

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.

II

The Does are current or former SPD officers² 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.

² 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.³ 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.

³ 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.⁴

⁴ 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.

III

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 through 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' request for a preliminary injunction precluding disclosure of their names and other identifying information in the requested records.

A

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).

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"The PRA 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 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 when "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.").

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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 election.").

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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 orthodox and uncontroversial views and 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.

The Supreme Court further defined this 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 that "abridgement of [First

Amendment] rights, even though unintended, may inevitably follow from varied forms of 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 *Sweezy*, 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 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 by the government can impinge 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 teachers' religious, political, and other 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 U.S. at 486-87](#). ¹⁸

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, Justice 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., dissenting).

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").

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

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 the 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

20 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*, the Court recognized the constitutional 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,^{7, 8} 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

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 on 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 protect unpopular individuals 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.

B

The Does assert that the disclosure of their identities in the requested records will violate their First Amendment right to political anonymity.⁹ 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, 24 "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.¹⁰ We *25 do not evaluate, however, whether disclosure of the Does' identities is precluded by a statutory right to privacy.

¹⁰ 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; *McIntyre*, 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 any, with political organizations.¹¹ "It cannot

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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 or 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." These declarations are 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.¹² 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 location¹³-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/jasonleopold/the-capitol-police-said-jan-6-unrest-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."¹⁴ 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 *29 cognizant that, in the Seattle community, the Does would likely face opprobrium were their identities disclosed.¹⁷ This is likely notwithstanding the fact that the OPA investigation determined that any allegations of unlawful or unprofessional conduct against the Does were unsustainable. 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 court's 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
30 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 (Nov. 17, 2016), <https://www.seattletimes.com/seattle-news/politics/heres-how-seattle-voters-support-for-trump-stacks-up-to-other-u-s-cities/> [<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/seattle-news/politics/dont-look-now-but-trump-did-better-in-blue-king-county-than-he-did-the-last-time/> [<https://perma.cc/N8F8-TFHL>].

18 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 of 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, J., dissenting) ("[E]xposure and group 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."²⁰ 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.

²⁰ 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."²¹ We disagree. Contrary to Sueoka's assertion, the Does did not relinquish their constitutional rights.

²¹ 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.²²

²² 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."

35 *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 self-incrimination 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 First 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 employment. "[D]uress is inherent" when 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
 37 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 past," and (2) that "the expectation of 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, Int'l Longshoremen's Ass'n, AFL-CIO v. 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 'of 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).²³

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," thus discouraging the exercise of constitutional rights. *Pollard*, 283 F.Supp. at 258. The court described the 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 regarding law enforcement." The 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.²⁴ 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.

²⁴ 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 other 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.²⁵

²⁵ See discussion *infra* § III C.

The United States Supreme Court has repeatedly 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.

²⁶ 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' 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."²⁷ 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.

²⁷ 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 1967,⁴⁵ 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).²⁸ 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,"²⁹ 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); *Keyishian 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 be 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 ⁴⁸ 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.³¹ 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)).³² Such principles do not apply to the facts

of this case.³³ *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 unsustainable.

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 recognize the Supreme 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 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 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."³⁴ RCW 42.56.050.

³⁴ 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 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 court has distinguished 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 unsustainable.³⁵ 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 compelling, such that disclosure would nevertheless be permitted.³⁶ *⁵⁵

³⁵ We note that, while some of the OPA's findings were "not sustained" because the allegations were determined to be "unfounded," others were unsustainable 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" unsustainable findings in the same manner as the "unfounded" unsustainable findings.

³⁶ 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 of 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 the 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 in 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.³⁷ *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, thus 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 are subjects of 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 the 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").³⁸ However, even applying these "more recent formulations" of the standard, *Town of Gilbert*, 576 U.S. at 167, the

57 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).

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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)).³⁹ *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

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.

³⁹ 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

59 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.⁴⁰ 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 the [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 Does-redaction of their names and identifying information from the requested records-is 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.⁴¹

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).

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 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.⁴³ 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 to 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 an 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
 65 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 to 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 *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 commissioner have repeatedly entertained 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 67 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 68 relief." *68

B

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.⁴⁵ However, in so asserting, Sueoka misperceives the issue as one of Washington law.⁴⁶ It is not. Accordingly, his argument fails.

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

⁴⁶ 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 *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 (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.⁴⁷ In this action, the "injury 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.

⁴⁷ 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 privacy—in 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] that an 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 jurisprudence 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

75 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 names 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 ⁷⁸ 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.⁴⁹ Donald J. Trump lost the 2020 presidential election, receiving 74,223,975 popular votes.⁵⁰ 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/cms-content/documents/federalelections2020.pdf>
f[<https://perma.cc/5XDB-2XJA>]

⁵⁰ 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.⁵¹

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-million-votes-in-year-of-record-turnout> [https://perma.cc/4FZS-AWKK].

3. Biden received 51.3 percent of the popular vote.⁵² This was the highest percentage of the popular vote attained by a challenger to a sitting president since 1932, when Franklin Roosevelt defeated Herbert Hoover.⁵³ *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-each-president-since-1789> [https://perma.cc/B5SE-NLLY].

4. Biden earned 306 electoral votes. Trump earned 232.⁵⁴ In 2016, Trump earned 306 electoral votes, while Hillary Clinton earned 232.⁵⁵ Thus, Biden defeated Trump by the same Electoral College margin as Trump defeated Clinton.

⁵⁴ Federal Elections 2020, *supra*, at 7.

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

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.⁵⁶

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).⁵⁷

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.⁵⁸

⁵⁸ H.R. Rep. No. 117-663, at 231-33.

3

The Insurrection at the Capitol

1. 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.⁵⁹

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.

2. Both the House of Representatives and the Senate were forced to adjourn and flee to safety.⁶⁰

⁶⁰ H.R. Rep. No. 117-663, at 664-66.

3. In the riotous melee that ensued over 140 law enforcement officers were injured.⁶¹ According to a U.S. Senate report, seven deaths were attributed to the violence that took place.⁶²

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.⁶³ Some rioters, including those who chanted "Hang Mike Pence," had other goals, such as the killing or kidnapping of members of Congress.⁶⁴

⁶³ Examining the U.S. Capitol Attack, *supra*, at 1.

⁶⁴ H.R. Rep. No. 117-663, at 37-39; Cronin, *supra*.

81 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.⁶⁵ *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/us-news/2021/jan/06/us-capitol-building-washington-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, 2021.⁶⁶ Over 630 have, to date, pleaded guilty or been found guilty after trial.⁶⁷

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/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories> [<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.⁶⁸

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* (May 12, 2021), <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.abcnews.com/us/symbols-hate-extremism-display-pro-trump-capitol-siege/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.

B

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 *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 2012)	Description
1 Agriculture	42.56.380(6)	Information on individual American ginseng growers or dealers
Personal Information	42.56.360(1)	Information relating to infant mortality pursuant to RCW 70.05.170
2 -Research Data/Health Care	(f); [now (3) (a)]	
3 -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

		Definition of "public records" for the senate and the house are limited to definition of legislative records in RCW 40.14.100 and budget personnel, travel records and certain reports. [Definition]		Information regarding business operations contained in reports or commercial fertilizer
4	Legislative Records	42.56.010(2); [now (3)]	7 Agriculture	42.56.380(2); 15.54.362
				Production or sales records required to determine payments to various agricultural commodity boards and commissions (Relates to exemptions in 10 commission statutes)
5	Personal Information -Public Employment	42.56.250(2)	8 Agriculture	42.56.380(3)
		Applications for public employment, including names, resumes		Consignment information contained or
			9 Agriculture	42.56.380(4)
		Business records the department obtains regarding organic food products		phytosanitary certificates issued by the department of agriculture
6	Agriculture	42.56.380(1); 15.86.110		

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

Category	RCW	Descript		
			17 Agriculture	15.49.370(8) Seeds: operatic product informa
14 Agriculture	42.56.380(10);16.36	Animal disease reportir	18 Agriculture	15.53.9018 Comme Feed r reports
15 Agriculture	42.56.270(17)	Farm that volunta develop with conserv district assistan	19 Agriculture	15.58.060(1)(c) Washin Pesticid Control Busines informa a pro nature regardin pesticid formula
		Livesto nutrient manage informa Certain informa obtaine state ar agencie dairies, feeding operatic require	20 Agriculture	15.58.065(2) Washin Pesticid Control Privileg confide comme financia informa trade re: pest
16 Agriculture	42.56.610	apply nationa pollutar dischar elimina system disclos only in that meanin informa public	21 Agriculture	15.65.510 Informa regardin agricult marketi agreem (includi from noncorr hearing

22 Agriculture 15.86.110	<p>Business related information obtained from the department of agriculture regarding entities certified to handle organic transition food, entities applying for such certification</p>	25 Agriculture 22.09.045(7)	<p>Financial information provided to apply for a grain license from the department of agriculture</p> <p>Financial information obtained from the department of agriculture for market development projects</p>
23 Agriculture 17.24.061(2)	<p>Insect and Plant List (including trade secret commercial information obtained from the department of agriculture regarding insecticides, noxious weeds, and organisms affecting life</p>	27 Personal Information 28C.18.020	<p>List of nominees for director of work training and education board elimination</p>
24 Agriculture 22.09.040(9)	<p>Financial information provided to apply for a water license from the department of agriculture</p>	28 Personal Information 79A.25.150	<p>Names of candidates for director of interagency commitment to outdoor recreation [Later elimination]</p>

85

*85

Category	RCW	Descriptio			
29 Personal Information	43.33A.025(2)	State investment board criminal history record checks finalists f board positions Address, phone numbers, email addresses, SSNs, drivers' license numbers, identocard numbers, payroll deductions and emergency contact informatio of publ employees or volunteers held l public	31 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 (1); childr in list programs (2)
30 Personal Information: Employment and Licensing	42.56.250(4)		32 Public Utilities Transportation	& 42.56.330(3)	Personal informatio in vanpocarpool, ride-share programs

		Personal information of current or former participant or applicants in transit services operated for those with disabilities or elder persons		Agency records relevant to controversy but which would not be available to another party under the rules of pretrial discovery for cases pending in the superior courts
Public Utilities & Transportation	42.56.330(4)		Misc. Government Functions	42.56.290
34 Personal Information	41.04.364 (repealed) 41.04.362 also see 42.56.360(1)(j) (same)	Personally identifiable information in state employee wellness program		
Public Utilities & Transportation	42.56.330(5)	Personal information of person who uses transit passes at other fare payment media		

			Category	RCW	Description
		Informatic that identifies person wh while a agency employee: (a) See advice, under a informal process establishe by tl employing agency, order ascertain h or her righ in connector with possible unfair practice under chapter 49.60 RC against tl person; at (b) reques his or h identity any identifying informatio not l disclosed			Investigative records compiled by employing agency conducting current investigation a possi unfair prac under chap 49.60 RCW of a possi violation other fede state, or lc laws prohibiting discriminati in employm
37	Personal Information	42.56.250(6)			Employee salary ; benefit information collected fr private employers salary sur information marine employees
38	Personal Information		Personal Information	42.56.250(5)	
39	Personal Information		Personal Information	42.56.250(8)	

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

		Valuable		Insurance
		commercial		viatical
		information,		settlement
		trade secr		broker rece
		etc. supplie		which may
		the utilities ;	51 Insurance &	required ;
		transportatic	Financial Inst.	examined
		commission	48.102.030	the insura
				commission
		Utility recd		[later repea
		filed v		
		utilities ;		
87		transportatic	*87	
		commission		
		containing		
		valuable		
		commercial		
		information		
		Information		
		obtained ;		
		exempted		
		the health c		
		authority the		
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		implementat		
		of s		
		purchased		
		health care		
		Names		
		individuals		
		life insura		
		policy		
		settlements		

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

<p>62 Insurance & Financial Inst. 42.56.400(9)</p>	<p>Proprietary information provided to the insurance commissioner regarding health carrier holding companies</p>	<p>67 Insurance & Financial Inst. 48.17.595(6)</p>	<p>Information obtained by insurance commissioner in investigation of misconduct by agent/broker</p>
<p>63 Insurance & Financial Inst. 42.56.400(10)</p>	<p>Data filed with the insurance commissioner that reveals identity of claimant, provider, or insurer</p>	<p>68 Insurance & Financial Inst. 42.56.403</p>	<p>Documents that provide background for actuarial opinion filed with insurance commissioner</p>
<p>64 Insurance & Financial Inst. 42.56.400(11)</p>	<p>Documents obtained by insurance commissioner relating to insurance fraud</p>	<p>69 Insurance & Financial Inst. 48.02.120</p>	<p>i oimulas, statistics, assumptions, etc. used by insurance companies to create rates; such information that is submitted to the insurance</p>
<p>65 Insurance & Financial Inst. 48.135.060</p>	<p>Documents obtained by insurance commissioner relating to insurance fraud</p>	<p>Statement of actuarial opinion is a public record.</p>	<p>Documents that provide background for statement of actuarial opinion filed with insurance commissioner are exempt</p>
<p>66 Insurance & Financial Inst. 42.56.400(15)</p>	<p>Documents obtained by insurance commissioner regarding misconduct by agent/broker</p>	<p>70 Insurance & Financial Inst. 48.05.385(2)</p>	<p>Documents that provide background for statement of actuarial opinion filed with insurance commissioner are exempt</p>

Category	RCW	Description				
			Insurance & Financial Inst.	76	48.21.330	Proof nonresident pharmacy licensure used by insurance companies provide drugs to residents
71	48.03.040(6)(a)	Insurance and investigations by state insurance commissioner	Insurance & Financial Inst.	76	48.21.330	Proof nonresident pharmacy licensure used by insurance companies provide drugs to residents
72	48.03.050	Insurance and investigations by state insurance commissioner	Insurance & Financial Inst.	77	48.44.470	Proof nonresident pharmacy licensure used by insurance companies provide drugs to residents
73	48.05.465	Insurance companies risk based capital (RBC) reports and plans	Insurance & Financial Inst.	78	48.46.540	Proof nonresident pharmacy licensure used by insurance companies provide drugs to residents
74	48.43.335(1)	Insurance companies risk based capital (RBC) reports and plans (should not be used to compare insurance companies that are therefore confidential)	Insurance & Financial Inst.	79	48.31B.015(2)(b)	Source consideration (identity of lender) of loan associated with acquiring an insurance company
75	48.20.530	Proof nonresident pharmacy licensure used by insurance companies provide drugs to residents	Insurance & Financial Inst.	80	48.62.101(2)	Local government self-insurance liability reserve funds ----- ----- -----
				81	Placeholder	

82 Insurance & Financial Inst.	48.94.010(5)	Summary reasoning f insurance commissione refusal to issi reinsurance intermediary license	85 Insurance & Financial Inst. 70.149.090	Business a proprietary information insurers obtained by tl director of tl Washington state pollutic liability insurance agency, provide insurance owners heating c tanks
83 Insurance & Financial Inst.	48.130.070	Records of tl interstate insurance product regulation compact involving privacy individuals at insurers' trac secrets Examination and proprieta records potential insurers obtained by tl director of tl	86 Insurance & Financial Inst. 42.56.400(6)	Examination reports at information obtained by tl department financial institutions from bankii institutions
84 Insurance & Financial Inst.	70.148.060(1)	Washington state pollutic liability insurance agency wh soliciting bi to provic reinsurance f owners underground storage tanks	87 Insurance & Financial Inst. 21.20.855	Reports at information from department financial services examinations
			88 Insurance & Financial Inst. 30.04.075(1)	Information obtained by tl director financial institutions when examining banks and tru companies----
				----- -----

		Information	Category	RCW	Description
89	Insurance & Financial Inst.	30.04.230(4) (a)			Information obtained during investigations of out of state banks
			Insurance & Financial Inst.	31.12.565(1)	Examination reports and information obtained by the director of financial institutions while examining credit unions
			Insurance & Financial Inst.	32.04.220(1)	Information from examinations of mutual savings bmk----- -----
			Insurance & Financial Inst.	33.04.110(1)	Information from examinations of savings and loan associations
			Insurance & Financial Inst.	32.32.228(3)	Findings disapproving conversion from mutual savings bank to capital stock savings bank

89 *89

94	Insurance & Financial 32.32.275 Inst.	Information applicants deem confidential relating to conversion of mutual savings bank to capital stock savings bank	Insurance & Financial 33.24.360(1)(d) Inst.	Name of lender financing the acquisition of a savings and loan, if requested by the applicant
95	Insurance & Financial 7.88.020 Inst.	Financial institution compliance review documents	Insurance & Financial 42.56.450 Inst.	Personal information on check cashers and sellers licensing applications and small loan endorsements
96	Insurance & Financial 9A.82.170 Inst.	Information obtained from a financial institution's records pursuant to subpoena under the criminal profiteering act	Insurance & Financial 31.35.070 Inst.	Reports on examinations of agricultural lenders
97	Insurance & Financial 21.30.855 Inst.	Reports and information from department of financial services examinations	Insurance & Financial 31.45.030(3) Inst.	Addresses and phone numbers and trade secrets of applicants of a check cashier or seller license
98	Insurance & Financial 30.04.410(3) Inst.	Findings related to disapprovals of bank acquisitions		

<p>Insurance 103 & Financial 31.45.077(2) Inst.</p>	<p>Addresses, phone numbers and trade secrets of applicants for a small loan endorsement to a check cashers or sellers license</p>	<p>L&I- 107 Injured 51.36.110(1) workers</p>	<p>Information (including patients' confidential information) obtained in audits of health care providers under industrial insurance</p>
<p>Insurance 104 & Financial 31.45.090 Inst.</p>	<p>Trade secrets supplied by licensed check cashers and sellers as part of the annual report to director of financial institutions</p>	<p>108 Personal 42.56.230(5) Information (formerly (3))</p>	<p>Credit card numbers, debit card numbers, electronic check numbers, and other financial information, except when disclosure is required by other law</p>
<p>L&I- 105 Injured 51.16.070(2) workers</p>	<p>Information in employer's records obtained by labor & industries under industrial insurance</p>	<p>109 Personal 42.56.230(4) Information</p>	<p>Certain taxpayer information if it would violate taxpayers right of privacy</p>
<p>90 L&I- 106 Injured 51.28.070 workers</p>	<p>Information and records of injured workers contained in industrial insurance claim files</p>	<p>*90</p>	

Category	RCW	Descriptio					
110	Personal Information	42.56.230(5)	Personal financial information related to small loan any system authorizing small loan section 6 this act (R 31.45.-)	114	L&I-Injured workers	49.17.210	Identificati of employe employee labor industries studies
111	Personal Information	42.56.230(6)	Personal information required apply for driver's lice or identical	115	L&I-Injured workers	49.17.250(3)	Info obtai by labor industries 1 employer-requested consultatio re. indus safety health act- ----- ----- -----
112	L&I-Injured workers	49.17.080(1)	Name employee company seeking industrial safety health act	116	L&I-Injured workers	49.17.260	Labor industries investigativ reports industrial catastrophe
113	L&I-Injured workers	49.17.200	Trade sec reported labor industries under Washington industrial safety health act	117	L&I-Injured workers	51.36.120	Financial valuable t info f health providers
				118	L&I-Injured workers	42.56.400(1)	Board industrial insurance records pertaining appeals crime vict compensati claims

119	Fish Wildlife	&	42.56.430 (1)	Commercial fishing catch data provided to department fish wildlife would result in unfair competitive disadvantage	Employment and Licensing	42.56.250(1)	Test questions and examination information used licenses, employment or academic
120	Fish Wildlife	&	42.56.430 (2)	Sensitive wildlife obtained from the department of fish wildlife	Personal Information	66.16.090	Records LCB show individual purchases liquor-confidential
121	Fish Wildlife	&	42.56.430 (3)	Personally identifying information persons acquire recreational commercial licenses	Investigative, law enforcement and crime victims	42.56.240(9)	Personally identifying information collected law enforcement agencies pursuant local security alarm systems vacation camera watch programs
122	Fish Wildlife	&	42.56.430(4)	Information subject confidentiality requirements of Magnus Stevens fishery conservancy and management reauthorization act of 2006	Investigative, law enforcement and crime victims	42.56.240(11)	Identity state employment or officer files complaint or an ethics board under RCW 42.52.420 reports improper government action to auditor other officials

			Category	RCW	D
	Employment 127 and Licensing	42.56.250(7)	Criminal history re checks investment board fin candidates		Et ar in cc pr fo in m er
91 *91			128 Employment Licensing	and 42.56.250(7)	
			129 Employment Licensing	and 42.56.250(8)	Pl m bi fil er m
			130 Real estate Appraisals	42.56.260	R a a a or pr at lo ye

		St			In
		in	Investigative,	law	af
		in	134 enforcement and crime	42.56.240(4)	cc
		in	victims		lic
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131	enforcement and crime	ag	42.56.240(1)		
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		pr			Id
		es	Investigative,	law	in
		er	135 enforcement and crime	42.56.240(5)	re
		pe	victims		vi
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	Investigative,	nc	law		
132	enforcement and crime	di	42.56.240(2)		
	victims	er			
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		sa	136 enforcement and crime	42.56.240(6)	da
		pr	victims		43
		ap			
		cc			
			Investigative,	law	D.
		Ru	137 enforcement and crime	42.56.240(7)	el
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		re			(p
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	Investigative,	ag	law		su
133	enforcement and crime	to	42.56.240(3)		of
	victims	se			nc
		of	Investigative,	law	re
		ha	138 enforcement and crime	42.56.240(8)	re
		tra	victims		sy
		W			nc
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					of

	In w of of de lic in ag pe in R 42 ar pt ar	Category	RCW	D
Personal 139 Information/proprietary and tax information	82.36.450(3)	Personal 140 Information/proprietary and tax information	82.38.310(3)	In fil de lic of de lic in ur ag pe in ur 42 (b ex pu in ar Li in fo cc pu In pr cc pr de of qu fo
		141 Lists of Individuals	42.56.070(9)	
		142 Juries	2.36.072(4)	

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143 Personal Information	42.56.230 (7)(a)	re	Financial, Commercial,	ar
		ap	147 and Proprietary	fil
		dr	Information	pe
		lic		pe
		id		ex
				se
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144 Personal Information	42.56.230 (7)(b)	re	Financial, Commercial,	in
		se	148 and Proprietary	de
		se	Information	lo
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		Va		Fi
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		de	Financial, Commercial,	ot
		dr	149 and Proprietary	fr
		re	Information	ar
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		ag		cc
Financial, Commercial,		w		Fi
145 and Proprietary	42.56.270(1)	ye		in
Information		re		or
		di	Financial, Commercial,	in
		di	150 and Proprietary	re
		w	Information	m
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		ar		
		lo		Fi
		Fi		tr
		in	Financial, Commercial,	in
Financial, Commercial,		su	151 and Proprietary	su
146 and Proprietary	42.56.270(2)	bi	Information	ar
Information		fe		in
		hi		in
		cc		cc

			Category	RCW	Descripti
Financial, Commercial, 152 and Information	Proprietary 42.56.270(8)	Financial, Commercial, Proprietary Information	154 and Proprietary Information	42.56.270(10)	Financial informati supplied applicatio liquor, g lottery r various r licenses
Financial, Commercial, 153 and Information	Proprietary 42.56.270(9)	Financial, Commercial, Proprietary Information	155 and Proprietary Information	42.56.270(11)	Proprieta trade se other inf submittec vendor departme social an services purposes purchase care
		Financial, Commercial, Proprietary Information	156 and Proprietary Information	42.56.270(12) (a)(i)	Financial proprietar informati supplied DCTED furtheran state's e and co developm efforts
		Financial, Commercial, Proprietary Information	157 and Proprietary Information	42.56.270(12) (a)(ii)	Financial proprietar informati provided DCTED regarding businesse proposin locate in

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158	Financial, Commercial, Proprietary Information	42.56.270(14)	Financial commercial operation technical research informati obtained life discovery authority	162	Archaeological sites	42.56.300(3)	Information identifying location archaeological sites
159	Financial, Commercial, Proprietary Information	42.56.270(20)	Financial commercial informati submittec obtained Universit Washingt relating investme private fu	163	Library records	42.56.310	Library disclosing identity library us
160	Financial, Commercial, Proprietary Information	42.56.270(21)	Market sl submittec manufact under 70.95N.1	164	Educational Information	42.56.320(1)	Financial disclosure by vocational schools
161	Preliminary records containing opinions or policy formulations	42.56.280	Prelimin drafts, recomme and int memos opinions expressec policies formulate recomme unless cit agency	165	Educational Information	42.56.320(2)	Financial commerc informati relating purchase of tuition
161	Preliminary records containing opinions or policy formulations	42.56.280	Prelimin drafts, recomme and int memos opinions expressec policies formulate recomme unless cit agency	166	Educational Information	42.56.320(3)	Individual identifiab informati received WFTECF research evaluatio purposes
161	Preliminary records containing opinions or policy formulations	42.56.280	Prelimin drafts, recomme and int memos opinions expressec policies formulate recomme unless cit agency	167	Educational Information	42.56.320(4)	Information gifts, gr bequests institution higher e (1975)
161	Preliminary records containing opinions or policy formulations	42.56.280	Prelimin drafts, recomme and int memos opinions expressec policies formulate recomme unless cit agency	168	Educational Information	42.56.320(5)	The declaratic intent f parents f to receiv based ins

	Category	RCW	Description
			Membersh and list owners interests timeshare projects, condomini land developme common-i communiti regulated departmen licensing
169	Timeshare, condominium owner lists	42.56.340	
170	Health Professionals	42.56.350(1)	SSNs of care profession. maintainec files of departmen health
171	Health Professionals	42.56.350(2)	Residentia address telephone numbers health providers maintainec files of departmen health

		Records pertaining to license drivers' li or iden that may undercover work, confidential public work, assistance or child s investigati	176 Health Care	42.56.360 (1) (e)	Physicians impaired physicians program
Investigative, law enforcement and crime victims	42.56.230(7) (c)		177 Health Care	RCW 70.05.170(3) -see also former 42.56.360(3)	Physicians impaired physicians program Information relating to mortality pursuant to former 70.05.170/42.56.360 184 and 18
Employment 173 and Licensing	42.56.240(13)	Criminal agency employee/ residence data	178 and	Financial, Commercial, Proprietary Information 42.56.270(23)	Notice of oil transfer
174 Health Care	42.56.360(1) (c)	Information documents created, collected, maintained the health services improvement program medical malpractice prevention program	179 Health Care	42.56.360(1) (f)	Complaint under the care profi uniform disciplinar
175 Health Care	42.56.360(1) (d)	Proprietary financial commerci informatio provided departmen health rela an a exemption	180 and	Financial, Commercial, Proprietary Information 42.56.270(24)	Certain informatio supplied liquor cannabis per 69.50.325, 9.50.331, 69.50.342 69.50.345
			181 Health Care	42.56.360(1) (i)	Information collected departmen health chapter RCW.

			Category	RCW	Descriptio
182 Health Care	42.56.360(1)(k)	Claims da informatio provided statewide payer heal claims da that is c under 43.373.040			Certain informatio and submitted obtained b liquor
183 Health Care	42.56.360(2) and 70.02	Health informatio disclosed health provider v patients permission	184 and Proprietary Information	42.56.270(24)	cannabis b re applica for license reports required u RCW 69.50.372
			185 Health Care; Marijuana	42.56.625	Records medical marijuana authorizati database RCW 69.51A.230
			186 Domestic Violence	42.56.370	Client rec of comm sexual as program services underserve population [amended 2012]
			187 and Livestock	42.56.380(10)	Results animal te from san submitted the ar owner

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<p>188 and Agriculture Livestock</p>	<p>42.56.380(11)</p>	<p>Records internation livestock importation that are disclosable the U.S. under fe law.</p>	<p>Insurance & 192 Financial Inst.</p>	<p>42.52.400(17)</p>	<p>Documents: materials, informatio obtained b insurance commissio under F 48.31.025 48.99.025</p>
<p>189 and Agriculture Livestock</p>	<p>42.56.380(12)</p>	<p>Records re to entry prohibited agricultura products imported Washingto that are disclosable the U.S. under fe law</p>	<p>Insurance & 193 Financial Inst.</p>	<p>42.56.400(18)</p>	<p>Documents: material, informatio relating investment policies obtained b insurance commissio under F 48.13.151</p>
<p>190 Emergency or Transitional Housing</p>	<p>42.56.390</p>	<p>Names individuals residing emergency transitional housing furnished t department revenue c county ass</p>	<p>Insurance & 194 Financial Inst.</p>	<p>42.56.400(19)</p>	<p>Data (temporary study on s group h plan marke Informatio a filing usage-base</p>
<p>191 Insurance & Financial Inst.</p>	<p>42.56.400(16)</p>	<p>Documents: materials, informatio obtained b insurance commissio under F 48.102.-05 and 48.102.-14 and (7)(a)(</p>	<p>Insurance & 195 Financial Inst.</p>	<p>42.56.400(20); 48.19.040(5) (b)</p>	<p>component the pursuant RCW 48.19.040(b)</p>
<p>191 Insurance & Financial Inst.</p>	<p>42.56.400(16)</p>	<p>Documents: materials, informatio obtained b insurance commissio under F 48.102.-05 and 48.102.-14 and (7)(a)(</p>	<p>Insurance & 196 Financial Inst.</p>	<p>42.56.400(21); 42.56.400(22); 42.56.400(23); 42.56.400(24); 42.56.400(25)</p>	<p>Data, informatio and docun submitted obtained b insurance commissio</p>

			Category	RCW	Descripti
197	Employment Security 42.56.410	Most rec and information supplied to employment security department			Information regarding infrastructure security
198	Security 42.56.420(1)	Records relating criminal terrorist ac	201 Security	42.56.420(4)	computer telecomm networks extent t identify system vulnerabi
199	Security 42.56.420(2)	Records containing specific unique vulnerabili assessment and emerg and es response j - adds commitme facilities	202 Security	42.56.420(5)	Security ; transport; security fixed systems
200	Security 42.56.420(3)	Comprehei safe sc plans identify specific vulnerabili	203 Personal Information	42.56.230(8)	Information regarding individua resolution settlement agreemen submitted board of insurance
96	*96		Veterans' 204 discharge papers	42.56.440	Veterans' papers
			205 Fireworks, Explosives	42.56.460	Records ; produced state firev chapter 71 and the V state expl chapter 71

206	Correctional industries workers	42.56.470	Records to industries work prog	212	Mediation Communication	42.56.600	Records mediator communi that are under th mediator
207	Inactive programs	42.56.480(1)	Contracts railroad with the transport commissi to 7/28/91	213	Code Reviser	1.08.027	Code drafting s
208	Inactive programs	42.56.480(2)	Personal informati internatio contact da	214	Judicial Investigative	2.64.111	Judicial commissi investigat initial pro
209	Inactive programs	42.56.480(3)	Data col departme social ai services to payme for boarding	215	Health Care Professions	4.24.250	Hospital committe on pi staff
210	Enumeration Data	42.56.615	Enumerat used by financial managem populatio estimates	216	Financial, Commercial, and Proprietary Information	4.24.601	Trade se confident research, developm commerc informati
211	Financial, Commercial, and Proprietary Information; Marijuana	42.56.620	Reports by research that proprietar informati	217	Financial, Commercial, and Proprietary Information	4.24.611	Trade confident research, developm commerc informati concernin products business 1

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Category	RCW	Descrip		
218 Claims	4.92.210	Informa centraliz managet claim system	223 Health Records	Care 7.68.080(9) (a) The may records health provider notwiths any stat makes records privilege confider
219 Privileges	5.60.060	General statemer privilege commur between persons various professic e.g., a or phys presuma applies records also # 2:	224 Financial, Commercial, and Proprietary Information	7.68.080(10) At the of heal contract departm must financial trade informat confider
220 Mediation Communication	5.60.070	Material in any ordered mediatic	225 Crime Victims and Witnesses	7.68.140 Records Victims crimes confider not of inspectic
221 Mediation Communication	7.07.050(5)	Mediatic commur	226 Crime Victims and Witnesses	7.69.A.030(4) Name, or phc of child or child
222 Mediation Communication	7.07.070	Mediatic commur	227 Mediation Communication	7.75.050 County dispute resolutic center re

228	Financial, Commercial, and Proprietary Information	7.88.020.30	&	Financial institutio complia review documen				Names victims, kin, witnesse are when escapes, parole, released (formerl 9.94A.6
229	Health Care	9.02.100		General statemer fundame right reproduc privacy apply to	235	Crime Victims and Witnesses	72.09.712 (recod 8/1/09) (See also # 451)	
230	Health Care - Concealed Pistols	9.41.097(2)		Mental info r on buying or apply conceale licenses	236	Privileges	5.60.060	Alcohol additio sponsor privileg
231	Concealed Pistols	9.41.129		Conceal pistol applicati	237	Offender Information	9.94A.745	Records interstat commiss adult supervis would affect privacy proprieta interests
232	Crime Victims and Witnesses	9.73.230		Name confider informat written on wire				
233	Crime Victims and Witnesses	72.09.710 (recod 8/1/09) (See also # 451)		Names witnesse notified drug o released (formerl 9.94A.6				
234	Placeholder							

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Crime Victims and Witnesses

Category	RCW	Descripti		
			Criminal 241 Proceedings - 10.27.160 Investigative	Grand j reports
238	9.94A.885	Information regarding victims, survivors of victims, or witnesses that are sent 1999 clemency hearing notices may not be released to offender	Public 242 Utilities & 19.29A.100 Transportation	Electric utilities n not discl private proprietar customer informati
239	Offender Information 9A.44.138	Sex offender registratic informati given high sch or institutio of hig education regarding employee student confident	243 Insurance & 48.31B.015(1) Financial Inst. (b)	Filing controllin person insurer seeking divest controllin interest confident until conclusio of transactic
240	Criminal Proceedings - 10.27.090 Investigative	Grand j testimony	Investigative, law 244 enforcement 42.56.240(14) and crime victims	Body w camera recording

<p>Investigative, law 245 enforcement 42.56.240(14) and crime victims</p>	<p>Records : info in statewide sexual assault tracking system under RC 43.43.</p>	<p>Privacy criminal records, including criminal history informati on arre detention indictmer informati or ot formal criminal charges made a 12/31/77 unless dispositio are inclu</p>
<p>246 Crime Victims and Witnesses 10.52.100</p>	<p>Identity child victims sexual assault</p>	<p>249 Crime Victims and Witnesses 10.97</p>
<p>247 Crime Victims and Witnesses 10.77.205</p>	<p>Informati about victims, next of l or wites requestin; notice release convicted sex violent offenders</p>	<p>250 Crime Victims and Witnesses 10.97.130</p>
<p>248 Offender Information 10.77.210</p>	<p>Records persons committe for crimi insanity</p>	<p>Judicial - 251 Indigent 10.101.020 Defense</p>
		<p>Names victims sexual assaults v are 18 ye of age younger Informati given persons determine eligibility for indig defense</p>

	Sources	Category	RCW	Description
Crime Victims 252 and Witnesses - Juvenile	13.40.150 confident informati in dispositio hearings juvenile offenses	254 Juvenile Records	13.50.010(12)	Electronic research cop juvenile re maintains level confidentiali and anonym juvenile re in ju information system
Crime Victims 253 and Witnesses - Juvenile	13.40.215 and .217 Informati about victims, next of l or wites requestin; notice release juvenile convicted violent offense stalking	255 Juvenile Records	13.50.010(13)	Information records rel to the Washi 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 p; are confide including existence nonexistence the record
		258 Juvenile Records	13.50.100(2)	Juvenile just care ag records relating commission juvenile crim

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

			Category	RCW	Description
Health		Information			
271 Care	18.46.090	maternity h			
Professions		received			
		department			
		health identi			
		individuals			
		maternity ho			
			272 Health Care	18.53.200	Information
			Professions		records
					optometrists
					Records
					obtained
			273 Health Care	18.64.420	department
			Professions		health rega
					various
					insurance
					companies
					Contents
			274 Health Care	18.71.0195	physician
			Professions		disciplinary
					report
					Entry rec
			275 Health Care	18.71.340	under imp
			Professions		physician
					program
					Communica
				18.83.110	between c
			276 Privileges	also 5.60.060	and
				(# 219)	psychologis
					could appl
					records
					Info obt
			Other		from contra
			277 Professions	18.106.320(2)	on plur
			-Plumbers		trainee hour
					Complaints
					under uni
			278 Health Care	18.130.095(1)	disciplinary
			Professions (a)		for h
					professional

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279	Health Care Professions	18.130.172(1)	Summary stipulations complaints against health care professional	284	Other Professions -Business Licenses	19.02.115	Master lic service pro licensing information confidential privileged except provided in section
280	Health Care Professions	18.130.095(1)(a) (Repealed 2019)	Complaint unprofessional conduct against health professional licensee				
281	Health Care Professions	18.130.175(4)	Voluntary substance abuse records health professional	285	Financial, Commercial and Proprietary	19.16.245	Collection agency financial statements
282	Health Care Professions	18.130.175(4)	Substance abuse treatment records licensed health professional	286	Other Professions -Electrical	19.28.171	Info obtained from electrical contractors electrical trade hours
283	Elderly Adults Referrals	18.330.050(2)(f)	On request disclosure statement, include statement agency will client authorization obtain disclose confidential information	287	Other Professions -Electrical	19.28.171	Information obtained electrical contractor department licenses
				288	Security - Electronic Keys	19.34.240	Private under electronic authentication act
				289	Security - Electronic Keys	19.34.420	Electronic authentication info
				290	Financial, Commercial and Proprietary Information	19.108	Trade Secret Act

			Category	RCW	Descri		
291	Juvenile Records	13.50.010(14)	Records rele by the cou the state c of civil lega				
292	Financial, Commercial and Proprietary - Mortgages	19.146.370(4)	Chapter 4 RCW relati supervisory information information subject subsection (this section superseded this section	293	Other Professions - Money Transfer Co's. Financial, Commercial and Proprietary Information	19.230.190 19.330.080(5)	Money licensi inform Confid techno: inform in man produc state is a order
101	*101			295	Investigative Records	21.20.480	Securit investi;
				296	Financial, Commercial and Proprietary information - Investigations	21.30.170	Some inform obtaine departr financi institut
				297	Placeholder		
				298	Financial, Commercial and Proprietary information Nonprofits & Mutuals	- 24.06.480	Inform interro; of miscell and corpor: secreta

299	Crime Victims and Witnesses	26.04.175	Marria applica records particip address confide program	305	Archaeological Records	27.53.070 (42.56.300)	Comm on lo archae sites r records
300	Mediation Communications	26.09.015	Divorc mediat procee may records procee	306	Financial, Commercial and Proprietary Information	28B.85.020(2)	Financ disclos provide Board vocatic schools
301	Judicial - Court Files	26.12.080	Superio may family files c protect	307	Financial, Commercial and Proprietary Information	28C.10.050(2)(a)	Financ disclos private vocatic schools
302	Child Support Records	26.23.120(1)	Record concern person: child st	308	Voter Election Information	and 29A.08.710	Origin: registr forms images
102	303	Child Support Records	26.23.150	Social numbe collecti licensi agenci be disc	*102		
304	Adoption Records	26.33.330 .340 & .345	Adopti records by ord court & showin cause); contact prefer and medica				

Category	RCW	Description			
					Rail fi guideway system
			313 Security	35.21.228(4)	security emergency preparedne plan
Voter and 309 Election Information	29A.08.720	The department licensing office which particular individual registers vote			Rail fi guideway system
			314 Security	35A.21.300(4)	security emergency preparedne plan
Voter and 310 Election Information	29A.20.191; recod to 29A.56.670	Minor p; and independe candidate nominating petitions			Rail fi guideway system
			315 Security	36.01.210(4)	security emergency preparedne plan
Voter and 311 Election Information	29A.32.100	Argument statement submitted secretary state voters' pamphlet	316 Placeholder		
					Rail fi guideway system
			317 Security	36.57.120(4)	security emergency preparedne plan
Financial, Commercial and 312 Proprietary Information -Mortgages	31.04.274(4)	Chapter 42 RCW rela to disclos of supervis information any information described subsection of this sec is superse by this sec			Rail fi guideway system
			318 Security	36.57A.170(4)	security emergency preparedne plan

319	Financial, Commercial and Proprietary Information	36.102.200	Financial i on ma tenant, concession team affili or sublease a pu stadium authority's facilities	323	Offender Records	40.14.070 (c)	(2)	Sex offer records transferred Washington association sheriffs police chie
320	Financial, Commercial and Proprietary Information	39.10.100 (2) recod. as 39.10.470 (2); 39.10.470(3)	Trade sec & proprie information from contractors under (2) alternative as public wo (2); proposals from desi build final for alterna public wc until selec is made terminated	324	Bill Drafting Records	40.14.180		Bill draf records of code revis office Names persons domestic violence sexual ass programs; records address confidentia program
321	Financial, Commercial and Proprietary Information -Bids	39.26.030(2)	Competitiv bids subjec chapter 42 RCW exc exempt fi disclosure until appa successful bidder announced	325	Crime Victims and Witnesses	40.24.070		Salary fringe ben info identifying private employer from department personnel salary surv
322	Archive Records	40.14.030 (2)	Records transferred state archiv	326	Public Employment Information	41.06.160		

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Category	RCW	Descripti			
Public 327 Employment Information	41.06.167	Salary and benefit : collected private en	334 and Financial, Proprietary Commercial Information	42.56.270(22)	Certain informati supplied departmen financial institution portal to exemption state registratic
Collective 328 Bargaining	41.56.029(2)	Collective bargaining authorizat of adult home workers	335 Juvenile Records	13.50.010(15)	Child records assist in the e needs c youth
Personal 329 Information Research	42.48.020 - .040	Personally & identifiab records scientific	336 Placeholder		
Health Care 330 Records	43.01.425	Crisis services communic and inform confidenti	337 Personal Information Printing Vendors	- 43.19.736	Print contractec private must vendor to a conf agreemen materials sensitive personally identifiab informati
Investigative 331 Records	43.06A.050	Investigat records o family children's ombudsm			
Financial, Proprietary 332 and Commercial Information	43.07.100	Info businesses confidenti bureau of in secreta	338 Claims	43.41.350 Recod 43.19.781	Risk ma loss informati
Investigative 333 Records Whistleblower	-43.09.186(4)	Identity and docu report to efficiency state audit			

			Criminal justice records from investigations	training from initial	commission background
			Category	RCW	Descripti
339	Financial, Proprietary and Commercial Information - Marijuana	42.56.270(25)			
					and drive numbers access issued traceabilit access p
					69.50.325 9.50.331,0 69.50.345
			343 and Proprietary Information	43.22.434	Info obta from contractor through audit
340	Financial, Commercial and Proprietary Information	43.21A.160	344 Deliberative Process Records Provided to Governor	- 43.41.100	Confident reports n to governor director office financial managem
341	Financial, Commercial and Proprietary Information	43.21F.060(1)	345 Investigative Records	43.43.710	Washingt state p: informati in rec relating to commissi of any c by any pe
342	Employer Labor Statistics	43.22.290	346 Investigative Records	43.43.762 - 42.56.240(6)	Informati in crim street § database
			347 Investigative Records	43.43.856	Washingt state p: organized crime Investigat informati

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348	Financial, Commercial and Proprietary Information	43.52.612	Financial informatic provided operating agencies bid forms experien provided contractor a operating agency regarding bids constructi nuclear project	353	Health Care Professions Whistleblower	-43.70.075	Identity whistlebl who mak complaint the departme health improper
349	Health Care	43.70.050(2)	Health related identifyin patients providers obtained state ager	354	Health Care Professions	43.70.510	Informati and document created, collected maintaine by a qu assurance committe
350	Health Care	43.70.052	American Indian he data	355	Health Care Professions	43.70.695(5)	Healthcar workforce surveys identifyin individual providers
351	Health Care	43.70.056(2) (e)(ii)	Hospital reports informati on he care- associatec infections	356	Investigative Records	43.190.110	Complain and investigat records long-term care ombudsm
352	Health Care	42.56.360(4); 70.54	Info document relating maternal mortality reviews RCW 70.:	357	Employment Records, Investigative Records	43.101.400	2001; 202
				358	Investigative Records Fatality Review	-43.235.040(1)	Domestic violence fatality review in

			Category	RCW	Descripti
Financial, Commercial 359 and Proprietary Information	43.330.062	Protocols may require release informati that assoc developm organizati client company requested remain confidenti	360 Health Care	43.370.050(2)	Individua in releas data for analysis
			Motor 361 Vehicle/Driver Records	46.12.380(1) 46.12.635	Names at motor v except fo other purp
			362 Placeholder		<i>Check coo</i>
			Motor 363 Vehicle/Driver Records	46.20.041	Info on mentally demonstr drive
			Motor 364 Vehicle/Driver Records	46.20.118	Photos licenses &
			Motor 365 Vehicle/Driver Records	46.52.065	Blood se done by s
			Motor 366 Vehicle/Driver Records	46.52.080 .083	& Most in accident r
			Motor 367 Vehicle/Driver Records	46.52.120	Individua driver rec
			Motor 368 Vehicle/Driver Records	46.52.130	Abstracts vehicle dr
			Motor 369 Vehicle/Driver Records	46.70.042	Applicati dealer li years

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	Motor 370 Vehicle/Driver Records	46.35.030(1) (a)	Information court or discovery to public	377 Insurance Information	48.31.405(1)	Commissi relating to any insur
	Financial, Commercial 371 and Proprietary Information	47.28.075	Info departmen transporta contractor constructi	378 Insurance Information	48.74. ___(6)	Informati the course examinati
106				*106		
	Financial, Commercial 372 and Proprietary Information	47.60.760	Financial to qualify for ferr contracts			
	373 Personal Information	42.56.420(6)	Personally info of other sec private provider into a c informati agreemen			
	374 Insurance Information	48.02.065(1)	Information the coi insurance examinati			
	375 Insurance Information	48.05.510(4)	Insurer's insurance			
	376 Insurance Information	48.13.151	Information investmer provided commissi confidenti public rec			

Category	RCW	Descripti		
379 Insurance Information	48.32.110(2)	Request examination into insurer's financial condition	384 Insurance Information - Investigations	48.102.140(5)(a) fraud investigations are confidential and public records
380 Insurance Information	48.43.200(4)	Reports material transaction by certified health plan	385 Insurance Information	48.104.050(1) Holocaust insurance company registry records
381 Insurance Information	48.44.530(4)	Reports material transaction by health care service contractor	386 Workers Compensation Records	49.17.260 labor industries investigation reports industrial catastroph
382 Insurance Information	48.46.540	Current licensure nonresident pharmacist through which insurer provides coverage	387 Investigative Records	49.60.240 Option human rights commission complaint not to be made public
383 Insurance Information	48.46.600(4)	Reports material transaction by health maintenance organization	388 Agriculture and Livestock	49.70.119(6)(a) seeking records agricultural pesticide application

389	Crime Victims and Witnesses	49.76.040	Employee informatic regarding domestic violence confidenti	394	Insurance Information	48.43.730	Provider compensa agreement are confidenti
390	Crime Victims and Witnesses	49.76.090	Domestic violence leave informatic in files records employees confidenti and not o to pu inspection	395	Financial, Commercial Proprietary Information	63.29.300(4)	Material obtained during examinatio under RCW 63.29 confidenti and may be discl except RCW 63.29.380
391	Employment Security Records	50.13.060(8)	Welfare reform in WorkF program	396	Health Care; Investigative Records	68.50.105	Records autopsies post mort
392	Financial, Commercial 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 organizati is confidenti
393	Financial, Commercial Proprietary Information	63.29.380	Info rela to unclain property is furnis to departmer revenue				

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Category	RCW	Description		
			402 Health Care	70.02.020, .050, et. al. Health care info disclosure to health care provider w patients permission
398	Financial, Commercial and Proprietary Information; Health Professions; Health Care	69.41.044; 42.56.360(1) and (a); 42.56.360(1) (b); 69.45.090	Records a information supplied drug manufacture; pharmaceutical manufacture; info obtain by t pharmacy quality assurance commission	Info gather by health care workers from interviews sexually transmitted diseases
			403 Health Care	70.24.022
			404 Placeholder	
399	Health Care	69.41.280	405 Health Care	70.24.034
		Info on legal drugs obtain by t pharmacy quality assurance commission		Records hearings dangerous sexual behavior sexually transmitted disease carriers
			406 Placeholder	
400	Insurance Information	48.74.--(1) (a)	407 Health Care	70.28.020
		Opinion a memo submitted the insurance commission under RC 48.74.025		Tuberculosis records
			408 Health Care	70.41.150
			409 Health Care Professions	70.41.200(3)
401	Health Care	69.51.050		Department health info inspections hospitals
		Names persons participating controlled substances therapeutic research programs		Info maintained a health care services quality improvement committee

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

Category	RCW	Descript			
Financial, Commercial 419 and Proprietary Information	70.95C.040(4)	Proprietary info re. reduction possessio DOE	Financial, Commercial 425 and Proprietary Information	70.105.170	Manufactur or bus info Hazardou waste managemen in posses of DOE
Financial, Commercial 420 and Proprietary Information	70.95C.220(2)	Waste reduction plans	Financial, Commercial 426 and Proprietary Information	70.118.070	Trade info re: site se disposal possessio DOE
Financial, Commercial 421 and Proprietary Information	70.95C.240(1)	Some in executive summariz waste reduction efforts	Investigative 427 Records Whistleblower	- 70.124.100	Name whistlebl in nu home or hospital
Financial, Commercial 422 and Proprietary Information	70.95N.140(4)	Proprietary info electronic product recycling reports	428 Crime Victims and Witnesses	70.125.065	By implicati records communi sexual a program underserv populatio provider
423 Placeholder			429 Placeholder		
424 Health Care	70.104.055	Reports pesticide poisoning	430 Health Care	70.127.190	Hospice records
			431 Health Care	70.129.050	Personal clinical records long-term residents

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

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		Names		Reports
		victims, n		regarding
		kin,	447 Health Care	children
		witnesses	72.05.130(1)	behavioral
Crime		are n		problems
441 Victims and Witnesses	71.09.140(2)	when se		
		violent pr		Info
		escapes,	448 Offender	correction
		parole,	Records	industries
		released	72.09.116	program
				participan
				applicant
442 Health Care	71.24.035(5) (g)	Mental		
		retardation	449 Offender	Certain ir
		records	Records	sex off
			72.09.345(4)	held in cus
443 Health Care	71.34.340	Records		
		mental		Personally
		treatment		identifiabl
		minors		used to d
				quarterly
444 Health Care	71.34.335	Mental	450 Personal	expendit
		court r	Information	reports
		are confid	70.39A.	certain
				term
				services
		Informatic		
		furnished		
		pursuant		
		Medicaid		
		false clair		
		is exempt		
Health Care;		final dispo		
445 Investigative	74.66.030;	and all se;	Investigative,	Names
Records	74.66.120	lifted; r	law	witnesses
		and test	451 enforcement	notified
		provided	and crime	eff drug off
		civil	victims	(see released
		investigati	8/1/09)	also ## 233
		demand		and 235)
		Confident	452 Placeholder	
446 Health Care	71A.14.070	info		
		developm		
		disabled p		

		Names			
	Investigative, law enforcement and crime victims	[Former 9.94A.612(1)]	victims, n kin, witnesses are n when pr escapes, parole, released		
453		72.09.712 (recod 8/1/09)		458 Health Care	74.09.290(1) Medical records persons public assistance
454	Placeholder		Limited to inform in departr social & health se registry concerning parents dependent children	459 Juvenile Records	74.13.075(5) A juven status as sexually aggressive youth related informatic are confidenti and subject public disclosure departmen social health services
455	Public Assistance	74.04.060 .062			
456	Public Assistance	74.20.280	Child s records		
457	Public Assistance	74.04.520	Names recipients food stamj		
110	*110			460 Juvenile Records	74.13.640 Child fat: reports subject disclosure confidenti informatic may redacted
				461 Juvenile Records	[Former 74.13.121] 74.13A.045 (recod) Info f adoptive parents kids receiv public assistance
				462	Placeholder

463	Juvenile Records	[Former 74.13.133] 74.13A.065 (recod)	Adoption support records	Investigative, law enforcement and crime victims	74.34.095(1)	Info concerning the abuse vulnerable adults
464	Placeholder					
465	Juvenile Records	74.13.280(2)	Info on c in foster c & ch family	472 Whistleblower	74.34.180(1)	Name whistleblo reporting abuse vulnerable adults
466	Juvenile Records; Public Assistance	74.13.500 - .525	Disclosur child wel records			various facilities
467	Personal information clients	- 74.18.127(1)	Personal maintaine by departmen services the blind	473 enforcement and crime victims	74.34.300	Files, used developed vulnerable adult fat reviews
468	Juvenile Records; Public Assistance	74.20A.360 & .370	Certain records division child supp	474 Health Care	74.42.080	Records nursing ho residents
469	Whistleblower; Investigative, law enforcement and crime victims	74.34.040	Identity person making re on abuse vulnerable adult	475 Health Professions	74.42.640	Informatic and documents created, collected maintaine by a qu assurance committee
470	Investigative, law enforcement and crime victims	74.34.090	Identity persons records abused vulnerable adults	476 Financial, Commercial and Proprietary Information	78.44.085(5)	Surface mining inf

Category	RCW	Description	RCW	Description
477	Financial, Commercial and Proprietary Information	Well logs oil capable being produced from a "wild well"	81.112.180(4)	Rail f guideway system security emergency preparedne plan
478	Financial, Commercial and Proprietary Information	Geotherma records of w. departm of nat resources	82.32.330(2)	Certain return and information
479	Investigative, law enforcement and crime victims	Certain boating accident reports provided to parks recreation commission	82.32.585	Taxpayer supplied survey is disclosable Amt of deferral is subject 82.32.330 confidentialia provisions
480	Investigative, law enforcement and crime victims	Boating accident reports/cor	82.38.310(4)	Info f tribes or ti retailers received by state unde special taxes agreement
481	Security	Rail f guideway system security emergency preparedne plan		
482	Security			
483	Financial, Commercial and Proprietary Information - Tax Info			
484	Financial, Commercial and Proprietary Information - Tax Info			
485	Placeholder			
486	Financial, Commercial and Proprietary Information - Tax Info			

			Category	RCW	Descript
487	Financial, Commercial and Proprietary Information - Tax Info	Taxpayer supplied survey is disclosable Amt of deferral is subject 82.32.330 confidentia provisions	Financial, Commercial and Proprietary Information - Tax Info	84.36.389	Income for retire disabled persons seeking property exemptio
488	Financial, Commercial and Proprietary Information - Tax Info	82.32.808 Amounts than \$10 claimed in tax prefer exceptions	Financial, Commercial and Proprietary Information - Tax Info	84.40.020	Confiden income in prop tax listing
489	Financial, Commercial and Proprietary Information - Tax Info	Tax obtained department revenue highly offensive to reasonable person and a legitir concern public would resu unfair competitiv disadvanta	Financial, Commercial and Proprietary Information	84.40.340	Utilities transport commissi records containin commerc info a c determin confident
			Agriculture and Livestock	90.64.190	Livestock producer

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			Names identifica data participa in surve identify factors preventin the widespre availabili and use broadban technolog			Certain informati obtained state local agencies from da animal feeding operation not requ to apply national pollutant discharge eliminati system permit disclosab only ranges provide meaningf informati to public
494	Financial, Commercial and Proprietary Information	2007 c 522 § 149 (3) (uncodified)				
495	Health Care	70.02.220 .260	-Health informati			
496	Health Care	42.56.360(1)(f)	Informati relating infant mortality pursuant RCW 70.05.170			
497				Dairies, Animal Feeding Operations	42.56.610	
498				Investigative, law enforcement and crime victims	9.95.260	Informati regarding victims, survivors victims, witnesses are pardon hearing notices not released offender

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			Instrumen
			creating
			charitable
			trust,
			possibly
			if
499	Financial, Commercial and Proprietary Information - Trusts	11.110.075	instrumen creates a for charitable and charitable purposes
			Informati
			on juv
			convictio
			adult crim
500	Juvenile Records	13.04.155; 28A.320.163(5)	court giv 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
			in
502	Boarding Homes	13.40.150	dispositio hearings juvenile offenses

Category	RCW	Descripti			
			Legal	7.77.140;	
			512 proceedings;	7.77.150;	Confident
				7.77.160;	collaborat
			Privilege	7.77.170	proceedin
503 Placeholder				38.32;	
			513 Emergency	42.56.230(9);	Enhanced
			Information	38.52.575;	informati
				38.52.577	
504 Employment Security	50.13.015, .020, .040, .050, .100 & 110	Most info, employme & departmer			
			Investigative, law		Campus assault/do
505 Financial, Commercial and Proprietary Information	51.36.120	Financial trade info care pro request	514 enforcement and crime victims	42.56.240(16)	violence communic records
			Investigative, law		Law
506 Health Care	70.05.170	Medical Child moi	515 enforcement and crime victims	42.56.240(17)	informati firearms d
507 Juvenile Records	13.34.046	j-moimau regarding subject tc is confide as requi lawful cot	516 Employment and Licensing	42.56.250(3)	Profession plans
508 Placeholder			517 Employment and Licensing	42.56.250(10)	GPS data employee volunteers system device
509 Investigative, law enforcement and crime victims	79A.60.210 & 79A.60.220	Certain accident provided & commissi	518 Financial, Commercial and Proprietary Information	42.56.270(28)	Trade sec to license business, LCB
510 Investigative, law enforcement and crime victims	42.56.240(10)	Felony offense database firearm establishe 43.43.822	519 Public Utilities and Transportation	42.56.330(9)	Personally informati complaint under ch.
511 Investigative, law enforcement and crime victims	42.56.240(12)	Security 1 informati and mai departmer correction			

			Category	RCW	Descripti
520	Insurance & Financial Inst.	42.56.400(26)			Non pub health obtained discussed custody insurance commissi
521	Insurance & Financial Inst.	42.56.400(27)			Data, document by commissi RCW 48.0
523	Fish Wildlife	& 42.56.430(4); 77.12.885			Reported depredat wolves or livest
522	Fish Wildlife	& 42.56.430(3); 77.12.885			Damage agreemen preventati to mini interactio
524	Fish Wildlife	& 42.56.430(7)			Tribal shellfish harvest informat departm fish & w
525	Fish Wildlife	& 42.56.430(8)			Commer shellfish harvest informat departm fish & w

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526	Juvenile Records	13.50.010(16)	Health/s informat from D departm commerci youth in care ac to CRCs/H centers	533	Voter and Election Information - 42.56.230(10)	Personal Identifia voter registrati informat individu under 18
527	Juvenile Records	13.50.010(17)	DYF disclosu child abuse/ne and for care coordina	534	Religious Beliefs; Personal Information 42.56.235	Personal identifyi informat about individu religious beliefs
528	Personal Information	40.26.020	Biometri identifie	535	Investigative, law enforcement, crime victims; Juvenile Records 42.56.240(18)	Audio video recordin child interview regardin abuse neglect
529	Insurance Information	48.02.230	Informat used to c an ind health insuranc market s program	536	Voter and Election Information - Employment and Licensing; Personal Information 42.56.250(11)	Personal Identifia voter registrati informat individu under 18
530	Health Care	50A.04.195(4)&(5)	Family/r leave			
531	Health Care	50A.04.080(2)(b)	Family/r leave employe records			
532	Health Care	50A.04.205	Family/r leave c surveys			

			Category	RCW	Descripti
537	Financial, Commercial and Proprietary Information	42.56.270(29)			Informatic obtained f the fed governme exempt f disclosure under fed law personal financial informatic or proprie data obtai by departmer agricultur
			Agriculture 539 and Livestock	42.56.380(13)	
538	Financial, Commercial and Proprietary Information; Health Care	42.56.270(30)			Hop gro lot numi and results
			Agriculture 540 and Livestock	42.56.380(14)	
			Insurance & 541 Financial Inst.	42.56.400(28)	An insu corporate governanc annual disclosure and rel. informatic obtained the insur commissi

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542 Insurance & Financial Inst.; Health Care	42.56.400(28)	Claims, health c and finan informatic submitted school districts the office the insur: commissio and he care authc	Parentage; 547 Personal Information 26.26A.050	Personally identifiable informatic of the c and other parentage proceedin
543 Firearms	9.41.350(6)	Records regarding person's voluntary waiver firearm ri	Elections; 548 Personal Information 29A.08.720(2)(b)	The personally identifiable voter registratio informatic of individ under 18
544 and Agriculture Livestock	15.135.100(1)	Informatic obtained f the fed governme exempt f disclosure under fed law	Elections; 549 Personal Information 29A.08.770	The personally identifiable voter registratio informatic of individ under maintaine by secretary state county auditors
545 Agriculture and Livestock; Personal Information; Financial, Commercial, and Proprietary Information	15.135.100(2)	Personal financial informatic or proprie data obtai by departmer agricultur	Elections; 550 Personal Information 29A.08.359	Personal informatic supplied obtain driver's license identicard and used certify registered voters
546 Child Abuse; Juvenile Records; Investigative Records	26.44.187	Recorded child interviews regarding child abus neglect		

551	Elections	29A.92.100(3)	<p>A plaint filing of action regarding equal vo rights in the Washingt voting ri act of 201</p>	554	<p>State Government; Investigative Records</p>	43.06C.060(3)	<p>Informati regarding investigati exchange between office of correction ombuds the departmer correction</p>
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552	<p>School District Insurance</p>	41.05.890(2)	<p>Claims, health c and finan informati submitted school districts the office the insur commissi and he care auth</p>	*116			
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553	<p>State Government</p>	43.216.015(15)	<p>Oversight board children, youth, families records, c the informati otherwise confidenti under stat federal lav</p>				
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Category	RCW	Descript			
555 Insurance Information	48.195.040(1)	An insu corporate governan annual disclosur and re informati submittec the insu commissi	Financial, Commercial, 558 and Proprietary Information	42.56.270(15)	Financial commerc informati provided evidence the departme licensing from sp fuel licer or n vehicle licensees
556 Unwanted Medication Disposal; Financial, Commercial and Proprietary Information	69.48.170	Proprieta informati submittec the departme health regarding unwanted medicatic disposal	Financial, Commercial, 559 and Proprietary Information	42.56.270(18)	Financial commerc operation and tech and rese informati submittec health sciences services authoritie private would re
557 and Financial, Commercial, Proprietary Information	42.56.270(13)	Financial proprieta informati submittec or obtæ by departme ecology	Financial, Commercial, 560 and Proprietary Information	42.56.270(19)	Informati that can identific particular business was gatf as part agency making

		Informati			
		distribute		Personal	Personal
		a h		Information;	informati
		professio	566	Public	collected
		board		Assistance	homeless
		commissi			census
561	Health Care Professionals; 42.56.355	by			Child a
	Health Care	interstate	567	Juvenile	or ne
		health		Records	review
		professio			hearings
		licensure			Informati
		compact	568	Juvenile	on a chi
		Registral		Records	foster ca
		informati			child's fa
		of men			Personal
		of me		Health	informati
562	Marijuana 42.56.630	marijuan;	569	Professionals;	of vulne
		cooperati		Personal	adults
		submittec		Information	inhome
		the liquo;			providers
		cannabis			Personal
		board		Health	informati
		Personal	570	Professionals;	of vulne
		identifiyr		Personal	individua
563	Health Professionals; 42.56.640 Personal Information	informati		Information	and inl
		of vulne			caregiver
		individua			Personal
		and in-l			identifiyr
		caregiver			informati
		Court-orc		Health Care;	of
		mental h		Personal	complain
		treatment	571	Information;	and resi
564	Health Care 71.05.445(4)	records		Investigative	in
		received		Records	complain
		the			against
		departme			long-term
		correctio			care facil
		Identity			
565	Health Care Professionals; 74.09.315(2) Whistleblower	whistlebl			

Health Care; Financial, Commercial, 572 and Proprietary Information; Trade Secret	41.05.026	Health contracto proprieta informati	Category	RCW	Descriptio
			573 Collective Bargaining	41.56.510	Collective bargaining authorizati cards of employees
			574 Personal Information	42.56.230(11)	Informatio submitted state reg people selfexcludi themselves gambling activities RCW 9.4 and 67.70.0
			575 Personal Information; Firearms	42.56.230(12)	Personal informatio individuals participate the bun stock buy- program RCW 43.4.
			576 and Commercial, Proprietary Information	42.56.270(31)	Confidenti valuable, commerca informatio with Departmen Ecology regarding architectur paint stewardshij program

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<p>577 Agriculture and Livestock; Financial, Commercial, and Proprietary Information; Trade Secret</p>	<p>42.56.380(15)</p>	<p>Trade s commercia information other confidentia information obtained b federal Foc Drug Administra by contract</p>	<p>582 Health Care</p>	<p>42.56.650, 41.05.410(3) (b)</p>	<p>Data sub: by carriers t Health E Exchange Health Authority</p>
<p>578 Agriculture and Livestock; Financial, Commercial, and Proprietary Information; Trade Secret</p>	<p>15.130.150</p>	<p>Trade s commercia information other confidentia information obtained b federal Foc Drug Administra by contract</p>	<p>583 Court Proceedings; Guardian</p>	<p>11.130.300(3) (effective 1/1/21)</p>	<p>Visitor and profes evaluation regarding appointme guardian f adult</p>
<p>579 Insurance & Financial Inst.</p>	<p>42.56.400(29)</p>	<p>Findings orders disapprove acquisition state company</p>	<p>585 Health Care</p>	<p>19.390.070</p>	<p>Visitor and profes evaluation regarding conservato of a minor Informatio submitted attorney g regarding potential anticompet conduct i health market</p>
<p>580 Personal Information; Employment and Licensing</p>	<p>42.56.660 (effective 7/1/2020)</p>	<p>Agency employee records i requester sexually harassed agency employee</p>	<p>586 Placeholder</p>	<p>Personal Information; Investigative,</p>	<p>Information provided multidiscip child prot team me in the cou a child ab neglect investigati</p>
<p>581 Personal Information; Employment and Licensing</p>	<p>42.56.675 (effective 7/1/2020)</p>	<p>Lists of a employees compiled agencies administer 42.56.660</p>	<p>587 law enforcement, and crime victims</p>	<p>26.44.175(5)</p>	

			Category	RCW	Descript
Insurance and Financial Institutions; 588 Financial	30B.44B.170	Departmen Financial Institutions records connection involuntary liquidation state company			Departm of Finai Institutio findings order on disappro of
Commercial and Proprietary			Insurance and Financial Institutions; 589 Financial Commercial and Proprietary	30B.53.100(3)	proposed acquisiti of a trust company
118 *118			State Government; Financial 590 Commercial, and Proprietary Information	43.155.160(6) (g)	Broadbar service provider confiden business financial informat submitte part of objectior an applicati for a gra expand 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	596	Financial, Commercial, and Proprietary Information; Marijuana	69.50.561(6)	Licensed marijuan business' financial proprieta informat supplied during consultat services the Washing State Li and Cannabis Board
592	State Government; Health Care	43.71C.030(2)	Pharmac benefit manager informat reported the He Care Authority	597	State Government; Health Care	70.225.040(1)	Informat submitte the prescript monitori program
593	State Government; Health Care	43.71C.050(7); 060(5); 070(3)	Prescript drug manufac informat reported the He Care Authority	598	State Government; Financial Commercial, and Proprietary Information	70.375.130	Confider valuable, commerc informat filed witl Departm of Eco regarding architect paint stewards program
594	State Government; Health Care	43.71C.100	Health Authority prescript drug data				
595	Insurance; Health Care; Personal Information	48.43.505(4)	Nonpubl personal health informat held health carriers insurers	599	State Government; Health Care	70.58A.400(5) (effective 1/1/21)	Sealed records adoption decrees under chapter 26.33 RC

<p>119</p> <p>600</p>	<p>State Government; (effective Health Care 1/1/21)</p>	<p>70.58A.500(3)</p>	<p>Sealed birth records</p>	<p>605</p>	<p>Educational Information</p>	<p>42.56.315</p>	<p>Certain student information received from school districts</p>
<p>601</p>	<p>State Government; Health Care</p>	<p>70.58A.530(15), (16)</p>	<p>Certificates of birth, fetal deaths, including certificates of fetal death, stillbirths, that include information from confidential sections of the birth, fetal death, and record</p>	<p>606</p>	<p>Health Care</p>	<p>42.56.360(1)(I); 41.04.830</p>	<p>Medical information about members' retirement plans</p>
<p>602</p>	<p>State Government; (effective Health Care 1/1/21)</p>	<p>70.58A.540</p>	<p>Vital records, reports, statistics, and data</p>	<p>*119</p>			
<p>603</p>	<p>Employment and Licensing; Personal Information</p>	<p>42.56.250(11)</p>	<p>Personal demographic details voluntarily submitted to state employers</p>				
<p>604</p>	<p>Financial, Commercial, and Proprietary Information</p>	<p>42.56.270(32)</p>	<p>Commercial information obtained from the Liquor and Cannabis Board in connection with its licensing</p>				

Category	RCW	Descri			Confide
607 Health Care	70.390.030(7)	Health informã held t Health Cost Transpa Board could a patien	611 law	Juvenile Records; Investigative, enforcement and crime victims	records and accesse through Washin state identifi system crimina justice agencie
608 Educational Information; Crime Victim and Witnesses	42.56.375; 28B.112.060(3); 28B.112.070(2); 28B.112.080(5)	Identify informã regardii sexual miscon compla and wit	612	Juvenile Records; Public Assistance	Reports reviews hearing involvi certifica parenta improv
609 Insurance and Financial Information; Health Care	42.56.400(31); 48.200.040; 48.43.731	Contra health benefit manage with Insuran Commi	613	Education Information	Data c by Undocu Student Support Program
610 Firearms; Health Care	9.41.111(1)(c)	Mental informã receive connect with a frame receive purchas transfer applicat	614	Motor Vehicle/Driver Records	Confide informã obtaine the Jones Transpa Safety t
			615	Motor Vehicle/Driver Records	Self-attestati and provide identica driver's designa

616	Juvenile Records	28A.300.544(6)	Confide informa receive work gr student: foster and/or experie homele	State 619 Government; 42.56.380(16) Public Health	Certain informa obtaine the Food ar Admini by Dep of public laborate for mo food s for contam
617	Public Utilities and Transportation	81.88.160(7)	Gas] compar reports submitt the UI contain propriet data or disclos would public s	620 Elections 42.56.420(7)	Certain election security informa
618	Financial, Commercial, and Proprietary Information	42.56.270(12) (a)(iii)	Financi propriet informa provide Depart Comme connect with industri waste coordin program	621 Personal Information 42.56.680	Person informa obtaine the Depart Comme from resident propert notices default
				622 Security 42.56.422; 43.105.450(7) (d)	State informa technol security reports informa compile connect with the of Cybers

Category	RCW	Descrip			
623 Personal information; Crime Victims	7.105.105(2)	Confide party in forms accomp petition; protecti	626 Personal Information; Motor Vehicle/Driver Records	46.22.010	Informa records containi persona identity informa obtainec Departn Licensir adminis and records
624 Financial, Commercial, and Proprietary Information; Trade Secret	36.32.234(7)(a)	Trade se propriat informa submitte bidders, and c in c with ferry de procure when and concurs	627 Personal 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 procure docume notificat finalist selection terminat	628 Health Care	70.14.065(4)	Records or relating partners agreeme producti distribut purchas generic prescrip drugs ar

629 Health Care 71.40.140;
71.40.120(3) Commu records, of the Behavic Health (Advocat related organiz: advocat

*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.

630 State Government 70A.245.030(2) Reports informa submitte Departn Ecology produce certain product: requeste

631 Security; State Government 42.56.422 The detailing Office Cyberse indepen security assessm state informa technol security audits

632 Industrial Insurance; Injured Worker 51.04.063(13) Informa relating individu resolutio settleme agreeme submitte board industri: insuranc

