



Washington Coalition for Open Government

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Washington Coalition for Open Government sues Pierce County for repeated violations of the state's Public Records Act.

Olympia----The Washington Coalition for Open Government (WCOG), the state's largest government transparency watchdog organization, has started a lawsuit in Thurston County Superior Court against Pierce County for violations of the state's Public Records Act (PRA).

The lawsuit states that WCOG made a PRA request in April 2015 seeking records about how Pierce County Prosecuting Attorney Mark Lindquist was dealing with the conflict of interest created by Lindquist's personal intervention as a private party in a pending PRA case, Nissen v. Pierce County, as well as records relating to Lindquist's hiring of private attorneys, and the relationship between those attorneys and the prosecutors who represent the County. The suit alleges the County violated the PRA by refusing to correspond with WCOG by email, insisting on either regular mail or fax, refusing to produce electronic records in electronic form, forcing the organization to purchase paper copies of electronic documents, and failing to explain exemption claims in a proper exemption log.

WCOG President, Toby Nixon, noted that while WCOG routinely joins lawsuits in amicus or "friend of the court" briefs, it is rare for the organization to initiate a lawsuit against a governmental agency. But he says in the case of Pierce County, the egregious violations warranted the action.

"In this case, the WCOG board felt Pierce County's continued disregard for the intent and spirit of the law has been so blatant, we needed to seek a court remedy. We are suing because of the ongoing wrongful withholding of records and failing to adopt rules to protect and preserve records."

WCOG Attorney, William John Crittenden, says that Lindquist's office is deliberately frustrating and delaying WCOG's legitimate request for records about how Lindquist and other County attorneys have handled, or mishandled, the Nissen case. Those records relate to an important public controversy, are not exempt from public disclosure, and should have been produced months ago.

“It is obvious that Mark Lindquist does not want those records to be disclosed, and he is willing to blatantly violate the PRA in order to prevent or delay the release of those records.”

Pierce County is already facing substantial liability in the Nissen case after the Washington Supreme Court unanimously rejected Lindquist’s argument that the PRA did not apply to records on his personal smart phone. Last month the Pierce County Executive, Pat McCarthy, took the unprecedented step of hiring her own attorney to ask the Thurston County court to remove Lindquist’s office as the County’s attorney in the Nissen case. Now the County may be held liable for additional violations of the PRA as a result of Lindquist’s refusal to produce public records in response to WCOG’s PRA request.

The Washington Coalition for Open Government is a non-partisan, non-profit organization that works to ensure government remains open, transparent, and accessible to the public.

WCOG is building a network of citizens who support open government laws and practices. Please send to info@washingtoncog.org your name, address, phone, and e-mail address. We will notify you, as they arrive, of threats to open government and opportunities to strengthen it.

Under Washington law, emails to or from public employees and officials that relate to the conduct of government or the performance of any governmental or proprietary function, regardless of the email addresses used or where the emails are stored, are public records subject to public disclosure. Please be advised that, because some WCOG members are public employees or officials, emails that involve WCOG matters including this email may be public records.