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Washington Coalition for Open Government

washingtoncog.org

Annual Report for 2007

The year 2007 was a busy one for the Coalition, and one of growth and change. We celebrated the fifth anniversary of our incorporation in March. Paid membership in the Coalition grew from 98 to 121 members, and the number of individuals signed up for the "Citizen's Network" email list grew from 171 to 315.

We appreciate the service of board members who left the board during 2007: **Mike Atkins, Judy Endejan, David Groves, Michele Earl-Hubbard**, State Archivist **Jerry Handfield**, State Senator **Karen Keiser, Tracy LeRoy, David Utevsky**, State Librarian **Jan Walsh, Scott Wilson**, Chelan County Clerk **Siri Woods**, and **Armen Yousoufian**. We welcomed new board members Jefferson County Clerk **Ruth Gordon, Scott Johnson, Jason Mercier**, and **Duane Swinton**. We are especially grateful for the many years of service of former Coalition president **Michele Earl-Hubbard**, and the service of **Jerry Handfield** as president of the Coalition during 2007. We thank those who are serving as officers and committee chairs of the Coalition: **Toby Nixon**, president and chair of the Government Committee; **Mike Fancher**, vice president; **Gerry Pollet**, secretary; **Jason Mercier**, treasurer; **Patience Rogge**, chair of the Outreach and Membership Committee; **Bill Will**, chair of the Media Committee; and **Duane Swinton**, chair of the Legal Committee. The Coalition would not function without the service of these individuals, our other board members, and the dozens of other volunteers who contribute their time and energy to the cause.

The Coalition is grateful for the generous support of all of our contributors who make it possible for us to continue our work, including **James Madison Supporters**: Davis Wright Tremaine, The Seattle Times, and Toby Nixon; **Thomas Jefferson Supporters**: The Seattle Post-Intelligencer, The Olympian, and Tacoma News Tribune, and Allied Law Group; **Platinum Supporters**: Marysville Globe/Arlington Times, Pioneer Newspaper Service, The Spokesman-Review, Skagit Valley Publishing, and Jason Mercier; **Gold Supporters**: American Civil Liberties Union of Washington, Brian Sonntag, Duane Swinton, Evergreen Freedom Foundation, Graham & Dunn, Sound Publishing, Stokes Lawrence, Tracy LeRoy, Washington Library Association, Washington Newspaper Publishers Association, Washington Policy Center, and Washington State Labor Council; and **Silver Supporters**: Aberdeen Daily World, Tim Burgess, Daily Record, Frank Garred, Jerry Handfield, Lake Stevens Journal, Olympic View Publishing, Wenatchee World, and The Stranger. We are grateful for all of the contributions and volunteer efforts of our many other members and supporters, and especially grateful to the **National Freedom of Information Coalition** for their grants to help the WCOG with special projects.

As you will see in the following summary of the activities of the Coalition, a lot of hard and important work was done during 2007. We accomplished a great deal – but there is always more than we have time, people, or energy to do! We actively seek the participation of others who share our passion for open government and willingness to serve, and hope that all you who read this report will join us in this important work.

Summary of Activities for 2007

Public Education and Outreach

National Freedom of Information Conference: WCOG hosted the annual conference of the National Freedom of Information Coalition at the Seattle Waterfront Marriott on May 11-13. As part of the event, we hosted a reception for conference attendees, at which we presented the inaugural Key Awards (see below) and honored our major contributors. TVW taped and broadcast many of the conference sessions. We staffed a table to provide information about WCOG, answer questions, and recruit possible local organizers and contacts. The film "U.S. vs. John Lennon" was shown at McCaw Hall, and the film's director, **John Scheinfeld**, answered questions from the audience after the showing. WCOG netted about \$3,600 from the conference sponsorships.

Sunshine Week Town Hall Meeting: The Coalition participated in the annual national Sunshine Week recognition, coordinated across the country by a coalition of open government advocacy groups know as OpenTheGovernment.org, by sponsoring a town hall meeting in Olympia. The meeting, held in a legislative hearing room at the Capitol in Olympia, included viewing of the national webcast from Washington DC followed by a local panel discussion on open government. The local panel was moderated by **Cindy Zehnder**, president of TVW, and panelists were Attorney General **Rob McKenna**, House Majority Leader **Lynn Kessler**, **Bill Will** of Washington Newspaper Publishers Association, and **Stefan Sharkansky** of SoundPolitics.com. The program was taped and shown several times on TVW. It was also promoted in several newspapers, to WCOG members, and to members and staff of the legislature and several state government agencies, and was well-attended.

Open Government Forums: WCOG and the Society of Professional Journalists co-hosted an open government forum at the Tacoma News Tribune in April, focused on issues related to personal information privacy and identity theft. About 30 people attended; TVW taped and broadcast the event. Another open government forum was held in May in Sequim, with 35 persons attending. And in November, a Forum was held in Bellingham, hosted by the Bellingham Herald, with over fifty people in attendance. As the year ended, WCOG was making preparations for several forums in 2008, including one in Monroe in January.

Other Conferences: Representatives of WCOG spoke on open government at several other conferences, including the First Amendment Festival at Central Washington University in Ellensburg in March, the Evergreen Leadership Conference in Richland in May, and the national ACLU convention in Seattle in July. We staffed an informational booth at the Washington Library Association conference in Kennewick in April.

Local Organizing: WCOG established guidelines for creation of local affiliate organizations that would focus on open government issues in individual cities, counties, and other local governments. A "start up kit" to help local affiliate organizers get off the ground is in progress and should be posted on the web site in the near future. A protocol for organizing local forums on open government was completed and is now on the web site.

Spanish Language Outreach: WCOG sought and obtained a grant of \$4,500 from the National Freedom of Information Coalition to translate a variety of materials in order to inform those who speak Spanish of their rights to access government information. We now have the beginnings of an "en Español" section on the web site that includes Spanish versions of the WCOG membership brochure, frequently asked questions, and contact information, and our translator is making progress on additional information. We are also working with TVW to investigate creating Spanish subtitles or second audio program tracks for WCOG events taped for TVW.

Open Government Leadership Institute: WCOG committed to move forward with our first Open Government Leadership Institute in 2009, and started planning and preparations in earnest. This program will be a weekend-long intensive and comprehensive training program in open government principles, laws, and policy for invited government and community leaders. We secured endorsements for the program for a

number of key organizations (such as the Bench-Bar-Press Committee and Evergreen Freedom Foundation) and public officials (including Attorney General **Rob McKenna**, State Auditor **Brian Sonntag**, Secretary of State **Sam Reed**, and Clallam County Commissioner **Mike Doherty**), started researching possible venues and facilitators, and began the process of obtaining commitments for grants and sponsorships to fund the program.

Newspapers in Education: WCOG committed to a collaboration with the Seattle Times Newspapers In Education program to produce a newspaper insert, in the full run of the Seattle Times and Seattle Post-Intelligencer, that will include summaries of open government principles and laws, a sample public records request, frequently asked questions, and many other resources, that would be used by teachers throughout the Northwest to teach high school students about open government. WCOG will obtain extra copies of the insert to use in our outreach efforts. We committed to raise \$10,000 in sponsorships to help cover the cost of delivering the free copies of the newspapers into classrooms, which will also provide an opportunity for WCOG and other organizations supporting open government to have their logos printed in the insert. As the year ended, this fundraising effort was well under way, with the goal of publishing the insert in March, 2008.

Spreading Open Government Abroad: Representatives of WCOG met with several groups of visitors from other countries who were seeking to learn about open government in Washington, including delegations from Russia, China, and Chile.

Updated Web Site: WCOG launched an improved and updated web site in August incorporating easier-to-use navigation and visual enhancements. The structure of the site will allow us to make much more information available to the public while still being usable. We've also added the ability to join the Coalition and make contributions online using credit cards and PayPal accounts.

Government and Policy Initiatives

Legislation Tracking: During the legislative session WCOG published frequent updates of its Bill Status Report, analyzing and tracking the progress of all bills identified as having an impact on the Public Records Act, Open Public Meetings Act, the Records Preservation Act (RCW 40.14), and other open government laws, and recommending WCOG positions and possible amendments.

Legislative Testimony: Representatives of WCOG testified in Olympia on priority bills, educating legislators on the impacts of proposed legislation on open government. These included bills creating the Sunshine Committee, clarifying the statute of limitations on public records requests, emphasizing that agency legal bills are disclosable, concealing the birthdates of public employees and voters, exempting detailed pipeline mapping data from disclosure, and many others. Testimony was followed up with email and other communication to legislators to reinforce the information provided. In many cases, our testimony had the desired effect, with unfavorable bills failing and good bills passing.

Sunshine Committee: One of the bills WCOG strongly supported was to create the Public Records Exemptions Accountability Committee, also known as the Sunshine Committee, which is charged with reviewing all identifiable exemptions to the Public Records Act and recommending to the legislature whether they should be repealed, retained, or amended. WCOG advocated for the appointment of strong open government advocates to the committee, and two WCOG board members – **Ken Bunting** of the Seattle Post-Intelligencer, and **Patience Rogge** of the Washington Library Association – were appointed, as was **Frank Garred**, a founding member and former executive director of WCOG. WCOG has been represented by many members at every meeting of the committee and testified on every issue so far considered, advocating for expansion of open government.

Legislative Agenda: For the first time, the Coalition this year adopted a legislative agenda containing 26 specific proposals to improve Washington's open government laws. The top priority proposals include restoring the scope of the attorney-client communications exemption, restoring the balance between the statute of limitations and penalties for violations of the Public Records Act, improving preservation of

records, and requiring the recording of executive sessions. In the fall of 2007, representatives of the Coalition met with the chairs and ranking members of both the House and Senate committees with responsibility for open government laws, with other legislative leaders, with the State Auditor, Secretary of State, and the Attorney General's senior staff, to explain and advocate for the proposed changes. Legislation has been introduced in the 2008 session to implement many of the Coalition's proposals.

Open Government Pledge: The Coalition sent letters to every person who declared their intent to seek public office in 2007 – a total of 1,580 candidates – and invited them to sign a pledge to uphold the letter and spirit of the state's Public Records Act and Open Public Meetings Act. Over 180 candidates returned signed pledges and were acknowledged on the Coalition's web site and in a news release to the media. Many of the candidates requested information on joining the Coalition and have done so.

Model Rules for Implementation of the Public Records Act: Legislation passed in 2005 required the Attorney General to propose model rules for government agencies implementing provisions of the Public Records Act. The Coalition participated in stakeholder meetings convened by the Attorney General's office prior to drafting the rules, and also commented on the draft rules particularly in the areas of electronic records and accessibility of records for people with disabilities.

Attorney General Opinions: The Coalition is notified whenever the Attorney General is requested to render an opinion on interpretation of open government laws and is invited to comment on what the interpretation should be. In 2007, the Coalition submitted comments on an opinion request regarding disclosure of personal information of children and special needs adults participating in Parks, Recreation & Community Services programs.

Review of Proposed Legislation: The Coalition's increasing influence and credibility is evidenced by the number of government agencies who seek out the Coalition's input on proposed legislation. This year, the Department of Social and Health Services sought out the Coalition's opinion of draft legislation regarding disclosability of security plans for facilities housing sexually violent predators, the Department of Licensing sought Coalition input on a bill exempting from disclosure documents submitted to prove identity with applications for enhanced driver licenses, and Monroe city councilmembers asked for Coalition review of a draft city ordinance on open government.

Legal Activities

Amicus Briefs: The Coalition, either separately or in conjunction with other organizations supporting open government, submitted amicus briefs in support of open government principles to the appellate courts regarding a number of cases, including *Bellevue John Does v. Bellevue School District* (withholding of records regarding alleged sexual misconduct of teachers), *West v. Port of Olympia* (withholding of records regarding port property lease deals), *Northwest Gas Association v. Washington Utilities and Transportation Commission* (withholding of detailed digital mapping data of pipelines), *Treadwell v. Tressler* (withholding of information filed with the court after settlement of a case), *Rental Housing Association v. City of Des Moines* (tolling of the statute of limitations when parties continue to debate withholding of documents), and *Livingston v. Department of Corrections* (records mailed to a prisoner by the department were blocked by the prison mail room from being delivered to the prisoner). The Coalition posted a procedure for requesting amicus participation in case, and criteria by which requests will be evaluated, on the web site.

Direct Litigation: In 2006, the Coalition submitted a request to obtain records from the Seattle Monorail Authority that had been originally denied in the *Hangartner* case. As expected, the Authority denied the request. This year, the Coalition filed a lawsuit challenging the denial, which was dismissed by the court because of expiration of the statute of limitations. Although the Coalition disputed the decision, we decided not to appeal the decision, so that the Authority could be dissolved and the records turned over to the state archives. The Coalition is considering the best strategy for obtaining the records from the archives.

Monitoring of Appellate Court Petitions: The Coalition successfully requested that the Division III court of appeals begin posting case summaries online similar to the practice of the state Supreme Court to make it easier to monitor the status of petitions to the court; the court agreed to begin posting summaries. The Coalition plans to make similar request to the other two divisions in the near future. Volunteer attorneys continue to monitor petition filings in all three divisions.

Awards and Recognitions

Andersen Award Created: This year, the Coalition established the James Andersen Award, to be given annually to an individual or organization that has done something extraordinary to advance the efforts of the Washington Coalition for Open Government. The award is named in honor of former Washington Supreme Court Chief Justice **James Andersen**, a founder and emeritus board member of the Coalition who was acknowledged as a leader in open government through his many court opinions. The inaugural award was personally presented by Justice Andersen to **Frank Garred**, also a founder of the Coalition, its first executive director and past vice president, in honor of his many years of service.

Key Award Created: The Coalition also this year established the Key Award, which can be awarded by the Board of Directors at any time to an individual or organization in honor of a good deed in advancement of open government. The name of the award recognizes the “key contributions” of the award recipients, and the symbolism of the “key” to unlocking of public records and government information. The award includes a special “Key Award” lapel pin and certificate, a free year of membership in the Coalition, and recognition on the Coalition web site and in a news release. Twelve Key Awards were presented during 2007; the recipients are listed on the Coalition web site.

Third Annual James Madison Award: The James Madison Award, the Coalition’s highest honor, is presented each year to an individual or organization whose commitment to the cause of open government has been demonstrated through exemplary words or deeds. This year, the award was presented to **Paul Wright**, founder of *Prison Legal News*. Paul was imprisoned for 17 years in Washington State until his release from prison in 2003. During and since his incarceration, he has successfully litigated a wide variety of censorship and public records issues against prison systems around the country both *pro se*, as a plaintiff, and on behalf of *Prison Legal News*, including the largest ever award in Washington for a public records case.

Annual Awards Event: The Coalition’s annual awards event was held at the Washington Athletic Club in Seattle on September 21, during Constitution Week. It included presentation of the James Madison Award, the James Andersen Award, and six Key Awards, including presentations to Attorney General **Rob McKenna** and House Majority Leader **Lynn Kessler**. The keynote address was presented by State Auditor **Brian Sonntag**, and the emcee was **Steve Pool** of KOMO 4 News. Over 100 people attended the event. Significant financial support of the event was provided by ten sponsors, and over \$20,000 in in-kind advertising contributed to its success. The event was taped by TVW and broadcast several times statewide.