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info@washingtoncog.org  
6351 Seaview Ave NW  
Seattle, WA 98107-2664  
Phone: 206.782.0393 FAX: 206.623.4474

# Washington Coalition for Open Government

washingtoncog.org

## Annual Report for 2013

Washington Coalition for Open Government, the leading advocate for the people's right to access government information in Washington, had another very impressive year in 2013:

- We fought hard in the courts to preserve access to public records, submitting numerous amicus briefs and settling our lawsuit with the Washington State Attorney General and the Department of Corrections for materials requested under the Public Records Act for which we were awarded \$65,000. (see page 5 for these and other important legal actions);
- We offered six community workshops to expand citizen involvement and increase public awareness of open government rights in Aberdeen, Anacortes, Bellingham, Monroe, Pullman, Port Townsend, Seattle and Sequim. (see page 3);
- We collaborated with The Seattle Times to publish a Newspaper in Education newspaper supplement, *Shining a Light on Your Government*. The supplement, which focused on educating the people in all matters of the Public Records Act and the Open Public Meeting Act, reached between 38,000 and 41,000 high school students, as well as the 1.3 million readers of the print and online versions of The Seattle Times. (see page 3); and,
- We held our first ever high school essay contest, honoring former WCOG board member the late Scott Johnson, and drew over seventy submissions, meeting our objective to draw in and educate young people about the importance of open government.

The number of individuals and government officials seeking advice from the Coalition on open government issues continued to increase, and we expanded our direct intervention to influence the behavior of government agencies by sending more letters and making personal visits. The Coalition's respect and influence continued to grow, evidenced by the mobilization of organizations representing government agencies to attempt to counter our efforts and make it more difficult for the public to know what the government is doing.

Dues-paying membership in the Coalition increased only slightly from 214 at the end of 2012 to 228 at the end of 2013, but the number of individuals and organizations making significant contributions in the higher sponsorship levels grew. The number of individuals who became "fans" of our Facebook page grew to 608.

During 2012, the Coalition placed an emphasis on improving how we communicate our message. During 2013, we began to implement our communications plan – this involved conveying our mission through stories of our Key Award winners, increasing our social media presence through Twitter, and beginning work on a new web site to be rolled out in 2014. Thank you to **Erika Schmidt of Frause Integrated Communications, Benjamin Liu of Vinasource, Peggy Watt, and George Erb** for their support and help with these ventures.

Other work of the Coalition's Revenue Committee resulted in a special dues rate for student members and involvement in The Seattle Foundation's **GiveBIG Day**, a one-day, online charitable giving event, which netted over \$10,000.

We appreciate the service of board members that left the board in 2013, including **Jonathan Bechtle** of The Freedom Foundation and **Shelley Hall** of the ACLU. We welcomed to the board **David Roland** of The Freedom Foundation, **Deborah Eddy** former state representative and Kirkland city council member, **Margaret Pak Enslow** of the ACLU and **Kathy Sakahara** of The League of Women Voters of Washington.

We thank those who served during 2013 as officers and committee chairs of the Coalition: **Toby Nixon**, president and chair of the Government Committee; **Mike Fancher**, vice president and chair of the Awards Committee; **Sam Pace**, secretary; **Ed Clark**, treasurer and chair of the Revenue Committee; **Patience Rogge**, chair of the Events Committee; **Bill Will** and **Peggy Watt**, co-chairs of the Communications Committee; **Kathy George**, chair of the Legal Committee, and **George Erb** and **David Seago**, co-chairs of the Board Development Committee. We also appreciate the hard work of our executive director **Elly Snow**, along with the staff at Seattle Operating Support LLC, and **Davis Wright Tremaine** law firm for hosting our monthly board meetings. The Coalition would not function without the service of these individuals and sponsors and the many volunteers and activists 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** Uninformed Consent, D. Edson Clark, C.P.A., P.S., Davis Wright Tremaine, Frause Integrated Communications, Patience Rogge, The Seattle Times, and Toby Nixon; **Thomas Jefferson Supporters** Anne Block, Eric Stahl, and Stokes Lawrence; **Platinum Supporters** Clark, Raymond & Co., Pioneer Newspaper Service, and Seattle Operating Support; **Gold Supporters** Allied Law Group, Building Industry Association of WA, Frank Garred, George Erb, Jason Mercier, The Seattle Foundation, The Freedom Foundation, The News Tribune, and The Spokesman-Review; and **Silver Supporters** Alan Thompson, American Civil Liberties Union, Andrew Pilloud, Carolyn Kelly, Donald Williams, Lester LeRoss, Linda Montgomery, Michael Gendler, Mike Fancher, Tim Myers, Tom Thiersch, and William John Crittenden.

As you will see in the following summary of the activities of the Coalition, a lot of hard and important work was done during 2013. 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 2013**

### **Public Education and Outreach**

**Fourth Annual Statewide Open Government Conference:** On March 9, the Coalition presented the Washington State Open Government Conference, "Open Government: Past, Present and Future," at the Mercer Island Community Center. Over 70 people attended and 3.25 hours of continuing legal education credit were offered. Keynote remarks were made by Washington State Attorney General, **Bob Ferguson**. Conference sessions were presented by **George Erb**, Puget Sound Business Journal Editor, **Jim Neff**, Investigative Editor for The Seattle Times, **Scott North**, Daily Herald of Everett reporter, **Sean Robinson**, News Tribune reporter, **Tracy Vedder**, KOMO 4 News, **Ed Clark**, Clark Raymond & Company, **Carl Hu**, a citizen activist, **Bill Kildall**, Key Award Recipient, **Al Rose**, Pierce County Justice Services, **Matt Rosenberg**, Public Eye Northwest, **Julie Anderson**, Pierce County Auditor, **Bill Crittenden**, Attorney, **Jim Doherty**, MRSC Legal Consultant, **Pete Holmes**, Seattle City Attorney, **Melissa McKnight**, Public Records Officer, **Kathi Anderson**, City Clerk of Kirkland, **Terry Badger**, Washington State Archives, **Jerry Handfield**, Former Washington State Archivist, **Scott Sackett**, Washington State Archives, **Bob Terwilliger**, Snohomish County, **Barbara Madsen**, Chief Justice on the Washington State Supreme Court, **William Downing**, King County Superior Court Judge, **Michele Earl-Hubbard**, Allied Law Group, **Toby Nixon**, WCOG President, **Gerry Pollet**, 46<sup>th</sup> District Representative, and **Brad Shannon**, The Olympian Politics Editor.

**Open Government Workshops and Forums:** Six Open Government Workshops and two Open Government Forums were held all around Washington during 2013 including, Aberdeen (May), Anacortes (June), Bellingham (July), Monroe (September), Pullman (September), Port Townsend (October), Seattle (October) and Sequim (November). These workshops and forums drew a combined attendance of government officials, private citizens, and members of the media. The importance of media support was demonstrated at these forums, as attendance was largely dependent upon the coverage provided by local media, including carrying display ads, press releases, and op-ed pieces. Many prominent officials appeared on panels this year, including Attorney **Michael Kahrs** of Seattle, **David Seago**, former Tacoma News Tribune Editorial Page Editor, **Judith Endejan** of Seattle law firm Graham and Dunn, Kirkland City Councilmember and WCOG President **Toby Nixon**, WWU Journalism Professor **Peggy Watt**, Government Affairs Director for the Washington State Association for Justice **Larry Shannon**, Jefferson County Bar President **Paul Richmond**, WCOG Legal Chair **Katherine George**, Sequim City Attorney **Craig Ritchie**, WCOG Key Award winners **Drew Hendricks** and **Dr. William Kildall**, publisher of the Port Townsend Jefferson County Leader **Scott Wilson**, and Attorney **Michele Earl-Hubbard** .

**Online Help Line:** The WCOG online Help Line (and telephone help service) continued to answer many inquiries from citizens needing assistance dealing with agencies on open government issues, including questions regarding the definition and legality of closed door meetings, how to properly request public records, definition of what qualifies as a public record, steps to take when an agency is ignoring a public records request, define what qualifies under the Washington State Open Meetings Act, whether public meetings that require asking a receptionist for access and are held behind locked security doors are legal under the Open Public Meeting Act, whether an agency is responsible under the public records act if they don't have a record they should have, whether or not recorded interviews and other written material pertaining to city personnel are subject to the public records act, whether a town has the obligation of notifying its citizens of impending town bankruptcy, defining the correct protocol for a public hearing, what recourse citizens have after being unable to attend a public hearing, and many more!



**Op eds:** Coalition board members, including **Peggy Watt, Kathy George, Walter Neary, and Judith Endejan** produced op ed articles, which were published by newspapers around the state.

**Newsletter:** In addition to the periodic news releases and "Call to Action" emails that the Coalition sends out to members and subscribers to the Citizens Network email list, the board continued to send out electronic newsletters on a quarterly basis in 2013. The four newsletters contained brief articles highlighting the activities of the Coalition, promoted upcoming Coalition events, and always included a reminder about joining the Coalition and supporting its work financially.

**Facebook:** The Coalition's presence on Facebook expanded from 500 to 608 "fans" during 2013. Our page can be found at <http://www.facebook.com/washingtoncog>.

**NIE Supplement:** The Coalition worked with The Seattle Times to publish a new Shining a Light on Your Government newspaper insert, as part of the Newspapers in Education program. Thank you to our sponsors: **Newspapers In Education of The Seattle Times, Stokes Lawrence, Clark, Raymond & Company, Allied Daily Newspapers of Washington, Washington Votes, Washington News Council, Allied Law Group, Pioneer Newsgroup, Lester LeRoss, Krist Novoselic and Kimberly Hendrickson.**

**Shoreline Coalition for Open Government:** The Coalition welcomed its first local partner coalition in 2013 - The Shoreline Coalition for Open Government (ShoreCOG). This could not have been possible without the work of **Jerry Patterson**.

**News Appearances:** WCOG President Toby Nixon appeared on a number of news segments, including Tom Layson's "Northwest Now" program on KBTC TV (Tacoma) for Sunshine Week 2013 and John Carlson's radio

program on **570 KVI** to discuss HB 1651, and was interviewed at the Association of Washington Cities annual conference regarding open government for broadcast on the **Comcast Newsmakers** program.

### **Government and Policy Initiatives**

**Legislation Tracking:** During the legislative session, the Coalition tracked the progress of **80** of the **2,095** bills, memorials, and resolutions introduced in the Washington State Legislature. Every one of these **2,095** measures were examined for impact on open government. Of the **80** bills tracked, **32** were considered “priority” bills to which the Coalition paid particular attention. The **32** priority bills were deemed to have some potential significant impact, positive or negative, on the public’s right to know, particularly regarding access to public records and public meetings.



**Legislative Effectiveness:** Of the **32** priority bills, only one passed. **SB 5256** which expands the information that medical examiners and coroners are allowed to release about deaths that occur in prisons or jails. But even this bill was considerably weakened through the legislative process, allowing only oral summaries and not the release of official reports.

**None** of the bills that WCOG actively opposed passed during the 2013 legislative session. This was an *amazing* accomplishment, considering the incredible level of resources and pressure applied by lobbyists for government agencies. It is a great testimony to the effectiveness of WCOG members and supporters – especially **Rowland Thompson** of the Allied Daily Newspapers of Washington (a member of the WCOG Advisory Committee), **Bill Will** of the Washington Newspaper Publishers Association (a member of the WCOG Board of Directors), and **Larry Shannon** of the Washington State Association for Justice (another member of the WCOG Board of Directors) – as well as citizen activists from all around the state who called, emailed, and visited their legislators to object to the numerous bad bills. We also greatly appreciate the support of news media across the state, including the many newspapers who editorialized against the most onerous bills.

Of the remaining **48** non-priority tracked bills, **14** passed and **34** failed. **Several of the bills that passed created new exemptions to disclosure under the Public Records Act** (either directly in RCW 42.56 or in other statutes).

**Legislative Priorities:** The coalition once again prepared a legislative agenda and priorities for the legislative session to inform legislators and the public of open government issues of greatest importance. The priorities for 2013 focused on eleven issues: **oppose weakening of the Public Records Act, require training for every elected or appointed official and every government employee, fully fund the Open Government Ombudsman in the Attorney General’s Office as a Permanent, full time position, create a voluntary mediation program to reduce the cost of resolving Public Records Act and Open Public Meetings Act disputes, protect funding for Superior and Appellate Courts, protect funding for the Washington State Archives, preserve the Sunshine Committee, create an exemption in the Public Records Act for audio and video recordings of lawfully closed meetings, restore the original intent of the Attorney-Client Communications Exemption, create a private right of action under the Public Records Act for improper destruction of records, and improve preservation of and access to electronic records.**

**Candidate Questionnaire:** During the 2013 campaign season (mostly for offices in counties, cities, and special purpose districts), 3,679 candidates were sent a questionnaire on their positions on key open government issues via email or mail. 181 responses were received, tabulated, and posted on the WCOG web site, and a news release sent out encouraging editorial boards and citizens to question candidates about their responses or lack thereof. As a 501(c)(3) charitable organization, WCOG cannot endorse or support any candidates, and thus the information we provided did not indicate which answers were “right” or “wrong” and we did not rate candidates in any way. Nevertheless, candidate responses to the questionnaire did become an issue in some races during the 2013 campaign. The questionnaire resulted in several phone calls to the WCOG office from the media and candidates.

**Government Consultation and Advocacy:** WCOG increased our presence and strengthened our voice in government issues during 2013, and many officials reached out to WCOG for our advice as an important stakeholder and expert on open government issues. WCOG President Toby Nixon met with Sunshine Committee chair **Judge Michael Schwab** to discuss alternative dispute resolution, spoke at the **Duval City Council retreat**, spoke at a panel discussion on open government best practices at the annual conference of the **Association of Washington Cities in Kennewick**, spoke at a training session sponsored by the **Washington Association of Public Records Officers**, participated in several meetings of the **Sunshine Committee** to convey WCOG's positions on proposed amendments to Public Records Act exemptions, discussed HB 1651 with state **Senator Andy Hill** and HB 1128 with **Senator John Braun**, participated in a study on open government sponsored by the **William D. Ruckleshaus Center at Washington State University**, and met with a group of local government officials from China to discuss government transparency (sponsored by the **World Affairs Council**). The Coalition signed on to a letter sent to the **Office of Information Policy (OIP)** at the Department of Justice asking for detailed information about outdated FOIA regulations, excessive fee assessments, growing FOIA backlogs, and the misuse of exemptions. The Coalition also signed on to the **Washington Policy Center's** proposal addressed to lawmakers urging them to ensure the legislative process remains open and transparent.

### Legal Activities

**Amicus Briefs:** The Coalition continued to participate as amicus curiae (or friend of the court) in open government cases in the appellate courts. The Coalition, often in conjunction with other organizations, filed or signed onto amicus briefs in cases including **Lakewood v. Koenig** concerning an agency's burden when it sues a requester, **KOMO v. City of Seattle** regarding access to police department dash-cam videos, **State v. Chen** concerning access to a murder defendant's mental competency evaluation, **Utter v. Building Industry Association of Wash.** regarding citizen enforcement of campaign disclosure requirements, and **State v. Slert** and **State v. Njonge** involving the public's right to attend court proceedings (partnering with the ACLU).

**WCOG v. AGO & DOC:** WCOG was awarded \$65,000 in the court case against the WA State Attorney General and the Department of Corrections for materials requested under the PRA.

**Constitutional Amendment:** The legal committee also worked with WCOG board member Rep. Gerry Pollet on a proposed constitutional amendment to strengthen the state's commitment to open public records and do away with the governor's executive privilege.

### Awards and Recognitions

#### **Heroes of the 50 States: The State Government Hall of Fame:**

**Brian Sonntag**, former State Auditor of Washington, was the 2013 inductee to the Heroes of the 50 States: The State Open Government Hall of Fame, presented by the Society of Professional Journalists and National Freedom of Information Coalition. Sonntag retired in 2013, ending 40 years of public service, including 20 years as state auditor. In announcing his decision not to seek re-election, Sonntag cited advocating for greater citizen access to government as one of his most important achievements. His record as a champion for open government is unmatched in the state. This was the first time in the history of the Heroes of the 50 States award that inductees were selected from the same state in two consecutive years (WCOG President Toby Nixon was the 2012 inductee).

**Ninth 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. The 2013 James Madison Award was presented to **Brian Sonntag**. Brian Sonntag's record as a champion for open government is unmatched in Washington State.



*2013 James Madison Award Recipient Brian Sonntag, 2011 James Madison Award Recipient and Coalition President Toby Nixon.*

**Ninth Annual James Andersen Award:** The James Andersen Award is 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 this year was presented to **David Seago**, former editorial page editor of The News Tribune of Tacoma and a member of the WCOG board since October 2011. Seago was chosen for his notable launch of the Scott Johnson essay contest by coordinating all aspects of the effort. Dave demonstrated how a single board member can make an extraordinary difference in advancing the work of the Coalition.



*2012 James Andersen Award Recipient Ed Clark, 2013 James Andersen Award Recipient David Seago and Coalition President Toby Nixon.*

**Key Awards:** The Key Award can be awarded by the Coalition 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 cabinets of public records and of locked doors of meetings that should be open to the public. 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. Honorees this year included:



**Sedro-Woolley Mayor Mike Anderson**, who protested a Skagit Council of Governments meeting for lacking the required notice to the media and general public, which led to a cancellation of the meeting and a change in policy; **Jonah Spangenthal-Lee**, who revamped the Seattle Police

Department blog, the SPD Blotter, which offered a new way to give people access to crime information; **Pierce County**, who redesigned part of the county’s web site to make it easier for citizens to access public records; **The Seattle Times and Mike Carter**, who successfully pursued and gained access to withheld public records from The Seattle Police department; **City of Kirkland**, who declared access to public records as an “essential” city service and whose actions require the work of responding to public records requests be evaluated and budgeted for in the same manner as all other major city services; **Yakima Herald-Republic, KAPP, KIMA and KNDO**, who banded together to oppose a closed-door hearing in a controversial triple-murder case; **Drew Hendricks**, who found records showing the federal Drug Enforcement Agency had been collecting data on phone calls to and from millions of Americans for at least six years; and **Laurie Rogers**, who successfully challenged the Spokane School District for their handling of public records requests.



*Coalition President Toby Nixon, 2013 Ballard Thompson Award Recipient Speaker Frank Chopp, and former Senator Alan Thompson.*

**Ballard/Thompson Award:** The Ballard/Thompson award is given to a member or members of the state legislature who have demonstrated outstanding dedication to the cause of open government during the previous legislative session. The recipient of the Ballard/Thompson Award for 2013 was **Speaker of the House Frank Chopp**, State Representative from the 43rd District. Chopp was recognized for defending open government during the 2013 session by preventing House Bill 1128 from coming to the floor for a vote. The bill would have allowed public agencies to deny and sue record requesters deemed to be “harassing” an agency. He has been a consistent sponsor and

supporter of enhancing government transparency.

**Scott Johnson Open Government Essay Competition:** **Scott Johnson**, a former WCOG board member and strong advocate for open government, passed away during 2012. To honor him and to educate young people about the importance of open government, the Coalition launched an essay contest for high school juniors and seniors. The 2013 winner was **Daniel Manwell**, with **Nicole Laliberte** as runner-up.



*Port Angeles Teach Mark Valentine, PAHS Principal Dr. Gerry Cameron, former WCOG director Frank Garred, 2013 Essay Competition Award Recipient Daniel Manwell and PA School District board member Cindy Kelly.*