



LEGAL UPDATE

**SPRING
CONFERENCE
MAY 20, 2026**

This case law review includes decisions issued from October 10, 2025, through May 7, 2026. Several unpublished appellate decisions are summarized for this presentation.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.

Agenda

Introductions and Housekeeping

Case Law Review

Final Tips, Takeaways &
Questions

CASE LAW



Roberts v. City of Seattle

Unpublished, Decided March 9, 2026

Key Issues

- A request must put the agency on fair notice of a PRA request. Fair notice triggers a duty to disclose records under the PRA.
- Fair notice is determined based on consideration of two factors:
 - (A) the characteristics of the request:
 - (1) its language,
 - (2) its format, and
 - (3) the recipient of the request
 - (B) the characteristics of the records:
 - (1) whether the request was for specific records, as opposed to information about or contained in the records,
 - (2) whether the requested records were actual public records, and
 - (3) whether it was reasonable for the agency to believe that the requester was requesting the documents under an independent, non-PRA authority.

Leishman v. Reynolds

Unpublished, Decided December 23, 2025

Key Issues

- A request must put the agency on fair notice of a PRA request. Emails sent to AAG Grant would not provide fair notice to the Governor's Office of a PRA request.
- Leishman's June 2021 declaration in federal court attaching the April 2021 email did not provide fair notice to the Governor's Office of the October 2020 public record requests.
- Substantial evidence supports the trial court's findings that the Governor's Office did not actually receive the October 2020 public record requests through various emails.

Gray v. City of Seattle

Unpublished, Decided April 27, 2026

Key Issues

- The agency bears the burden of proving that its search was adequate.

The PRO consulted with city subject matter experts to identify and locations and search terms. Not using search terms identified by a requester does not mean a search is inadequate. No obligation to produce records of a third party that is not a functional equivalent of the agency.

- The request frames the nature or character of responsive records. Not producing non-responsive records does not limit or narrow the request.
- An agency is not required to make records or produce records that did not exist when the request was made. Records produced through discovery, not existing at the time of the request, is not a PRA violation.
- The agency provided fullest assistance by answering questions, explaining records and the absence of records.

*Request Interpretation/Search
Fullest Assistance*

Hood v. Prescott

Unpublished, Decided April 7, 2026

Key Issues

- The request frames the nature or character of responsive records. Records produced to a broader discovery request is not proof improperly withholding records to a PRA request.
- In this case on remand, conducting an entirely new search was not necessary. The city remedied issues with the prior search by augmenting the search to include missing aspects.
- Penalty determinations established through review and application of the Yousefian factors by the trial court are reviewed on an “abuse of discretion” standard. \$500 penalty affirmed.

unDivided Media LLC v. City of Seattle

Unpublished, Decided March 23, 2026

Key Issues

- Estimates of time are based on a forward-looking assessment at the time of the estimate.
- The COA concludes that varying estimates of time, without a change in circumstances or underlying considerations, constitutes a PRA violation. In this case the second estimate was unreasonable.
- An agency's failure to comply with an agency's PRA policy is not a per-se PRA violation but may be a consideration in assessing whether there is a violation.
- The agency failed to act diligently in the production of records when the delay was created by its failure to address known concerns and comply with its PRA policy.

*Estimates of Time
Due Diligence*

Scales v. Wash. Attorney General's Office

Unpublished, Decided October 20, 2025

Key Issues

- Attorney-Client privilege (ACP) is a PRA exemption. RCW 42.56.070, RCW 5.60.060(2).
- ACP protects confidential communications between attorney and client for the purpose of obtaining or providing legal advice.
- ACP is a narrow privilege. It does not protect documents prepared for reasons other than communicating with the attorney.

Green v. State

Unpublished, Decided November 10, 2025

Key Issues

- RCW 42.56.240(1): To qualify as “specific intelligence information” the record must:
 - (1) gather or distribute secret information, information about an enemy, or conclusions drawn from such information. Intelligence information is “specific” if it discloses particular methods, procedures, or analysis,
 - (2) be compiled by a law enforcement, penology, or investigative agency, and
 - (3) be essential to law enforcement or the protection of privacy.
- Declarations must be made with personal knowledge.

Horvath v. DBIA Services DBA Metro. Improv. Dist.

5 Wn. 3d 898, 580 P.3d 969 (2025)

Key Issues

- Whether DBIA Services is subject to the PRA based on the *Telford* test?
- Holding: The *Telford* factors weigh in favor of concluding DBIA's records are public records. Two factors, performance of a government function and funding weigh in favor. The extent of government involvement does not. While DBIA Services was organized as a non-profit by private individuals, but the Metropolitan Improvement District was, which is how DBIA Services often identifies itself. Consideration of all the factors weighs in favor of concluding DBIA Services records are subject to the PRA.

Gerlach v. Bainbridge Island School Dist. No. 303

Unpublished, Decided November 17, 2025

Key Issues

- Washington liberally applies a “notice pleading” standard.
- This is satisfied if the complaint adequately alerts the defendant of the claim’s general nature, providing fair notice of the claim(s) that the ground upon which it rests.
- Discovery in a PRA suit must seek information relevant to the asserted claims or defenses.

Nixon v. State

Unpublished, Decided February 18, 2026

Key Issues

- To hear a case under the UDJA, a justiciable controversy must exist.
 - ✓ There must be an actual dispute. Agency policy is that all Teams chats are transitory. Nixon provides no authority that a person can file suit because they disagree with internal agency decisions.
 - ✓ Nixon does not have a genuine interest measured by whether he is within the zone of interest regulated or protected. [Ch 40.14 and 40.16] provide for the creation of retention schedules. They do not create a private right of action.
 - ✓ Nixon has not suffered an injury in fact. A mere interest in issues is insufficient. That he may want to access records in the future is too speculative.
- The proper retention of Teams chats is not sufficiently important to qualify for the “Substantial Public Importance Exception.”

Nixon v. State

Unpublished, Decided February 18, 2026

Key Issues

- A writ of Mandamus is an “ancient, rare, and extraordinary vehicle for relief, available only when there is no plain, speedy, and adequate remedy in the ordinary course of legal proceedings.”
- To qualify the petitioner must demonstrate that:
 - (1) The party subject to the writ has a clear duty to act.
 - (2) The petitioner has no plain, speedy, and adequate remedy in the ordinary course of law.
 - (3) The petitioner is beneficially interested.
- Nixon may have an adequate alternate remedy. His PRA claims may still be viable.

Nixon v. State

___ Wn. App.2d ___, 585 P.3d 770 (2026)

Key Issues

- Nixon and WashCOG submitted six requests for records from both houses where the member previously asserted legislative privilege. Some members waived the privilege and release records. Others asserted the privilege withholding records.
- Records are exempt from release to a PRA request under the separation of powers doctrine. It provides a privilege against the disclosure of records revealing internal legislative deliberations concerning bills contemplated or introduced.
- The privilege is an individual member's privilege to waive.

West v. Wash. State Legislature

___ Wn. App.2d ___,584 P.3d 409 (2026)

Key Issues

- West submitted a request to the legislature for unredacted copies of all records withheld under legislative privilege between 1/1/2022 and 1/6/2023. Some members waived the privilege and release records. Others asserted the privilege withholding records.
- The speech and debate clause, art. II, sec 17, functions as a testimonial and evidentiary privilege for internal communications or records that extends to matters integral to the legislative process.
- Records are exempt from release to a PRA request under the separation of powers doctrine for free and candid deliberations.

Wallin v. Snohomish County

Unpublished, Decided January 23, 2026

Key Issues

- The Thurston County Superior Court enjoined Wallin requesting to inspect, copy, or receive public records pursuant to the PRA from the DOC and other agency and from receiving any records to any public record requests submitted by him to the DOC or any other agency including requests that he has previously submitted.
- Because Wallin cannot receive any records without court approval. He fails to state a PRA claim to compel disclosure and production of unlawfully withheld public records and information.
- While Wallin may have been entitled to penalties if he proved bad faith, the Complaint failed to allege any facts alleging bad faith. The allegations in the complaint, if true, would not amount to bad faith.

FINAL TIPS, TAKEAWAYS & QUESTIONS

