir informati of vulne	Health Professionals; Personal Information	43.17.410	Personal informati of vulne individua and inl caregiver
Information	individua and in-ł caregiver			Personal identifyir informati
564 Health Care 71.05.445(4)	Court-orc mental h treatment records received the departme correction	Health Care Personal 571 Information; Investigative Records	; 74.39A.060(6)	of complain
Health Care 565 Professionals; 74.09.315(2) Whistleblower	Identity whistlebl			



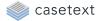
Health Care Financial, Commercial, 572 and	; 41.05.026	Health contracto	Category	RCW	Descriptio
Proprietary Information; Trade Secret		proprieta informati	573 Collective Bargaining	41.56.510	Collective bargaining authorization cards of employees
			574 Personal Information	42.56.230(11)	Information submitted state regarded people selfexcludi themselves gambling activities RCW 9.4 and 67.70.0
			Personal 575 Information; Firearms	42.56.230(12)	Personal information individuals participated the burn stock buy-program RCW 43.4.
			Financial Commercial, 576 and Proprietary Information	42.56.270(31)	Confidential valuable, commercial information with Departmen Ecology regarding architectural paint stewardship program

Agriculture and Livestock; Financial, 577 Commercial, 42.56.380 and	obtained t	Data substitute by  42.56.650, carriers to 41.05.410(3) Health E  (b) Exchange  Health  Authority
Proprietary Information; Trade Secret  Agriculture and	federal Foc Drug Administra by contract Trade so commercia information	Visitor and profes Court 11.130.300(3) evaluation 583 Proceedings; (effective regarding Guardian 1/1/21) appointmen guardian f adult
Livestock; Financial, 578 Commercial, 15.130.15 and Proprietary Information; Trade Secret	other confidentia information obtained t federal Foc Drug Administra by contract	Court 11.130.410(3) 584 Proceedings; (effective Conservator 1/1/21)  Visitor and profes evaluation regarding conservato of a minor
Insurance & 579 Financial 42.56.400 Inst.	Findings orders disapprove acquisition state company	Information submitted attorney g regarding potential anticompet conduct in health
Personal Information; 42.56.660 580 Employment (effective and 7/1/2020) Licensing	requester sexually	market  586 Placeholder  Information Personal provided Information; multidiscip Investigative, child prot 587 law 26.44.175(5) team me
Personal Information; 42.56.675 581 Employment (effective and 7/1/2020) Licensing	compiled agencies	enforcement, in the cou and crime a child abi victims neglect investigation



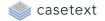
Insurance and Financial Institutions;		Departmen Financial Institutions records		Category	RCW	Descript
588 Financial Commercial and Proprietary	30B.44B.170	connection involuntary liquidation state company	589	Insurance and Financial Institutions; Financial Commercial and Proprietary	30B.53.100(3)	Departm of Final Institutio findings order on disappro of proposed acquisitio of a trust company
			590	State Government; Financial Commercial, and Proprietary Information	43 155 160(6)	Broadbar service provider confiden business financial informat submitte part of objectior an application for a gratexpand access broadbar service

591 State Government 42.17A.120(3)	Modifica hearing informat on suspensio or modifica of camp finance reporting requirem under 42.17A.7	Financial, Commercial, and 596 Proprietary Information; Marijuana	Licensed marijuan business' financial proprieta informat supplied during consultat services the Washing State Li and
State 592 Government; 43.71C.030(2) Health Care	Pharmac benefit manager informat reported the He Care Authorit	State 597 Government; 70.225.040(1) Health Care	Cannabis Board Informat submittee the prescript monitoric program
State 43.71C.050(7); 593 Government; Health Care 060(5); 070(3)  State 594 Government; 43.71C.100	drug manufact informatt reported the He Care Authorit Health Authorit prescript	State Government; Financial 598 Commercial, 70.375.130 and Proprietary Information	Confider valuable, commerce informatifiled with Departm of Econgarding architect paint
Insurance; 595 Health Care; Personal Information	Nonpubl personal health informat held health carriers insurers	State 70.58A.400(5) 599 Government; (effective Health Care 1/1/21)	stewards program Sealed records adoption decrees under chapter 26.33 RC



	State 70.58A.500(3) 600 Government; (effective Health Care 1/1/21)	Sealed birth reco	Educational Information	42.56.315	Certain student informat received school districts
119	State 70.58A.530(15) Health Care	including certificat of resulting ), stillbirth, that incl informat from confiden section the birth fetal d	606 Health Care *119	42.56.360(1)(I); 41.04.830	Medical informat about members retiremen plans
	State 70.58A.540 602 Government; (effective Health Care 1/1/21)	vital records, reports, statistics and data			
	Employment and  Licensing; Personal Information	Personal demogra details voluntari submitte state employe			
	Financial, Commercial, 604 and 42.56.270(32) Proprietary Information	Commer information obtained the Li and Cannabis Board connection with distillicensing			

Category	RCW	Descrip				Confide informa and
607 Health Care	70.390.030(7)	Health informa held l Health Cost Transpa Board could a patien	6111	Juvenile Records; Investigative, law enforcement and crime victims	13.50.260(12)	records accesse through Washin state identific system crimina justice agencie
	42.56.375; 28B.112.060(3) 128B.112.070(2) 528B.112.080(5)	sexual	612	Juvenile Records; Public Assistance	74.13.730(7)	Reports reviews hearing involving certificate parentate improve
Insurance and Financial Information; Health Care	<sup>1</sup> 42.56.400(31); 48.200.040; 48.43.731	Contrac health benefit manage with Insuran	613	Education Information	28B.96.020(8)	Data collaboration by Undocu Student Support Program
Firearms; 610 Health Care	9.41.111(1)(c)	Commi  Mental informa received connect with a frame	614	Motor Vehicle/Driver Records	·43.59.156(6)(a)	Confide informa obtaine the Jones Transpo Safety
		received purchas transfer applicat	615	Motor Vehicle/Driver Records	46.20.117(6); 46.20.161(6)	Self- attestati and provide identica driver's designa

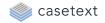


Juvenile 616 Records	28A.300.544(6)	Confide informa received work go students foster and/or experies homele	State 619 Government; Public Health	42.56.380(16)	Certain informa obtaine the Food at Admini by Dep of public laborate
Public		Gas 1 compar reports submitt the UT			for more food s for contame
Public 617 Utilities and 81.8 Transportation	181.88.160(7) n	contain propried data or disclosu	620 Elections	42.56.420(7)	Certain election security informa
		would public s			Persona informa
Financial, Commercial, 618 and Proprietary Information	42.56.270(12) (a)(iii)	Financi propriet informa provide Departr Comme connect with industri	Personal 621 Information	42.56.680	obtaine the Departr Comme from resident propert notices default
		waste coordin progran	622 Security	42.56.422; 43.105.450(7) (d)	State informatechnological security reports informatecompile connect with the of Cyberse

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623	Category  Personal information;  Crime Victims	7.105.105(2)	Descrip  Confide party in forms accompagations protections	Personal Information; 626 Motor Vehicle/Driver Records	46.22.010	Informa records containi persona identity informa obtained Departn Licensir adminis and
624	Financial, Commercial, and Proprietary Information; Trade Secret	36.32.234(7)(a)	Trade so propriet informa submitto bidders, and co in co with ferry do procured when and concurs	Personal 627 Information; Health Care	49.17.062(3)	During health emerger certain persona identifia informa regardin employe Departn Labor Industri
625	State Government; Financial, Commercial, and Proprietary Information	36.32.234(7)(b)	Electric procurer docume notificat finalist selection terminat	628 Health Care	70.14.065(4)	Records or relating partners agreeme producti distribut purchase generic prescrip drugs ar



629 Health Care	71.40.140; 71.40.120(3)	Commu records, of the Behavic Health (Advocarelated organiza advocate
State 630 Government	70A.245.030(2)	Reports informa submitte Departn Ecology produce certain products requeste
Security; Stat 631 Government	<sup>e</sup> 42.56.422	The detailing Office Cyberse indepen security assessm state informa technolc security audits
Industrial Insurance; 632 Injured Worker	51.04.063(13)	Informa relating individu resolution settleme agreeme submitto board industria insurance

\*For subsequent legislative history, see statutes online on the state legislative's website; see also Code Reviser's Office list ("Exemptions from Public Records Disclosure and Confidential Records") available on Sunshine Committee web page.

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