



Spring Conference – Legal Update

May 22, 2025

This case law review includes decisions issued from October 12, 2024, through May 19, 2025. Several unpublished appellate decisions are summarized for this presentation. While they may not be cited as precedent, they are nonetheless instructive.

DISCLAIMER

This presentation is educational only and is not legal advice or a legal opinion. The PRA changes over time. Later court decisions or changes in statutes can impact these decisions and an agency's obligations.

TALK WITH YOUR AGENCY'S LEGAL ADVISOR

C.S.A. v. Bellevue School Dist. No. 405

___ Wn. App.2d ___, 557 P.3d 268 (2024)

Trial Court

After each of three confrontations between CSA and other Newport High School students, CSA made records requests. 1) Request on 12/20/2021 for surveillance recordings. The District told CSA the records would not be provided under the PRA but viewing the recordings would be allowed referencing agency policy and FERPA. CSA reviewed the video. 2) Request on 3/29/2022 for surveillance recordings and 16 other categories of records. The district produced 8 installments over the year. The 8th installment included video from the first incident. The 9th installment produced on 5/19/2023 included four recordings, two of which were redacted under FERPA. 3) Request on 5/19/2022 for all documents from an incident. The district asserted the surveillance recordings were exempt from release under FERPA, but they could be viewed and later producing redacted copies as before. The trial court found in favor of the District.

C.S.A. v. Bellevue School Dist. No. 405

___ Wn. App.2d ___, 557 P.3d 268 (2024)

Court of Appeals

The COA reverses the Trial Court's conclusion that the District complied with "the spirit and letter of the PRA.

FERPA may be a PRA exemption as an "other statute." FERPA protects the privacy of an "education record" from the public at large but notably affords students and parents the right to review those records. The video was CSA's "education record" leading to the conclusion that FERPA protections did not restrict the release of CSA's records to this PRA request. The Court further concluded that the redactions destroyed the recordings meaning and FERPA does not require redaction of PIP in these circumstances.

C.S.A. v. Bellevue School Dist. No. 405

___ Wn. App.2d ___, 557 P.3d 268 (2024)

Court of Appeals

The COA also concludes that agency did not act with reasonable diligence from “an objective standard from the viewpoint of the requester.” This includes consideration of prior requests and communications between the requester and the agency.” Because the District had no lawful basis to withhold the video for the first requested video, destroyed the meaning when they were produced a year later, the District did not provide fullest assistance with the timeliest possible action. For the second request, while the district produce 9 installments, the court took issue with not producing the video early, and redacted when it did; the district similarly did not act with diligence. For the third request, inspection occurred but records were not provided which the Court concluded was a lack of diligence.

Thornwell v. Seattle School Dist. No. 1

Unpublished (November 11, 2024)

Trial Court

Thornwell's attorney sought records concerning a complaint Thornwell filed on behalf of her son with the District's Office of Student Civil Rights requesting five types of records but did not ask for any prioritization. The District's first installment date was three months later with seven installments of 1,801 pages over the year. Each installment was on time and provided an estimate for the next installment. The 6th and 7th installments contained records the District debated may have been exempt but which were provided without redaction. Thornwell claims these records should have been produced sooner.

Thornwell v. Seattle School Dist. No. 1

Unpublished (November 11, 2024)

Court of Appeals

The COA affirms. The District concedes the exemptions it was considering were not applicable. The PRA does not require an agency make exemption determinations the day of the request. The PRA provides a reasonable time to respond, provided it does so timely and with diligence. When an agency has not yet produced requested records but has not stated that it will refuse to produce them, the agency has not denied access to the records. The District timely and diligently produced all responsive records so did not engage in silent withholding. The District's prioritization of clearly non-exempt records, when there was no request to prioritize certain records, even when an initial belief that a record may be exempt was in error, is not a PRA violation. There was no assertion of a lack of diligence and objectively from Thornwell's perspective the District was diligent.

Gronquist v. Wash. State Dept' of Corrections

___ Wn. App.2d ___,
557 P.3d 706 (2024)

Trial Court

Gronquist sought invoices from DOC for contracted attorneys. DOC gave an estimated production date of approximately two months later and then extended that date twice due to COVID. Five months after the request DOC provided a large number of unresponsive records and did not provide responsive records. The PRA suit was filed almost a year later. DOC produced records over the next year as part of litigation.

Groquist v. Wash. State Dept' of Corrections

___ Wn. App.2d ___,
557 P.3d 706 (2024)

Court of Appeals

The DOC's response was not timely, and its search was inadequate. Adequacy is based assessed on a standard of reasonableness. DOC did not provide sufficient specific information on the search to adequately judge its reasonableness. The DOC could show no work on the request for 130 days after the request's receipt except sending the five-day letter, assigning it to a specific department and sending two extension letters. The first search occurred 130 days after the request's receipt. 41 days later an invoice was sent for 242 pages, 150 of which were non-responsive. DOC response was not timely.

Gronquist v. Wash. State Dept' of Corrections

___ Wn. App.2d ___,
557 P.3d 706 (2024)

Court of Appeals

To establish bad faith, an inmate must demonstrate a wanton or willful act or omission by the agency; more than simple or casual negligence. By not informing DOC that the production was incomplete, Gronquist made it difficult to prove that the failure to produce certain documents was the result of anything but miscommunication and human error.

Grenning v. Wash. State Dept' of Corrections

Unpublished
November 20, 2024

Trial Court

The DOC produced records, some redacted, in response to Grenning's public records request. Trial court determined DOC violated PRA because it waived any privilege when DOC staff showed unredacted email to Grenning. The trial court does not find bad faith and enters and Order on Sept 22, 2022. Grenning filed a motion for reconsideration. The trial court denied the motion for reconsideration as untimely. Grenning files a motion for summary judgment which the trial court struck because no claims remain. Inmate files notice of appeal Dec 20, 2022.

Grenning v. Wash. State Dept' of Corrections

Unpublished
November 20, 2024

Court of Appeals

Motion for reconsideration was untimely, thus did not toll the 30-day appeal period. Even if he had timely filed the motion for reconsideration, court denied the motion on October 10, 2022, and appeal was not filed until Dec 20, 2022, so was still untimely. Superior court entered a final order finding a violation of the PRA, but denying bad-faith penalties, on September 22, 2022. The September 22, 2022, order triggered the thirty-day period to appeal. Grenning needed to file his notice of appeal by October 22, 2022. He filed his notice on December 20, 2022. Appeal is untimely and is dismissed.

Shavlik v. Snohomish County

Unpublished
November 25, 2024

Trial Court

As part of two PRA cases, Shavlik sought to depose a Snohomish County Superior Court Judge who was formerly a deputy prosecutor for the County. The Trial Court denied the County's motion to quash the subpoena in the first case and denied a motion for a protective order that would have prohibited Shavlik from deposing the Judge as part of the second PRA case.

Court of Appeals

The COA disagrees and overturns the trial court. Because Shavlik did not show that the Judge's testimony was relevant to the PRA claims, the trial court abused its discretion by denying both motions.

Valderrama v. City of Sammamish

33 Wn. App.2d 318, 561 P.3d 288 (2024)

Trial Court

In Jan. and Feb. 2022, Valderrama submitted three records requests to the City which included communications between council members and citizens stored on council members' private devices. The City contacted current and former council members and staff, obtaining and providing 43 *Nissen* affidavits and hundreds of documents. Valderrama filed suit alleging failure to conduct an adequate search and failing to make records available for inspection. The City was still producing records when the suit was filed and continued to do so. At first, records were produced on a regular schedule which slowed while the City awaited responses from three former council members, but which were ultimately received. The Trial Court found that the search was adequate.

Valderrama v. City of Sammamish

33 Wn. App.2d 318, 561 P.3d 288 (2024)

Court of Appeals

The COA affirms. An agency's search must be reasonably calculated to uncover all relevant documents; the search need only search those places where a responsive record is reasonably likely to be found. The City demonstrated beyond material doubt that it conducted an adequate search through the good faith, reasonably detailed nonconclusory affidavits describing the accounts and locations searched and the names and search terms used to locate responsive records including why withheld documents are not responsive. Valderrama failed to show evidence of bad faith. Delay or use of encrypted communications systems is insufficient. Valderrama presented no legal authority suggesting that to conduct an adequate search an agency must sue its employees to forensically search their private devices.

Pilloud v. The E.S.D of the State of Wash.

___ Wn. App.2d ___, 566 P.3d 124 (2025)

Trial Court

On April 19, 2022, Pilloud emailed a request for the names and residential addresses of WA Cares Fund exemption applicants, but a filter routed it to “junk mail.” May 3, 2022, Pilloud followed up with an email and physical mail. ESD found the request and sent a “five day” response on May 6, 2022. ESD’s first estimate for records production was May 27, 2022, it was extended to June 22, 2022, with production occurring June 23, 2022. To produce the record ESD created custom code to extract the data from several ESD databases into a custom spreadsheet of more than 480,000 applicants name, phone number, email address, city, state, and zip code then redacted all the information except the application status citing RCW 50B.04.170(1) which became effective June 9, 2022. The trial court found that ESD responded within five business days from when they had fair notice of the request, provided a reasonable estimate of time, and properly redacted the record.

Pilloud v. The E.S.D of the State of Wash.

___ Wn. App.2d ___, 566 P.3d 124 (2025)

Court of Appeals

The exemption protects from release information or records obtained by ESD for the purposes of collecting and assessing WA Cares Fund premiums and qualified individuals for benefits. Information concerning exemptions from the WA Cares Fund is inextricably linked with the collection and assessment of premiums and benefits. ESD properly redacted the city, state and zip as part of the residential address. Pilloud presented no authority that an agency is required to produce partially redacted addressees. The timeliness of ESD's response is moot. The PRA does not provide a freestanding penalty for procedural violations, it is an aggravating *Yousoufian* factor, but ESD properly redacted the records. Pilloud is not an attorney so not entitled to attorney fees. There was no constructive denial by unreasonable delay of records. ESD extended its production date when it realized it would require custom coding to extract the record.

Does v. Seattle Police Department

___ Wn. 3d ___, 563
P.3d 1037 (2025)

Lower Courts

Requesters sought the investigation of current and former City police officers who attended then former President Donald Trump's "Stop the Steal" political rally on January 6, 2021, in Washington, D.C. The investigation found the officers did not engage in unlawful or unprofessional conduct. As part of the investigation the officers were ordered to participate and respond to questions. Failure to do so could result in further disciplinary proceedings. The officers sued to enjoin the SPD from releasing unredacted investigation records. The trial court found no applicable exemption to the release. The officers appealed. Requesters cross appealed challenging the Does proceeding with pseudonyms. Court of Appeals reverses finding the officers' identities are protected.

Does v. Seattle Police Department

___ Wn. 3d ___, 563
P.3d 1037 (2025)

Supreme Court

The Supreme Court reverses. Third parties seeking to block release of records must demonstrate application of a specific exemption, as well as that release would clearly not be in the public interest and would cause substantial and irreparable damage (See RCW 42.56.540). An agency has the option of notifying persons named in the record or to whom a record specifically pertains, that release of a record has been requested so that person may take steps to enjoin release of the record. The person who is the subject of the public record is in the best position to identify what interest, if any, they hold that could be invaded as a result of disclosure of the public records including constitutional rights.

Does v. Seattle Police Department

___ Wn. 3d ___, 563
P.3d 1037 (2025)

Supreme Court

The Court first addressed statutory exemptions. A person's right to privacy under the PRA's definition is resolved on a series of four questions: First, do the records contain personal information? Second, if so, do the subjects of the records have a right to privacy in that information? Third, if so, would disclosure be highly offensive to a reasonable person? And fourth, is disclosure not of legitimate concern to the public? The records are exempt only if the answer to all four questions is "yes." Identities of particular people is personal information because it relates to particular people. In this instance the officers do not demonstrate that they qualify under the second factor. They did not show a privacy right in public records about their attendance at a highly public event.

Does v. Seattle Police Department

___ Wn. 3d ___, 563
P.3d 1037 (2025)

Supreme Court

Constitutional principles may form a basis for exempting records. In this case that is the First Amendment right to attend political demonstrations. The officers assert the compelled speech in the investigation and now forcing the release of their identities could have an impermissible chilling effect on those rights. In attending a widely publicized rally, with thousands of other including media, the officers took no steps to conceal or hide their identities.

The officers also did not make the required showing to proceed under pseudonyms; the Ishikawa factors.

Wallin v. Department of Corrections

Unpublished
February 25, 2025

Trial Court

Inmate requestor filed suit after DOC did not produce requested J-Pay rejection notices. Rejection notices are sent directly to the inmate, so here the Requestor would already have these documents. DOC filed a counterclaim for a prisoner injunction under RCW 42.56.565, claiming the requests were meant to harass. J-Pay records showed Requestor was soliciting others to send emails that would get rejected so the Requestor could request those rejections and sue when they were not produced. Requestor also bragged about a 10-year history of making money for his grandma by filing PRA lawsuits.

Wallin v. Department of Corrections

Unpublished
February 25, 2025

Trial Court

DOC sought to depose the Requestor to ask about his motives for making requests for records he already possessed. Requestor refused to attend the deposition, despite two court orders for him to attend. Trial court entered default judgment based on Requestor's refusal to attend his deposition. The trial court then held a hearing on the scope of the injunction. Based on Requestor's litigation history, including his lawsuit against the City of Everett for the bikini barista videos, the court entered a permanent, universal injunction, prohibiting all requests during his incarceration absent court approval, and cancelling any pending requests to any agency.

Wallin v. Department of Corrections

Unpublished
February 25, 2025

Court of Appeals

Discovery: Normally under RCW 42.56.080, a requestor's motive for making the request is not relevant, and not subject to discovery. But in a prisoner-injunction claim, motive is relevant. Therefore, the Requestor could be questioned about his motives for making the request. J-Pay subpoena: an inmate has no privacy interest in his communications through J-Pay so the subpoena was proper.

Wallin v. Department of Corrections

Unpublished
February 25, 2025

Court of Appeals

Default Judgment: before a court can enter a default judgment base discovery violations, it must first find that (1) the violation was willful; (2) it prejudiced the person seeking discovery; and (3) lesser sanctions would be ineffective. Here, because the Requestor claimed to be indigent, lesser monetary sanctions would not work. Therefore, the factors were met.

Permanent, universal injunction: RCW 42.56.565 authorizes broad injunctions. Here, Requestor's 10-year history of making PRA request for the purpose of filing lawsuits to make money qualified as harassing behavior and justified the broad scope of the injunction.

Matter of Kelleher

Unpublished, November 11, 2024

Trial Court

This case arises out of a neighbor dispute starting with landscaping and sprinklers. It elevates to threats of violence and the police responding to calls for assistance. In 2021 Kelleher petitioned for and was granted a restraining order against the neighbor. Matters escalate and in 2022 Kelleher asked to renew the order for two years. The request was granted. In 2023 Kelleher sought to enjoin the City of Quincy from releasing records to the neighbor. In a consolidated September 1, 2023, hearing on a motion to modify the protective order the trial court bars the neighbor from making intrusive PRA requests and converts the protective order to a permanent order. In a separate order it enjoins Quincy from releasing body camera footage of the interior of Kelleher's house.

Matter of Kelleher

Unpublished, November 11, 2024

Court of Appeals

On Appeal the neighbor argues two PRA violations. The neighbor argues the trial court's order enjoining the city of Quincy from answering requests for body camera footage is unlawful because it interferes with his constitutional right to file a public records request. The right records is statutory not constitutional. The neighbor also argues that RCW 42.56.540 requires a person to file a new civil case when seeking to enjoin disclosure of a public records request. The COA disagrees. "RCW 42.56.540 expressly permits a person to seek to enjoin disclosure by 'motion and affidavit,' which was done here."

Hood v. City of Vancouver

___ Wn. App.2d ___,
564 P.3d 1009 (2025)

Trial Court

Hood submitted his typical audit records request adding any policy changes made because of the audit report. The city provided a link to the audit report, which by definition includes the city's official response to the audit report and asked Hood what else he was looking for. Hood repeated his original request. In internal communications, the city's PRO recognized that there were lots of emails between the auditor and the city that are not included in the audit report that could be responsive. The city searched its records management system, but did not appear to have searched its email system. It produced about 50 more records, but no emails. Hood obtained 4 emails with the city through a PRA request to the auditor within the time period of his request to the city. Hood waited a year and sued. The trial court dismissed on summary judgment.

Hood v. City of Vancouver

___ Wn. App.2d ___,
564 P.3d 1009 (2025)

Court of Appeals

Because of the presumption of full disclosure, requests should be interpreted broadly. Requestor must request identifiable records, which requires a reasonable description that allows the agency to identify responsive records. It was reasonable to seek clarification because history has shown that Hood's requests are confusing – but even when an agency seeks clarification, it still must respond to portions that are clear. Here, the request for all records the City “got” from the auditor was clear, and the City acknowledge there were lots of back-and-forth communication with the auditor that were not produced.

Hood v. City of Vancouver

___ Wn. App.2d ___,
564 P.3d 1009 (2025)

Court of Appeals

The request for the City’s “response” to the auditor was not clear because the Audit report itself includes the City’s “response” to the audit. The City’s statement in the closing letter – “if you feel there are any missing document” please let us know – did not qualify as a request for clarification. A requestor who genuinely wants records would respond, but does not have to (although it could affect any penalty determination). Trial court improperly granted summary judgment on the adequate search claim because emails the City “got” from the auditor would be responsive and the City’s declarations did not show it searched for emails.

Soule v. State

Unpublished, April 1, 2025

Trial Court

On January 3, 2020, Soule requested AGO records related to a 2010 national mortgage settlement as well as personnel records for various individuals. From May 2020 through May 2022 the AGO produced over 30,000 pages of records in 17 instalments. In May 2023 Soule filed suit alleging the AGO, failed to promptly and adequately search for responsive records. The Trial Court entered a scheduling order with deadlines. The trial court quashed a notice of deposition filed two weeks after discovery closed and after the AGO filed its merit briefs. It also quashed a notice to compel six witnesses to attend a 45-minute merits hearing set at part of the scheduling order. The AGO produced detailed declarations of its efforts to produce responsive records from four AGO employees. The AGO conducted an adequate search. Very few emails were produced due to their deletion prior to the request which was consistent with records retention schedules.

Soule v. State

Unpublished, April 1, 2025

Court of Appeals

A superior court's discovery and prehearing orders are reviewed on an "abuse of discretion" standard; is the decision manifestly unreasonable or based on untenable grounds. While Soule's reasons for his failure to comply with the discovery schedule may have successfully persuaded other superior courts to extend discovery, the decision here was "within the range of acceptable choices." PRA disputes are meant to be "expeditious" so that members of the public can quickly learn if they are entitled to the records, and the PRA allows for claims to be decided solely on affidavits. PRA cases are commonly resolved on affidavits and the trial court was entitled to assume the parties would raise the issue of live testimony at the scheduling conference or soon thereafter. The superior court's reasoning and its decisions were consistent with the PRA's prescribed procedures.

Poe 5 v. University of Washington

W. Dist. of
Washington,
April 10, 2025

History

See *Poe 5 v. University of Washington* below, decided March 29, 2024, for prior litigation involving in this request.

Here petitioners assert that release of their publicly identifying information would violate their constitutional right to information privacy. A December 4, 2024, Memorandum Opinion on interlocutory appeal to the 9th Circuit Court of Appeals observed that basic biographical data, including a person's name, address, identification, place of birth, telephone number, occupation, sex, description, and legal aliases, is not highly sensitive personal information, and thus categorically does not implicate the constitutional right to privacy; it remanded for further proceedings.

Poe 5 v. University of Washington

W. Dist. of
Washington,
April 10, 2025

Decision

Federal Court preliminary injunction apply the federal standard. But the court must consider whether the party would be entitled to relief under state law. Under the PRA, injunction requires (a) an applicable exemption, and (b) that release would clearly not be in the public interest and would cause substantial and irreparable damage. RCW 42.56.540. Plaintiffs fail to show release would clearly not be in the public interest noting that the WA. Sup. Court has observed, “[p]ublic employees are paid with public tax dollars and, by definition, are servants of and accountable to the public. The people have a right to know who their public employees are and when those employees are not performing their duties.” Additionally, they did not show that release of the information would adversely affect the IACUC’s ability to operate.



Spring Conference Legal Update

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