

ANNUAL REPORT 2021

“The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know.”

Preamble to the PRA



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INTRODUCTION

Welcome to the 2021 Annual Report. The goal of annual reports is to provide a comprehensive look at how an organization or firm functions and to provide an update on the work and financials of the previous year. Our annual report is different in that it also seeks to give you an update on where government transparency stands in our state and our assessment of what challenges lie ahead in our mission to keep Washington government at all levels, the most transparent in the nation. As you read this report, you will see the same warning signs we see, the same ominous trends we fear, and we hope you will re-dedicate yourself to the cause of open government.

This report is a compilation of our work on behalf of our state's citizens right to access government meetings and records during another year filled with uncertainty, ongoing suffering, and the death of thousands of fellow Washingtonians. As relieved as we all were to put 2020 in the rearview mirror, the challenges to open government in some ways grew worse in 2021 and while we remain ever hopeful,



we have grave concerns about 2022. This report will make it clear not everything is as healthy as we'd like on the transparency front and 2021 gets low marks for open government. Our democracy is fragile and the right to know what governments do in your name and with your tax dollars is a key element of preserving democracy. When governments hide information from us, it chips away at the public's power in deciding how to be governed.

The year began with WashCOG President, Toby Nixon, stepping down from the post he held for the past 13 years. It is always difficult for an organization to lose longtime leadership, and considering the many hats Toby wore during his tenure, it presented us with

interesting challenges but also some opportunities as we look to our board members to re-engage and work to fill some of those rather large shoes. Toby served as president until the annual meeting in February when the board elected former Seattle Times Executive Editor, Michael Fancher to serve as president. Mike brings his skills as a newsroom leader who has always been dedicated to transparency, freedom of the press, and the rights of citizens to be informed about their government.

With Mike at the helm, we began 2021 with cautious optimism. We hoped it would be a much better year and all the signs seemed to indicate we would head back to in-person meetings and events in the spring. While there was not yet hope the state legislature would be able to meet in person before the end of January, we saw the virtual meeting world as one that would provide new opportunities to involve citizens in the work of the legislature. Now, instead of traveling to Olympia, citizens could observe and even testify from the comfort of their own home or office. The virtual meeting world holds great promise and WashCOG was at the forefront of touting this new avenue for participation as board member, State Representative Gerry Pollet introduced legislation to require remote meetings and hearings.

In January, we continued our usual watchdog activities during the legislative session. Unfortunately, many of our priorities for the session remained the same as the prior year which means few of them were realized; not because of a lack of effort on our part or that of our allies, but because lawmakers seem to have lost their appetite to do what is right when it comes to open records. We wish we had better news, but we are looking at some of the very same legislation this session as last year and we hope you will take this opportunity to read and consider our priorities as we go forward. As always, we hoped for new legislation to strengthen transparency and openness and instead, mainly expended our energy fighting legislation that further seeks to deepen secrecy and make government less, not more, accountable.



Again in 2021, one of our educational outreach goals was to visit high school students all over the state to talk about civic engagement, civic responsibility, and the importance of open government as a way to promote our annual Scott Johnson High School Essay Contest. We did not get the opportunity to do that as schools remained closed and parents and educators continued

to navigate remote learning. But we did launch the contest which was very successful. We highly recommend reading the winning essay, included with this report. The 2022 contest will roll out in February and we hope you will familiarize yourself with it and pass on to all the high school students in your life. As always, we are thankful for the support of the Stokes Lawrence Law Firm who sponsors the cash prize every year.



WashCOG board members continued the hard work on major Public Records Act (PRA) legal challenges, PRA requests, filing amicus briefs in important transparency cases, and helping citizens with PRA issues as they arise. We continue to answer questions on our website regarding PRA requests and are always willing and ready to help citizens with their PRA questions.

One of our core mission areas is to recognize those folks who went to extraordinary lengths to ensure your right to know. We continue to recognize unsung heroes with our Key Awards, presented throughout the year to those who have challenged secrecy and promoted openness. You can read about

our Key Award winners as well as our Madison, Andersen, and Bunting award transparency heroes from 2021 in the section on recognition. One of our biggest disappointments of the year was having to postpone our annual Madison Andersen Awards breakfast, which we have re-branded as the Sunshine Breakfast. This is our annual event to honor those on the front lines of this fight and who dedicate themselves to the mission of the Coalition. But do not despair, we postponed this event to March 18th and you will read all about it in this report.

2021 started with great hope and ended as a year of great disappointments. Vaccines were made widely available, masks and social distancing were working and of course here, we welcomed the possibility for expanding transparency rights. Then came a new variant and the postponements or cancellations of many events, and it was back to virtual meetings and isolation. Much like 2020, we'll be glad to see 2021 in the rear-view mirror. We do not know what 2022 has in store for us, but we are gravely concerned it will NOT bring needed changes that bolster open government. We hope you will read this report and learn why we are so concerned. And again this year, we say please take care, good government advocates. Stay safe and healthy. We need you in the fight.





Michael Fancher—President of WashCOG

MESSAGE FROM THE PRESIDENT

2021 was a busy, demanding and productive year for the Washington Coalition for Open Government. It was a reminder of how daunting the challenge is to protect the people's right to access government information. But it also inspired a new vision for WashCOG as we enter our 20th anniversary year.

2021 was a brutal year for open government in our state.

- The Washington Redistricting Commission did its work largely in secret, so WashCOG is suing them for flagrantly violating state transparency laws. WashCOG sued to hold the commission accountable and seek remedies that prevent future commissions from similar violations. Citizens need to see commission deliberations to understand how public officials arrive at their collective decisions. Only then can citizens determine whether officials acted wisely on the public's behalf.
- The state has no independent office to advocate, assist and educate the public when it comes to open records and meetings, so WashCOG has studied practices in other states and will propose a new structure in 2022.
- The mayor of Seattle and other city officials failed to keep records of their text communications during a volatile period, so WashCOG is monitoring their compliance with open government laws and looks forward to working with the new mayor, city attorney and city council. The status quo is unacceptable.

- Taxpayers in smaller communities have had to pay unnecessary fees and fines because officials have used weak and strained legal arguments to resist openness and accountability. WashCOG is working to change that behavior and to promote best practices for retaining and organizing records, making them readily available and avoiding unnecessary costs.
- For example, WashCOG has asked the courts to order San Juan County to provide properly redacted records, along with written explanations for any withheld portions. In a letter Nov. 16, we warned San Juan County Council members and their attorneys that the county was needlessly exposing itself to costly penalties and court judgments by excessively redacting public records, contrary to state law.
- Every legislative session is a battle to stop further erosion to open government laws. The state's Sunshine Committee hasn't functioned as it was originally envisioned. WashCOG has urged the governor to appoint committee members who will represent the public interest. WashCOG looks forward to working with the committee's new leadership to eliminate many more exemptions and not allow additional exceptions to transparency laws.

2022 can and should be much better. Two other coalition activities in 2021 helped us look to the future:

First, a group of public relations students at Western Washington University studied our work and made recommendations for how we can have more impact. A survey they conducted said the people who know about us fully respect and value what we do. Unfortunately, that's a very small group of admirers and supporters. We aim to fix that by telling our story more effectively to a broader community and by building out our network with other organizations who lack our expertise in promoting openness and accountability. We are redesigning our website and revamping our social media strategies. We greatly appreciate the work of Jordan Olson, James Ellis, and Shaina Yaranon. We would also like to thank WWU Journalism Dean Jennifer Keller for giving us the opportunity to participate with these talented students.

With that strategic input, we next conducted a virtual board retreat to look to the future. We will remain independent and nonpartisan. We must continue to respond swiftly and effectively to the challenges that emerge in legal, legislative and community arenas. And we must become a broader movement, setting a positive agenda for the future. Our thanks to Lunell Haught, president of the Washington League of Women Voters and WashCOG board member, and Stephanie Elie-Martin, leadership consultant, for designing and facilitating the retreat.

Giving our renewed commitments and ambitious aspirations for initiatives like the independent public advocate, we need to build a greater financial base to foster. We need your help.

You will hear more about these aspirations as we roll out our 20th anniversary initiative. The theme we have adopted comes from the 1972 citizen initiative that led to our current open government laws. Our message is the same as theirs:

The people have a right to know.

Yes, you do.

Michael R. Farnha

CORE MISSION: EDUCATION

There are two components to our educational outreach; community/civic organizations and students/young adults. We firmly believe the more the public is educated about good government; the more the public knows about transparency and openness, the better. It is always our mission and desire to impress upon our citizens the importance of open government. Any watchdog organization needs an educated populace and dedicated activism behind it. Our goal is to present this issue to Washington citizens in a straightforward manner that is clear, concise, and constant so we all understand we have a right to know what government does in our name.

OUTREACH: COMMUNITIES

The challenges brought on by the global pandemic lifted briefly but continued, as 2021 lumbered on. As an organization with an important message to convey, we knew we had to continue to adapt to new ways of connecting with the community to grow our movement. In March, now President Emeritus Toby Nixon continued to carry our message to a broad audience, participating in the KUOW annual program hosted by Tom Layson which kicks off Sunshine week.



As the prospect of returning to in person gatherings grew, we started making plans for our fall breakfast and awards program. We selected our winners, we started registering tables, and promoting the event. We want to thank everyone who planned to attend that event and our sponsors who generously donated funds needed to produce such an event. The 2021 Sunshine Breakfast and Awards program was set for

Friday morning, September 17th at T-Mobile Park, home of the Seattle Mariners. Unfortunately, as summer drew to an end, the new emerging Delta variant of COVID-19 caused enough concern over breakthrough infections, even among the vaccinated, and our numbers began to drop. In August, we decided we should postpone our event until Spring of 2022.

As we begin 2022, WashCOG will use innovation and technology, the desire for interesting video content, and the ongoing necessity of virtual engagements to get our message to the community. Board member Hannah Marclely will launch an open government podcast early in the year. If your agency, company, or organization would like to request a speaker, please contact Juli Bunting at 206-782-0393. We are eager to meet your members and have an honest, open, and educational conversation about the PRA and the OPMA

OUTREACH: SCHOOLS



Each year, the Coalition is pleased and proud to conduct the annual Scott Johnson High School Essay Contest. The contest is named for the late Scott Johnson of the Stokes Lawrence Law firm, who was a former member of the WashCOG board and a dedicated advocate for open government. The Stokes Lawrence Law Firm sponsors the contest each year with a \$1,000 cash prize. The Essay Contest

is open to all Washington state high school students and usually runs from February to May.

THE 2021 SCOTT JOHNSON HS ESSAY CONTEST



Merik Robles of Archbishop Murphy High School in Everett is the winner of the 2021 Scott Johnson High School Essay Contest. Robles' essay, "Government Records – Advancing the Cause of Justice," examined the need for government transparency in light of the death of Manuel Ellis while in police custody. Three Tacoma police officers were charged in his death and await trial.

"The public has the right to know how police use their power and to examine the appropriateness of policing tactics and use of force," Robles wrote. "Mr. Ellis' death illustrates the importance of government transparency."

WashCOG has been active on matters of police accountability, in particular on policies for officer body cams. We were among the requesters who sought public records on the Ellis case.

Fred Obee of the Washington Newspaper Publishers Association, the WashCOG board member who chaired the student essay contest, praised all of the entries. The judges selected Robles' essay with a unanimous vote.

The essays were some of the best we've seen in the years we have conducted this contest and we offer our congratulations to Merik and all the entrants on a job well done. We continue to work to educate young people about the importance of transparency and open government, and these essays are a great tool in that mission.

The call for entries in 2021 said, "Identify an event or issue where open government meetings or records helped advance the cause of justice. Explain how this government transparency made a difference in the public's understanding and how people were held accountable for their actions."

Research done recently for the Coalition by communications students at Western Washington University showed social justice ranked highest among the issues young people in the state

pay attention to and would support through donations. Social justice and government transparency hand in hand and WashCOG is the leading advocate for access to public records in Washington.



George Erb—Secretary/
Communications Director

COMMUNICATIONS MILESTONES

WashCOG communications in 2021 were mostly about laying the foundation for more thoughtful, strategic and proactive communications in 2022.

Last year we continued to extend our reach on social media. We ended 2021 with more than 3,000 followers on Twitter and averaged 104,000 “tweet impressions” a month. The datapoint refers to the number of times our tweets appear on others’ twitter feeds. Meanwhile, board member Robert McClure is reviving our Facebook page, which had nearly 1,000 followers in January 2022. Both platforms are effective ways for us to make connections and share our messages.

We have high expectations for 2022. For example:

- We expect to launch a new website in the first quarter that will play a central role in our external communications. Coalition treasurer Ed Clark and board member Peggy Watt are leading this important project.
- Board member Hannah Marcley’s podcast is expected to debut in February, giving open government advocates an opportunity to tell their stories to a much wider audience.
- Communications will be essential to a successful campaign to persuade citizens and lawmakers alike to create an independent, open-government advocate in Washington state. This campaign will raise WashCOG’s profile.
- We will incorporate more fundraising appeals in our messaging to help the coalition meet its larger goal of becoming financially robust.

Our high-concept objectives in 2022 are to become more adept at telling our stories and playing a bigger role in the state’s civic conversation. This year we expect to make real progress toward those ends

CORE MISSION: LEGISLATION



In December of 2019, the Washington State Supreme Court ruled the Washington legislature is subject to the Public Records Act, thus codifying a long time goal of WashCOG. Because of COVID-19, many of our priorities for 2020 remained the same in 2021. Below is a discussion of our priorities for last year and the results. Again, the 2022 priorities look very similar to the priorities for 2021. The Coalition encourages our members and concerned citizens throughout Washington to contact members of the Legislature and ask for their support of these priorities.

We established the following priorities for legislative action during the 2021 session.

1. **Treat All Legislative Records the Same as Other Public Records.** The Washington State Supreme Court ruled, in *Associated Press et al v. Washington State Legislature et al*, that records held by individual legislators are subject to disclosure under the Public Records Act. Now it is time to make the PRA apply to all legislative records, including those of legislative staff and agencies of the legislative branch. We must make the state legislature as accountable to the people as every local legislative body in the state, with appropriate exemptions that are in the public interest.
2. **Stop Abuse of Agency Notice to Parties Named in Records.** Many agencies delay release of records by abusing the ability to notify persons named in a record. The amount of time allowed for such parties to obtain a court order blocking release of records should be limited to two weeks or less from the date of the agency's initial response to the request. Agencies

should be required to identify the exemption under which a record could be withheld when providing notice.

3. Requesters who successfully defend against a lawsuit filed by a third party to block release of records should be able to recover their attorney fees and court costs from that party, or from the agency if the agency acted in bad faith by inviting the lawsuit.
4. **Codify Rules for Public Records and Public Meetings During Declared Emergencies.** In response to the COVID19 pandemic, the governor suspended portions of the Public Records Act and the Open Public Meetings Act and prohibited use of various parts of them because of social distancing requirements. While stakeholders were consulted on these actions, they have not been subject to the full deliberative legislative process. The legislature should convene a stakeholder process to craft PRA and OPMA amendments to address their operation during declared emergencies so such proclamations and suspensions would not be required in the future, including emergencies such as major fires, floods, earthquakes, and volcanic eruptions in addition to pandemics.
5. **Advisory Committee Meetings Must be Open to the Public.** Public agencies often create boards, committees, task forces, or other groups to analyze policy alternatives and make recommendations. Too often these advisory groups meet outside the public eye, so people can't see what options were considered and understand why some were excluded. All this work should be open to the public, with meeting times and places announced in advance. Let's stop developing policies in secret.

The following additional items of concern to open government advocates were also supported:

- Require all special purpose districts to hold elections using the same schedule and mechanism as other jurisdictions, and to be fully subject to the Open Public Meetings Act.
- Clarify that agencies cannot escape PRA penalties by leaving a request open indefinitely, and that litigation to force release of records can start as soon as access to a record is denied even if the request is not “closed”.
- Provide voluntary alternative dispute resolution for PRA and OPMA cases that is faster and less expensive than superior court, without impairing a plaintiff's ability to choose to file a suit or receive penalties if they prevail.
- Require disclosure exemptions to be contained within or referenced from RCW 42.56. .

- Create a private right of action under the PRA for improper or premature destruction of public records.
- Prevent agencies from initiating litigation against public records requesters such as for declaratory judgment.

One positive observation from both the 2020 and 2021 sessions is that the legislature did not immediately seek to overturn the Supreme Court's decision that most legislative records are subject to disclosure under the PRA. We've been hearing that many requests are being made for legislative records on a variety of topics, with interesting disclosures including the apparent⁸ disdain some legislators have for their constituents who ask questions. We continued our vigilance in the 2021 session of moves to close off access to legislative records. Thank you all for contacting legislators during the 2021 session! It really does make a difference in the outcome. WashCOG encourages you to continue to hold local and state agencies accountable during this difficult time. Agencies are taking extraordinary actions to fight the virus, many of which significantly restrict personal liberty or suspend important controls on government actions. As you know, the governor suspended portions of both the Public Records Act and the Open Public Meetings Act related to in-person contact, and we're already hearing reports of some agencies abusing these provisions by conducting meetings without adequate opportunity for public attendance or by unreasonably delaying responding to records requests.

CORE MISSION: LITIGATION

AMICUS BRIEFS AT A GLANCE

“The legal term amicus curiae is a Latin phrase that literally means ‘friend of the court.’ The term is used to refer to a legal brief, called an amicus brief that may be filed with an appellate court, including a supreme court, by a party not involved with a current case, but in support of one side or another on the legal issue at hand.”

Our goal at WashCOG is not to take agencies to court. Our goal is to ensure governmental agencies are following the law and not operating in secret. And while litigation is not our goal, we are not shy about supporting PRA lawsuits and we are not shy about taking agencies that violate the law to court. In 2021, WashCOG filed amicus briefs in support of several new and ongoing lawsuits. Some of the top PRA/OPMA lawyers in the state serve on our board and they are always busy. Throughout the year, our board members have scrutinized, evaluated, and acted on worthy litigation seeking to hold lawmakers accountable for their actions.

It is the general policy of WashCOG to not participate at the trial court level in any such actions. However, we may decide to seek intervenor or amicus status for PRA/OPMA issues pending before Washington appellate courts. The criteria to be used in selecting cases for amicus participation may include some or all of the criteria used to file a suit ourselves, plus the following: Whether amicus participation will increase the likelihood of a favorable outcome for the party which has sued to obtain public records or access to public meetings; Whether amicus participation will help produce an appellate court decision to resolve ambiguities or conflicts in the area of PRA/OPMA laws among the divisions of the courts of appeal; Whether our participation is likely to enhance or promote the acceptance of an appellate case in an PRA/OPMA action.

Any decision to authorize amicus participation by WashCOG may be made by the President, with a recommendation from the Legal Committee.

In making a determination to institute litigation, the WashCOG Legal Committee has established certain criteria, which will guide it in recommending the commencement of any such litigation to the full board, which must approve any final decision regarding the commencement of litigation. This criteria may include some, or all, of the following criteria, or other criteria that may be relevant to a determination in an individual case:

- It is unlikely a private litigant could or would bring the case.
- The case under consideration must have a strong legal basis, indicating a high likelihood of ultimate success on the merits.
- Any judicial decision resulting from the litigation must be intended to preserve and protect the rights of ordinary Washington citizens to have the fullest access as allowed by law to the workings of government either through public meetings or public records.
- A significant public interest in the records sought must be present; WashCOG will not advance litigation to further narrow private interests.
- The case raises unique legal questions that suggest the case could help resolve existing ambiguities in Washington law or further the development in Washington law in the areas of access to public records and public meetings.
- The agency withholding records has a pattern of abusing Washington's public records or public meetings acts.
- The case ultimately presents a compelling reason to fight against unjust illegal withholding of public records by public agencies.

2021 amicus briefs include:

1. *Kildfuf v. San Juan County*, Washington Supreme Court. The brief addressed the evidentiary standard appellate courts should apply in evaluating trial court PRA decisions.
2. *Deimond v. King County*, on petition for review to the Washington Supreme Court. The brief urged the court to take up the issue of agency "balkanization," in which individual counties or other large agencies seek to have subdivisions treated as separate agencies, in a manner that makes it more difficult for the public to know where to seek relevant records.
3. *John Does 2-4 v. King County*, on petition for review to the Washington Supreme Court. The brief urged the court to deny review of an appellate decision affirming a requester's right to obtain police investigative records, and addressed the delay in access caused by unwarranted PRA appeals.

4. *Hood v. Columbia County*, Court of Appeal Div. III. The brief challenged overreaching discovery requests directed to PRA requesters and the factors courts should consider in awarding requesters their attorneys' fees.
5. *Earl v. City of Tacoma*, Washington Supreme Court. The brief urges the Court to clarify the amount of time requesters have to file public records lawsuits when agencies hide facts the requester would need in order to know whether the PRA had been violated.
6. *Jane and John Does 1-6 v. Seattle Police Dept.*, Washington Supreme Court. The brief addresses the public interest in access to records related to SPD officers who attended the "Stop the Steal" events in Washington DC on Jan. 6, 2021.
7. *Campese v. Kitsap County*, Washington Supreme Court. The brief addresses whether a public records requester is entitled to fees against an agency that voluntarily drops a lawsuit against him.
8. *Hood v. City of Nooksack*, Court of Appeals Div. I. The brief addresses numerous errors committed by a trial court in dismissing a PRA lawsuit.
9. *In Re Welfare of K.D.*, Washington Supreme Court. The brief urges greater transparency in connection with parental termination proceedings.

Other legal issues:

- The Washington Redistricting Commission did its work largely in secret, so WashCOG is suing them for flagrantly violating state transparency laws. WashCOG sued to hold the commission accountable and seek remedies that prevent future commissions from similar violations. Citizens need to see commission deliberations to understand how public officials arrive at their collective decisions. Only then can citizens determine whether officials acted wisely on the public's behalf. to require new standards and practices
- The mayor of Seattle and other city officials failed to keep records of their text communications during a volatile period, so WashCOG is monitoring their compliance with open government laws and looks forward to working with the new mayor, city attorney and city council. The status quo is unacceptable.
- Taxpayers in smaller communities have had to pay unnecessary fees and fines because officials have used weak and strained legal arguments to resist openness and accountability. WashCOG is working to change that behavior and to promote best practices for retaining and organizing records, making them readily available and avoiding unnecessary costs.
- For example, WashCOG has asked the courts to order San Juan County to provide properly redacted records, along with written explanations for any withheld portions. In a letter Nov.

16, we warned San Juan County Council members and their attorneys that the county was needlessly exposing itself to costly penalties and court judgments by excessively redacting public records, contrary to state law.

CORE MISSION: RECOGNITION

WashCOG has always subscribed to the principle that people who dedicate themselves to good government, people who speak up when they're denied access, people who do not take no for an answer, and journalists who inform the public should be rewarded for those efforts. We recognize people from all walks of life, in all sorts of circumstances who take remarkable action to ensure all of us can have access to government meetings, decisions, and records

KEY AWARDS:

Throughout the year, WashCOG honors open government advocates who have gone to extraordinary lengths in the pursuit of transparency by presenting them with our Key Award to recognize these efforts. It is our usual practice to present Key Awards live at a time and place convenient for the award recipient. Obviously, that was not possible in 2020 and so our Key Award presentations were made through video conferencing.

In the spring of 2020, a few weeks after the public learned of an estimated \$600 million benefit fraud at the Washington state Employment Security Department, business consultant Lynn Brewer submitted a public records request.

On June 6 of that year, Brewer asked the agency for 10 weeks of emails related to employment claims and benefits exchanged between the governor and then-ESD Commissioner Suzie LeVine. The department's public records officer acknowledged Brewer's request six days after that.

By early November, five months later, Brewer had yet to receive a single record.

Brewer, represented by Tacoma attorney and WashCOG board member Joan Mell, on Nov. 13 sued the ESD for violating the state Public Records Act. Her complaint against the agency said she intended to use the records "to seek civil redress associated with delayed benefits and as such has had a need to

promptly receive the requested documents.” The department’s failure to release the records promptly impeded Brewer’s ability to fight for benefits, she argued.

The agency settled with Brewer on June 11, a year and five days after she submitted her public records request. The department agreed to pay Brewer \$100,000 and change certain records policies and practices.

For calling out the state Employment Security Department for violating the Public Records Act, for holding the agency to account and for insisting on reforms in a settlement agreement, the board presented Lynn Brewer with a Key Award.

Stacy Irwin and Kimberly Ferreiro are Public Records Officer in the Seattle Mayor’s office. When PRA requests were made for text messages from Seattle public officials, both Irwin and Ferreiro were concerned with the actions around those requests. Irwin filed a whistleblower complaint about alleged misconduct regarding the handling of the text message and while Ferreiro did not sign the complaint, she has stated that she assisted Irwin in preparing it and fully supports its claims. She also fully cooperated with an investigation into the handling of the text messages and the PRA requests.

Stacy Irwin and Kimberly Ferreiro were honored with Key Awards in 2021.

Melissa Santos and Crosscut, a service of Cascade Media, were honored with a Key Award for reporting and publishing a package of stories about police officers statewide with credibility problems in court.

Santos filed more than 100 public records requests with public officials in all 39 counties in Washington state. Her reporting found 183 officers statewide who appear on so-called “Brady lists,” which identify them as having potential credibility issues. Officers land on Brady lists, named after a 1963 court case, for dishonesty and other reasons.

The coalition recognizes individuals and organizations with Key Awards whenever they do something notable and extraordinary for the cause of open government in Washington state.

Coalition President Mike Fancher presented the Key Award to Santos and Crosscut during a remote staff meeting.

“Her investigation took nine months of reporting. That’s one of the reasons why it’s exceptional,” Fancher said of Santos. “It’s a major commitment – and it’s a major commitment by Crosscut.”

“We’re thrilled,” said Donna Gordon Blankinship,” Crosscut’s news and politics editor.

“Melissa’s work deserves all the credit.”

Crosscut published the three-story package on April 8. The centerpiece story, with links to the other parts, is available online at <https://crosscut.com>.

Other Key Award Honorees in 2021:

- Brian Kelley and the Port Townsend Leader for a series of stories using PRA requests for a story that reveals desperate, behind the scenes maneuvering by the Public Development Authority board as the PDA faced bankruptcy following extreme financial mismanagement. The PDA manages Fort Worden. It took over management from state parks about nine years ago.
- Washington Counties Risk Pool (WCRP)
The WashCOG board asked WCRP to consent to the entry of a declaratory judgment in Thurston County Superior Court that WCRP was an agency subject to the PRA. Although WCRP did not previously deny being subject to the PRA, it had no obligation to accede to WCOG’s demand for a declaratory judgment. Based on the anti-PRA attitude of most agencies and their attorneys, much of the WashCOG board was understandably skeptical about whether WCRP would actually consent to the entry of a declaratory ruling. But WCRP did accept our offer, and the declaratory ruling that WCRP is an agency was entered. This was the best possible outcome for WCOG, and it happened because WCRP did the right thing. A notable act in support of transparent government.
- The Washington State Recreation and Conservation Office. The Washington Recreation and Conservation Office has had a long-standing legislative requirement to create and maintain a public

lands inventory. For many decades it operated on autopilot with a paper inventory. In recent years, the legislature requested the office update the inventory and turn it into an online version.

Rather than just post the data online, the RCO staff worked with ESRI, a global mapping analytics company, to design and create a searchable, interactive web database and dashboard, with updated information about all public land owned in the state.

The new website was released in late November. The information can be filtered by legislative district and county. Maps can be displayed in various forms, including by imagery, streets, topography, navigation, terrain, etc.

MADISON, ANDERSEN, BUNTING AWARDS:



The Madison Andersen Bunting Awards Breakfast has always been our time to greet our supporters, family, and friends, and break bread as we honor and celebrate those who have gone the extra mile for transparency.

The explosion of COVID-19 in 2020 meant our awards were given at a virtual ceremony and we were denied the opportunity to gather and celebrate in person. As March 2021 came along, people were starting to get vaccinated and it appeared we would have many opportunities to gather again in person. We went forward with our nominations and planning for a September event at T-Mobile Park, home of the Seattle Mariners. The venue was booked, reservations were coming in, and sponsors stepped up to lend their support. We were so optimistic in the Spring, we re-named the event the 2021 Sunshine Breakfast and Awards and we were ready to celebrate. But along with our excitement over the event in August came a surge in COVID-19 cases, including break through cases of vaccinated individuals, and cancellations started coming in. With heavy hearts but the firm belief we had to protect our supporters and friends, we postponed our first annual Sunshine Breakfast and Awards to March 18 of 2022. Here are the original announcements.

THE 2021 MADISON AWARD:

On March 18, 2022 at T-Mobile Park in Seattle, long-time WashCOG president, Toby Nixon, will be honored by the board with the 2021 James Madison Award. There has not been a stronger or more dedicated soldier in the war on secrecy than Toby. He joined WCOG 15 years ago. Two years later, he was elected president and 13 years later stepped away from that post to devote time to many of the other worthy causes he champions. Toby's commitment to transparency is demonstrated by his vast knowledge of the Public Records Act/

Open Public Meetings Act, his extensive legislative background, his love of public service, and his willingness to serve us now as President Emeritus; lending his expertise, his helpful nature, and his guidance moving forward.



Toby is a member of the [Kirkland City Council](#). He previously served as a fire commissioner, and in the Washington State House of Representatives from 2002 through 2006 where he was ranking member of the committee responsible for overseeing Washington’s open government and election laws. He is the 2012 inductee to “[Heroes of the 50 States: The State Open Government Hall of Fame](#)” by the [National Freedom of Information Coalition](#) and the [Society of Professional Journalists](#). In 2006, he received the “Freedom’s Light Award” from [Washington Newspaper Publishers Association](#) in recognition of his

work to protect and advance First Amendment interests in Washington. He’s a member of the [Washington State Historical Records Advisory Board](#), and serves as an officer and board member of a number of local nonprofit organizations. Toby has worked in the computer industry for over 40 years, currently in the Windows group at [Microsoft](#) where he manages relationships with other companies in the computer industry and represents Microsoft in technical standards development organizations.

This will be a very special award presentation and we encourage all our friends, family, supporters, and sponsors to visit www.washingtoncog.org and make your reservations now.

THE JAMES ANDERSEN AWARD:

Ed Clark is a former Key Award recipient in recognition of his success in unlocking government secrets related to the improper regulation of the accounting profession in the State of Washington. He has been involved with WashCOG ever since and currently serves as Treasurer of the Coalition. Ed dedicates his time and energy to keeping WashCOG on sound financial footing. He develops and maintains relationships with major donors and provides pro-bono accounting services for the organization.



D. Edson Clark, CPA, graduated summa cum laude from the University of Washington in 1977. He obtained his license to practice in the State of Washington as a certified public accountant in 1980. After several years as a tax partner in a multiple partner local accounting firm, Ed co-founded Clark, Raymond & Company in 1991, where he continues to serve as the executive professional. During his years in public accounting, Ed has been the engagement principal on numerous client engagements that involve the preparation of audited, reviewed, or compiled financial statements, and has extensive experience providing commercial and personal income tax advice. Ed also has extensive experience in the estate taxation and estate planning

arena.

He is a member of the American Institute of Certified Public Accountants and the Washington State Society of Certified Public Accountants.

Ed was a founding Director and former Board Chair of the Rotary Wishing Well Foundation and a former Board member of the Make A Wish Foundation of Washington. WashCOG is pleased and proud to present the 2021 James Andersen Award to Ed Clark.

THE KENNETH F BUNTING AWARD

The Seattle Times

The Washington Coalition for Open Government will present its 2021 Bunting Award to the staff of The Seattle Times for aggressively reporting on the city of Seattle's mishandling of public records and for holding public officials to account – to the point of suing City Hall.

The Bunting Award recognizes journalists and media outlets for work that uses or advances Washington state's open government laws, or educates citizens about them. The award honors the memory of the late Ken Bunting, an executive editor and associate publisher with the Seattle Post-Intelligencer who helped found WashCOG in 2002.

During the tumultuous street protests of 2020, the city of Seattle abandoned its East Precinct and allowed the formation of the Capitol Hill Organized Protest zone. Times reporters were among the journalists and others who filed dozens of public records requests for documents that would more fully explain the city's actions. Among other things, Times reporters asked for text messages between public officials, including Mayor Jenny Durkan.

Then, in May of this year, an investigation prompted by a whistleblower complaint disclosed that months of the mayor's text messages were missing and her office had mishandled public records requests.

The revelation wasn't the end of The Times' reporting; it was only the beginning. Over the next eight weeks The Times published an additional five news stories, an editorial and a column on the city's flawed public records operation. The news stories broke new ground, while the opinion pieces provided interpretation and meaning.

After repeatedly running into roadblocks getting public records from the city, The Times sued Seattle. The newspaper's objectives were to get the records and to force officials to explain their actions. Also, the possibility of court-imposed penalties might prod the city into taking the state Public Records Act more seriously.

City Hall then countersued The Times, a controversial move that it later reversed. Afterwards, City Attorney Pete Holmes deemed the countersuit a "mistake." Days later he lost his bid for a fourth term in the city's primary election.

WashCOG's panel of judges picked The Times out of a competitive field because of the newspaper's reporting, the significance of the story and The Times' determination to get the records and hold public officials accountable.

The coalition will present the Bunting Award to The Seattle Times at its annual Sunshine Breakfast March 18, 2022 at T-Mobile Park in Seattle. The annual event recognizes Washington state's open-government champions and raises money for WashCOG.

Judging for the 2021 Bunting Award was exceptionally competitive. Finalists for this year's award, in alphabetical order, were:

Erica C. Barnett, PubliCola, for using public records to shed light on the city of Seattle's performance on a several issues, including the homeless crisis. Her reporting showed that the city, at one point, essentially spent \$2,618 per room per night to house the homeless at a downtown Seattle hotel.

Joy Borkholder, InvestigateWest, who used public records and data analysis to show that voters with Hispanic-sounding names in eight Washington counties were far more likely to have their ballots rejected because of mismatched signatures. Borkholder's analysis was cited in a voting-rights lawsuit filed against three of the counties.

Jim Brunner and Lewis Kamb, The Seattle Times, for using public records, interviews and shoe leather to uncover the story about Pierce County Sheriff Ed Troyer needlessly confronting a Black newspaper carrier before dawn, inviting a massive police response that could have ended tragically.

Wilson Criscione, The Inlander, who repeatedly used public records to document missteps by government agencies. In one piece, Criscione told the story of a man wrongfully arrested for a deadly assault in Spokane Valley; authorities later declined to prosecute the suspected assailant.

Josh Farley, Kitsap Sun, for using the federal Freedom of Information Act to get records about a 1982 arson fire that destroyed a peace pagoda not far from Naval Base Kitsap-Bangor. The records suggest whoever set the fire may have been connected with the military base.

Brian Kelly, The Leader, who used a series of public records requests to tell his community about the numerous missteps behind a financial meltdown at the Fort Worden Public Development Authority in Port Townsend. As a result, the city tightened its oversight and on June 30 the development authority's entire board resigned.

Melissa Santos, Crosscut, for filing more than 100 public records requests – the adjective that comes to mind for the effort is “heroic” – that documented 183 law enforcement officers statewide with credibility issues who, nonetheless, remain employed. She continues to report on officers' performance and accountability.

The staff of TVW, which covered all of the state Legislature's hearings, floor action and meetings after the pandemic closed the Legislative Building to the public. TVW also covered the governor's press conferences and shared its footage with the press.

Shawn Vestal, The Spokesman-Review, who used his columns to show the wide gap between the aspirations of the Public Records Act and the actions of the Spokane Regional Health District, which has yet to give the public a clear and convincing explanation about how and why the agency fired its health officer.

Richard Walker, The Anacortes American, for using public records to show that a city of Anacortes cleanup project was costing far more than initially estimated. Walker reported that the city's decision to outsource the project management made the cleanup less transparent not only to the public, but also to the community's elected officials.

OFFICE OF THE EXECUTIVE DIRECTOR

There is no question the first two years of my tenure as Executive Director for WCOG presented unique challenges as we navigating the ups and downs of COVID-19. The decision whether to postpone the Madison Andersen Bunting Awards breakfast was one of the most difficult dilemmas presented to the board. 2021 was a year of transition for the Coalition as Toby stepped away and Mike took the reins. But it demonstrated the resolve of the Coalition board, the dedication of its officers, and our determination to never allow backsliding when it comes to transparency in government.

2021 saw an increase in citizens requests for assistance. We heard more complaints of public officials trying to operate in secret, openly flaunting PRA requests, and deleting public records as a kind of defiance against the public's right to know. As we enter 2022, we face even more challenges as we seek to hold these officials accountable for their actions. We saw a redistricting process totally devoid of transparency and we sued, demonstrating our very firm commitment to not letting ANY agency or process slide.

My goals for 2022 are to increase our communications with members, donors, supporters, and partners so we can continue our quest to keep Washington one of the most open and transparent states in the country. To do that, we need to be ever vigilant against those who seek to water down the PRA/OPMA or seek to enact loopholes allowing secrecy in government. Thank you for your support. It is a pleasure to serve with such honorable and dedicated individuals.

Juli Bunting, Executive Director

BOARD DEVELOPMENT



The Board of Directors is the governing body of the Coalition and we are a diverse and dynamic group of concerned citizens from all over the political spectrum and professions. We have attorneys, journalists, media executives, academicians, elected officials, and activists. Although we strongly disagree with each other on major political issues, we come

together to work on this one issue we can all agree on and that is that knowing what government is doing in our name is one cornerstone of our democracy.

We were very pleased to welcome League of Women Voters President, Lunell Haught, from Spokane to our board in 2021. The board came together via Zoom for a strategic planning retreat, spearhead by Lunell and her associate, Stephanie Elie-Martin this year and while we had hoped to meet in person, it was not to be. We are taking some time to re-evaluate our roles and responsibilities as we enter 2022 and will be assessing board strengths and weaknesses. As always, our board members donate time and financial resources to keep the organization moving forward. As noted before, our attorneys donate countless hours in legal advice and services to the Coalition. We would not be able to function without such a dedicated board of directors.

*Thank you to the board
for another productive year*

OUR FINANCIALS

We have always operated on a shoe string budget and 2021 was no different. Denied our major fundraising event of the year meant a substantial hit to our budget. We are hopeful our donors and supporters will join us at T-Mobile Park on March 18th and help us make up that deficit. The Coalition continues to operate with very little overhead and by keeping expenses to a minimum. But as the threats to our democracy and transparency in government continues, we will need to ramp up our fundraising efforts as we go forward. Please see Addendum B for a full picture of our financials at the end of 2021.