



**Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant**

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON

JOHN DOES 1, 2, 4, 5,

Appellants/Cross Respondents,

JANE DOE 1 and JOHN DOE 3,

Plaintiffs, v.

SEATTLE POLICE DEPARTMENT and the SEATTLE POLICE DEPARTMENT OFFICE OF  
POLICE ACCOUNTABILITY,

Respondents,

and

SAM SUEOKA,

Respondent/Cross Appellant,

JEROME DRESCHER, ANNE BLOCK, and CHRISTI LANDES,

Respondents. DIVISION ONE

No. 83700-1-I

PUBLISHED OPINION

DWYER, J. Garrity v. State of New

Jersey, 385 U.S. 493, 500, 87 S. Ct. 616, 17 L. Ed. 2d 562 (1967). Among these

are the rights guaranteed by the First Amendment to our federal constitution.



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Garrity -down

version of [such] rights Garrity, 385 U.S. at 500. In this Public Records Act litigation, the trial court failed to heed this

requiring

disclosure of certain unredacted records. We affirm the ancillary orders of the trial court and remand the matter for further proceedings.

I

Soon after the United States Supreme Court pronounced that police

- core constitutional

rights, the voters of our state passed by popular initiative the predecessor to 1 (PRA). See Progressive Animal Welfare

Soc v. Univ. of Wash., 125 Wn.2d 243, 250-52, 884 P.2d 592 (1994) (PAWS)

(noting approval of the public disclosure act in November 1972). Thus, since the Washington have been entitled to the same federal constitutional protections as are all other Washingtonians. It is by adherence to this principle that we decide this case.

We are presented today with the question of whether the Seattle Police Department (SPD) and the City of Seattle (the City) may disclose in investigatory records the identities of current or former Seattle police officers who were investigated regarding potential unlawful or unprofessional conduct during the events of January 6, 2021, in Washington, D.C. John Does 1, 2, 4, and 5 (the Does) sought judicial declaratory and injunctive relief after being informed that



# Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

SPD, their employer, intended to publicly disclose the unredacted investigatory

1 Ch. 42.56 RCW. records in response to several PRA requests. Investigators have determined

The Does contend that their identities should thus not be disclosed in

the requested records, which include transcripts of interviews in which they were

compelled to disclose and discuss their political beliefs and affiliations.

concluding that the exceptions to permitted disclosure set forth in the PRA are

inapplicable. The Does In addition, Sam

Sueoka, a member of the public who filed a records request to obtain copies of

the investigatory records, cross appealed, asserting that the trial court erred by

permitting the Does to proceed pseudonymously in this litigation.

The United States Supreme Court has recognized a First Amendment

right to privacy that protects against state action compelling disclosure of political

beliefs and associations. Thus, only if the state actor (here, the City)

demonstrates a compelling interest in disclosure, and that interest is sufficiently

related to the disclosure, can the state actor lawfully in the investigatory records. Because there is here established no compelling

state by denying the

The trial court properly concluded, however, that the Does should be

permitted to use pseudonyms in litigating this action. Because the Does assert a

First Amendment privacy right, it is federal constitutional law not state law that

controls their request to litigate pseudonymously. Pursuant to federal First Amendment open courts jurisprudence, plaintiffs may litigate using pseudonyms



in circumstances wherein the injury sought to be prevented by prevailing in the lawsuit would necessarily be incurred as a result of the compelled disclosure of the plaintiffs identities, required as a condition of commencing the very lawsuit in which vindication of the constitutional right is sought. Accordingly, the Does may remain anonymous in this action.

## II

The Does are current or former SPD officers 2 who attended former

President Donald he , 2021 in

Washington, D.C. Upon returning to Washington State, the Does received

the OPA) alleging that

they might have violated the law or SPD policies during their attendance at the rally.

The Does thereafter submitted to OPA interviews in which they were

addition to inquiring regard 6, the OPA also inquired regarding their political beliefs and associations,

[their] impressions

of, and reactions to, the content of the R Because the Does were under

2 standing orders to do so, they answered these

Sueoka and other members of the public submitted records requests

pursuant to the PRA, chapter 42.56 RCW, seeking disclosure of the investigatory

records pertaining to police officers who participated in the events of January 6,

## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

ests, SPD informed

the Does that it intended to disclose both records regarding its ongoing

On February 23, 2021, the Does filed a complaint for declaratory relief and

preliminary and permanent injunction in the trial court. 3 They concurrently filed a

motion for permission to proceed pseudonymously and a motion for a temporary

restraining order (TRO) and order to show cause why the preliminary injunction

should not issue.

On February 24, 2021, the trial

enjoining production of the requested records until a show cause hearing was

pseudonymously t at least until the

merits of Plaintiffs PRA claims are Following the show cause hearing, held on March 10, 2021, the trial court

The Does sought review of

is court, and review was granted. Sueoka thereafter

3 The complaint was filed by Jane and John Does, 1 through 6. Jane Doe 1 and John Doe 3 are not parties in this appeal. While litigation was ongoing in the trial court, the OPA determined that Jane Doe 1 and John Doe 3 had violated both the law and SPD policies on January 6, 2021, and their employment by SPD was terminated. moved to transfer the cause to our Supreme Court. Then, on June 28, 2021, the

OPA concluded its investigation. The OPA determined that allegations that the

presently-litigating Does had violated the law or SPD policies or had engaged in

transfer the cause to that court. However, following oral argument on November

9, 2021, the court determine the preliminary injunction was moot. The court dismissed review of the matter



## **Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant**

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

and remanded the cause to the trial court for further proceedings.

The trial court proceedings at issue herein then commenced. On January preliminary injunction, again requesting that the trial court redact their identities in any disclosed records. 4

Following a January 28, 2022 hearing, the trial court again denied the burden of proof that they have a privacy right that falls within an exemption under

4 Jane Doe 1 and John Doe 3 were no longer parties at that point in the litigation. Accordingly, the motion was filed by the epresented Doe Plaintiffs individuals as the Does in this appeal. proceeding in pseudonym.

preliminary injunction. Sueoka cross appeals, asserting that the trial court erred by Sueoka also requests that we change the case title and bar the use of pseudonyms in this appeal.

### III

The Does assert that the trial court erred by determining that they were unlikely to succeed on the merits of their claim that their identities are exempt from disclosure in the requested records and, accordingly, denying their motion for a preliminary injunction precluding such disclosure. We agree. The First Amendment, made applicable to the states though the due process clause of the Fourteenth Amendment, *Gitlow v. New York*, 268 U.S. 652, 45 S. Ct. 625, 69 L. Ed. 1138 (1925), associations that may be impinged only on the basis of a subordinating state interest that is compelling.

O , the profusion of legislatively



enacted exceptions to disclosure, and the policy underlying the PRA indicate that there is no compelling state interest in disclosing to the public the identities of public employees against whom unsustained allegations of wrongdoing have been made. Therefore request for a preliminary injunction precluding disclosure of their names and other identifying information in the requested records.

A

1

The party seeking an injunction pursuant to the PRA has the burden of proof. *Lyft, Inc. v. City of Seattle*, 190 Wn.2d 769, 791, 418 P.3d 102 (2018).

ounty, 16

only the likelihood that the moving party ultimately will prevail at a trial on the *SEIU Healthcare 775NW v. Dep t of Soc. & Health Servs.*, 193 Wn. App. 377, 392-93, 377 P.3d 214 (2016).

We stand in the same position as the trial court when consists of only affidavits, memoranda of law, and other documentary evidence, and where the trial court has not seen or heard testimony requiring it to assess *Bainbridge Island Police Guild v. City of Puyallup* records are exempt from disclosure presents a legal question that is reviewed de *Wash. Pub. Emps tr. for Childhood Deafness & Hearing Loss*, 194 Wn.2d 484, 493, 450 P.3d 601 (2019).

2



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

the governmental agencies that serve them by providing full access to Predisik v. Spokane Sch.

Dist. No. 81 provide a mechanism by which the public can be assured that its public officials

Co.

v. State Patrol, 109 Wn.2d 712, 719, 748 P.2d 597 (1988). To that end, the act

copying the PRA o

exemptions set forth not only in other legislative enactments, but also those

deriving from the state or federal constitutions. s.,

Council 28 v. State, 22 Wn. App. 2d 392, 511 P.3d 119 (2022), review granted,

200 Wn.2d 1012, 519 P.3d 585 (2022); see also White v. Clark County, 188 Wn.

App. 622, 354 P.3d 38 (2015). Although our Supreme Court has not directly held

that RCW 42.56.070(1) incorporates constitutional

protections against disclosure, the court has acknowledged that such an

Yakima County v. Yakima Herald-Republic, 170 Wn.2d

775, 808, 246 P.3d 768 (2011) (addressing the argument that provisions of the

United States Constitution qualify as

Moreover, the high court has recognized that, even absent legislative

incorporation of constitutional guarantees in the PRA, Washington courts must

nevertheless protect such rights. Seattle Times Co. v. Serko, 170 Wn.2d 581, 594-96, 243 P.3d 919 (2010). In the context of fair trial rights, the court

explained that while [t]here is no specific exemption under the PRA that

constitutional fair trial rights, . . . courts





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Seattle Times Co., 170

Wn.2d at 595. Indeed, edes contrary statutory

Freedom Found. v. Gregoire, 178 Wn.2d 686, 695, 310 P.3d 1252

(2013).

In addition to setting forth exemptions to the mandate for disclosure of

public records, the PRA includes an injunction provision stating that disclosure

may be enjoined only when

interest and would substantially and irreparably damage any person, or would

substantia 42.56.540. Based on this statutory provision, our Supreme Court has held that

Lyft, 190 Wn.2d at 786. Rather, for the disclosure of records to

be precluded due to a statutory exemption, the c

standard for injunctive relief must also be met. Morgan v. City of Federal Way,

166 Wn.2d 747, 756-57, 213 P.3d 596 (2009); see also Co. injunction contemplated by RCW 42.56.540, the trial court must find that a

specific exemption applies and that disclosure would not be in the public interest and would substantially and irreparably damage a person or a vital government

3

highest court establishing that the First Amendment to the United States

Constitution confers a privacy right in an associations. Accordingly, we must explore the decisional authority establishing

the contours of that right.

of the



# Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

le Sweezy v.

New Hampshire, 354 U.S. 234, 250, 77 S. Ct. 1203, 1 L. Ed. 2d 1311 (1957).

citizen shall have the Sweezy the political realm . . . thought and action are presumptively immune from

inquisition by political Sweezy, 354 U.S. at 266. 5 Thus, the federal

constitution protects not only the right of individuals to engage in political

expression and association, but also to maintain their privacy in so doing.

hat compelled disclosure, in

itself, can seriously infringe on privacy of association and belief guaranteed by

5 See also Gibson v. Florida Legis. Investigation Comm., 372 U.S. 539, 570, 83 S. Ct. conscience of the individual honors the sanctity of thought and belief. To think as one chooses, (quoting Pub. Utils. of Dist. of Columbia v. Pollak, 343 U.S. 451, 468, 72 S. Ct. 813, 96 L. Ed. 1068 (1952) (Douglas, J., dissenting))). Buckley v. Valeo, 424 U.S. 1, 64, 96 S. Ct. 612, 46 L. Ed.

2d 659 (1976) (citing Gibson v. Florida Legis. Investigation Comm., 372 U.S.

539, 83 S. Ct. 889, 9 L. Ed. 2d 929 (1963);

Colored People v. Button, 371 U.S. 415, 83 S. Ct. 328, 9 L. Ed. 2d 405 (1963);

Bates v. City of Little Rock, 361 U.S. 516, 80 S. Ct. 412, 4 L. Ed. 2d 480 (1960);

Shelton v. Tucker, 364 U.S. 479, 81 S. Ct. 247, 5 L. Ed. 2d 231 (1960); v. Alabama, 357 U.S. 449, 78 S. Ct.

1163, 2 L. Ed. 2d 1488 (1958) (NAACP)); see also Doe v. Reed, 561 U.S. 186,

232, 130 S. Ct. 2811, 177 L. Ed. 2d 493 (2010) (Thomas, J.,

[t]he Constitution protects

against the compelled disclosure of political associations and beliefs. (alteration

in original) (citation omitted) (quoting NAACP, 357 U.S. at 462; Brown v. Socialist



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

, 459 U.S. 87, 91, 103 S. Ct. 416, 74 L. Ed.

2d 250 (1982))) Gibson,

372 U.S. at 569-70 advocacy of political causes . . . is perhaps best exemplified by the secret ballot, the hard- McIntyre

v. Ohio Elections Comm n, 514 U.S. 334, 343, 115 S. Ct. 1511, 131 L. Ed. 2d

426 (1995); see also Sweezy, 354 U.S.

inquiry would be barred to ascertain whether a citizen had voted for one or the regarding this constitutional right to

privacy evolved in response to legislative investigations seeking to compel the

constitutional limits of legislatures to inquire into belief and activity

deemed to be subversive to federal or state governments. Uphaus v. Wyman,

360 U.S. 72, 79 S. Ct. 1040, 3 L. Ed. 2d 1090 (1959); Watkins v. United States,

354 U.S. 178, 77 S. Ct. 1173, 1 L. Ed. 2d 1273 (1957); Sweezy, 354 U.S. 234;

Wieman v. Updegraff, 344 U.S. 183, 73 S. Ct. 215, 97 L. Ed. 216 (1952). This

involved a broad- Watkins, 354 U.S. at 195, thus requiring the Court to ensure that such inquiry did

Watkins, 354

U.S. at 198- constitutionally protected rights Uphaus, 360 U.S. at

83 (Brennan, J., dissenting), the Court recognized the s -

Uphaus, 360 U.S. at 80

(quoting Dennis v. United States, 341 U.S. 494, 509, 71 S. Ct. 857, 95 L. Ed.

1137 (1951)). However, the Court rejected any notion that exposure itself was a



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

valid state interest:

We have no doubt that there is no congressional power to expose for the sake of exposure. The public is, of course, entitled to be informed concerning the workings of its government. That cannot be inflated into a general power to expose where the predominant result can only be an invasion of the private rights of individuals. *Watkins*, 354 U.S. at 200 (footnote omitted); see also *Uphaus*, 360 U.S. at 82

The *Watkins* Court recognized the governmental intrusion resulting from

such legislative

The mere summoning of a witness and compelling him to testify, against his will, about his beliefs, expressions or associations is a measure of governmental interference. And when those forced revelations concern matters that are unorthodox, unpopular, or even hateful to the general public, the reaction in the life of the witness may be disastrous.

354 U.S. at 197; see also *Uphaus*, 360 U.S. at 84 (Brennan, J., an era of mass communications and mass opinion, and of international tensions

and domestic anxiety, exposure and group identification by the state of those

holding unpopular and dissident views are fraught with such serious

consequences for the individual as inevitably to inhibit seriously the expression of

However, it is not only those individuals compelled to disclose their beliefs

who may be impacted. To the contrary, the Court recognized an additional

subtle and immeasurable effect upon those who tend to adhere to the most

orthodox and uncontroversial views and associations in order to avoid a similar

fate at some future time. *Watkins*, 354 U.S. at 197-98. Moreover, that the injury

was not inflicted solely by government actors did not nullify the constitutional

infirmity -governmental activity by private persons [could not] relieve the investigators of their

*Watkins*, 354 U.S. at 198.



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

The Supreme Court further defined this constitutional privacy interest in response to legislative action seeking to compel the disclosure of organizational membership. NAACP, 357 U.S. 449; Bates, 361 U.S. 516; Shelton, 364 U.S. 479; Gibson, 372 U.S. 539. In 1958, the Court considered whether Alabama could, consistent with our federal constitution, compel the NAACP to disclose its membership list to the Alabama Attorney General. NAACP by the Due Process Clause of the Fourteenth Amendment, which embraces NAACP, 357 U.S. at 460. Although the state itself had t of [First Amendment] rights, even though NAACP appear to be totally NAACP, 357 U.S. at 461. Nevertheless, the Court held, the State could require disclosure of the membership lists only if there existed a subordinating interest of the State [that is] compelling. NAACP, 357 U.S. at 463 (quoting Sweezy, 354 U.S. at 265); see also Bates upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling. ). The Court concluded that it discerned no such state interest. NAACP, 357 U.S. at 464. The Court again considered whether the First Amendment, incorporated through the due process clause, precluded the compelled disclosure of NAACP membership lists in Bates, 361 U.S. 516. There, the organization asserted the rights members and contributors to participate in the activities of the NAACP, anonymously, a right which has been recognized as the basic right of



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

every American citizen since the founding of this country. Bates, 361 U.S. at

521. Again, the Court recognized that it was not simply a -handed frontal

Bates, 361 U.S. at 523.

In concurrence, Justices Black and Douglas recognized that mere exposure by

the government can impinge these constitutional protections. Bates, 361 U.S. at

528 (Black & Douglas, JJ., concurring) that directly restrains

their exercise or by suppression or impairment through harassment, humiliation,

or exposure by government Bates, 361 U.S. at 528 (Black & Douglas, JJ.,

concurring) (emphasis added). As in NAACP, the Bates Court discerned no

sufficient state interest to compel the disclosure of the membership lists. 361

U.S. at 525.

That same year, the Court addressed the constitutionality of an Arkansas

statute requiring public school teachers to disclose, as a condition of

employment, all organizations with which they had been associated in the previous five years.

Shelton undoubtedly legitimate interest in investigating the fitness and competency of its

teachers, the Court nevert Shelton, 364 U.S. at 485, 488. Significantly, the

or to which he has given financial support. It [would have required] him to

disclose his political party, and every political organization to which he may have

contributed over a five- Shelton, 364 U.S. at 488. This

Shelton, 364 U.S. at 490.

As in NAACP, the Supreme Court in Shelton again recognized that



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

exposure by the State could impinge constitutional privacy rights. Because the Arkansas statute nowhere required confidentiality of the information involuntarily disclosed to the government eligious, political, and other associational ties could additionally be disclosed to the public.

Shelton, 364 U.S. at 486-87. The Court was clear that such an intrusion into the [p]ublic

exposure, bringing with it the possibility of public pressures upon school boards to discharge teachers who belong to unpopular or minority organizations, would Shelton, 364 U.S. at 486-87. Four Justices dissented in Shelton holding that, under the circumstances presented, the extent of constitutional infringement resulting from compelled disclosure was sufficient to override the countervailing legitimate state interest. 6 Nevertheless, even the dissenting opinions in Shelton recognized both the existence of a constitutional privacy interest and the potential for public exposure of associational ties to impinge upon those rights.

For instance, Justice Frankfurter, distinguishing NAACP and Bates due to the absence of a legitimate state interest presented in those cases

an interest in privacy, in non-disclosure, may under appropriate circumstances claim constitution Shelton, 364 U.S. at 490 (Frankfurter, J.,

dissenting). Similarly, Justice Harlan suggested that public disclosure of the simply the compelled disclosure to their

school boards, might impinge their liberty rights: out that this statute is abused, either by an



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

unwarranted publicizing of the

required associational disclosures or otherwise, we would have a different kind of

Shelton, 364 U.S. at 499 (Harlan, J.,

dissenting).

conflict between individual rights of free speech and association and

Gibson, 372 U.S.

6 See Shelton Shelton, 364

qualifications of those serving it as tea at 543. There, a Florida legislative committee sought to subpoena NAACP

membership lists, presumably to investigate suspected communist involvement.

Gibson, 372 U.S. at 540-41. The Supreme Court again affirmed that such an

ch intrudes into the area of constitutionally protected rights of

lawful only when the State can

subject of overriding and compellin Gibson, 372 U.S. at 546.

the challenged privacy is that of persons espousing beliefs already unpopular

Gibson, 372 U.S. at 556-57 rights of free speech, expression, and association is consequently the more

Gibson, 372 U.S. at 557.

In the decades that have followed, the Supreme Court has continued to

hold that First Amendment rights may be impinged when the government

compels disclosure of political beliefs and associations. In 1982, the Court again

Brown, 459 U.S. at privacy of association and belief





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Brown, 459 U.S. at 91 (quoting Buckley,

424 U.S. at 64). Again, the Court held that only by demonstrating a compelling

interest can the State lawfully impinge such rights: The right subordinating interest of the State [that is] compelling, NAACP[, 357 U.S. at 463] (quoting Sweezy[, 354 U.S. at 265]) (opinion concurring in result), and then only if there is a substantial relation between the information sought and [an] Gibson[, 372 U.S. at 546].

Brown, 459 U.S. at 91-92 (some alterations in original).

Over a decade later, in declaring unconstitutional an Ohio statute

prohibiting the distribution of anonymous campaign literature, the Supreme Court

once McIntyre, 514 U.S. at 343 (citing Talley v. California, 362 U.S.

60, 80 S. Ct. 536, 4 L. Ed. 2d 559 (1960)); see also Watchtower Bible & Tract

Soc y of New York, Inc. v. Vill. of Stratton, 536 U.S. 150, 122 S. Ct. 2080, 153 L.

Ed. 2d 205 (2002) (recognizing a right to anonymity in declaring unconstitutional

an ordinance requiring individuals to obtain and display a permit to engage in

door-to-door advocacy). In McIntyre, the Court recognized the constitutional

significance of core political speech, describing the speech involved therein th

expression 514 U.S. at 347.

Acknowledging that the reasons for anonymity could be many, 7,8 the Court held

that the freedom to rema

7 economic or official retaliation, by concern about social ostracism, or merely by a desire to  
McIntyre, 514 U.S. at 341-42. 8 published under fictitious names. It is plain that anonymity has  
sometimes been assumed for the Talley, 362 U.S. at 65. McIntyre, 514 U.S. at 342-43. For Justice  
Stevens, writing in

McIntyre, the value of anonymity in political speech could not be overstated:



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Under our Constitution, anonymous pamphleteering is not a pernicious, fraudulent practice, but an honorable tradition of advocacy and of dissent. Anonymity is a shield from the tyranny of the majority. See generally J. Mill, *On Liberty and Considerations on Representative Government* 1, 3-4 (R. McCallum ed. 1947). It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation and their ideas from suppression at the hand of an intolerant society.

514 U.S. at 357.

For nearly a century, the rights afforded by the First Amendment have

been protected against intrusion by the State assured by the Due Process Clause of the Fourteenth Amendment,

NAACP, 357 U.S. at 460; see *Gitlow*, 268

U.S. 652. During this time, the Supreme Court has repeatedly recognized that

encompassed within this liberty interest is the right of individuals to privacy in

*Sweezy*, 354 U.S.

at 266 (Frankfurter, J., concurring) subordinating interest of the State [that is] compelling, and then only if there is a

substantial relation between the information sought and [an] overriding and

compelling state interest. *Brown*, 459 U.S. at 91-92 (second and third

alterations in original) (citation and internal quotation marks omitted) (quoting

*Sweezy*, 354 U.S. at 265; *Gibson*, 372 U.S. at 546). It is with cognizance of these principles that we consider whether SPD and

the City may disclose at issue.

B

The Does assert that the disclosure of their identities in the requested

records will violate their First Amendment right to political anonymity. 9 They



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

contend that the trial court erred by determining that no constitutional privacy interest is implicated in this situation. We agree.

at the January 6 rally and their compelled statements to investigators implicate the First Amendment. Exposure by the government of this information, through disclosure of the unredacted requested beliefs and associations.

Pursuant to United States Supreme Court decisional authority, the State must demonstrate that disclosure of the unredacted requested records would further a compelling state interest and that such disclosure is narrowly tailored to achieve that state interest. Because no compelling state interest exists to justify disclosure of the unredacted records, the Does are entitled to an injunction prohibiting exposure by the government of their identities.

9 initial appellate briefing primarily concerns whether the Does are entitled to a preliminary injunction pursuant to statutory exemptions set forth in the PRA. However, the Does additionally contended that disclosure would violate their First Amendment rights. Following oral argument, the parties submitted supplemental briefing addressing this issue more jurisprudence, we need not address the part to disclosure. 1

The Does assert that disclosure of their identities in the requested records, both with regard to their attendance at the January 6 rally and their statements made to investigators concerning their political views and affiliations, will violate their First Amendment right to privacy. They aver that the trial court erred in two respects. First, the Does contend that the trial court erroneously concluded that, because the January 6 rally was a public event, the Does had no right to privacy



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

in attending that event. Second, they argue that the trial court erred by

concluding that they had not demonstrated a sufficient probabili

January 6 rally is not protected by a constitutional privacy right. He further

contends tha

implicates a First Amendment right, the Does relinquished that right by

court properly determined that the Does have not shown a sufficient probability of

harm to establish a constitutional right to privacy.

nited States Supreme

Court decisional authority, are the more persuasive. We conclude that the Does

have a First Amendment privacy right in their identities in the requested records.

(a)

The First Amendment to the United States Constitution, as incorporated

through the due process clause of the compelle Brown, 459 U.S. at 91; see also Buckley found that compelled disclosure, in itself, can seriously infringe on privacy of

association and belief gua al appear to be totally unrelated to protected l NAACP, 357 U.S. at 461.

In other words, it is not solely a -

; such constitutional

transgression may also arise from Bates sufficient to impinge such rights. Bates, 361 U.S. at 528.

Here, the trial court concluded, and Sueoka presently asserts, that the

Does have no right to privacy in having attended a public political rally. The trial

court reasoned:



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Whether a person attended a public rally is not the type of intimate detail that courts in Washington have said should remain private. Washington courts have not previously found an inherent right to privacy in attendance at a public political rally. Attending a public rally is not an act that is inherently cloaked in privacy.

In so ruling, the court was clearly referring to Washington law concerning

whether an individual has a statutory right to privacy pursuant to the PRA. 10 We

10 common law tort definition of the term, which provides, in part, that the privacy right is implicated when highly offensive to the ordinary reasonable [person]. *Hearst Corp. v. Hoppe*, 90 Wn.2d 123, 136, 580 P.2d 246 (1978) (quoting RESTATEMENT (SECOND) OF TORTS § 652D, at 386 (AM. LAW INST. at the January 6 rally does not implicate a privacy right. do not evaluate, however, whether by a statutory right to privacy.

Rather, we conclude that, pursuant to United States Supreme Court

decisional authority, the disclosure by the government the requested records would violate their federal constitutional right to anonymity

in political belief and association. See, e.g., *Watchtower Bible*, 536 U.S. 150;

*McIntyre*, 514 U.S. 334; *Brown*, 459 U.S. 87; *Buckley*, 424 U.S. 1; *Gibson*, 372

U.S. 539; *Shelton*, 364 U.S. 479; *Talley*, 362 U.S. 60; *Bates*, 361 U.S. 516;

*Uphaus*, 360 U.S. 72; *NAACP*, 357 U.S. 449; *Watkins*, 354 U.S. 178; *Sweezy*,

354 U.S. 234; *Wieman*, 344 U.S. 183. Such governmental action would expose

rally, but also the transcripts of interviews in which the Does were compelled to

[their] impressions of, and reactions to, the

content of the R The requested records thus

political views and their affiliations, if any, with political organizations. 11

Because, at common law, sovereign immunity precluded actions against the government, it comes as little surprise that in this case wherein the actions of government are directly at issue the answer is found not in the common law but in the First and Fourteenth Amendments which are each solely



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

directed at governmental action. 11 The t beliefs and associations, compelled to be disclosed during the OPA investigation, implicated either a statutory or constitutional right to privacy. Instead, the court found evidence . . . indicating whether the requested records sought contain explicit information about

dered to answer all questions asked, truthfully and completely, and that failure to do so may

ause I believed I was under a standing order to answer these personal would be barred to ascertain whether a citizen had voted for one or the other of

Sweezy, 354 U.S. at

266. If such direct governmental

privacy interests, then so, too, does exposure by the government of that same

information pursuant to a records request. See Bates, 361 U.S. at 523; NAACP,

357 U.S. at 461.

Spokane Police Guild v. Liquor Control Board, 112 Wn.2d 30, 769 P.2d 283

protected by a constitutional privacy right. 12 In that case, the court considered

whether a statutory exemption precluded disclosure of an investigatory report

that identified police officers who had attended a party on Spokane Police Guild

Club premises. Spokane Police Guild to violate regulations of the liquor board. Spokane Police Guild, 112 Wn.2d at

31. Our Supreme Court held that disclosure of the report would not violate the

statutory right to privacy conferred by the statutory predecessor of the PRA.

Spokane Police Guild, 112 Wn.2d at 37-38. Recognizing that this privacy right

iefs and affiliations. 12 Br. of Resp /Cross Appellant at 31. conduct at such a well attended and staged event which would be either lost or

Spokane Police Guild, 112 Wn.2d at 38.



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

According to Sueoka, this holding compels the conclusion herein that the occurring, as it did, in a public location 13 does not implicate a right to privacy. However, in so asserting, Sueoka confuses the statutory privacy right bestowed by the PRA with the constitutional privacy right deriving from the First Amendment. In Spokane Police Guild, the disclosure of political beliefs and associations was not at issue; accordingly, the court considered only whether a statutory exemption prohibited disclosure of the investigative report. 112 Wn.2d at 37-38. disregards that disclosure of the requested records would additionally expose the the

Does were compelled to disclose during the OPA investigation. In short, Sueoka asserts that Washington Supreme Court decisional authority concerning a statutory right to privacy stemming from the common law of torts precludes a determination that a federal constitutional right prohibits disclosure by a government. This contention is wholly unavailing.

Sueoka additionally contends that the United States decisional authority regarding the First Amendment right to political anonymity is

13 The Capitol Police issued six permits authorizing gatherings on January 6, 2021 on property under its control. Jason Leopold, The Capitol Police Granted Permits For Jan. 6 Protests Despite , BUZZFEED NEWS (Sept. 17, 2021), <https://www.buzzfeednews.com/article/jasonleopold/the-capitol-police-said-jan-6-unrest-on-capitol-grounds> [https://perma.cc/LWM5-P3MN]. inapposite because, he argues g

14 Again, we disagree.



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

United States Supreme Court has not

limited the applicability of the members of

o the contrary, the Court has

nged privacy is that of

Gibson, 372

U.S. at 556-57. Nevertheless, the Court was clear Gibson, 372 U.S. at

556. 15 Moreover, the question is not whether an individual is a member of a

as Sueoka asserts, but whether the individual

, Gibson, 372 U.S. at 557,

such that exposure of those beliefs could discourage the exercise of

constitutional rights.

beliefs that is material 16

We are

14 Br. of Resp /Cross Appellant at 32. 15 In Gibson, a Florida legislative committee sought to subpoena NAACP membership lists, 372 U.S. at 540-41, hence the constitutional rights of the individuals whose identities would be disclosed in the membership lists individuals on this point. 16 As discussed infra privacy right in the requested records. cognizant that, in the Seattle community, the Does would likely face opprobrium

were their identities disclosed. 17 This is likely notwithstanding the fact that the

OPA investigation determined that any allegations of unlawful or unprofessional

conduct against the Does were unsustainable. We reach this conclusion with an

awareness of the events of recent years, including the Department of Justice

finding of the systemic use of excessive force by SPD officers (necessitating the





federal district court imposition of a consent decree), the horrific killing of

George Floyd and other unarmed Black individuals throughout our country, and

the eruption of protests, including in Seattle, in response to those incidents. 18

e Seattle

community is likely to presume that the Does indicates that they are white supremacists democracy. But whatever various individuals might infer, it remains true that all

17 In 2016, Donald Trump received 8 percent of the vote in Seattle precincts. , SEATTLE TIMES (Nov. 17, 2016),

<https://www.seattletimes.com/seattle-news/politics/heres-how-seattle-voters-support-for-trump-stacks-up-to-other-u-s-cities/> [<https://perma.cc/4PNL-G68W>]. In 2020, he again received 8 percent of the vote in Seattle. Danny Westneat, King County Than He Did the Last Time, SEATTLE TIMES (Nov. 11, 2020),

<https://www.seattletimes.com/seattle-news/politics/dont-look-now-but-trump-did-better-in-blue-king-county-than-he-did-the-last-time/> [<https://perma.cc/N8F8-TFHL>]. 18 Whether records are subject to disclosure must be determined without regard to the motivation of the records requestor. persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of see also *Livingston v. Ceden*, 164 Wn.2d status or motivation protections for speech and association are at issue, it is clear that courts may consider the

pertinent political and cultural atmosphere in determining whether exposure could discourage the exercise of First Amendment rights. citizens, including public employees, may benefit from the constitutional right to

t. 19

As the Court has held, the mere compelling of an individual to disclose

Watkins

are unorthodox, unpopular, or even hateful to the general public, the reaction in

the life of [that individual] may be d *Watkins*, 354 U.S. at 197; see also

*Uphaus*, 360 U.S. at 84 (Brennan, J., identification by the state of those holding unpopular and

## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

dissident views are

fraught with such serious consequences for the individual as to inevitably inhibit

While we have no sympathy for those who sought to undermine our democracy

on January 6, 2021, the fact here is that the allegations that the Does were

engaged in unlawful or unprofessional conduct were not sustained. They did not

forfeit their First Amendment rights.

-ago made clear,

[a] final observation is in order. Because our disposition is rested on the First Amendment as absorbed in the Fourteenth . . . our decisions in the First Amendment area make[] plain that its protections would apply as fully to those who would arouse our society against the objectives of the petitioner. See, e.g., *Near v. Minnesota*, 283 U.S. 697[, 51 S. Ct. 625, 75 L. Ed. 1357 (1931)]; *Terminiello v. Chicago*, 337 U.S. 1[, 69 S. Ct. 894, 93 L. Ed. 1131

19 Concurring in *Wieman*, 344 U.S. at 193, Justice Black recognized the importance of ensuring that First Amendment protections are secured for all individuals: Our own free society should never forget that laws which stigmatize and penalize thought and speech of the unorthodox have a way of reaching, ensnaring and silencing many more people than at first intended. We must have freedom of speech for all or we will in the long run have it for none but the cringing and the craven. And I cannot too often repeat my belief that the right to speak on matters of public concern must be wholly free or eventually be wholly lost. (1949)]; *Kunz v. New York*, 340 U.S. 290[, 71 S. Ct. 312, 95 L. Ed. 280 (1951)]. For the Constitution protects expression and association without regard to the race, creed, or political or religious affiliation of the members of the group which invokes its shield, or to the truth, popularity, or social utility of the ideas and beliefs which are offered.

*Button*, 371 U.S. at 444-45.

e are similarly unpersuaded by his

assertion that the Does cannot establish a First Amendment right to privacy

because, according to him

20 In fact, as Sueoka notes, the Does have already been compelled to



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

disclose their political beliefs and associations to SPD and the City. However,

the government in order to unlawfully impinge an

NAACP, 357 U.S. at 461. Rather,

varied forms of NAACP, 357 U.S. at 461.

Indeed, the United States

rights are beyond abridgement either by legislation that directly restrains their

exercise or by suppression or impairment through harassment, humiliation, or

exposure by government Bates, 361 U.S. at 528 (Black & Douglas, JJ.,

concurring) (emphasis added); see also Shelton, 364 U.S. at 486-

exposure, bringing with it the possibility of public pressures upon school boards

to discharge teachers who belong to unpopular or minority organizations, would

simply operate to widen and aggravate the impairment of constitut

20 Br. of Resp /Cross Appellant at 32. Here, the state action challenged is the government exposure, pursuant

to state statute, their political beliefs and associations. s

would not constitute governmental action is

simply wrong.

(b)

would impinge their constitutional rights, the Does willingly relinquished their right

to privacy. This is so, Sueoka contends their political opinions private,

of t 21 We disagree. C the Does did



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

not relinquish their constitutional rights.

The facts are these. The Does submitted to interviews during an

investigation in which they were alleged to have violated the law or SPD policies

hen

questioned regarding their reasons for attending the January 6 rally, their political

beliefs and affiliations with political groups, if any, and their impressions of the

compl

21 Br. of Resp /Cross Appellant at 27-28. risking their livelihoods, or cooperating with the investigation, thereby

compromising their constitutional rights. 22

Nearly a century ago, the United States Supreme Court rejected the

notion that an indirect assault on constitutional protections due to a purported

n is direct impingement of such rights. Frost v. RR

Comm of State of Cal., 271 U.S. 583, 593, 46 S. Ct. 605, 70 L. Ed. 2d 1101

(1926). There, a California statute precluded private carriers from the privilege of

submitted to regulation lawfully imposed on common carriers. Frost, 271 U.S. at

591. The Supreme Court struck down the statute, which, it concluded, was

intended to protect the business of common carriers by controlling competition.

Frost, 271 U.S. at 591, 593. In so doing, the Court held that a state may not

require the relinquishment of a constitutional right as the basis to confer a

privilege. Frost so carefully safeguarded against direct assault, [would be] open to destruction by



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

the indirect but no less effective process of requiring a surrender, which, though

Frost, 271

22 voluntary would also lead to the problematic conclusion that police officers need not cooperate in such investigations. Little public good would flow from such a holding. the rock and the

wher

announced, no

choice at all. Frost, 271 U.S. at 593.

Four decades later, the Supreme Court explicitly rejected the proposition

advanced by Sueoka herein that statements obtained from police officers as a

result of those officers cooperating (in compliance with a lawful request to do so)

in investigations conducted by their employer n are

deemed voluntary. Garrity, 385 U.S. 493. In Garrity, police officers were ordered

to cooperate in an investigation by the New Jersey Attorney General regarding

Jersey boroughs. 385 U.S. at 494. Prior to questioning, each officer was warned

proceeding; (2) that he had the privilege to refuse to answer if the disclosure

would tend to incriminate him; but (3) that if he refused to answer he would be

Garrity, 385 U.S. at 494. After cooperating in the

investigation, the officers were convicted of conspiracy to obstruct the

heir convictions were sustained over their

protests that their statements were coerced, by reason of the fact that, if they

Garrity, 385 U.S. at 495 (footnote omitted). The Supreme Court held that, where the officers were given the choice



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

between self-incrimination and losing their livelihoods, their statements were not voluntary:

The choice given petitioners was either to forfeit their jobs or to incriminate themselves. The option to lose their means of livelihood or to pay the penalty of self-incrimination is the antithesis of free choice to speak out or to remain silent. That practice, like interrogation practices we reviewed in *Miranda v. Arizona*, 384 U.S. 436, 464-65[, exert such pressure upon an individual as to disable him from

infected by the coercion inherent in this scheme of questioning and cannot be sustained as voluntary under our prior decisions.

*Garrity*, 385 U.S. at 497-98 (footnote omitted). Police officers, the Court

- *Garrity*, 385 U.S. at 500. Moreover, the Court therein confirmed that the rights

*Garrity*,

385 U.S. at 500.

As in *Garrity*, the Does here were informed by SPD, their employer, that their continued employment could be contingent on their cooperation with the investigation. The answers elicited from the Does during interviews directly implicate speech protected by the First Amendment. The Does, as with the police officers in *Garrity*, were afforded a choice between the rock and the *Stevens v. Marks*, 383 U.S. 234, 243, 86 S.

Ct. 788, 15 L. Ed. 2d 724 (1966)), whereby only by relinquishing their

constitutional privacy interests could the Does ensure their continued n statements are thusly obtained.

*Garrity*, 385 U.S. at 498.

, the Does



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

statements to investigators that the Does relinquished their constitutional rights by cooperating with the

(c)

Sueoka next contends that the Does have not set forth sufficient evidence that harm would result from disclosure of their identities in the requested records, such that they should be entitled to an injunction precluding such disclosure. He effect Again, we

disagree. Adhering to precedent from our Supreme Court, and cognizant that we hold that the evidence submitted by the Does is sufficient to meet the necessary showing of potential harm.

In Doe v. Reed, the United States Supreme Court considered whether, thereby of the identities of the petition signers, would violate the First Amendment. 561 U.S. 186. The Court therein concluded that disclosure would not violate the First Amendment with respect to referendum petitions in general.

Reed, 561 U.S. at 202. However, the Court articulated the standard it had

disclosure [of personal information] will subject them to threats, harassment, or reprisals from either Government officials or private parties. Reed, 561 U.S. at

200 (alteration in original) (quoting Buckley, 424 U.S. at 74).

Our Supreme Court applied this standard in evaluating the constitutionality of a discovery order compelling the disclosure of meeting minutes of the Freedom Socialist Party. See Snedigar v. Hoddersen, 114 Wn.2d 153, 156, 786 P.2d 781 (1990). In that case, the court reversed a decision of this court, in



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

which we had held that the party resisting the discovery order was required to actual Snedigar, 114 Wn.2d at 158. This was wrong, our Supreme Court explained, because required to show some probability that the requested disclosure will harm its First Snedigar, 114 Wn.2d at 158. And, indeed, in that case, the and supporters had been subjected to acts of reprisal and harassment in the s [was]

Snedigar, 114 Wn.2d at 163. These affidavits, our Supreme Court held, were sufficient to demonstrate that disclosure would Snedigar, 114 Wn.2d at 164.

In evaluating whether sufficient probability of harm was shown, our Supreme Court in Snedigar recognized that some courts have explicitly held that un impinge First Amendment rights. 114 Wn.2d at 162 (citing Black Panther Party v. Smith, 661 F.2d 1243, 1267-68, (D.C. Cir. 1981); Britt v. Superior Court, 20 Cal. 3d 844, 855, 574 P.2d 766, 143 Cal. Rptr. 695 (1978)). Indeed, the court noted, rights. Snedigar, 114 Wn.2d at 162 (citing Shelton, 364 U.S. at 485-86; Talley, 362 U.S. at 64; Local 1 l Longshoreme , AFL-CIO v. Waterfront of New York, 667 F.2d 267, 272 (2d Cir.1981); Pollard v. Roberts, 283 F. Supp. 248, 258 (E.D. Ark. 1968), , 393 U.S. 14, 89 S. Ct. 47, 21 L. Ed. 2d 14 (1968)).

Moreover, as the Second Circuit has recognized, harassment is not the only situation in which courts have upheld a First





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Amendment right of non- e , 667 F.2d at

271. Rather,

[t]he underlying inquiry must always be whether a compelling governmental interest justifies any governmental action that has . . arises . . .

e , 667 F.2d at 271 (citation omitted) (quoting NAACP,

357 U.S. at 461; Buckley, 424 U.S. at 65). Based on this principle, courts,

including the United States Supreme Court, have in various circumstances

e , 667 F.2d at 272 (citing Shelton, 364 U.S. at 486; Pollard, 283 F. Supp. at 258). 23

disclosure of [their] attendance at the January 6 Rally would result in significant

jeopardy to [their] personal safety and [their] ability to provide effective law

safety and well-being of their families were their identities disclosed, one noting

region over

declarations of other SPD officers who stated that they had endured harassment

and threats made against them and their families from members of the public.

23 associational rights has been utilized when disclosure was required to be made to a public employer and when the individuals seeking anonymity espoused beliefs unpopular in their communities. For instance, in Shelton of those to whom the teacher to avoid any ties which might displease those who control his professional destiny would

Shelton, 364 U.S. at 486; see also e , 667 F.2d

Likewise, in Pollard 283 F. Supp. at 258. Nevertheless, given the unpopularity of the party in the state at that time,

would subject the constitutional rights. Pollard, 283 F. Supp. at 258. The court described the constitutional injury thereby inflicted thusly: To the extent that a public agency or officer unreasonably inhibits or discourages the exercise by individuals of their right to associate with others of the same political persuasion in the advocacy of principles and candidates of which and of



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

whom they approve, and to support those principles and candidates with their money if they choose to do so, that agency or officer violates private rights protected by the First Amendment. Pollard, 283 F. Supp. at 258. Consistent with the cases cited above, we conclude that the Does have

submitted sufficient evidence that disclosure of their identities would discourage

the exercise of political speech and associational rights. 24 In so holding, we are

mindful that it is not disclosure here, but also those of other public employees whose employers are

subject to the PRA. Indeed, as the United States Supreme Court has

recognized, in addition to the impact on the exercise of rights by those seeking

to adhere to the most orthodox and uncontroversial views and associations in

Watkins, 354 U.S. at 197-98.

records constitutes governmental action that would impinge their First

Amendment rights. This is so despite the public nature of the January 6 rally.

We find unmeritor failed to demonstrate that disclosure would discourage the exercise of such

rights. Having so concluded, we must determine whether impinging those rights is sufficient to nevertheless mandate disclosure.

24 , in supplemental briefing, that the identities of the Does are already publicly known. As our Supreme Court has held, in *City of Bainbridge Island Police Guild* because some members of the public may already know the identity of the person in the report, the First Amendment to the United States Constitution. (d)

Before we do so, however, we must address a related contention. In a

statement of additional authorities submitted following oral argument, Sueoka

asserts that, because the Does did not notify the attorney general of any intent to

challenge the constitutionality of the PRA, we cannot consider whether the PRA

violates the federal constitution if it is construed so as to require disclosure of



unredacted records in this case.

This ground has been previously trod. Indeed, the District Court of the Western District of Washington considered this very issue in *Roe v. Anderson*, 2015 WL 4724739 (W.D. Wash. 2015), which we cite as evidence of our state attorney general In the cited

case, certain erotic dancers and managers of an erotic dance studio sought to enjoin the disclosure of their personal information pursuant to a PRA request.

*Anderson*, 2015 WL 4724739, at \*1. They asserted that disclosure would violate their constitutional rights to privacy and free expression and sought a declaration that the PRA, as applied to them, was unconstitutional. *Anderson*, 2015 WL 4724739, at \*1.

he Washington attorney general filed an amicus

the disclosure of information

its exemptions

incorporate any constitutionally-required limitation on such disclosures *Anderson*, 2015 WL 4724739, at \*1 (emphasis added) provision, RCW 42.56.070(1), the attorney general explained does not require a disclosure that would violate the Constitution *Anderson*, 2015 WL 4724739, at \*2 (emphasis added). Citing

decisional authority from our Supreme Court, the attorney general clarified that

[i]f the requested records are constitutionally protected from public disclosure, that protection exists without any need of statutory permission, and may constitute an exemption under the PRA even if not implemented through an explicit statutory exemption. In other words, it is not necessary to read the PRA in conflict with the Constitution when the Act itself recognizes and respects other laws (including constitutional provisions) that mandate privacy or confidentiality.

## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Anderson, 2015 WL 4724739, at \*2-3 (emphasis added).

The district Anderson, 2015 WL

constitutional protections (such as freedom of expression) are necessarily

incorporated as exemptions, just like any other express exemption enumerated in

Anderson, 2015 WL 4724739, at \*3.

We agree with and adopt this analysis. Thus, once the constitutional right

is established and the constitutional injury that disclosure would cause is shown,

it is entirely unnecessary for the citizen to establish an additional entitlement to

an injunction in order to preclude disclosure. The law is clear and the principle

simple the ,

even in the absence of an injunction specifically forbidding it from doing so. 25

2

The United States Supreme Court has repeatedly affirmed that

25 See discussion *infra* § III C. associations and beliefs will subordinating interest of the State [that is] compelling, NAACP[, 357 U.S.] at 463 (quoting *Sweezy*, 354 U.S. [at 265] (opinion concurring in result)), and then only if there is a en the information sought and [an] *Gibson*[, 372 U.S. at 546].

*Brown*, 459 U.S. at 91-92 (some alterations in original). Thus, having concluded

ld impinge

their First Amendment rights, we must determine whether an overriding and

compelling state interest nevertheless requires such disclosure.

For its part, the City contends that a less stringent standard should apply

because, according to the Cit



26 Not so. Police officers,

such as a watered-down version of constitutional

Garrity tion to the contrary, reliant as it

is on inapposite decisional authority, is unpersuasive.

We conclude that the State has no compelling interest in disclosing the

the

entirety of a particular public record is illuminated by the purpose of the PRA and

its scope, as determined by our legislature and Supreme Court. Such

considerations demonstrate that the state interest here falls short of the standard

required to im First Amendment rights. We thus hold that the

S requested records.

26 City of Seattle, Suppl. Mem. at 2. (a)

that the state actor need not demonstrate a compelling interest in order to

First Amendment rights, even for purely private speech. 27

Hence, the City

contends, the constitutional rights of public employees, unlike those of other

citizens, can be impinged absent the demonstration of a compelling state

interest. We disagree.

When the State seeks to compel disclosure of an i beliefs and associations, it can do so only by demonstrating a compelling state

interest with sufficient relation to the information sought to be disclosed. See,

## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

e.g., *Brown*, 459 U.S. at 91-92; *Gibson*, 372 U.S. at 546; *NAACP*, 357 U.S. at 463; *Sweezy*, 354 U.S. at 265. That the S reflects the United States Supreme *Sweezy*, 354 U.S. at 250 *Buckley*, 424 U.S. at 64.

Moreover, as we have discussed, has rejected the notion that public employees are not entitled to the same stature of constitutional rights as are other citizens. In 1967, the Court in *Garrity* 27 *City of Seattle*, Suppl. Mem. at 2. considered whether police officers, by virtue of being compelled to cooperate in an investigation by the New Jersey Attorney General, relinquished the constitutional right against self-incrimination. 385 U.S. at 494-98. The Court determined that the statements of the police officers, who were given the choice between self-incrimination and losing their livelihoods, were not voluntary. *Garrity*, 385 U.S. at 497- like teachers and lawyers, are not relegated to a watered-down version of *Garrity*, 385 U.S. at 500.

In asserting to the contrary that the Does are, indeed, condemned to a diluted version of First Amendment rights the City urges us to apply the *Pickering v. Board of Education of Township High School District 205, Will County, Ill.*, 391 U.S. 563, 88 S. Ct. 1731, 20 L. Ed. 2d 811 (1968). 28 *Pickering* is misplaced.



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

In *Pickering*, a public school teacher submitted to a local newspaper a letter regarding a proposed tax increase that was critical of the manner in which

391 U.S. at 564. The teacher was dismissed from his position pursuant to an Illinois statute that permitted such dismissal for actions detrimental to the interests of the school system. *Pickering*, 391 U.S. at 564-65.

He thereafter filed suit, asserting that the Illinois statute was unconstitutional as

28 See *City of Seattle, Suppl* applied pursuant to the First and Fourteenth Amendments. *Pickering*, 391 U.S.

at 565.

In considering the constitutionality of the Illinois statute, the Court of its employees that differ significantly from those it possesses in connection with regulation of the *Pickering*, 391 U.S. at

*Pickering*

29 [public employee], as a citizen, in commenting upon matters of public concern and the interest of the State, as an employer, in promoting the efficiency of the *Pickering*, 391 U.S. at 568.

*Pickering*

performance of his daily duties in the classroom or to have interfered with the

-73 (footnote

omitted)

not significantly greater than its interest in limiting a similar contribution by any



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

memb Pickering, 391 U.S. at 573. In other words, the

Pickering

29 See, e.g., *Garcetti v. Ceballos*, 547 U.S. 410, 418, 126 S. Ct. 1951, 164 L. Ed. 2d 689 (2005) (describing Pickering and the cases decided in its wake, *Moser v. Las Vegas Metro. Police Dep't*, 984 F.3d 900, 904-05 (9th Cir. 2021) (describing Pickering apposite to the circumstances presented in this case. See also *Garcetti v. Ceballos*, 547 U.S. 410, 418, 126 S. Ct. 1951, 164 L. Ed. 2d

it acts in its role as employer, but the restrictions it imposes must be directed at

speech that has some potential t

added)) for treating the employee differently from any other member of the general

the public employee's speech. *Garcetti*, 547

U.S. at 418.

Indeed, in *Pickering*, the United States Supreme Court explicitly rejected

the proposition that public employees are entitled to lesser constitutional

protections simply by virtue of their public employment:

be read to suggest that teachers may constitutionally be compelled

to relinquish the First Amendment rights they would otherwise enjoy as citizens to comment on matters of public interest in connection with the operation of the public schools in which they work, it proceeds on a premise that has been unequivocally rejected in numerous prior decisions of this Court. E.g., *Wieman v. Updegraff*, 344 U.S. 183, 73 S. Ct. 215, 97 L. Ed. 2d 216 (1952); *Shelton v. Tucker*, 364 U.S. 479, 81 S. Ct. 247, 5 L. Ed. 2d 231 (1960); *Keyishian v. Board of Regents*, 385 U.S. 589, 87 S. Ct. 675, 17 L.

may be denied altogether may be subjected to any conditions, *Keyishian*, 385 U.S.] at 605-06.

391 U.S. at 568 (some alterations in original).

Put simply, the notion s the City brazenly asserts, 30

is directly contradicted





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

30 City of Seattle. Suppl. Mem. at 5. by United States Supreme Court decisional authority. Unlike this case, each of

the cases cited by the City involves an adverse employment action based on a speech restriction that precluded public employees from engaging in speech

31 Indeed, it is only

Garcetti, 547

U.S. at 418. This rule is premised on the recognition that the government discharge of official duties, and . . . maintain[ing] proper discipline in the public servic Connick v. Myers, 461 U.S. 138, 150-51, 103 S. Ct. 1684, 75 L. Ed. 2d

708 (1983) (some alterations in original) (quoting Ex parte Curtis, 106 U.S. 371,

373, 1 S. Ct. 381, 27 L. Ed. 232 (1882)). 32 Such principles do not apply to the

facts of this case. 33

31 See Progressive Democrats for Soc. Just. v. Bonta, 588 F. Supp. 3d 960 (N.D. Cal. 2022); Garcetti, 547 U.S. 410; City of San Diego, Cal. v. Roe, 543 U.S. 77, 125 S. Ct. 521, 160 L. Ed. 2d 410 (2004); Waters v. Churchill, 511 U.S. 661, 114 S. Ct. 1878, 128 L. Ed. 2d 686 (1994); Pickering, 391 U.S. 563; Hernandez v. City of Phoenix, 43 F. 4th 966 (9th Cir. 2022); Moser, 984 F.3d 900; Berry v. Dep . of Soc. Servs., 447 F.3d 642 (9th Cir. 2006). For the reasons described above, each of these cases is inapposite here. 32 In Connick considerations set forth in Pickering. 461 U.S. at 157-58 (Brennan, J., dissenting). However, as pertinent here, he adeptly explained that the government, as a public employer, has an interest in perform its duties. He wrote: The balancing test articulated in Pickering comes into play only when a When public employees engage in expression unrelated to their employment while away from the workplace, their First Amendment rights are, of course, no different from those of the general public. Connick, 461 U.S. at 157 (Brennan, J., dissenting) (citing Pickering, 391 U.S. at 574). 33 Service Employees International Union Local 925 v. University of Washington, 193 Wn.2d 860, 447 P.3d 534 (2019) (SEIU) l. Mem. at 3. We disagree. speech. Nor does the speech at issue attendance at a political rally

and their statements regarding their political views and affiliations have any

impact on their employer s operations. Indeed, any allegation that the Does



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

unsustained.

to contravene United States Supreme

Court decisional authority in order to restrict public employee speech in

circumstances beyond those in which such speech may interfere with the public

United States Supreme Court at its

word that police officers are not relegated to a watered-down version of

Garrity, 385 U.S. at 500; see also Pickering, 391 U.S. at

568. Similarly, we recognize

subordinating interest of the State [that is] compelling, and then only if there is a

substantial relation between the information sought and [an] overriding and

compelling state interest. Brown, 459 U.S. at 91-92 (second and third

In that decision, our Supreme Court addressed only whether particular faculty e-mails SEIU, 193 Wn.2d at 867-76. Although the labor union seeking to enjoin disclosure of the requested e-mails asserted SEIU

SEIU, 193 Wn.2d at 876. rily dismissed on the basis of a legislative enactment. While we agree with the City that the PRA is an important statute, it nevertheless remains merely a statute. See Freedom Found., 178 Wn.2d at 695. alterations in original) (citation and internal quotations marks omitted) (quoting

Sweezy, 354 U.S. at 265; Gibson, 372 U.S. at 546). Accordingly, only if an

rights may their identities be disclosed in the requested records. As discussed

below, we determine that no such compelling interest exists.

(b)

The scope of the S and, thus,



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

whether the City, as a state actor, has a compelling interest in disclosing the [PRA] is to provide a mechanism by which the public can be assured that its public officials are honest and impartial in the conduct of Co., 109 Wn.2d at 719 the sovereignty of the people and the accountability of the governmental agencies that serve them by providing full access to information concerning the Predisik, 182 Wn.2d at 903. Similarly, our legislature of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the ; see also In re Request of Rosier, 105 Wn.2d 606, 611, 717 P.2d 1353 (1986) (recognizing the than . . . promot[ing] scrutiny of particular individuals who are unrelated to any ).

To this end, while the PRA contains a broad mandate for disclosure, our information in files that the statutory exemption applies, when disclosure of the information would be concern to the public. 34 RCW 42.56.050. fill [this] definitional void common law tort definition set forth in the Restatement. , 109 Wn.2d at 721 (quoting



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Hearst Corp. v. Hoppe, 90 Wn.2d 123, 136, 580 P.2d 246 (1978)); see

RESTATEMENT (SECOND) OF TORTS §652D (AM. LAW INST. 1977). Employing this

definition, and consistent with the purpose of the PRA, our Supreme Court has

, 109

34 We do not hold that the personal information exemption, RCW 42.56.230(3), a requested records. Rather, as discussed supra, it is the First Amendment to the United States Constitution that precludes such disclosure, absent an overriding and compelling state interest. Nevertheless, the purpose of the PRA and the scope of its disclosure mandate, as set forth by our legislature and decisional authority interpreting the act, illuminates the state interest here at issue. , 109

Wn.2d at 726. Premised on this principle ambit of conduct exempt from disclosure due to statutory , 109 Wn.2d at 727.

the course of public employment is substantiated or results in some sort of

Bellevue John Does 1-11 v. Bellevue Sch. Dist. No. 405, 164 Wn.2d 199, 215,

189 P.3d 139 (2008). However, the court has held that public employees have a

statutory right to privacy in their identities in connection with unsubstantiated

matters concer Bainbridge Island Police

Guild, 172 Wn.2d at 413; see also Bellevue John Does, 164 Wn.2d at 215-16.

taken by an employee in the course o Bellevue John

Does, 164 Wn.2d at 215.

Similarly, our Supreme Court has concluded that whether allegations

against a public employee are substantiated bears on whether disclosure of the

Bainbridge Island Police Guild, 172 Wn.2d at 416; Bellevue John Does, 164 Wn.2d at 221. Thus,

al



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

agencies, the court determined that the public has no legitimate interest in the identities of public employees against whom unsubstantiated allegations of misconduct were asserted. *Bellevue John Does*, 164 Wn.2d at 220. This is because, when the allegations are unsubstantiated, precluding disclosure of the e

investigations into alleged employee misconduct. *Bellevue John Does*, 164 Wn.2d at 220. Rather, disclosure in such circumstances, the court reasoned, serve[s] no interest other than gossip and sensation. *Bellevue John Does*, 164 Wn.2d at 221 (quoting *Bellevue John Does 1-11 v. Bellevue Sch. Dist. No. 405*, 129 Wn. App. 832, 854, 120 P.3d 616 (2005)).

The state interest in disclosure pursuant to the PRA is to uphold the purpose of the statute that is, to enable

officials are honest and impartial in the conduct of their public offices *Cowles*

*Co.*, 109 Wn.2d at 719 (emphasis added); see also people insist on remaining informed so that they may maintain control over the

instruments that scope of statutory exemptions to disclosure, our Supreme Court has determined that disclosure of the identities of public employees is not permitted when (1) the

allegations asserted against the employees are unsubstantiated and (2) the

conduct did not occur in the course of public service or occur off-duty and impact

the performance of public duties. *Bainbridge Island Police Guild*, 172 Wn.2d at 413; *Bellevue John Does*, 164 Wn.2d at 213-16, 221; , 109

Wn.2d at 726. In other words, in such circumstances, the State does not have



an interest in disclosing the employees identities.

identities was precluded was determined pursuant to statutory exemptions, not

on constitutional First Amendment

rights. Thus, the interests at issue in those cases, not being of

constitutional import, were less significant than those presented here, where the

cases, the Do

duties, and the allegations against the Does were determined to be

unsustained. 35 Even when constitutional rights were not implicated by

disclosure, those same circumstances have been deemed by our legislature and

Supreme Court to fall outside the ambit of the state interest in such disclosure.

would be impinged by

disclosure, the state interest cannot be said to be compelling, such that

disclosure would nevertheless be permitted. 36

35

finding remains a finding that the allegations were unsustained; it neither constitutes a finding unsustained findings in the same manner as t 36 Sueoka asserts that the trial court properly determined that the public has a legitimate Andrew Myerberg may have previously represented one of the Does in a civil rights case. This purported conflict, Sueoka contends, may have undermined the investigation. However, even when only a statutory privacy interest is implicated, Washington courts have held that complete records need not be disclosed for the public interest of government oversight to be achieved. See, e.g., Bainbridge Island Police Guild, 172 Wn.2 lacking a legitimate interest in the name of a police officer who is the subject of an The is, of

course, entitled to be informed concerning the workings of its government. That

cannot be inflated into a general power to expose where the predominant result

# Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Watkins, 354 U.S. at

200 (footnote omitted) Uphaus, 360

U.S. at 82 (Brennan, J., dissenting).

purpose State has no

Accordingly, because the Does have established a constitutional privacy right

that would be impinged by disclosure, the superior court erred by denying the 37

unsubstantiated allegation of sexual misconduct, the public does have a legitimate interest in how a police department responds to and investigates s Bellevue John DoesIndeed, our Supreme Court has made

Bellevue John Does, 164 Wn.2d at 223. Here, given the constitutional right at stake, we hold that the State has no compelling interest in disclosure of the [a]n agency should look to the contents of the document and not the knowledge of third parties when deciding if the subject of a report has a right to privacy in their Bainbridge Island Police Guild, 172 Wn.2d at 414. In Bainbridge Island Police Guild, our Supreme Court held that notwithstanding the fact that some members of the public might know the identity of the individual identified in the records, the agency must nevertheless refuse to disclose those records if an exemption exists. 172 Wn.2d at 414. Otherwise, agencies would of outside knowledge regarding the incident described therein. Bainbridge Island Police Guild, 172 Wn.2d at 414. The same logic applies here. Additionally, the City, in evaluating a records request, cannot be charged with presuming the need to records on the chance of potential conflict of interest of the investigator that is not established in the records themselves. Such a presumption would gut the disclosure exemptions of the PRA. 37 The Does sought a preliminary injunction precluding the disclosure of their identities in the requested records. They did not seek to prevent disclosure of redacted versions of those (c)

We recognize that much of the United States jurisprudence establishing a constitutional privacy right to anonymity in political

belief and association, which is grounded in the First Amendment to the United

standard applicable to governmental action impinging such rights. See Reed v.

Town of Gilbert, Ariz., 576 U.S. 155, 167, 135 S. Ct. 2218, 192 L. Ed. 2d 236

Button 38



However, even applying these

Town of Gilbert, 576 U.S. at 167, the

result herein remains unchanged.

records. Thus, we do not consider whether the redacted records are subject to disclosure information are redacted from the requested records, their constitutional rights are no longer implicated.

Accordingly, it is the PRA, not federal constitutional principles, that dictate whether the redacted records may be disclosed. As no party seeks to preclude such disclosure, that issue is not before us. However, we note that, when a constitutional right would not thereby be infringed, the State has an interest in permitting disclosure of public records to enable government oversight, thus fulfilling the purpose of the PRA. See, e.g., Bainbridge Island Police Guild, 172 Wn.2d at f a police officer who is the subject of an unsubstantiated allegation of sexual misconduct, the public does have a legitimate interest in how Bellevue John Does, 16 See also RCW 42.56.210 (requiring

disclosure of records when exempted information can be redacted therefrom). cannot be pursued by means that broadly stifle fundamental personal liberties when the end can Shelton, 364 U.S. at 488. Here, the purposes of the PRA are achieved through disclosure of the redacted records. 38 The Court in Button held that a Virginia state law purporting to regulate the legal members and lawyers to associate for the purpose of assisting persons who seek legal redress for infringements of their constitutionally guaranteed and other right

Buckley, 424 U.S. at 64 (citing Gibson, 372 U.S. 539; Button, 371 U.S. 415; Bates, 361 U.S. 516; Shelton, 364 U.S. 479; NAACP, 357 U.S. 449). As demonstrated by the profusion of legislatively enacted exceptions to

rest in

disclosure of the unredacted requested records. Rather, the constitutionally

mandated narrow tailoring here requires precisely the remedy sought by the

Does the redaction of their names and personal identifying information from the

requested records prior to disclosure. Thus, we hold that, applying the United

disclosure of the requested records in redacted form serves to protect the First

Amendment interests at stake while allowing for the attainment of the



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

as pertinent here, is articulated in *Citizens United v. Federal Election*

*Commission*, 558 U.S. 310, 130 S. Ct. 876, 175 L. Ed. 2d 753 (2010), in which

the Court pronounced:

Speech is an essential mechanism for democracy, for it is the means to hold officials accountable to the people. The right of citizens to inquire, to hear, to speak, and to use information to reach consensus is a precondition to enlightened self-government and a necessary means to protect it. . . . For these reasons, political speech must prevail against laws that would suppress it, whether by design or inadvertence. Laws that bur

*Citizens United*, 558 U.S. at 339-40 (citation omitted) (quoting *Fed. Election*

, 551 U.S. 449, 464, 127 S. Ct. 2652, 168 L. Ed. 2d 329 (2007)). 39 the strict scrutiny standard require that government restrictions on protected

a mandate that was not explicitly articulated in the previous jurisprudence

establishing a First Amendment privacy right in political belief and association.

See, e.g., *Brown*, 459 U.S. 87; *Gibson*, 372 U.S. 539; *Bates*, 361 U.S. 516;

*Shelton*, 364 U.S. 479; *NAACP*, 357 U.S. 449.

The *Citizens United* explication of the modern formulation is grounded in

in *McIntyre* exacting

ion only if it is narrowly tailored to serve an

policies animating the PRA lead to the inexorable conclusion that, here, the

government has

public officials are hon Co., 109 Wn.2d at 719. Further evidencing the absence of a

39 We acknowledge that differing levels of scrutiny apply to various claims of infringement on federal constitutional rights. See, e.g., *Town of Gilbert*, 576 U.S. at 172 (in the context of federal free speech guarantees, distinguishing between those laws subject to strict scrutiny *Progressive Democrats for Soc. Just.*, 588 F. Supp. 3d at 975-76 (describing differing levels of scrutiny in the



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

context of the First and Fourteenth Amendments, including rational basis review and strict scrutiny). However, no party credibly seeks to establish that other such constructs are applicable in this case. We take the United States Supreme Court at its word in *Citizens United*, 558 U.S. at 340, that the strict scrutiny standard applies in cases such as this. compelling state interest in total disclosure of all records, our legislature has

enacted a plethora of exceptions to the in fact, as of

March 2022, there were 632 such legislatively enacted exceptions. 40 Without

renders implausible any argument that a compelling state interest in disclosure of

of the requested records inheres only in making public a redacted version of

those records.

When applying the modern strict scrutiny standard, we must ensure that

the state action at issue here is

narrowly tailored to serve its legitimate interest in the disclosure of public records.

See *Citizens United*, 558 U.S. at 340. Such narrow tailoring compels us to

identify interest. *Ashcroft v. Am. Civ. Liberties Union*, 542 U.S. 656, 666, 124 S. Ct.

2783, 159 L. Ed.

speech is restricted no

goal, for it is important to ensure that legitimate speech is not chilled or

*Ashcroft*, 542 U.S. at 666.

Here, the very remedy sought by the Does redaction of their names and

identifying information from the requested records is precisely the narrow

40 See Sunshine Original available at <https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Schedule%20of%20Review%20Update%20March%202022.pdf>. tailoring that serves to protect the First Amendment rights at stake while



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

in public records disclosure. Thus, applying the United States more recent formulations of strict scrutiny, which require that governmental

action impinging on speech rights be narrowly tailored to serve a compelling

jurisprudence. In both circumstances, we conclude that disclosure of the

unredacted requested r federal privacy rights rights that are grounded in First Amendment guarantees.

redacted version of the requested record other identifying information. 41

C

Sueoka and the City next assert that, even if the requested records are

exempt from disclosure, the Does are nevertheless entitled to a preliminary

injunction only if they can additionally demonstrate that they are likely to succeed

on the merits of meeting the statutory injunction standard set forth in the PRA.

We disagree.

impinge a First Amendment right to privacy, the State may not place on that

individual an additional burden to vindicate that right. In such a circumstance,

41 An appropriate grant of such relief, as articulated by the Ninth Circuit Court of Appeals, would preclude the disclosure o Does 1-10 v. Univ. of Wash., 798 the establishment of the right itself mandates the issuance of an injunction. This

stablishing that, when a

statutory right precludes disclosure, the individual seeking to vindicate that right

must demonstrate not only that an exemption to disclosure applies, but also that

are that we must,

when possible, read statutes to avoid constitutional infirmity, we hold that the



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

PRA does not require that its statutory injunctive relief standard be met when a

First Amendment right to privacy precludes the disclosure of public records.

may be enjoined if . . . the superior court . . . finds that such examination would

clearly not be in the public interest and would substantially and irreparably

damage any person, or would substantially and irreparably damage vital

governmental 540. This two-part injunctive relief

Lyft, 190 Wn.2d at 789 (quoting

PAWS, 125 Wn.2d at 258). Thus, when a statutory exemption to disclosure is

asserted, the trial court may impose an injunction pursuant to RCW 42.56.540

only if the court finds that a specific exemption applies and that disclosure would

not be in the public interest and would substantially and irreparably damage a

Soter, 162 Wn.2d at 757.

Our Supreme Court so held in Lyft, 190 Wn.2d 769, wherein the court

addressed whether the disclosure of certain public records could be enjoined

parties seeking to enjoin disclosure asserted that the records at issue contained trade secrets protected by the federal Uniform Trade Secrets Act (UTSA),

chapter 19.108 RCW. Lyft, 190 Wn.2d at 773. Our Supreme Court determined

Lyft, 190 Wn.2d at 777, 780-84. The court nevertheless held that

standard, set forth in RCW 42.56.540, was also satisfied. Lyft, 190 Wn.2d at

PRA does n Lyft, 190 Wn.2d at 786.

It is on the basis of this decisional authority that Sueoka and the City



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

contend that, in order to obtain the relief that they seek, the Does must

demonstrate that they are likely to

two-part statutory injunctive relief standard. However, because disclosure of the

right to privacy, the argument advanced by Sueoka and the City is untenable.

Requiring that parties seeking to vindicate such rights establish not only the First

standard, would run afoul of the Supremacy Clause of our federal constitution,

and all laws *Armstrong v. Exceptional*

*Child Ctr., Inc.*, 575 U.S. 320, 324, 135 S. Ct. 1378, 191 L. Ed. 2d 471 (2015)

(quoting U.S. CONST. art. VI, cl. 2). 42 We cannot interpret the PRA in a manner

42 The Supremacy Clause provides: that would render it unconstitutional. *Utter ex rel. State v. Bldg. Indus.*

*Wash.*, 182 Wn.2d 398, 434, 341 P.3d 953 Nor does this resolution of the issue do so.

Rather, we read the PRA as consistent with the federal constitution simply

by recognizing the distinction between a legislatively created statutory right and a

federal constitutional right. When the state legislature creates a right, such as a

statutory exemption from th impose conditions on the exercise of that right. This is precisely what the

42.56.540. Thus, as our Supreme Court has held, when a statutory right is

*Lyft*, 190 Wn.2d at 786. Rather, the two-part standard set

forth in RCW 42.56.540 must also be satisfied, as the legislature has imposed

this statutory condition on the exercise of the statutory right against disclosure.

exemption, and the disclosure of the unredacted records would not merely



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

their political beliefs and associations would be impinged. The significance of this distinction is readily apparent. Our state legislature can impose a condition on the exercise of a right created by the legislature itself. However, the

This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the Constitution or laws of any state to the contrary notwithstanding. U.S. CONST. art. VI, cl. 2. legislature, having created neither the First nor Fourteenth Amendments, cannot

condition the exercise of this federal constitutional right on whether the Does can satisfy the statutory injunctive relief standard. Put simply, such a requirement would authorize a state or local government to violat

rights when they establish the impingement of such rights but are unable to also demonstrate satisfaction of an additional statutory requirement to obtain

injunctive relief. 43 The PRA injunction standard cannot serve as a bar to the Amendment rights of Washington citizens in its application of state law. See, e.g., *Seattle Times Co.*, 170 Wn.2d 581 (discussed *infra* at 9-10).

Again, this analysis does not suggest a constitutional infirmity of the PRA.

Rather, recognizing the distinction between legislatively created statutory rights and the First Amendment constitutional right implicated here, we note that the

43 ing s. Specifically, the City contends

that the third party notice provision set forth in the PRA is the proper means for it to address exceptions to disclosure premised on a constitutional right. The City argues, in other words, that it has no obligation to independently honor the constitutional rights of third parties in response to records requests. We do not so hold. When, after receiving notice, an individual seeks injunctive relief premised on a constitutional right, and thereafter establishes both that the right would be



impinged by disclosure and that no sufficient interest of the state permits disclosure, the City plainly has an obligation under the Fourteenth Amendment injunction standard. In other words, here, once the constitutional right is established, the City does not have unfettered discretion to either refuse to disclose the standard not being met. Such unfettered discretion of government actors to either constitutional rights or refuse to honor such rights is anathema to the constitutional rule of law.

The City need not serve as the lawyer for every individual mentioned in requested public records. However, when the constitutional right implicated by disclosure of particular requested records is clear, the City must refuse to disclose the records (or the relevant portions thereof). The City must then defend against any challenge to the action by the records requestor, unless, following notice, the individual whose rights are implicated does not object to disclosure. The See U.S. CONST. art. VI, cl.2. application of RCW 42.56.540 would necessarily mandate the issuance of an

RCW

42.56.540 by disclosure of the unredacted records, such disclosure would of necessity  
540.

Thus, when disclosure is precluded by a First Amendment right to privacy, rather than a statutory exemption, the establishment of that constitutional right does, indeed, ipso facto mandate the issuance of an injunction. The State has no lawful authority to impose an additional requirement on parties seeking to vindicate their constitutional rights in order to trigger its obligations pursuant to the Fourteenth Amendment. Because disclosure of the unredacted records would impinge their First Amendment rights, the Does cannot be required to additionally demonstrate satisfaction of an injunctive relief standard in order to obtain the relief they seek, unless that standard is one that is ipso facto satisfied by virtue of the establishment of the First Amendment right. Because the PRA standard is one such standard, the Does have met their burden. 44

# Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

## IV

In his cross appeal, Sueoka contends that the trial court erred by denying

44 We acknowledge the existence of case law, primarily from lower federal courts, that occasionally applies non-PRA injunctive relief standards. Our Supreme Court has determined that PRA disclosure is regulated by only the PRA injunctive relief standard. Lyft, 190 Wn.2d at 784-85. litigation. According to Sueoka, Washi emanating

from article I, section 10 of our state constitution, require that the Does litigate this matter using their actual names. We disagree.

In seeking to preclude the disclosure of their identities in the requested records, the Does assert a First Amendment right. Thus, it is federal open courts jurisprudence, which itself derives from the First Amendment, that here applies. Such jurisprudence permits litigants to proceed pseudonymously when the injury litigated against would be incurred as a result of the disclosure of their identities. Herein, that precise outcome would occur were the Does not permitted to litigate using pseudonyms.

Accordingly, we conclude that the trial court did not err in ruling that the Does could proceed in pseudonym in this litigation. For the same reason, we

## A

In these proceedings, both the trial court and our commissioner have to litigate pseudonymously. In each instance, they have rejected that argument. First, Sueoka objected to the Does motion to proceed in pseudonym filed concurrent with their initial complaint for declaratory and injunctive relief. On





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Cahan considered the factors for redaction set forth in *Seattle Times Co. v.*

*Ishikawa*, 97 Wn.2d 30, 640 P.2d 716 (1982), and made the findings required

therein. Judge Cahan also determined that the Does had complied with the relevant court rules, including General Rule (GR) 15. Three days later, on March

Does sought discretionary review.

of cross appeal,

change the case title on April 9,

Judge Cahan evaluated the *Ishikawa* factors in reaching the March 9, 2021

change the case title is inextricably tangled up with the merits of his

to be necessary to allowing [this court] to reach the merits of this

Following transfer of the appeal from Division One to our Supreme Court,

ng

names in court filings B

administered openly, and without unn WASH. CONST. art. I, § 10.

our Washington courts *Hundtofte v.*

*Encarnacion*, 181 Wn.2d 1, 7, 330 P.3d 168 (2014) (quoting *Dreiling v. Jain*, 151

Wn.2d 900, 903, 93 P.3d 861 (2004)). Whether redaction implicates article I,

on application o *State v. S.J.C.*, 183 Wn.2d 408,

412, 352 P.3d 749 (2015). When article I, section 10 applies, redaction is

permitted only after consideration of the factors set forth in *Ishikawa*, 97 Wn.2d

30. When our state constitution is not implicated, GR 15 permits the redaction of



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in GR 15(c)(2).

In a recent opinion, our Supreme Court reversed a decision of this court wherein we had determined that allowing the plaintiffs to litigate using pseudonyms did not implicate article I, section 10. John Doe G v. Dep t of

Corr., 190 Wn.2d 185, 191, 410 P.3d 1156 (2018) (citing John Corr., 197 Wn. App. 609, 627-28, 391 P.3d 496 (2017)). The Supreme Court

therein addressed a privacy right arising from a state statute. The questions presented were (1) whether special sex offender sentencing alternative

evaluations are exempt from disclosure pursuant to statutory exemptions, and (2)

[that] Doe G, 190

Wn.2d at 189.

On appeal before this court, we had looked to federal open courts

Doe G, 197 Wn. App. at

627. We noted federal court holdings that the use of pseudonyms is appropriate

Doe G, 197 Wn. App. at 627 (quoting Doe v. Frank,

951 F.2d 320, 324 (11th Cir. 1992)). Based, in part, on this reasoning, we held

proceed under pseudonyms [did] not implicate article I, section 10 where the names would

Doe G, 197 Wn. App. at 628. Thus, we affirmed

notwithstanding that the trial court had not applied the Ishikawa factors. Doe G, 197 Wn. App. at 624.



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Our litigation was improper . . . because the trial court did not adhere to the

Doe G, 190 Wn.2d at 189.

in the federal appellate court decisions on which we had relied for guidance. Doe G and Ishikawa  
Doe G, 190 Wn.2d at 198.

C

Doe G, 190 Wn.2d 185, Sueoka

motion to preclude the Does from litigating pseudonymously. 45 However, in so  
asserting, Sueoka misperceives the issue as one of Washington law. 46 It is not.

Accordingly, his argument fails.

Unlike in Doe G, in this case, the Does assert that disclosure of their  
identities would impinge a federal constitutional First Amendment right.

Preventing the Does from proceeding in pseudonym would preclude their ability  
to obtain the relief that they seek in this action. In other words, requiring the  
Does to use their actual names in the case caption would undermine their ability  
to assert the First Amendment right that they seek to vindicate herein. Such a  
result would violate the Supremacy Clause, U.S. CONST. art. VI, cl. 2, which

Armstrong, 575 U.S. at 324. When parties who assert that disclosure of  
their identities would violate a federal constitutional right seek to litigate

45 Br. of Resp /Cross Appellant at 69-71. 46 nevertheless be unavailing. As discussed above, Judge  
Cahan did apply GR 15 and the Ishikawa factors in ruling that the Does could proceed in pseudonym.  
Sueoka does not challenge In re Welfare of A.W., 182 Wn.2d 689, 711, 344 P.3d 1186 (2015); see also  
Doe AA v. King County, 15 Wn. App. 2d 710, Ishikawa findings that were preclude the Does from  
litigating in pseudonym, Judge Widlan simply declined to revisit Judge pseudonymously, it is federal  
open courts jurisprudence, arising from the First



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Amendment itself, that we must apply.

Thi Doe G,

190 Wn.2d 185. There, the litigants seeking to use pseudonyms asserted that disclosure of their identities in the requested records was precluded by statutory rights arising from statutory exemptions, including an exemption enumerated within the PRA itself. Doe G, 190 Wn.2d at 189. Thus, our Supreme Court properly had erred by importing federal case law into Washington law. Doe G, 190 Wn.2d at 189, 198.

Here, however, the Supremacy Clause requires that First Amendment jurisprudence be applied, both as to the constitutional right at issue whether e a

constitutional privacy right and as to the question of whether the Does may use pseudonyms in seeking to vindicate that right. Accordingly, because the Does assert an exemption from disclosure premised on a federal constitutional right, rather than a statutory exemption, the application of federal open courts Doe G but

does comport with the requirements of the Supremacy Clause.

[p] in a lawsuit] is more than a customary procedural formality; First Amendment guarantees are implicated when a court decides to restrict public scrutiny of

Doe v. Stegall, 653 F.2d 180, 185 (5th Cir. 1981); see also Roe II v. Aware Woman Ctr. for Choice, Inc., 253 F.3d 678, 688 (11th Cir. 2001)



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

(Hill, J., concurrence in part)

permitting a plaintiff to proceed anonymously is whether the plaintiff has a

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Frank, 951 F.2d at

323 (quoting Stegall proceed anonymously only in those exceptional cases involving matters of a

highly sensitive and personal nature, real danger of physical harm, or where the

injury litigated against would be incurred as a result of the disclosure of the

Frank, 951 F.2d at 324 (emphasis added).

Thus, the First Amendment both confers privacy rights in political speech

and also, in the standard regulating when a party can proceed in pseudonym,

provides that these substantive rights cannot be extinguished merely because a

party seeks to vindicate them. In other words, it provides that concerns about

public access to the courts cannot be applied to the detriment of First

Amendment rights under federal law, such that the vindication of constitutional

rights would be improperly conditioned on disclosure. 47

47 In NAACP, 357 U.S. at 459-60, the United States Supreme Court relied on this principle that federal law not be applied in a manner that precludes the vindication of ind constitutional rights to privacy in holding that the plaintiff organization had standing to assert the rights of its members. The Court held that the general principle that parties must assert only constitutional rights of persons who are not immediately before the Court could not be effectively vindicated except through an appropriate representative before NAACP, 357 U.S. at 459. There, the NAACP challenged a court order mandating disclosure of its membership lists constitutional privacy rights. NAACP ght [was] moment of its NAACP, 357 U.S. at 459. See also Pollard, 283 F. Supp. at 256 Were the Does not permitted to litigate pseudonymously, the very injury they

seek to litigate against would be incurred. Pursuant to federal open courts



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Stegall, 653 F.2d at 186.

In summary, the Supremacy Clause prohibits the application of state open courts jurisprudence to a pending First Amendment claim when such application would cause the injury litigated against to be incurred, as federal open courts principles, arising as they do from the First Amendment itself, would not mandate prevail, they would be entitled to full protection of their First Amendment rights against the government here, protection against disclosure of their identities within the requested records. State constitutional open courts provisions cannot be applied in contravention of First Amendment jurisprudence in a manner that Accordingly, we hold that the Does must be permitted to use pseudonyms in this action. The trial court did not err by so ruling. We additionally deny in this appeal to require it to include actual names.

private individuals has standing to protect those individuals from unwarranted invasions of government of their rights of association and privacy guaranteed by the First and Fourteenth Similarly, here, the Does would be precluded from vindicating their constitutional rights were they unable to litigate pseudonymously. First Amendment open courts jurisprudence prohibits disclosure in such circumstances. Frank, 951 F.2d at 324. D

The Does seek herein to vindicate rights enshrined in the federal constitution. Thus, applying the open courts principles arising from article I, section 10 of our state constitution to determine whether the Does may be permitted to litigate in pseudonym w mandate of state law supersession. Accordingly, as discussed above, we must



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

apply federal law to this question. We nevertheless note that application of

Washington open courts law would dictate the same resolution of this issue.

we not give

effect to state laws that conflict with federal laws. Precluding the Does from

litigating in pseudonym pursuant to article I, section 10 would itself be a state

action that would compel and associations. Indeed, application by Washington courts of our state

constitution is itself a state action. Thus, only by demonstrating that the

disclosure ies Citizens United, 558 U.S. at 340 (quoting Fed.

, 551 U.S. at 464), could a Washington court require such

disclosure when a party seeking to litigate in pseudonym asserts a federal First

Amendment claim. Washington courts, too, are subject to the Supremacy

Here, as we have discussed, there is no compelling state interest in the

records. Similarly, there is no

compelling state interest in requiring that the Does litigate using their actual names. Given the  
profusion of exceptions to the disclosure mandate, this

conclusion is inescapable. Our state law currently includes 632 legislatively

created exceptions to the See Appendix A. This

proliferation of exceptions undoubtedly demonstrates the absence of a

Moreover, neither our legislature nor our Supreme Court, in permitting

broad categories of persons to retain their anonymity in court records, has

engaged in the particularized analysis that would be required if the disclosure of



g state interest. For instance, our

legislature has determined that individuals are automatically entitled to anonymity

in certain court records, including records regarding adoptions, RCW 26.33.330;

confidential name changes, RCW 4.24.130(5); child victims of sexual assault,

RCW 10.52.100; juvenile nonoffender records, such as juvenile dependencies,

parental terminations, and truancy, at risk youth, and child in need of services

cases, RCW 13.50.100; juvenile offender records, RCW 13.50.050; mental

illness commitments, RCW 71.05.620; and mental illness commitments of

minors, RCW 71.34.335.

Similarly, by both court rule and order, Washington courts have deemed

certain categories of persons to be exempt from the general mandate that court

records include the actual names of the litigants. Washington court rule General

a

long-established principle that the complete names of parties are to be listed with

the actions t Hundtofte, 181 Wn.2d at 16 (Madsen, C.J., concurring). These exceptions, however, are not based on a particularized analysis of each case. Rather, like

the legislative enactments discussed above, they exempt litigants in broad

categories of cases from the disclosure mandate. For instance, in adopting Rule

of Appellate Procedure (RAP) 3.4, our Supreme Court has determined that all

juvenile offenders are entitled to anonymity in court records. 48 By order, the

Washington Court of Appeals has similarly required that case titles in certain



## **Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant**

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

appeals including those regarding adoption, civil commitment, dependency, termination of parental rights, truancy, at risk youth, child in need of services, and juvenile offender .

for the Ct. of Appeals, In re Changes to Case Title (Wash. Ct. App. Aug. 22, 2018) (effective Sept. 1, 2018).

Thus, neither our state legislature nor Washington courts, in adopting exceptions to our state open courts law, have deemed it necessary to conduct a particularized case-by- names in court records. Instead, whether by legislative enactment, court rule, or

court order, our state has exempted broad categories of persons from the general disclosure requirement. Certainly, such broad exemptions do not indicate the narrow tailoring that would be necessary were the state interest in actual names compelling. Thus, by exempting broad

48 RAP 3.4 provides: initials. The parties shall refer to the juvenile by his or her initials throughout all briefing and pleadings filed in the appellate court, and shall refer to any related trial court record need not be redacted to eliminate references to the ju identity. Washington legislature and Washington courts have impliedly indicated that the

actual names is not a compelling one.

The Supremacy Clause prohibits the application of state open courts jurisprudence when, as here, the right asserted is established by the federal First Amendment. Nevertheless, even were we to apply Washington law to the question of whether the Does may litigate in pseudonym, we would reach the same conclusion



constitution demands they be permitted to do so. Such a determination by a Washington court is, itself, state action. The broad exemptions to the open courts mandate, both enacted by our legislature and adopted by our courts, actual names

in court records is not a compelling one. Absent such an interest, and given the cannot require the Does to litigate using their actual names here.

V

A

All members support the Constitution  
of the United States. s

of analyses employed herein and the decisions reached as being in accord with  
this oath.

Nevertheless, we are aware of the cultural and political tenor of our times.

This includes an awareness that many Americans despair that judicial decisions have become result-oriented to achieve political ends. To disabuse those so

inclined from defaulting to such a judgment concerning this opinion, and to assure the general public that its appellate court exists in a reality-based environment, we choose to acknowledge several of the pertinent facts that underlie the dispute at issue.

1

The 2020 Presidential Election



# Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

1. Joseph R. Biden, Jr. won the 2020 presidential election, receiving 81,283,501 popular votes. 49 Donald J. Trump lost the 2020 presidential election, receiving 74,223,975 popular votes. 50 Biden received 7,059,526 more votes than did Trump.

total was the largest ever received by a candidate

for President of the United States. 51

3. Biden received 51.3 percent of the popular vote. 52 This was the highest percentage of the popular vote attained by a challenger to a sitting president since 1932, when Franklin Roosevelt defeated Herbert Hoover. 53

49 U.S. FED. ELECTION COMM N, FEDERAL ELECTIONS 2020: ELECTION RESULTS FOR THE U.S. PRESIDENT, THE U.S. SENATE, AND THE U.S. HOUSE OF REPRESENTATIVES 5 (Oct. 2022), at 5, <https://www.fec.gov/resources/cms-content/documents/federalelections2020.pdf> [<https://perma.cc/5XDB-2XJA>] 50 FEDERAL ELECTIONS 2020, *supra*, at 5. 51 Domenico Montanaro, President-Elect Joe Biden Hits 80 Million Votes in Year Of Record Turnout, NAT'L PUB. RADIO (Nov. 25, 2020), <https://www.npr.org/2020/11/25/937248659/president-elect-biden-hits-80-million-votes-in-year-of-record-turnout> [<https://perma.cc/4FZS-AWKK>]. 52 FEDERAL ELECTIONS 2020, *supra*, at 5. 53 Presidential Election Margin of Victory, AM. PRESIDENCY PROJECT (Mar. 7, 2020), <https://www.presidency.ucsb.edu/statistics/data/presidential-election-mandates> [<https://perma.cc/9MJG-RAHE>]; Share of Electoral College and Popular Votes from Each Winning Candidate, in All United States Presidential Elections from 1789 to 2020, STATISTA (Dec. 2020), <https://www.statista.com/statistics/1034688/share-electoral-popular-votes-each-president-since-1789> [<https://perma.cc/B5SE-NLLY>]. 4. Biden earned 306 electoral votes. Trump earned 232. 54 In 2016,

Trump earned 306 electoral votes, while Hillary Clinton earned 232. 55 Thus,

Biden defeated Trump by the same Electoral College margin as Trump defeated Clinton.



# Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

## The Rally on January 6, 2021

1. in the District of Columbia. Various permits were sought and obtained, authorizing use of the public property. 56
2. The Donald Trump. Thus, Trump and rally organizers urged, Congress should not Electoral College results (as the law required). 57
3. Trump, the sitting president, spoke at the rally. 58

3

## The Insurrection at the Capitol

1. As the rally ended, a civil disturbance began at the Capitol. Hundreds of persons illegally broke through security lines and eventually into the Capitol

54 FEDERAL ELECTIONS 2020, supra, at 7. 55 2016 Presidential Election Results, N.Y. TIMES (Aug. 19, 2017, 9:00 AM), [www.nytimes.com/elections/2016/results/president](http://www.nytimes.com/elections/2016/results/president). 56 See note 13, supra. 57 H.R. REP. NO. 117-663, at 231-33, 499-502 (2022), <https://www.govinfo.gov/content/pkg/GPO-J6-REPORT/pdf/GPO-J6-REPORT.pdf> [<https://perma.cc/UH8B-ZQ7D>]. 58 H.R. REP. NO. 117-663, at 231-33. Building. 59

2. Both the House of Representatives and the Senate were forced to adjourn and flee to safety. 60
3. In the riotous melee that ensued over 140 law enforcement officers were injured. 61 According to a U.S. Senate report, seven deaths were attributed to the violence that took place. 62
4. The common goal of the rioters was to keep Congress from performing its lawful function 63 Some



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

rioters had other goals, such

as the killing or kidnapping of members of Congress. 64

5. For the first time since the War of 1812, the United States government

lost physical control of the Capitol Building to a group of attackers. 65

59 Audrey Kurth Cronin, The Capitol Has Been Breached Before: This Time It Was Different, AM. UNIV. SCH. OF INT'L SERV. (Feb. 9, 2021), <https://www.american.edu/sis/centers/security-technology/the-capitol-has-been-attacked-before-this-time-it-was-different.cfm> [<https://perma.cc/Y4NJ-7GE3>]. See discussion H.R. REP. NO. 117-663, at 637-88. 60 H.R. REP. NO. 117-663, at 664-66. 61 COMM. ON HOMELAND SEC. & GOVERNMENTAL AFFAIRS & COMM. ON RULES & ADMIN., U.S. SENATE, EXAMINING THE U.S. CAPITOL ATTACK: A REVIEW OF THE SECURITY, PLANNING, AND RESPONSE FAILURES ON JANUARY 6, at 33 (June 2021), <https://www.rules.senate.gov/imo/media/doc/Jan%206%20HSGAC%20Rules%20Report.pdf> [<https://perma.cc/DL5Q-5XT3>]. 62 EXAMINING THE U.S. CAPITOL ATTACK, supra, at 1. 63 EXAMINING THE U.S. CAPITOL ATTACK, supra, at 1. 64 H.R. REP. NO. 117-663, at 37-39; Cronin, supra. 65 Cronin, supra; Amanda Holpuch, Ago, GUARDIAN (Jan. 6, 2021, 7:59 PM), <https://www.theguardian.com/us-news/2021/jan/06/us-capitol-building-washington-history-breach> [<https://perma.cc/RU25-E3LP>]; Amy Sherman, A History of Breaches and Violence at the US Capitol, POLITIFACT (Jan. 6, 2021), <https://www.politifact.com/article/2021/jan/07/history-breaches-and-violence-us-capitol/> [<https://perma.cc/8A7C-5L2H>]. 6. Over 1,000 persons have been charged with crimes premised on

actions occurring at the Capitol on January 6, 2021. 66 Over 630 have, to date,

pleaded guilty or been found guilty after trial. 67

7. Many of the insurrectionists belonged to groups espousing white

supremacist views. Others of the rioters, while not group members, were shown

to possess such views. 68

Given all of these facts, it is easy to understand the concerns motivating

the City and the requesters. Nevertheless, our duty to the United States

on of a right to



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

anonymity in political activity, lead us to the decisions we announce today.

B

reversed and remanded.

order is affirmed.

u of pseudonyms is affirmed.

66 The Jan. 6 Attack: The Cases Behind the Biggest Criminal Investigation in U.S. History, NAT L PUB. RADIO (May 12, 2023, 5:25 PM), <https://www.npr.org/2021/02/09/965472049/the-capitol-siege-the-arrested-and-their-stories> [https://perma.cc/S38K-B8DK]. 67 The Jan. 6 Attack: The Cases Behind the Biggest Criminal Investigation in U.S. History, supra. 68 See discussion H.R. REP. NO. 117-663, at 499-576; Sabrina Tavernise & Matthew Rosenberg, , N.Y. TIMES (May 12, 2021), <https://www.nytimes.com/2021/01/07/us/names-of-rioters-capitol.html>; Deena Zaru, The Symbols of Hate and Far-Right Extremism on Display in Pro-Trump Capitol Siege, ABC NEWS (Jan. 14, 2021, 2:01 AM), <https://www.abcnewsgo.com/us/symbols-hate-extremism-display-pro-trump-captiol-siege/story?id=75177671> [https://perma.cc/3T4R-2JRL]; Matthew Rosenberg & Ainara Tiefenthäler, Decoding the Far-Right Symbols at the Capitol Riot, N.Y. TIMES (Jan. 13, 2021), <https://www.nytimes.com/2021/01/13/video/extremist-signs-symbols-capitol-riot.html>. Affirmed in part, reversed in part, and remanded.

WE CONCUR:

1 Agriculture 42.56.380(6) Information on individual American ginseng growers or dealers 1996 Oct. 2007 June 2008 SB 5295 (Ch. 128, 2010 Laws) 2 Personal Information - Research Data/Health Care 42.56.360(1)(f); [now (3)(a)] Information relating to infant mortality pursuant to RCW 70.05.170 1992 Oct. 2007 Mar. 2008 SB 5295 (Ch. 128, 2010 Laws)

3 Personal Information - Research Data/Health Care 70.05.170 Medical records collected by a local department of health in the course of conducting a child mortality review 1992 Oct. 2007 Mar. 2008 SB 5295 (Ch. 128, 2010 Laws); SB 5049 (2011, 2012)

4 Legislative Records 42.56.010(2); [now (3)] Definition of "public records" for the senate and the house are limited to definition of legislative records in RCW 40.14.100 and budget, personnel, travel records and certain reports. [Definition] 1995 Oct. 2007 Aug. 2009

5 Personal Information - Public Employment 42.56.250(2) Applications for public employment, including names, resumes 1987 Oct. 2007; March 2008; Sept. 2008; Feb. 2017; May 2017 Mar. 2008;



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

September 2008; May 2017 SB 5294 (2009); SB 5049 (2011, 2012); HB 1298 (2013); SB 5169 (2013); HB 1537 (Ch. 229, 2019 Laws); SB 5246 (2019) 6 Agriculture 42.56.380(1); 15.86.110 Business records the department of agriculture obtains regarding organic food products 1992 Nov. 2007 Jan. 2008 June 2008 7 Agriculture 42.56.380(2); 15.54.362 Information regarding business operations contained in reports on commercial fertilizer 1987 Nov. 2007 Jan. 2008 June 2008

8 Agriculture 42.56.380(3) Production or sales records required to determine payments to various agricultural commodity boards and commissions (Relates to exemptions in 10 commission statutes) 1996 Nov. 2007 Jan. 2008 June 2008

9 Agriculture 42.56.380(4) Consignment information contained on phytosanitary certificates issued by the department of agriculture 1996 Nov. 2007 Jan. 2008 June 2008

10 Agriculture 42.56.380(5) Financial and commercial information and records held by the department of agriculture for potential establishment of a commodity board or commission regarding domestic or export marketing activities or individual production information 1996 Nov. 2007 Jan. 2008 June 2008; November 2012

11 Agriculture 42.56.380(7) Identifiable information collected by department of agriculture regarding packers and shippers of fruits and vegetables for purposes of inspections and certification 1996 Nov. 2007 Jan. 2008 June 2008

12 Agriculture 42.56.380(8) Financial statements provided to the department of agriculture for purposes of obtaining public livestock market license 2003 Nov. 2007 Jan. 2008 June 2008 13 Agriculture 42.56.380(9) (Voluntary) National animal identification systems - herd inventory mgmt., animal disease 2006 Nov. 2007 Jan. 2008 June 2008 Public Records Exemptions Accountability Committee - Sunshine Committee "Legislation" = bills with Committee recommendations + other bills related to Committee recommendations (+ some related bills where the Legislature independently introduced legislation) Category RCW (thru 2012) Description Date \* Enacted Recommendation Materials Presented Schedule of Review - Updated March 2022 Proposed Legislation & Related Bills 14 Agriculture 42.56.380(10); 16.36 Animal disease reporting 2006 Nov. 2007 Jan. 2008 June 2008

15 Agriculture 42.56.270(17) Farm plans that are voluntary and developed with conservation district assistance 2006 Jan. 2008; \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets June 2008; November 2012; \*See also Oct. 2016 - 42.56.270 & trade secrets 2017: HB 1160/SB 5418

16 Agriculture 42.56.610 Livestock nutrient management information: Certain information obtained by state and local agencies from dairies, animal feeding operations not required to apply for a national pollutant discharge elimination system permit disclosable only in ranges that provide meaningful information to public 2005 (c510s5) Nov. 2007 Jan. 2008 June 2008 ;



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

17 Agriculture 15.49.370(8) Seeds: operations and production information 1969 Nov. 2007 Jan. 2008 June 2008 18 Agriculture 15.53.9018 Commercial Feed required reports 1975 Nov. 2007 Jan. 2008 June 2008 19 Agriculture 15.58.060(1)(c) Washington Pesticide Control Act: Business information of a proprietary nature regarding pesticide formulas 1971 Nov. 2007 Jan. 2008 June 2008

20 Agriculture 15.58.065(2) Washington Pesticide Control Act: Privileged or confidential commercial or financial information, trade secrets re: pesticides 1971 Nov. 2007 Jan. 2008 June 2008

21 Agriculture 15.65.510 Information regarding agricultural marketing agreements (including info from noncompliance hearings) 1961 Feb. 2008 June 2008

22 Agriculture 15.86.110 Business related information obtained by the department of agriculture regarding entities certified to handle and process organic or transitional food, or entities applying for such certification 1992 Nov. 2007 Jan. 2008 June 2008

23 Agriculture 17.24.061(2) Insect Pests & Plant Diseases (including: trade secrets or commercial or financial information obtained by department of agriculture regarding insect pests, noxious weeds, or organisms affecting plant life 1991 Nov. 2007 Jan. 2008 June 2008

24 Agriculture 22.09.040(9) Financial information provided by applicants for a warehouse license to the department of agriculture 1987 Feb. 2008 June 2008 25 Agriculture 22.09.045(7) Financial information provided by applicants for a grain dealer license to the department of agriculture 1987 Feb. 2008 June 2008 26 Agriculture 43.23.270 Financial and commercial information obtained by the department of agriculture for export market development projects 1996 Nov. 2007 Feb. 2008 June 2008 27 Personal Information 28C.18.020 List of nominees for director of work force training & education board [Later eliminated] 1991 Feb. 2008 Sept. 2008 SB 5295 (Ch. 128 Laws of 2010) 28 Personal Information 79A.25.150 Names of candidates for director of interagency committee for outdoor recreation [Later eliminated] 1989 Feb. 2008 Sept. 2008 SB 5295 (Ch. 128 Laws of 2010) Date Enacted Materials Presented Recommendation Category Proposed Legislation & Related Bills Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee RCW Description 29 Personal Information 43.33A.025(2) State investment board criminal history record checks of finalists for board positions 1999 May 2008 June 2008

30 Personal Information: Employment and Licensing 42.56.250(4) Address, phone numbers, email addresses, SSNs, drivers' license numbers, identicard numbers, payroll deductions, and emergency contact information of public employees or volunteers held by public 1987; 2020 May 2008; Feb. 2016; May 2016 May 2016 2017: HB 1160/SB 5418; HB 1538 (2019)

31 Personal Information 42.56.230(1)&(2) Personal information in files for students in public schools, patients or clients of public institutions or public health agencies, or welfare programs (1); children in listed programs (2) 1973 (I-276); Re (2): 2011 c 173 s 1, 2013 c 220 s 1, 2015 c 47 s 1 Nov. 2008; May





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

2014; Feb. 2016; May 2016 May 2016 (re consent) 2017: HB 1160/SB 5418. See also HB 1293 (2011); SB 5314 (2011), HB 2646 (2011); HB 1203 (Ch. 220, 2013 Laws); SB 5198 (2013); SB 5098 (Ch. 173, 2011 Laws); HB 1538 (2019); SB 5246 (2019)

32 Public Utilities & Transportation 42.56.330(3) Personal information in vanpool, carpool, ride-share programs 1997 May 2008 Nov. 2008; November 2012 SB 5294 (2009); SB 5049 (2011, 2012); HB 1298 (2013); SB 5169 (2013); HB 1980 (2015); SB 6020 (2015) HB 1554 (2015) (re (2)) 33 Public Utilities & Transportation 42.56.330(4) Personal information of current or former participants or applicants in transit services operated for those with disabilities or elderly persons 1999 May 2008 Oct. 2008

34 Personal Information 41.04.364 (repealed) - 41.04.362 - also see 42.56.360(1)(j) (same) Personally identifiable information in state employee wellness program 1987; 2010 c. 128 s 3 May 2008 (2008 law) July 2008 (2008 law) SB 5295 (Ch. 128, 2010 Laws)

35 Public Utilities & Transportation 42.56.330(5) Personal information of persons who use transit passes and other fare payment media 1999; 2012 May 2008 Oct. 2008 SB 5294 (2009); SB 5295 (Ch. 129, 2010 Laws); SB 5049 (2011); SB 2552 (Ch. 68, 2012 Laws); HB 1298 (2013); SB 5169 (2013); HB 1980 (2015); SB 6020 (2015) 36 Misc. Government Functions 42.56.290 Agency records relevant to a controversy but which would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts 1973 (I-276) June 2008 Nov. 2008 SB 5294 (2009)

37 Personal Information 42.56.250(6) Information that identifies a person who, while an agency employee: (a) Seeks advice, under an informal process established by the employing agency, in order to ascertain his or her rights in connection with a possible unfair practice under chapter 49.60 RCW against the person; and (b) requests his or her identity or any identifying information not be disclosed 1992 Sept. 2008 Oct. 2008 HB 1538 (2019) RCW Category Materials Presented Recommendation Description Date Enacted Proposed Legislation & Related Bills Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee

38 Personal Information 42.56.250(5) Investigative records compiled by an employing agency conducting a current investigation of a possible unfair practice under chapter 49.60 RCW or of a possible violation of other federal, state, or local laws prohibiting discrimination in employment. 1994 Sept. 2008; Feb. 2016; May 2016 Oct. 2008; May 2016 SB 5295 (Ch. 128, 2010 Laws) ; see also HB 2761 (2012) (employer investigations); 2017: HB 1160/SB 5418 39 Personal Information 42.56.250(8) Employee salary and benefit information collected from private employers for salary survey information for marine employees 1999 Sept. 2008 Oct. 2008 SB 5295 (Ch. 128, 2010 Laws)

40 Personal Information 42.56.230(3) (formerly (2)) Personal information in files on employees, appointees, or elected officials if disclosure would violate their right to privacy 1973 (I-276) Nov. 2008; Jan. 2012; March 2012; Feb. 2014; Aug. 2014; Oct. 2014; Feb. 2015; May 2016 (re consent) Nov. 2012; May 2016 (re consent) 2017: HB 1160/SB 5418 (re consent)



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

41 Court Proceedings 13.34.100 Background information regarding a court appointed guardian ad litem. 1993 Oct. 2008 May-10 SB 5049 (2011); HB 1297 (2013); SB 5170 (2013) HB 1298 (2013), HB 1980 (2015); SB 6020 (2015) 42 Public Utilities & Transportation 42.56.330(7) Personally identifying information of persons who use transponders and other technology to facilitate payment of tolls 2005 Mar. 2009 May 2009 43 Public Utilities & Transportation 42.56.330(8) Personally identifying information on an ID card that contains a chip to facilitate border crossing. 2008 Mar. 2009 May 2009 44 Public Utilities & Transportation 42.56.330(2) Residential addresses and phone numbers in public utility records 1987; 2014 c 33 s 1 Mar. 2009; Nov. 2013 Oct. 2009; Nov. 2013 HB 2114 (2014); SB 6007 (Ch. 33, 2014 Laws) 45 Public Utilities & Transportation 42.56.330(6) Information obtained by governmental agencies and collected by the use of a motor carrier intelligent transportation system or comparable information equipment 1999 Mar. 2009 May 2009

46 Public Utilities & Transportation 42.56.335 Records of any person belonging to a public utility district or municipality owned electrical utility 2007 Mar. 2009 May 2009 47 Public Utilities & Transportation 42.56.330(1) Valuable commercial information, trade secrets, etc. supplied to the utilities and transportation commission 1987 Mar. 2009 Mar. 2009 48 Public Utilities & Transportation 80.04.095 Utility records filed with utilities and transportation commission containing valuable commercial information 1987 Mar. 2009 Oct. 2009

49 Insurance & Financial Inst. 42.56.400(2) Information obtained and exempted by the health care authority that is transferred to facilitate development, acquisition, or implementation of state purchased health care 2003 May 2009; May 2010 May 2010

50 Insurance & Financial Inst. 42.56.400(3) Names of individuals in life insurance policy settlements 1995 May 2009; May 2010 May 2010 51 Insurance & Financial Inst. 48.102.030 Insurance viatical settlement broker records which may be required and examined by the insurance commissioner [later repealed] 1995 May 2009; May 2010 May 2010 Public Records Exemptions Accountability Committee Sunshine Committee Category RCW Description Date Enacted Materials Presented Recommendation Schedule of Review

Proposed Legislation & Related Bills 52 Insurance & Financial Inst. 42.56.400(4) Insurance antifraud plans 1995 May 2009; May 2010 May 2010 53 Insurance & Financial Inst. 48.30A.060 Insurance company antifraud plans submitted to the insurance commissioner 1995 May 2009; May 2010 May 2010 54 Insurance & Financial Inst. 42.56.400(5) Insurers' reports on material acquisitions and disposition of assets, etc. filed with the insurance commission 1995 May 2009; May 2010 May 2010 55 Insurance & Financial Inst. 42.56.400(7) Information provided to the insurance commissioner regarding service contract providers 1997 May 2009; May 2010 May 2010 56 Insurance & Financial Inst. 48.110.040(3) Monthly financial reports made by service contract providers to the insurance commissioner 2005 May 2009; May 2010 May 2010 57 Insurance & Financial Inst. 42.56.400(8) Information obtained by the insurance commissioner relating to market conduct examinations 2001 May 2009; May 2010 May 2010 58 Insurance & Financial Inst. 42.56.400(12) Documents obtained by



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

the insurance commissioner to perform market conduct examinations. Report is disclosable under RCW 48.37.060. 2007 May 2009; May 2010 May 2010 SB 5049 (2012); HB 1298 (2013); SB 5169 (2013) re RCW 48.37.060 59 Insurance & Financial Inst. 42.56.400(13) Confidential and privileged documents obtained in market conduct examination 2007 May 2009; May 2010 May 2010 60 Insurance & Financial Inst. 42.56.400(14) Information provided to the insurance commissioner by insurance company employees asserting market conduct violations 2007 May 2009; May 2010 May 2010 61 Insurance & Financial Inst. 48.37.080 Documents related to insurance commissioner's market conduct examination 2007 May 2009; May 2010 May 2010 62 Insurance & Financial Inst. 42.56.400(9) Proprietary information provided to the insurance commissioner regarding health carrier holding companies 2001; 2015 c 122 ss 13 & 14 May 2009; May 2010 May 2010 63 Insurance & Financial Inst. 42.56.400(10) Data filed with the insurance commissioner that reveals identity of claimant, provider, or insurer 2001 May 2009; Aug. 2010 SB 5049 (2012); HB 1299 (2013); SB 5171 (2013) 64 Insurance & Financial Inst. 42.56.400(11) Documents obtained by insurance commissioner relating to insurance fraud 2006 May 2009; Aug. 2010 Aug. 2010 65 Insurance & Financial Inst. 48.135.060 Documents obtained by insurance commissioner relating to insurance fraud 2006 May 2009; Aug. 2010 Aug. 2010 66 Insurance & Financial Inst. 42.56.400(15) Documents obtained by insurance commissioner regarding misconduct by agent/broker 2007 Eff. 1/1/09 May 2009; Aug. 2010 Aug. 2010 67 Insurance & Financial Inst. 48.17.595(6) Information obtained by insurance commissioner in investigation of misconduct by agent/broker 2007 May 2009; Aug. 2010 Aug. 2010 68 Insurance & Financial Inst. 42.56.403 Documents that provide background for actuarial opinion filed with insurance commissioner 2006 May 2009; Aug. 2010 Aug. 2010 69 Insurance & Financial Inst. 48.02.120 Formulas, statistics, assumptions, etc. used by insurance companies to create rates; such information that is submitted to the insurance commissioner 1985 May 2009; Aug. 2010 Aug. 2010

70 Insurance & Financial Inst. 48.05.385(2) Statement of actuarial opinion is a public record. Documents that provide background for statement of actuarial opinion filed with insurance commissioner are exempt 2006 May 2009; Aug. 2010 Aug. 2010 Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee Category RCW Materials Presented Description Proposed Legislation & Related Bills Recommendation Date Enacted 71 Insurance & Financial Inst. 48.03.040(6)(a) Examinations and investigations by state insurance commissioner 1937 May 2009; Aug 2010 Aug. 2010 72 Insurance & Financial Inst. 48.03.050 Examinations and investigations by state insurance commissioner 1937 May 2009 Oct. 2009 SB 5049 (2011) 73 Insurance & Financial Inst. 48.05.465 Insurance companies risk based capital (RBC) reports and plans 1995 May 2009; Aug. 2010 Aug. 2010 74 Insurance & Financial Inst. 48.43.335(1) Insurance companies risk based capital (RBC) reports and plans (should not be used to compare insurance companies and are therefore confidential) 1998 May 2009; Aug. 2010 Aug. 2010 75 Insurance & Financial Inst. 48.20.530 Proof of nonresident pharmacy licensure used by insurance companies to provide drugs to residents 1991 May 2009; Aug. 2010 Aug. 2010 76 Insurance & Financial Inst. 48.21.330 Proof of nonresident pharmacy licensure used by insurance companies to provide drugs to residents 1991 May 2009; Aug. 2010 Aug. 2010 77 Insurance & Financial Inst. 48.44.470 Proof of nonresident pharmacy licensure used by insurance companies to provide drugs to residents 1991 May 2009; Aug. 2010 Aug. 2010 78



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Insurance & Financial Inst. 48.46.540 Proof of nonresident pharmacy licensure used by insurance companies to provide drugs to residents 1991 May 2009; Aug. 2010 Aug. 2010 79 Insurance & Financial Inst. 48.31B.015(2)(b) Source of consideration (identity of the lender) for loan associated with acquiring an insurance company 1993 May 2009; Aug. 2010 Aug. 2010 80 Insurance & Financial Inst. 48.62.101(2) Local government self-insurance liability reserve funds 1991 May 2009; Aug. 2010 Aug. 2010 81 Placeholder 82 Insurance & Financial Inst. 48.94.010(5) Summary of reasoning for insurance commissioner's refusal to issue reinsurance intermediary license 1993 May 2009; Aug. 2010 Aug. 2010 83 Insurance & Financial Inst. 48.130.070 Records of the interstate insurance product regulation compact involving privacy of individuals and insurers' trade secrets 2005 May 2009; Aug. 2010 Aug. 2010

84 Insurance & Financial Inst. 70.148.060(1) Examination and proprietary records of potential insurers obtained by the director of the Washington state pollution liability insurance agency when soliciting bids to provide reinsurance for owners of underground storage tanks 1989; 2015 c224 s 5 May 2009; Aug. 2010 Aug. 2010-modify SB 5049 (2011, 2012); HB1298 (2013); SB 5169 (2013); HB 1980 (2015); SB 6020 (2015)

85 Insurance & Financial Inst. 70.149.090 Business and proprietary information of insurers obtained by the director of the Washington state pollution liability insurance agency, to provide insurance to owners of heating oil tanks 1995 May 2009; Aug. 2010 Aug. 2010

86 Insurance & Financial Inst. 42.56.400(6) Examination reports and information obtained by the department of financial institutions from banking institutions 1997 Oct. 2010 Sept. 2011 87 Insurance & Financial Inst. 21.20.855 Reports and information from department of financial services examinations 1988 Oct. 2010 Sept. 2011 88 Insurance & Financial Inst. 30.04.075(1) Information obtained by the director of financial institutions when examining banks and trust companies 1977 Oct. 2010 Sept. 2011 89 Insurance & Financial Inst. 30.04.230(4)(a) Information obtained during investigations of out of state banks 1983 Oct. 2010 Sept. 2011 Category RCW Date Enacted Materials Presented Proposed Legislation & Related Bills Schedule of Review Public Records Exemptions Accountability Committee Description Sunshine Committee Recommendation Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills 90 Insurance & Financial Inst. 31.12.565(1) Examination reports and information obtained by the director of financial institutions while examining credit unions 1984 Oct. 2010 Sept. 2011 91 Insurance & Financial Inst. 32.04.220(1) Information from examinations of mutual savings banks 1977 Oct. 2010 Sept. 2011 92 Insurance & Financial Inst. 33.04.110(1) Information from examinations of savings and loan associations 1977 Oct. 2010 Sept. 2011 93 Insurance & Financial Inst. 32.32.228(3) Findings disapproving conversion from mutual savings bank to capital stock savings bank 1989 Oct. 2010 Sept. 2011 94 Insurance & Financial Inst. 32.32.275 Information applicants deem confidential relating to conversion of mutual savings bank to capital stock savings bank 1981 Oct. 2010 Sept. 2011 95 Insurance & Financial Inst. 7.88.020 Financial institution compliance review documents 1997 Oct. 2010 Sept. 2011 96 Insurance & Financial Inst. 9A.82.170 Information obtained from a financial



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

institution's records pursuant to subpoena under the criminal profiteering act 1984 Oct. 2010 Sept. 2011 97 Insurance & Financial Inst. 21.30.855 Reports and information from department of financial services examinations 1988 Oct. 2010 Sept. 2011 98 Insurance & Financial Inst. 30.04.410(3) Findings related to disapprovals of bank acquisitions 1989 Oct. 2010 Sept. 2011 99 Insurance & Financial Inst. 33.24.360(1)(d) Name of lender financing the acquisition of a savings and loan, if requested by the applicant 1973 Oct. 2010 Sept. 2011 100 Insurance & Financial Inst. 42.56.450 Personal information on check cashers and sellers licensing applications and small loan endorsements 1991; 1995 Oct. 2010 Sept. 2011 101 Insurance & Financial Inst. 31.35.070 Reports on examinations of agricultural lenders 1990 Oct. 2010 Sept. 2011 102 Insurance & Financial Inst. 31.45.030(3) Addresses and phone numbers and trade secrets of applicants of a check casher or seller license 1991 Oct. 2010 Sept. 2011 103 Insurance & Financial Inst. 31.45.077(2) Addresses, phone numbers and trade secrets of applicants for a small loan endorsement to a check cashers or sellers license 1995 Oct. 2010 Sept. 2011

104 Insurance & Financial Inst. 31.45.090 Trade secrets supplied by licensed check cashers and sellers as part of the annual report to director of financial institutions 2003 Oct. 2010 Sept. 2011 105 L&I-Injured workers 51.16.070(2) Information in employer's records obtained by labor & industries under industrial insurance 1957 Oct. 2010 Aug. 2011 106 L&I-Injured workers 51.28.070 Information and records of injured workers contained in industrial insurance claim files 1957 Oct. 2010 Aug. 2011 107 L&I-Injured workers 51.36.110(1) Information (including patients' confidential information) obtained in audits of health care providers under industrial insurance 1994 Oct. 2010 Aug. 2011

108 Personal Information 42.56.230(5) (formerly (3)) Credit card numbers, debit card numbers, electronic check numbers, and other financial information, except when disclosure is required by other law Aug. 2010 Aug. 2010; November 2012 SB 5049 (2011); HB 1298 (2013); SB 5169 (2013); HB 1980 (2015); HB 1980 (2015) 109 Personal Information 42.56.230(4) Certain taxpayer information if it would violate taxpayers right of privacy 1973 Feb., May, Aug. 2016 May 2016 (re consent) Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee

110 Personal Information 42.56.230(5) Personal and financial information related to a small loan or any system of authorizing a small loan in section 6 of this act (RCW 31.45.---) 2009 May 2016 (re consent) May 2016 (re consent) 111 Personal Information 42.56.230(6) Personal information required to apply for a driver's license or identicard 2008 May 2016 (re consent) May 2016 (re consent) 112 L&I-Injured workers 49.17.080(1) Name of employee of company seeking industrial safety & health act 1973 Aug. 2011 Aug. 2011 113 L&I-Injured workers 49.17.200 Trade secrets reported to labor & industries under Washington industrial safety & health act 1973 Aug. 2011 Aug. 2011 114 L&I-Injured workers 49.17.210 Identification of employer or employee in labor & industries studies 1973 Aug. 2011 Aug. 2011 115 L&I-Injured workers 49.17.250(3) Info obtained by labor & industries from employer- requested consultation re. industrial safety & health act 1991 Aug. 2011 Aug. 2011 116 L&I-Injured workers 49.17.260 Labor & industries investigative reports on industrial catastrophes 1973 Aug. 2011 Aug. 2011 117 L&I-Injured workers 51.36.120 Financial or valuable trade info from health care providers 1989 Aug. 2011 Aug. 2011 118 L&I-Injured workers 42.56.400(1) Board of





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

industrial insurance records pertaining to appeals of crime victims' compensation claims Aug. 2011 Aug. 2011 119 Fish & Wildlife 42.56.430 (1) Commercial fishing catch data provided to the department of fish and wildlife that would result in unfair competitive disadvantage May 2017; Aug. 2017; Oct. 2017; Feb. 2018 120 Fish & Wildlife 42.56.430 (2) Sensitive wildlife data obtained by the department of fish and wildlife May 2017; Aug. 2017; Oct. 2017; Feb. 2018 121 Fish & Wildlife 42.56.430 (3) Personally identifying information of persons who acquire recreational or commercial licenses May 2017; Aug. 2017; Oct. 2017; Feb. 2018 122 Fish & Wildlife 42.56.430(4) Information subject to confidentiality requirements of Magnuson-Stevens fishery conservation and management reauthorization act of 2006 2008 c 252 s 1 May 2017; Aug. 2017; Oct. 2017; Feb. 2018 123 Employment and Licensing 42.56.250(1) Test questions, scoring keys, and other exam information used on licenses, employment or academics 1973 May 2021; Aug. 2021; Oct. 2021 124 Personal Information 66.16.090 Records of LCB showing individual purchases of liquor-confidential 1933 Jun. 2013 Jun. 2013 HB 2764 (2013); HB 2663 (Ch. 182, 2016 Laws) - Repealed 125 Investigative, law enforcement and crime victims 42.56.240(9) Personally identifying information collected by law enforcement agencies pursuant to local security alarm system programs and vacation crime watch programs 2012 c 288 s 1

126 Investigative, law enforcement and crime victims 42.56.240(11) Identity of state employee or officer who files a complaint with an ethics board under RCW 42.52.420 or reports improper governmental action to the auditor or other official 2013 c 190 s 7

127 Employment and Licensing 42.56.250(7) Criminal history record checks for investment board finalist candidates 2010 Schedule of Review Public Records Exemptions Accountability Committee Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Sunshine Committee

128 Employment and Licensing 42.56.250(7) Employee salary and benefit information collected from private employers for salary survey information for maritime employees 1999

129 Employment and Licensing 42.56.250(8) Photographs, month/year of birth in personnel files of public employees; news media has access 2010; 2020 HB 2447 (2010); See also HB 2259 (criminal justice agency/employee info) and HB 1317 (Ch. 257, 2010 Laws) (amending .230); 130 Real estate Appraisals 42.56.260 Real estate appraisals for agency acquisition or sale until project or sale abandoned, but no longer than 3 years in all cases 1973; 2015 c 150 s 1 Aug. 2014; Oct. 2014 Oct. 2014 HB 1431 (Ch. 150, 2015 Laws); SB 5395

131 Investigative, law enforcement and crime victims 42.56.240(1) Specific intelligence and investigative information completed by investigative, law enforcement, and penology agencies, and state agencies that discipline members of professions, if essential to law enforcement or a person's right to privacy\* 1973 Jan. 2012; March 2012; May 2012; March 2013; June 2013; Feb. 2014; Oct. 2014; Oct. 2019 Oct. 2019 Burglar alarm info - HB 2896 (2010); HB 1243 (Ch. 88, 2012 Laws); SB 5244 (2011); SB 5344 (2011). Traffic stop info - SB 6186 (2009) 132 Investigative, law enforcement and crime victims



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

42.56.240(2) Identity of witnesses, victims of crime, or persons who file complaints, if they timely request nondisclosure and disclosure would endanger their life, personal safety, or property—does not apply to PDC complaints Jan. 2012; March 2012; March 2013; June 2013; Sept. 2013; May 2014; August 2014 HB 2764 (2013); see also HB 2610 (2010), SB 6428 (2010) (to amend .230))

133 Investigative, law enforcement and crime victims 42.56.240(3) Records of investigative reports prepared by any law enforcement agency pertaining to sex offenses or sexually violent offenses which have been transferred to WASPC Jan. 2012; March 2012; June 2013

134 Investigative, law enforcement and crime victims 42.56.240(4) Information in applications for concealed pistol licenses 1988 May 2011; March 2013 May, 2011

135 Investigative, law enforcement and crime victims 42.56.240(5) Identifying information regarding child victims of sexual assault 1992 May 2011; Feb. 2015; May 2015; Aug. 2015; Aug. 2018; Oct. 2018; Feb. 2019; May 2019; Aug. 2019; Oct. 2019 Sept. 2011; August 2015 SB 5049 (2012); HB 1299 (2013); SB 5171 (2013); HB 1980 (2015); SB 6020 (2015)

136 Investigative, law enforcement and crime victims 42.56.240(6) Statewide gang database in RCW 43.43.762 2008 May, 2011 Sept. 2011; November 2012 SB 5049 (2012); HB 1299 (2013); SB 5171 (2013); HB 1980 (2015); SB 6020 (2015) 137 Investigative, law enforcement and crime victims 42.56.240(7) Data from electronic sales tracking system (pseudoephedrine) 2010 May, 2011 May, 2011

138 Investigative, law enforcement and crime victims 42.56.240(8) Person's identifying info submitted to sex offender notification and registration system to receive notice regarding registered sex offenders 2010 May, 2011 May, 2011

139 Personal Information/proprietary and tax information 82.36.450(3) Information filed with department of licensing or open to department of licensing inspection under agreement is personal information under RCW 42.56.230(3) (b) and exempt from public inspection and copying 2007 Sept. 2011 Recommendation Category Schedule of Review

Materials Presented RCW Description Date Enacted Proposed Legislation & Related Bills Public Records Exemptions Accountability Committee Sunshine Committee

140 Personal Information/proprietary and tax information 82.38.310(3) Information filed with department of licensing or open to department of licensing inspection under agreement is personal information under RCW 42.56.230(3) (b) and exempt from public inspection and copying 2007 Sept. 2011 141 Lists of Individuals 42.56.070(9) Lists of individuals for commercial purposes. 1973 Feb. 2017; May 2017 142 Juries 2.36.072(4) Information provided to court for preliminary determination of statutory qualification for jury duty 1993 143 Personal Information 42.56.230 (7)(a) Personal information required to apply for a driver's license or identicard 2008 c 200 s 5 Nov. 2013; Dec. 2013;



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

May 2016 (re consent) Feb. 2014; May 2016 (re consent) 2017: HB 1160/SB 5418 144 Personal Information 42.56.230 (7)(b) Persons who decline to register for selective service under RCW 46.20.111 2011 c 350 s 2 May 2016 (re consent) May 2016 (re consent) 2017: HB 1160/SB 5418

145 Financial, Commercial, and Proprietary Information 42.56.270(1) Valuable formulae, designs, drawings and research obtained by agency within 5 years of request for disclosure if disclosure would produce private gain and public loss 1973 (I-276) \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

146 Financial, Commercial, and Proprietary Information 42.56.270(2) Financial information supplied by a bidder on ferry work or highway construction 1983 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

147 Financial, Commercial, and Proprietary Information 42.56.270(3) Financial information and records filed by persons pertaining to export services 1986 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

148 Financial, Commercial, and Proprietary Information 42.56.270(4) Financial information in economic development loan applications 1987 \*May 2016; Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

149 Financial, Commercial, and Proprietary Information 42.56.270(5) Financial information obtained from business and industrial development corporations 1989 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

150 Financial, Commercial, and Proprietary Information 42.56.270(6) Financial information on investment of retirement moneys and public trust investments 1989 May 2015; Aug. 2015; \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Aug. 2015; see also \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info SB 6170 (Chap. 8, 2016 Laws 1st Sp. Sess.); 2017: HB 1160/SB 5418

151 Financial, Commercial, and Proprietary Information 42.56.270(7) Financial and trade information supplied by and under industrial insurance coverage 1989 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

152 Financial, Commercial, and Proprietary Information 42.56.270(8) Financial information obtained by the clean Washington center for services related to marketing recycled products 1994 May 2016,





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

153 Financial, Commercial, and Proprietary Information 42.56.270(9) Financial and commercial information requested by public stadium authority from leaser 1997 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418 Schedule of Review

Date Enacted Proposed Legislation & Related Bills Materials Presented Recommendation Category  
RCW Description Public Records Exemptions Accountability Committee Sunshine Committee

154 Financial, Commercial, and Proprietary Information 42.56.270(10) Financial information supplied for application for a liquor, gambling, lottery retail or various marijuana licenses 2014 c 192 s 6 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

155 Financial, Commercial, and Proprietary Information 42.56.270(11) Proprietary data, trade secrets, or other information submitted by any vendor to department of social and health services for purposes of state purchased health care \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

156 Financial, Commercial, and Proprietary Information 42.56.270(12)(a)(i) Financial or proprietary information supplied to DCTED in furtherance of the state's economic and community development efforts 1993, 1989 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

157 Financial, Commercial, and Proprietary Information 42.56.270(12)(a)(ii) Financial or proprietary information provided to the DCTED regarding businesses proposing to locate in the state 1999 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

158 Financial, Commercial, and Proprietary Information 42.56.270(14) Financial, commercial, operations, and technical and research information obtained by the life sciences discovery fund authority 2005 (c424s6)7/25/2006 May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

159 Financial, Commercial, and Proprietary Information 42.56.270(20) Financial and commercial information submitted to or obtained by the University of Washington relating to investments in private funds 2009 c 384 s 3 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

160 Financial, Commercial, and Proprietary Information 42.56.270(21) Market share data submitted by a manufacturer under RCW 70.95N.190(4) 2013 c 305 s 14 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

161 Preliminary records containing opinions or policy formulations 42.56.280 Preliminary drafts, notes, recommendations, and intra- agency memos where opinions are expressed or policies formulated or recommended, unless cited by an agency 1973 (I-276) May 2021; Oct. 2021

162 Archaeological sites 42.56.300(3) Information identifying the location of archaeological sites 1976; 2014 c 165 s 1 163 Library records 42.56.310 Library records disclosing the identity of a library user 1982 164 Educational Information 42.56.320(1) Financial disclosures filed by private vocational schools 1986 165 Educational Information 42.56.320(2) Financial and commercial information relating to the purchase or sale of tuition units 166 Educational Information 42.56.320(3) Individually identifiable information received by the WFTECB for research or evaluation purposes 167 Educational Information 42.56.320(4) Information on gifts, grants, or bequests to institutions of higher education (1975) 1975 May 2021; Oct. 2021 168 Educational Information 42.56.320(5) The annual declaration of intent filed by parents for a child to receive home-based instruction 2009 c 191 s 1 Materials Presented Recommendation Sunshine Committee Proposed Legislation & Related Bills Category RCW Description Date Enacted Schedule of Review Public Records Exemptions Accountability Committee

169 Timeshare, condominium owner lists 42.56.340 Membership lists and lists of owners of interests in timeshare projects, condominiums, land developments, or common-interest communities, regulated by the department of licensing 1987 Feb. 2017; May 2017; Aug.2017 Aug. 2017 2019: HB 1537 (repealed exemption) (Ch. 229, 2019 laws) 170 Health Professionals 42.56.350(1) SSNs of health care professionals maintained in files of the department of health 1993 171 Health Professionals 42.56.350(2) Residential address and telephone numbers of health care providers maintained in files of the department of health 1993

172 Investigative, law enforcement and crime victims 42.56.230(7)(c) Records pertaining to license plates, drivers' licenses or identicards that may reveal undercover work, confidential public health work, public assistance fraud, or child support investigations 2013 c 336 s 3

173 Employment and Licensing 42.56.240(13) Criminal justice agency employee/worker residence GPS data 2015 c 91 s 1

174 Health Care 42.56.360(1)(c) Information and documents created, collected, and maintained by the health care services quality improvement program and medical malpractice prevention program 1995

175 Health Care 42.56.360(1)(d) Proprietary financial and commercial information provided to



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

department of health relating to an antitrust exemption 1997 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 176 Health Care 42.56.360 (1) (e) Physicians in the impaired physicians program 1987, 1994, 2001 177 Health Care RCW 70.05.170(3) - see also 42.56.360(3) Information relating to infant mortality pursuant to former RCW 70.05.170/RCW 42.56.360 - See 184 and 185 1992; Amended 2010 c 128 s 3 2008 (2008 law) March 2008 (2008 law)

178 Financial, Commercial, and Proprietary Information 42.56.270(23) Notice of crude oil transfers 2015 c 274 s 24 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 179 Health Care 42.56.360(1)(f) Complaints filed under the health care professions uniform disciplinary act 1997

180 Financial, Commercial, and Proprietary Information 42.56.270(24) Certain information supplied to the liquor and cannabis board per RCW 69.50.325, 9.50.331, 69.50.342 and 69.50.345 2015 c 178 s 2 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 181 Health Care 42.56.360(1)(i) Information collected by the department of health under chapter 70.245 RCW. 2009 c 1 s 1 182 Health Care 42.56.360(1)(k) Claims data and information provided to the statewide all-payer health care claims database that is exempt under RCW 43.373.040 2014 c 223 s 17 183 Health Care 42.56.360(2) and 70.02 Health care information disclosed to health care provider without patients permission 1991 Proposed Legislation & Related Bills Schedule of Review

Description RCW Sunshine Committee Public Records Exemptions Accountability Committee Date Enacted Materials Presented Recommendation Category

184 Financial, Commercial, and Proprietary Information 42.56.270(24) Certain information and data submitted to or obtained by the liquor and cannabis board re applications for licenses or reports required under RCW 69.50.372 2016 1st sp.s. c 9 s 3 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 185 Health Care; Marijuana 42.56.625 Records in medical marijuana authorization database I RCW 69.51A.230 2015 c 70 s 22 186 Domestic Violence 42.56.370 Client records of community sexual assault program or services for underserved populations [amended 2012] 1991; 2012 c 29 s 13 Check Check 187 Agriculture and Livestock 42.56.380(10) Results of animal testing from samples submitted by the animal owner 2012 c 168 s 1(10) Aug. 2017; Oct. 2017; May 2018; Aug. 2018 Aug. 2018 188 Agriculture and Livestock 42.56.380(11) Records of international livestock importation that are not disclosable by the U.S.D.A. under federal law. 2012 c 168 s 1(11) Aug. 2017; Oct. 2017; May 2018; Aug. 2018 Aug. 2018 189 Agriculture and Livestock 42.56.380(12) Records related to entry of prohibited agricultural products imported into Washington that are not disclosable by the U.S.D.A. under federal law 2012 c 168 s 1(12) Aug. 2017; Oct. 2017; May 2018; Aug. 2018 Aug. 2018

190 Emergency or Transitional Housing 42.56.390 Names of individuals residing in emergency or transitional housing furnished to the department of revenue or a county assessor 1997



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

191 Insurance & Financial Inst. 42.56.400(16) - - Documents, materials, or information obtained by the insurance commissioner under RCW 48.102. 051 (1) and 48.102. 140 (3) and (7)(a)(ii) 2009 c 104 s 37

192 Insurance & Financial Inst. 42.52.400(17) Documents, materials, or information obtained by the insurance commissioner under RCW 48.31.025 and 48.99.025 2010 c 97 s 3

193 Insurance & Financial Inst. 42.56.400(18) Documents, material, or information relating to investment policies obtained by the insurance commissioner under RCW 48.13.151 2011 c 188 s 21

194 Insurance & Financial Inst. 42.56.400(19) Data from (temporary) study on small group health plan market 2010 c 172 s 2 195 Insurance & Financial Inst. 42.56.400(20); 48.19.040(5)(b) Information in a filing of usage-based component of the rate pursuant to RCW 48.19.040(5)(b) 2012 c 222 s 1

196 Insurance & Financial Inst. 42.56.400(21); 42.56.400(22); 42.56.400(23); 42.56.400(24); 42.56.400(25) Data, information, and documents submitted to or obtained by the insurance commissioner 2012 2 nd sp. s. c 3 s 8; 2013 c 65 s 5; 2013 c 277 s 5; 205 c 17 ss 10 & 11 197 Employment Security 42.56.410 Most records and information supplied to the employment security department 198 Security 42.56.420(1) Records relating to criminal terrorist acts 199 Security 42.56.420(2) Records containing specific and unique vulnerability assessments and emergency and escape response plans – adds civil commitment facilities 2009 c 67 s 1 200 Security 42.56.420(3) Comprehensive safe school plans that identify specific vulnerabilities Category RCW Description Date Enacted Sunshine Committee Public Records Exemptions Accountability Committee Proposed Legislation & Related Bills Materials Presented Recommendation Schedule of Review

201 Security 42.56.420(4) Information regarding infrastructure and security of computer and telecommunications networks to the extent that they identify specific system vulnerabilities 1999 Feb. 2014 Feb. 2014 202 Security 42.56.420(5) Security sections of transportation security plans for fixed guideway systems 203 Personal Information 42.56.230(8) Information regarding individual claim resolution settlement agreements submitted to the board of industrial insurance appeals 2014 c 142 s 1 204 Veterans' discharge papers 42.56.440 Veterans' discharge papers 205 Fireworks, Explosives 42.56.460 Records and reports produced under state fireworks law, chapter 70.77 RCW and the Washington state explosives act, chapter 70.74 RCW 1995 206 Correctional industries workers 42.56.470 Records pertaining to correctional industries class I work programs 2004 207 Inactive programs 42.56.480(1) Contracts files by railroad companies with the utilities & transportation commission prior to 7/28/91 1984 Jun. 2013 Jun. 2013 HB 2764 (2013); HB 2663 (Chap. 282, 2016 Laws) (repealed) 208 Inactive programs 42.56.480(2) Personal information in international contact data base 1996 c 253 s 502 Jun. 2013 Jun. 2013 HB 2663 (Chap. 282, 2016 Laws) (repealed) 209 Inactive programs 42.56.480(3) Data collected by department of social and health services pertaining to payment systems for licensed boarding homes 2003 Jun. 2013 Jun. 2013 HB 2764 (2013); HB 2663 (Chap. 282, 2016 Laws) (repealed) 210 Enumeration Data 42.56.615 Enumeration data used by office of financial management for population estimates per RCW 43.43.435 2014 c 14 s 1



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

211 Financial, Commercial, and Proprietary Information; Marijuana 42.56.620 Reports submitted by marijuana research licensees that contain proprietary information 2015 c. 71 s 4 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 212 Mediation Communication 42.56.600 Records of mediation communications that are privileged under the uniform mediation act 2005 c 424 s 16 213 Code Reviser 1.08.027 Code Reviser drafting services 1951 Feb. 2015 Feb. 2015 214 Judicial - Investigative 2.64.111 Judicial conduct commission investigations and initial proceedings 1989 215 Health Care Professions 4.24.250 Hospital review committee records on professional staff 1971 Sept. 2020; Oct. 2020

216 Financial, Commercial, and Proprietary Information 4.24.601 Trade secrets and confidential research, development or commercial information 1994 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

217 Financial, Commercial, and Proprietary Information 4.24.611 Trade secrets, confidential research, development or commercial information concerning products or business methods 1994 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Description Category RCW Proposed Legislation & Related Bills Date Enacted Materials Presented Recommendation Public Records Exemptions Accountability Committee Sunshine Committee Schedule of Review

218 Claims 4.92.210 Information in centralized risk management claim tracking system 1989

219 Privileges 5.60.060 General statements of privileged communications between persons & various professionals, e.g., attorneys or physicians – presumably applies to records (see also # 276) 1954 & later dates 220 Mediation Communication 5.60.070 Materials used in any court ordered mediation 1991 Feb. 2017; May 2017; 221 Mediation Communication 7.07.050(5) Mediation communications 2005 Feb. 2017; May 2017 222 Mediation Communication 7.07.070 Mediation communications 2005 Feb. 2017; May 2017 223 Health Care Records 7.68.080(9)(a) The director may examine records of health care provider notwithstanding any statute that makes the records privileged or confidential 2011 c 346 s 501

224 Financial, Commercial, and Proprietary Information 7.68.080(10) At the request of health care contractor, department must keep financial and trade information confidential 2011 c 346 s 501 See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 225 Crime Victims and Witnesses 7.68.140 Records re. Victims of crimes confidential & not open to inspection 1973 May 2021

226 Crime Victims and Witnesses 7.69.A.030(4) Name, address, or photograph of child victim or child witness 1985 Feb. 2015; May 2015; Aug. 2015; Aug. 2018; Oct. 2018; Feb. 2019; May 2019; Aug. 2019; Oct. 2019 Oct. 2019 HB 2485 (2019)





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

227 Mediation Communication 7.75.050 County or city dispute resolution center records 1984 228 Financial, Commercial, and Proprietary Information 7.88.020 & .30 Financial institution compliance review documents 1997 229 Health Care 9.02.100 General statement of fundamental right to reproductive privacy – could apply to records 1991 230 Health Care - Concealed Pistols 9.41.097(2) Mental health info provided on persons buying pistols or applying for concealed pistol licenses 1994 231 Concealed Pistols 9.41.129 Concealed pistol license applications 1994 232 Crime Victims and Witnesses 9.73.230 Name of confidential informants in written report on wire tapping 1989 233 Crime Victims and Witnesses 72.09.710 (recod eff 8/1/09) (See also # 451) Names of witnesses notified when drug offenders released (formerly 9.94A.610) 1991 - Recod 2008 c 231 s 26, 56 (See dispositions table) 234 Placeholder 235 Crime Victims and Witnesses 72.09.712 (recod eff 8/1/09) (See also # 451) Names of victims, next of kin, or witnesses who are notified when prisoner escapes, on parole, or released (formerly 9.94A.610) 1985 - Recod 2008 c 231 s 27, 56 (see dispositions table) 236 Privileges 5.60.060 Alcohol or drug addiction sponsor privilege 2016 st sp. ss. c 24 s 1

237 Offender Information 9.94A.745 Records of the interstate commission for adult offender supervision that would adversely affect personal privacy rights or proprietary interests 2002 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Materials Presented Schedule of Review

Category RCW Description Sunshine Committee Recommendation Public Records Exemptions Accountability Committee Proposed Legislation & Related Bills Date Enacted 238 Crime Victims and Witnesses 9.94A.885 Information regarding victims, survivors of victims, or witnesses that are sent clemency hearing notices may not be released to offender 1999

239 Offender Information 9A.44.138 Sex offender registration information given to high school or institution of higher education regarding an employee or student is confidential 2011 c 337 s 4 240 Criminal Proceedings - Investigative 10.27.090 Grand jury testimony 1971 Sept. 2020; Oct. 2020 241 Criminal Proceedings - Investigative 10.27.160 Grand jury reports 1971 Sept. 2020; Oct. 2020; Feb. 2021; May 2021; Aug. 2021; Oct. 2021 242 Public Utilities & Transportation 19.29A.100 Electric utilities may not disclose private or proprietary customer information 2015 3rd sp. S. c 21 s 1 Check on any prior Committee discussion re utilities 243 Insurance & Financial Inst. 48.31B.015(1)(b) Filing by controlling person of insurer seeking to divest its controlling interest is confidential until conclusion of transaction 2015 c 122 s 3

244 Investigative, law enforcement and crime victims 42.56.240(14) Body worn camera recordings 2016 c 163 s 2

245 Investigative, law enforcement and crime victims 42.56.240(14) Records and info in the statewide sexual assault kit tracking system under RCW 43.43. 2016 c. 173 s 8

246 Crime Victims and Witnesses 10.52.100 Identity of child victims of sexual assault 1992 Aug. 2018;



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Oct. 2018; Feb. 2019; May 2019; Aug. 2019; Oct. 2019 247 Crime Victims and Witnesses 10.77.205 Information about victims, next of kin, or witnesses requesting notice of release of convicted sex or violent offenders 1990 248 Offender Information 10.77.210 Records of persons committed for criminal insanity 1973 May 2021 249 Crime Victims and Witnesses 10.97 Privacy of criminal records, including criminal history information on arrests, detention, indictment, information, or other formal criminal charges made after 12/31/77 unless dispositions are included 1977

250 Crime Victims and Witnesses 10.97.130 Names of victims of sexual assaults who are 18 years of age or younger 1992 Aug. 2018; Oct. 2018; Feb. 2019; May 2019; Aug. 2019; Oct. 2019 2018 HB 1505 (Ch.300, 2019 Laws); HB 2484 (2019) 251 Judicial - Indigent Defense 10.101.020 Information given by persons to determine eligibility for indigent defense 1989 252 Crime Victims and Witnesses - Juvenile 13.40.150 Sources of confidential information in dispositional hearings on juvenile offenses 1977 Aug. 2018; Oct. 2018; Feb. 2019; May 2019; Aug. 2019 253 Crime Victims and Witnesses - Juvenile 13.40.215 and .217 Information about victims, next of kin, or witnesses requesting notice of release of juvenile convicted of violent sex offense or stalking 1990 Aug. 2018; Oct. 2018; Feb. 2019; May 2019; Aug. 2019 Description Date Enacted Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee Category RCW Proposed Legislation & Related Bills Materials Presented Recommendation 254 Juvenile Records 13.50.010(12) Electronic research copy of juvenile records maintains same level of confidentiality and anonymity as juvenile records in judicial information system 2009 c 440 s 1; 2014 c 117 s 5 255 Juvenile Records 13.50.010(13) Information in records released to the Washington state office of public defense retain confidential nature 2009 c 440 s 1; 2014 c 117 s 5; 2016 c 72 s 109 256 Juvenile Records 13.50.050(3) Records on commission of juvenile crimes 1979; Oct. 2019 Oct. 2019 HB 2484 (2019) 257 Juvenile Records 13.50.010(14)(b) Records of juveniles who receive a pardon are confidential, including the existence or nonexistence of the record 2011 c 338 s 4

258 Juvenile Records 13.50.100(2) Juvenile justice or care agency records not relating to commission of juvenile crimes 1979 Re 42.56.380(6) - Oct. 2007; May 2019; Aug. 2019; Oct. 2019 Re. 42.56.380(6) - Jun. 2008

259 Agriculture and Livestock 15.19.080 Information on purchases, sales, or production of ginseng by individual growers or dealers (see also 42.56.380 (6)) 1998 See # 1 on Schedule of Review; Aug. 2017; Oct. 2017; May 2018; Aug. 2018 See # 1 on Schedule of Review Aug. 2018 See # 1 on Schedule of Review 260 Agriculture and Livestock 16.65.030(1)(d) Financial statement info in public livestock market license applications 2003 Aug. 2017; Oct. 2017; May 2018; Aug. 2018 Aug. 2018 261 Health Care Professions 18.130.095(1)(a) Complaints filed under uniform disciplinary act for health professionals 1997 262 Health Care Professions 18.130.172(1) Summary and stipulations in complaints against health care professionals 1993 263 Health Care Professions 18.130.175(4) Voluntary substance abuse records on health care professionals 1988

264 Health Care Professions 18.130.057 ( c 157 s 1(2)(b) Disciplining authority may not disclose



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

information in a file that contains confidential or privileged information regarding a patient other than the person making the complaint or report 2011 c 157 s 1

265 Counselors 18.19.180 Information counselors acquire and acknowledgement of practice disclosure statements 1987 266 Boarding Homes 18.20.120 Identity of individual or name of boarding homes from boarding home licensing records 1959 Sept. 2020; Oct. 2020 267 Health Care Professions 18.20.390 Information and documents created, collected and maintained by a quality assurance committee 2004

268 Health Care Professions 18.32.040 Implication that information in dentistry registration records is only accessible by the registered person unless disclosure would compromise the examination process 1937 Sept. 2020; Oct. 2020; Oct. 2021 269 Placeholder 270 Health Care Professions 18.44.031(2) Personal information in applications for escrow agent licenses 1999 271 Health Care Professions 18.46.090 Information on maternity homes received by department of health identifying individuals or maternity homes 1951 Sept. 2020; Oct. 2020; Feb. 2021; May 2021; Aug. 2021 Proposed Legislation & Related Bills Category RCW Description Public Records Exemptions Accountability Committee Schedule of Review

Materials Presented Recommendation Sunshine Committee Date Enacted 272 Health Care Professions 18.53.200 Information and records of optometrists 1975 May 2021; Aug. 2021; Oct. 2021 273 Health Care Professions 18.64.420 Records obtained by department of health regarding various insurance companies 1991 274 Health Care Professions 18.71.0195 Contents of physician disciplinary report 1979 275 Health Care Professions 18.71.340 Entry records under impaired physician program 1987 276 Privileges 18.83.110 - also 5.60.060 (# 219) Communications between client and psychologist—could apply to records 1955 Sept. 2020; Oct. 2020 277 Other Professions - Plumbers 18.106.320(2) Info obtained from contractors on plumbing trainee hours 2002 278 Health Care Professions 18.130.095(1)(a) Complaints filed under uniform disciplinary act for health professionals 1997 279 Health Care Professions 18.130.172(1) Summary and stipulations in complaints against health care professionals 1993 280 Health Care Professions 18.130.095(1)(a) (Repealed 2019) Complaint of unprofessional conduct against health profession licensee 1997 281 Health Care Professions 18.130.175(4) Voluntary substance abuse records on health care professionals 1988 282 Health Care Professions 18.130.175(4) Substance abuse treatment records of licensed health professionals 283 Elderly Adults - Referrals 18.330.050(2)(f) On referral disclosure statement, must include statement that agency will need client authorization to obtain or disclose confidential information 2011 c 357 s 6

284 Other Professions - Business Licenses 19.02.115 Master license service program licensing information is confidential and privileged except as provided in this section 2011 c 298 s 12

285 Financial, Commercial and Proprietary 19.16.245 Collection agency financial statements 1973  
\*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 286 Other Professions - Electrical 19.28.171 Info obtained from electrical contractors on electrical trainee hours





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

1996 287 Other Professions - Electrical 19.28.171 Information obtained from electrical contractor by department of licenses 1996 288 Security - Electronic Keys 19.34.240 Private keys under the electronic authentication act 1996 289 Security - Electronic Keys 19.34.420 Electronic authentication info 1998 290 Financial, Commercial and Proprietary Information 19.108 Trade Secrets Act 1981 \*May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info \*Oct. 2016 - 42.56.270 & trade secrets/proprietary info 2017: HB 1160/SB 5418

291 Juvenile Records 13.50.010(14) Records released by the court to the state office of civil legal aid 2015 c 262 s 1

292 Financial, Commercial and Proprietary - Mortgages 19.146.370(4) Chapter 42.56 RCW relating to supervisory information or information subject to subsection (1) of this section is superseded by this section 2009 c 528 s 15 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Description Date Enacted Sunshine Committee Category RCW Materials Presented Recommendation Proposed Legislation & Related Bills Schedule of Review Public Records Exemptions Accountability Committee

293 Other Professions - Money Transfer Co's. 19.230.190 Money transfer licensing information 2003

294 Financial, Commercial and Proprietary Information 19.330.080(5) Confidential technology information used in manufacturing products sold in state is subject to a protective order 2011 c 98 s 8 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 295 Investigative Records 21.20.480 Security act investigations 1959 Sept. 2020; Oct. 2020; Feb. 2021 296 Financial, Commercial and Proprietary information - Investigations 21.30.170 Some information obtained by the department of financial institutions 1986 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 297 Placeholder

298 Financial, Commercial and Proprietary information - Nonprofits & Mutuals 24.06.480 Information in interrogatories of nonprofit miscellaneous and mutual corporations by secretary of state 1969; Feb 2021 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; Sept. 2020; Oct. 2020; Feb. 2021; May 2021 299 Crime Victims and Witnesses 26.04.175 Marriage applications and records about participants in address confidentiality program 1991 300 Mediation Communications 26.09.015 Divorce mediation proceedings—may apply to records of the proceedings 1986 301 Judicial - Court Files 26.12.080 Superior court may order family court files closed to protect privacy 1949 Sept. 2020; Oct. 2020; Feb. 2021 302 Child Support Records 26.23.120(1) Records concerning persons owing child support 1987 303 Child Support Records 26.23.150 Social security numbers collected by licensing agencies not to be disclosed 1998 304 Adoption Records 26.33.330 & .340 & .345 Adoption records (except by order of the court under showing of good cause); adoption contact preference form and parent medical history 1984; 2013 c 321 s 1 305 Archaeological Records 27.53.070 (42.56.300) Communications on location of archaeological sites not public records 1975 May 2021; Oct. 2021



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

306 Financial, Commercial and Proprietary Information 28B.85.020(2) Financial disclosures provided to HEC Board by private vocational schools 1996 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

307 Financial, Commercial and Proprietary Information 28C.10.050(2)(a) Financial disclosures by private vocational schools 1986 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 308 Voter and Election Information 29A.08.710 Original voter registration forms or their images 1991 Oct. 2017; Feb. 2018; May 2018; Aug. 2018; Oct. 2018 RCW Materials Presented Public Records Exemptions Accountability Committee Description Date Enacted Sunshine Committee Schedule of Review

Recommendation Proposed Legislation & Related Bills Category 309 Voter and Election Information 29A.08.720 The department of licensing office at which any particular individual registers to vote 1994 Oct. 2017; Feb. 2018; May 2018; Aug. 2018; Oct. 2018 310 Voter and Election Information 29A.20.191; recod to 29A.56.670 Minor party and independent candidate nominating petitions 2004; 2013 c 11 s 93(4) Oct. 2017; Feb. 2018; May 2018; Aug. 2018; Oct. 2018 311 Voter and Election Information 29A.32.100 Argument or statement submitted to secretary of state for voters' pamphlet 1999 Oct. 2017; Feb. 2018; May 2018; Aug. 2018; Oct. 2018 312 Financial, Commercial and Proprietary Information - Mortgages 31.04.274(4) Chapter 42.56 RCW relating to disclosure of supervisory information or any information described in subsection (1) of this section is superseded by this section 2009 c 120 s 26 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 313 Security 35.21.228(4) Rail fixed guideway system security and emergency preparedness plan 1999 314 Security 35A.21.300(4) Rail fixed guideway system security and emergency preparedness plan 1999 315 Security 36.01.210(4) Rail fixed guideway system security and emergency preparedness plan 1999 316 Placeholder 317 Security 36.57.120(4) Rail fixed guideway system security and emergency preparedness plan 1999 318 Security 36.57A.170(4) Rail fixed guideway system security and emergency preparedness plan 1999

319 Financial, Commercial and Proprietary Information 36.102.200 Financial info on master tenant, concessioners, team affiliate, or sublease of a public stadium authority's facilities 1997 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 320 Financial, Commercial and Proprietary Information 39.10.100 (2) recod. as 39.10.470 (2); 39.10.470(3) Trade secrets & proprietary information from contractors under alternative public works; proposals from design-build finalists for alternative public works until selection is made or terminated 1994 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 321 Financial, Commercial and Proprietary Information - Bids 39.26.030(2) Competitive bids subject to chapter 42.56 RCW except exempt from disclosure until apparent successful bidder announced 2012 c 224 s 4 Aug. 2016; Oct. 2016 Oct. 2016 2017: HB 1160/SB 5418 322 Archive Records 40.14.030 (2) Records transferred to state archives 2003 May 2012; August 2012; June 2013 Aug. 2012 323 Offender Records 40.14.070 (2)(c ) Sex offender records transferred to Washington association of sheriffs and police chiefs 1999 324 Bill Drafting Records 40.14.180 Bill drafting records of the code reviser's office 1971



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Feb. 2015 Feb. 2015 325 Crime Victims and Witnesses 40.24.070 Names of persons in domestic violence or sexual assault programs; and records in address confidentiality program 1999; 1991; 2015 c 190 s 2 326 Public Employment Information 41.06.160 Salary and fringe benefit info identifying private employer from department of personnel salary survey 1981 Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee

327 Public Employment Information 41.06.167 Salary and fringe benefit rate info collected from private employers 1980 328 Collective Bargaining 41.56.029(2) Collective bargaining authorization cards of adult family home provider workers 2007 329 Personal Information - Research 42.48.020 & .040 Personally identifiable public records used in scientific research 1985 330 Health Care Records 43.01.425 Crisis referral services communications and information are confidential 2009 c 19 s 2 331 Investigative Records 43.06A.050 Investigative records of office of family and children's ombudsman 1996

332 Financial, Proprietary and Commercial Information 43.07.100 Info from businesses deemed confidential held by bureau of statistics in secretary of state 1895 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 333 Investigative Records - Whistleblower 43.09.186(4) Identity of person and documents in report to toll-free efficiency hotline - state auditor 2007 334 Financial, Proprietary and Commercial Information 42.56.270(22) Certain financial information supplied to department of financial institutions or a portal to obtain an exemption from state securities registration 2014 c 144 s 6

335 Juvenile Records 13.50.010(15) Child welfare records that may assist in meeting the educational needs of foster youth 2016 c 71 s 2 May 2019; Aug. 2019 336 Placeholder 337 Personal Information - Printing Vendors 43.19.736 Print jobs contracted with private vendors must require vendor to enter into a confidentiality agreement if materials contain sensitive or personally identifiable information 2011 c 43 1st sp. s. s 309

338 Claims 43.41.350 Recod 43.19.781 Risk management loss history information 1989; 2011 1st sp. s. c 43 s 535 339 Financial, Proprietary and Commercial Information - Marijuana 42.56.270(25) Marijuana transport, vehicle and driver ID data and account numbers or unique access identifiers issued for traceability system access per RCW 69.50.325, 9.50.331, 69.50.342, 69.50.345 2016 c 178 s 2

340 Financial, Commercial and Proprietary Information 43.21A.160 Information on unique production processes given to the DOE 1970 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; Sept. 2020; Oct. 2020; Feb. 2021 341 Financial, Commercial and Proprietary Information 43.21F.060(1) Proprietary information received by the state energy office 1976 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 342 Employer - Labor Statistics 43.22.290 Employer labor statistics reports provided to the department of labor & industries 1901 Sept. 2020; Oct. 2020 Public Records Exemptions Accountability Committee



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Sunshine Committee Category RCW Description Date Enacted Materials Presented  
Recommendation Proposed Legislation & Related Bills Schedule of Review

343 Financial, Commercial and Proprietary Information 43.22.434 Info obtained from contractors through an audit 2002 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 344 Deliberative Process - Records Provided to Governor 43.41.100 Confidential reports made to the governor by director of office of financial management 1969 Sept. 2020; Oct. 2020; Feb. 2021; May 2021 345 Investigative Records 43.43.710 Washington state patrol information in records relating to the commission of any crime by any person 1972 May 2021; Aug. 2021

346 Investigative Records 43.43.762 – referenced in 42.56.240(6) Information in criminal street gang database 2008 c 276 s 201 347 Investigative Records 43.43.856 Washington state patrol organized crime Investigative information 1973 May 2021

348 Financial, Commercial and Proprietary Information 43.52.612 Financial information provided to operating agencies in bid forms and experience provided by a contractor to a joint operating agency regarding bids on constructing a nuclear project 1982 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 349 Health Care 43.70.050(2) Health care related data identifying patients or providers obtained by state agencies 1989 350 Health Care 43.70.052 American Indian health data 1995; 2014 c 220 s 2 351 Health Care 43.70.056(2)(e)(ii) Hospital reports and information on health care- associated infections 2007 352 Health Care 42.56.360(4); 70.54 Info and documents relating to maternal mortality reviews per RCW 70.54 2016 c 238 s 2 353 Health Care Professions - Whistleblower 43.70.075 Identity of whistleblower who makes a complaint to the department of health re: improper care 1995 354 Health Care Professions 43.70.510 Information and documents created, collected and maintained by a quality assurance committee 2005 355 Health Care Professions 43.70.695(5) Healthcare workforce surveys identifying individual providers 2006 356 Investigative Records 43.190.110 Complaint and investigation records of long-term care ombudsman 1983

357 Employment Records, Investigative Records 43.101.400 Criminal justice training commission records from initial background investigations 2001; 2021

358 Investigative Records - Fatality Review 43.235.040(1) Domestic violence fatality review info 2000

359 Financial, Commercial and Proprietary Information 43.330.062 Protocols may not require release of information that associate development organization client company has requested remain confidential 2011 c 286 s 1 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Sunshine Committee Schedule of Review Public Records Exemptions Accountability Committee Description Category RCW 360 Health Care 43.370.050(2) Individual identification in



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

released health care data for studies and analysis 2007 361 Motor Vehicle/Driver Records 46.12.380(1) Recod 46.12.635 Names and addresses of motor vehicle owners except for "business" & other purposes 1984; 2016 c 80 s 2 362 Placeholder Check codified citation 2010 c 161 s 1210 363 Motor Vehicle/Driver Records 46.20.041 Info on physically or mentally disabled person demonstrating ability to drive 1965 Sept. 2020; Oct. 2020; Feb. 2021 364 Motor Vehicle/Driver Records 46.20.118 Photos on drivers' licenses & identicards 1981 365 Motor Vehicle/Driver Records 46.52.065 Blood sample analyses done by state toxicology 1971 May 2021; Aug. 2021; Oct. 2021 366 Motor Vehicle/Driver Records 46.52.080 & .083 Most info in police accident reports 1937 Feb. 2021 367 Motor Vehicle/Driver Records 46.52.120 Individual motor vehicle driver records 1937 Feb. 2021; May 2021; Aug. 2021 368 Motor Vehicle/Driver Records 46.52.130 Abstracts of motor vehicle driver records 369 Motor Vehicle/Driver Records 46.70.042 Application for vehicle dealer licenses, for 3 years 1967 Feb. 2021; May 2021; Aug. 2021; Oct. 2021 370 Motor Vehicle/Driver Records 46.35.030(1)(a) Information obtained by a court order pursuant to discovery is not subject to public disclosure 2009 c 485 s 3

371 Financial, Commercial and Proprietary Information 47.28.075 Info supplied to department of transportation to qualify contractors for highway construction 1981 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

372 Financial, Commercial and Proprietary Information 47.60.760 Financial info submitted to qualify to submit bid for ferry construction contracts 1983 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; and RCW39.26.030 (bid information) 373 Personal Information 42.56.420(6) Personally identifiable info of employees and other security info of a private cloud service provider that has entered into a criminal justice information services agreement 2016 c 152 s 1

374 Insurance Information 48.02.065(1) Information provided in the course of an insurance commissioner examination 2007 375 Insurance Information 48.05.510(4) Insurer's reports to insurance commissioner 1995 376 Insurance Information 48.13.151 Information related to investment policies provided to the insurance commissioner is confidential and not a public record 2011 c 188 s 16 (eff 7/1/12) 377 Insurance Information 48.31.405(1) Commissioner info relating to supervision of any insurer 2005 378 Insurance Information 48.74. \_\_ (6) Information obtained in the course of an actuarial examination/investigation 2016 c 142 s 6 Schedule of Review

Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Public Records Exemptions Accountability Committee Sunshine Committee

379 Insurance Information 48.32.110(2) Request for examination into insurer's financial condition 1971 May 2021; Oct. 2021 380 Insurance Information 48.43.200(4) Reports of material transactions by certified health plans 1995 381 Insurance Information 48.44.530(4) Reports of material transactions by





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

health care service contractors 1995 382 Insurance Information 48.46.540 Current licensure of nonresident pharmacies through which an insurer provides coverage 1991 383 Insurance Information 48.46.600(4) Reports of material transactions by health maintenance organizations 1995 384 Insurance Information - Investigations 48.102.140(5)(a) Documents and evidence provided regarding life settlement act fraud investigations are confidential and not public records 2009 c 104 s 17 385 Insurance Information 48.104.050(1) Holocaust insurance company registry records 1999 386 Workers Compensation Records 49.17.260 Labor & industries investigative reports on industrial catastrophes 1973 May 2021; Aug. 2021; Oct. 2021 387 Investigative Records 49.60.240 Option for human rights commission complaints not to be made public 1993 388 Agriculture and Livestock 49.70.119(6)(a) Name of employee seeking records of agricultural pesticide applications 1973 Aug. 2017; Oct. 2017; May 2018; Aug. 2018 Aug. 2018 389 Crime Victims and Witnesses 49.76.040 Employee's information regarding domestic violence is confidential 2008 c 286 s 4 390 Crime Victims and Witnesses 49.76.090 Domestic violence leave information in files and records of employees is confidential and not open to public inspection 2008 c 286 s 10 391 Employment Security Records 50.13.060(8) Welfare reform info in WorkFirst program 2000

392 Financial, Commercial and Proprietary Information 53.31.050 Financial & commercial info & records supplied to port district export trading company 1986 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 393 Financial, Commercial and Proprietary Information 63.29.380 Info relating to unclaimed property that is furnished to the department of revenue 1983 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 394 Insurance Information 48.43.730 Provider compensation agreements are confidential 2013 c 277 s 1 395 Financial, Commercial and Proprietary Information 63.29.300(4) Material obtained during an examination under RCW 63.29 is confidential and may not be disclosed except per RCW 63.29.380 2015 3rd sp s c 6 s 2107 396 Health Care; Investigative Records 68.50.105 Records of autopsies and post mortems 1953; 2013 c 295 s 1 397 Health Care 68.64.190 Certain information released to tissue or organ procurement organization is confidential 2008 c 139 s 21 Materials Presented Recommendation Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee Proposed Legislation & Related Bills Date Enacted Category RCW Description 398 Financial, Commercial and Proprietary Information; Health Professions; Health Care 69.41.044; 42.56.360(1)(a); 42.56.360(1)(b); 69.45.090 Records and information supplied by drug manufacturers, and pharmaceutical manufacturer info obtained by the pharmacy quality assurance commission 1987; 1989; 2013 c 19 s 47 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 399 Health Care 69.41.280 Info on legend drugs obtained by the pharmacy quality assurance commission 1989 400 Insurance Information 48.74.--(1)(a) Opinion and memo submitted to the insurance commissioner under RCW 48.74.025 2016 c 142 s 7 401 Health Care 69.51.050 Names of persons participating in controlled substances therapeutic research programs 1979 402 Health Care 70.02.020, .050, et. al. Health care info disclosed to health care provider w/o patients permission 1991 403 Health Care 70.24.022 Info gathered by health care workers from interviews re. sexually transmitted diseases 1988 404 Placeholder 405 Health Care 70.24.034 Records on hearings on dangerous sexual behavior of sexually transmitted disease carriers 1988 406 Placeholder 407 Health



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Care 70.28.020 Tuberculosis records 1899 Feb. 2021 408 Health Care 70.41.150 Department of health info on inspections of hospitals 1955 Feb. 2021; May 2021 409 Health Care Professions 70.41.200(3) Info maintained by a health care services quality improvement committee 1986 410 Health Care Professions 70.41.220 Hospital records restricting practitioner's privileges in possession of medical disciplinary board 1986 411 Health Care 70.42.210 Identity of person from whom specimens of material were taken at a medical test site 1989 412 Health Care 70.47.150 Records of medical treatment 1990 413 Law Enforcement 70.48.100 Jail register records 1977 414 Health Care 70.54.250 Cancer registry program 1990 415 Health Care 70.58.055(2) Info on birth & manner of delivery kept in birth certificate records 1991 416 Fireworks 70.77.455 Fireworks license records 1995

417 Financial, Commercial and Proprietary Information 70.94.205 Info provided to DOE on processes or if may affect competitive position relating to air quality 1967 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; May 2021; Oct. 2021 418 Financial, Commercial and Proprietary Information 70.95.280 Guidelines for proprietary info on solid waste management practices in possession of DOE [Since this addresses guidelines, not clear if it is an exemption.] 1989 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Public Records Exemptions Accountability Committee Sunshine Committee Schedule of Review

Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills

419 Financial, Commercial and Proprietary Information 70.95C.040(4) Proprietary info re. waste reduction in possession of DOE 1988 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

420 Financial, Commercial and Proprietary Information 70.95C.220(2) Waste reduction plans 1990 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

421 Financial, Commercial and Proprietary Information 70.95C.240(1) Some info in executive summaries of waste reduction efforts 1990 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 422 Financial, Commercial and Proprietary Information 70.95N.140(4) Proprietary info in electronic product recycling reports 2006 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 423 Placeholder 424 Health Care 70.104.055 Reports on pesticide poisoning 1989 425 Financial, Commercial and Proprietary Information 70.105.170 Manufacturing or business info re: Hazardous waste management in possession of DOE 1983 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

426 Financial, Commercial and Proprietary Information 70.118.070 Trade secret info re: On-site sewage disposal in possession of DOE 1994 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 427 Investigative Records - Whistleblower 70.124.100 Name of whistleblower in nursing home or state hospital 1997 428 Crime Victims and Witnesses 70.125.065 By



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

implication records of community sexual assault program or underserved populations provider 1981; 2012 c 29 s 11 429 Placeholder 430 Health Care 70.127.190 Hospice records 1988 431 Health Care 70.129.050 Personal and clinical records of long-term care residents 1994

432 Financial, Commercial and Proprietary Information 70.158.050 Tobacco product manufacturers' information required to comply with chapter 70.58 RCW is confidential and shall not be disclosed 2003 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 433 Health Care 70.168.070 Limitations on disclosure of reports made by hospital trauma care on-site review teams 1990 434 Health Care 70.168.090 Patient records and quality assurance records associated with trauma care facilities 1990 435 Health Care 70.170.090 Charity care information in hospitals 1989 Proposed Legislation & Related Bills Category RCW Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee Date Enacted Recommendation Description Materials Presented 436 Health Care 70.230.110 Ambulatory surgical facilities data related to the quality of patient care 2007 437 Health Care 70.230.170 Information received by department of health regarding ambulatory surgical facilities 2007 438 Health Care 71.05.425 Persons receiving notice and the notice of release or transfer of a person committed following dismissal of offense 2013 c 289 s 6 439 Health Care 71.05.620 Records on mental health treatment 1989; 2013 c 200 s 34 440 Investigative Records; Attorney Client Privilege 74.34.035(10); 74.34.067 Investigation relating to vulnerable adult; attorney client privilege 2013 c 263 s 2 441 Crime Victims and Witnesses 71.09.140(2) Names of victims, next of kin, or witnesses who are notified when sexually violent predator escapes, on parole, or released 1995 442 Health Care 71.24.035(5)(g) Mental retardation records 1982 443 Health Care 71.34.340 Records on mental treatment of minors 1985 444 Health Care 71.34.335 Mental health court records are confidential 1985 445 Health Care; Investigative Records 74.66.030; 74.66.120 Information furnished pursuant to the Medicaid fraud false claims act is exempt until final disposition and all seals are lifted; records and testimony provided under civil investigative demand 2012 c 241 s 203, 212

446 Health Care 71A.14.070 Confidential info re. developmentally disabled persons 1988 May 2019 447 Health Care 72.05.130(1) Reports regarding children with behavioral problems 1951 Feb. 2021; May 2021 448 Offender Records 72.09.116 Info from correctional industries work program participant or applicant 2004 449 Offender Records 72.09.345(4) Certain info on sex offenders held in custody 1997; 2011 c 338 s 5 450 Personal Information 70.39A.-- Personally identifiable info used to develop quarterly expenditure reports for certain long term care services 2016 1st sp s. c 30 s 3

451 Investigative, law enforcement and crime victims [Former 9.94A.610(1)(b)] 72.09.710 (recod eff 8/1/09) (see also ## 233 and 235) Names of witnesses notified when drug offenders released 1991; Recod 2008 c 231 s 26 9 (see dispositions table) 452 Placeholder 453 Investigative, law enforcement and crime victims [Former 9.94A.612(1)] 72.09.712 (recod eff 8/1/09) Names of victims, next of kin, or witnesses who are notified when prisoner escapes, on parole, or released 1995; Recod 2008 c 231 s 27 454 Placeholder 455 Public Assistance 74.04.060 & .062 Limited access to information in department of social and health services registry concerning parents of dependent children 1941 Feb. 2021 456 Public Assistance 74.20.280 Child support records 1963 Feb. 2021 457 Public Assistance 74.04.520





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Names of recipients of food stamps 1969 Feb. 2021 Category RCW Public Records Exemptions Accountability Committee Schedule of Review Sunshine Committee Proposed Legislation & Related Bills Description Date Enacted Materials Presented Recommendation 458 Health Care 74.09.290(1) Medical records of persons on public assistance 1979 459 Juvenile Records 74.13.075(5) A juvenile's status as a sexually aggressive youth and related information are confidential and not subject to public disclosure by department of social and health services 2009 c 250 s 2

460 Juvenile Records 74.13.640 Child fatality reports are subject to disclosure but confidential information may be redacted 2011 c 61 s 2 May 2019; Aug. 2019 461 Juvenile Records [Former 74.13.121] 74.13A.045 (recod) Info from adoptive parents of kids receiving public assistance 1971; 2009 c 520 s 95 May 2019; Aug. 2019 462 Placeholder 463 Juvenile Records [Former 74.13.133] 74.13A.065 (recod) Adoption support records 1971; 2009 c 520 s 95 May 2019; Aug. 2019 464 Placeholder 465 Juvenile Records 74.13.280(2) Info on child in foster care & child's family 1990 May 2019; Aug. 2019 466 Juvenile Records; Public Assistance 74.13.500 - .525 Disclosure of child welfare records 1997 May 2019; Aug. 2019; Oct. 2019; Feb. 2020 467 Personal information - clients 74.18.127(1) Personal info maintained by the department of services for the blind 2003 468 Juvenile Records; Public Assistance 74.20A.360 & .370 Certain records in division of child support 1997 May 2019; Aug. 2019

469 Whistleblower; Investigative, law enforcement and crime victims 74.34.040 Identity of person making report on abuse of vulnerable adult 1984

470 Investigative, law enforcement and crime victims 74.34.090 Identity of persons in records of abused vulnerable adults 1984

471 Investigative, law enforcement and crime victims 74.34.095(1) Info concerning the abuse of vulnerable adults 1999 472 Whistleblower 74.34.180(1) Name of whistleblower reporting abuse of vulnerable adults in various facilities 1997 473 Investigative, law enforcement and crime victims 74.34.300 Files, etc. used or developed for vulnerable adult fatality reviews 2008 c 146 s 10 474 Health Care 74.42.080 Records on nursing home residents 1979 475 Health Professions 74.42.640 Information and documents created, collected and maintained by a quality assurance committee 2005

476 Financial, Commercial and Proprietary Information 78.44.085(5) Surface mining info 2006 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Public Records Exemptions Accountability Committee Sunshine Committee Proposed Legislation & Related Bills Date Enacted Materials Presented Recommendation Category Schedule of Review

### RCW Description

477 Financial, Commercial and Proprietary Information 78.52.260 Well logs on oil capable of being produced from a "wildcat" well 1951 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; Feb. 2021; May 2021 478 Financial, Commercial and Proprietary Information



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

[Former 79.76.230] - recodified as 78.60.230 Geothermal records filed w. department of natural resources 1974 - Recodified 2003 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 479 Investigative, law enforcement and crime victims 79A.60.210 Certain boating accident reports provided to the parks & recreation commission 1984

480 Investigative, law enforcement and crime victims 79A.60.220 Boating accident reports/coroner 1987 481 Security 81.104.115(4) Rail fixed guideway system security and emergency preparedness plan 1999; 2016 c 33 s 8 482 Security 81.112.180(4) Rail fixed guideway system security and emergency preparedness plan 1999

483 Financial, Commercial and Proprietary Information - Tax Info 82.32.330(2) Certain tax return and tax information At least 1935 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; Feb. 2021; Aug. 2021 484 Financial, Commercial and Proprietary Information - Tax Info 82.32.585 Taxpayer info supplied for survey is not disclosable. Amt of tax deferral is not subject to 82.32.330 confidentiality provisions 2010 c 114 s 102(4) \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 485 Placeholder 486 Financial, Commercial and Proprietary Information - Tax Info 82.38.310(4) Info from tribes or tribal retailers received by the state under a special fuel taxes agreement 2007 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

487 Financial, Commercial and Proprietary Information - Tax Info Taxpayer info supplied for survey is not disclosable. Amt of tax deferral is not subject to 82.32.330 confidentiality provisions 2008 c 15 s 2 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 488 Financial, Commercial and Proprietary Information - Tax Info 82.32.808 Amounts less than \$10,00 claimed in a tax preference; exceptions 2012 snd sp s. c 13 s 1702

489 Financial, Commercial and Proprietary Information - Tax Info 84.08.210 Tax info obtained by department of revenue if highly offensive to a reasonable person and not a legitimate concern to public or would result in unfair competitive disadvantage 1997 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info Category Date Enacted Materials Presented Recommendation Schedule of Review Public Records Exemptions Accountability Committee Description RCW Sunshine Committee Proposed Legislation & Related Bills 490 Financial, Commercial and Proprietary Information - Tax Info 84.36.389 Income data for retired or disabled persons seeking property tax exemptions 1974 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 491 Financial, Commercial and Proprietary Information - Tax Info 84.40.020 Confidential income data in property tax listings 1973 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info

492 Financial, Commercial and Proprietary Information 84.40.340 Utilities & transportation commission records containing commercial info a court determines confidential 1961 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; May 2021; Oct. 2021 493



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Agriculture and Livestock 90.64.190 Livestock producer info 2005 Aug. 2017; Oct. 2017; Feb. 2018; May 2018 494 Financial, Commercial and Proprietary Information 2007 c 522 § 149 (3) (uncodified) Names and identification data from participants in survey to identify factors preventing the widespread availability and use of broadband technologies 2007 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info 495 Health Care 70.02.220 - .260 Health care information 2013 sp. S c 200 ss 6-10 496 Health Care 42.56.360(1)(f) Information relating to infant mortality pursuant to RCW 70.05.170 1992

497 Dairies, Animal Feeding Operations 42.56.610 Certain information obtained by state and local agencies from dairies, animal feeding operations not required to apply for a national pollutant discharge elimination system permit disclosable only in ranges that provide meaningful information to public 2005 (c510s5) Aug. 2017; Oct. 2017; Feb. 2018; May 2018

498 Investigative, law enforcement and crime victims 9.95.260 Information regarding victims, survivors of victims, or witnesses that are sent pardon hearing notices may not be released to offender 1999

499 Financial, Commercial and Proprietary Information - Trusts 11.110.075 Instrument creating a charitable trust, possibly only if the instrument creates a trust for both charitable and non-charitable purposes 1971 \*See also May 2016, Aug. 2016 & Oct. 2016 - 42.56.270 & trade secrets/proprietary info; Feb. 2021; May 2021 500 Juvenile Records 13.04.155; 28A.320.163(5) Information on juvenile conviction by adult criminal court given to school principal and received by school district staff 1997; 2020

501 Juvenile Records 13.24.011 Records of the interstate compact for juveniles that would adversely affect personal privacy rights or proprietary interests 2003 502 Boarding Homes 13.40.150 Sources of confidential information in dispositional hearings on juvenile offenses 1977 RCW Proposed Legislation & Related Bills Sunshine Committee Description Public Records Exemptions Accountability Committee Category Materials Presented Schedule of Review

Recommendation Date Enacted 503 Placeholder 504 Employment Security 50.13.015, .020, .040, .050, .100 & 110 Most info supplied to employment security department 1977 505 Financial, Commercial and Proprietary Information 51.36.120 Financial or valuable trade info from health care providers, if request 1989 506 Health Care 70.05.170 Medical records re. Child morality review 1992 507 Juvenile Records 13.34.046 Information regarding a youth subject to RCW 13.34 is confidential except as required under lawful court order 2013 c 182 s 5 May 2019; Aug. 2019 508 Placeholder 509 Investigative, law enforcement and crime victims 79A.60.210 79A.60.220 Certain boating accident reports provided to the parks & recreation commission 1984

510 Investigative, law enforcement and crime victims 42.56.240(10) Felony firearm offense conviction database of felony firearm offenders established in RCW 43.43.822 2013 c 183 s 1



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

511 Investigative, law enforcement and crime victims 42.56.240(12) Security threat group information collected and maintained by department of corrections 2013 c 315 s. 2 512 Legal proceedings; Privilege 7.77.140; 7.77.150; 7.77.160; 7.77.170 Confidentiality of collaborative law proceedings; privilege 2013 c 119ss 15 - 18 513 Emergency Information 38.32; 42.56.230(9); 38.52.575; 38.52.577 Enhanced 911 Call information 2015 c 224 s 2, 6 Feb. 2014; Feb. 2015 Feb. 2015 SB 1980 (2015); Ch. 224, 2015 Laws 514 Investigative, law enforcement and crime victims 42.56.240(16) Campus sexual assault/domestic violence communications and records 2017 c 72 s 3

515 Investigative, law enforcement and crime victims 42.56.240(17) Law enforcement information from firearms dealers 2016 c 261 s 7 516 Employment and Licensing 42.56.250(3) Professional growth plans 2017 c 16 s 1 517 Employment and Licensing 42.56.250(10) GPS data of public employees or volunteers using GPS system recording device 2017 c 38 s 1 518 Financial, Commercial and Proprietary Information 42.56.270(28) Trade secrets etc. re to licensed marijuana business, submitted to LCB 2017 c 317 s 7 519 Public Utilities and Transportation 42.56.330(9) Personally identifying information in safety complaints submitted under ch. 81-61 RCW 2017 c 333 s 7 520 Insurance & Financial Inst. 42.56.400(26) Non public personal health information obtained by, discussed to, or in custody of the insurance commissioner 2017 c 193 s 2 521 Insurance & Financial Inst. 42.56.400(27) Data, information, documents obtained by insurance commissioner under RCW 48.02 2017 3rd sp. sess. c 30 s 2

522 Fish & Wildlife 42.56.430(3); 77.12.885 Damage prevention agreement, non lethal preventative/measures to minimize wolf interactions 2017 c 246 s 1 May 2017; Aug. 2017; Oct. 2017; May 2018; Aug. 2018; Feb. 2019; Aug. 2020; Feb. 2021; May 2021; Aug. 2021; Oct. 2021; Nov. 2021 Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee

523 Fish & Wildlife 42.56.430(4); 77.12.885 Reported depredation by wolves on pets or livestock 2017 c 246 s 1 May 2017; Aug. 2017; Oct. 2017; May 2018; Aug. 2018; Feb. 2019; Aug. 2020; Feb. 2021; May 2021; Aug. 2021; Oct. 2021; Nov. 2021 524 Fish & Wildlife 42.56.430(7) Tribal fish & shellfish harvest information - department of fish & wildlife 2017 c 71 s 1 May 2017; Aug. 2017; Oct. 2017 525 Fish & Wildlife 42.56.430(8) Commercial shellfish harvest information - department of fish & wildlife 2017 c 71 s 1 Aug. 2017; Oct. 2017 526 Juvenile Records 13.50.010(16) Health/safety information from DYF to department of commerce re youth in foster care admitted to CRCs/HOPE centers 2017 c 272 s 1 May 2019; Aug. 2019 527 Juvenile Records 13.50.010(17) DYF disclosures re child abuse/neglect, and for health care coordination 2017 3rd sp. s. c 6 5312 May 2019; Aug. 2019 528 Personal Information 40.26.020 Biometric identifiers 2017 c 306 s 2; 2017 2nd sp. s. c 1 s 1 529 Insurance Information 48.02.230 Information used to develop an individual health insurance market stability program 2017 3rd sp. s. c 30 s 1 530 Health Care 50A.04.195(4)&(5) Family/medical leave 2017 3rd sp. s. c 5 s 29 531 Health Care 50A.04.080(2)(b) Family/medical leave from employer records 2017 3rd sp. s. c 5 s 33 532 Health Care 50A.04.205 Family/medical leave ombuds surveys 2017 3rd sp. sess. c 5 s 88 533 Voter and



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Election Information - Personal Information 42.56.230(10) Personally Identifiable voter registration information for individuals under 18 2018 534 Religious Beliefs; Personal Information 42.56.235 Personal identifying information about an individual's religious beliefs 2018 Oct. 2018; Feb. 2019; May 2019; Aug. 2019 Aug. 2019 535 Investigative, law enforcement, crime victims; Juvenile Records 42.56.240(18) Audio and video recordings of child interviews regarding child abuse or neglect 2018

536 Voter and Election Information - Employment and Licensing; Personal Information 42.56.250(11) Personally Identifiable voter registration information for individuals under 18 2018

537 Financial, Commercial and Proprietary Information 42.56.270(29) Financial, commercial, operations, technical, and research information submitted to the Andy Hill cancer research endowment program pertaining to grants under chapter 43.348 RCW, that if revealed would result in private loss 2018

538 Financial, Commercial and Proprietary Information; Health Care 42.56.270(30) Proprietary information filed with the department of health 2018 Proposed Legislation & Related Bills Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee Category RCW Description Date Enacted Materials Presented Recommendation

539 Agriculture and Livestock 42.56.380(13) Information obtained from the federal government if exempt from disclosure under federal law and personal financial information or proprietary data obtained by the department of agriculture 2018 540 Agriculture and Livestock 42.56.380(14) Hop grower lot numbers and lab results 2018 541 Insurance & Financial Inst. 42.56.400(28) An insurer's corporate governance annual disclosure and related information obtained by the insurance commissioner 2018

542 Insurance & Financial Inst.; Health Care 42.56.400(28) Claims, health care, and financial information submitted by school districts to the office of the insurance commissioner and health care authority 2018 543 Firearms 9.41.350(6) Records regarding a person's voluntary waiver of firearm rights 2018 544 Agriculture and Livestock 15.135.100(1) Information obtained from the federal government if exempt from disclosure under federal law 2018

545 Agriculture and Livestock; Personal Information; Financial, Commercial, and Proprietary Information 15.135.100(2) Personal financial information or proprietary data obtained by the department of agriculture 2018

546 Child Abuse; Juvenile Records; Investigative Records 26.44.187 Recorded child interviews regarding child abuse or neglect 2018 547 Parentage; Personal Information 26.26A.050 Personally identifiable information of the child and others in parentage proceedings 2018 548 Elections; Personal Information 29A.08.720(2)(b) The personally identifiable voter registration information of individuals under 18 2018 549 Elections; Personal Information 29A.08.770 The personally identifiable





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

voter registration information of individuals under 18 maintained by the secretary of state and county auditors 2018

550 Elections; Personal Information 29A.08.359 Personal information supplied to obtain a driver's license or identicard and used to certify registered voters 2018 551 Elections 29A.92.100(3) A plaintiff's filing of an action regarding equal voting rights under the Washington voting rights act of 2018 2018

552 School District Insurance 41.05.890(2) Claims, health care, and financial information submitted by school districts to the office of the insurance commissioner and health care authority 2018

553 State Government 43.216.015(15) Oversight board for children, youth, and families records, only the information if otherwise confidential under state or federal law 2018

554 State Government; Investigative Records 43.06C.060(3) Information regarding investigations exchange between the office of the corrections ombuds and the department of corrections 2018 Category RCW Materials Presented Description Date Enacted Recommendation Schedule of Review Sunshine Committee Proposed Legislation & Related Bills Public Records Exemptions Accountability Committee

555 Insurance Information 48.195.040(1) An insurer's corporate governance annual disclosure and related information submitted to the insurance commissioner 2018

556 Unwanted Medication Disposal; Financial, Commercial and Proprietary Information 69.48.170 Proprietary information submitted to the department of health regarding unwanted medication disposal 2018

557 Financial, Commercial, and Proprietary Information 42.56.270(13) Financial and proprietary information submitted to or obtained by the department of ecology 558 Financial, Commercial, and Proprietary Information 42.56.270(15) Financial and commercial information provided as evidence to the department of licensing from special fuel licensees or motor vehicle fuel licensees 559 Financial, Commercial, and Proprietary Information 42.56.270(18) Financial, commercial, operations, and technical and research information submitted to health sciences and services authorities if private loss would result 560 Financial, Commercial, and Proprietary Information 42.56.270(19) Information that can be identified to a particular business that was gathered as part of agency rule making 561 Health Care Professionals; Health Care 42.56.355 Information distributed to a health profession board or commission by an interstate health professions licensure compact 2017

562 Marijuana 42.56.630 Registration information of members of medical marijuana cooperatives submitted to the liquor and cannabis board 2015 563 Health Professionals; Personal Information 42.56.640 Personal identifying information of vulnerable individuals and in-home caregivers 2017 564



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

Health Care 71.05.445(4) Court-ordered mental health treatment records received by the department of corrections 2000 565 Health Care Professionals; Whistleblower 74.09.315(2) Identity of whistleblower 566 Personal Information; Public Assistance 43.185C.030 Personal information collected in homeless census 567 Juvenile Records 26.44.125(6) Child abuse or neglect review hearings 2012 568 Juvenile Records 74.13.285(4) Information on a child in foster care or child's family 2007 569 Health Professionals; Personal Information 74.39A.275(5) Personal information of vulnerable adults and in- home care providers 2016 570 Health Professionals; Personal Information 43.17.410 Personal information of vulnerable individuals and in- home caregivers 2017 571 Health Care; Personal Information; Investigative Records 74.39A.060(6) Personal identifying information of complainant and residents in a complaint against a long-term care facility 572 Health Care; Financial, Commercial, and Proprietary Information; Trade Secret 41.05.026 Health care contractor proprietary information Description Date Enacted Materials Presented Recommendation Sunshine Committee Schedule of Review

Category RCW Public Records Exemptions Accountability Committee Proposed Legislation & Related Bills 573 Collective Bargaining 41.56.510 Collective bargaining authorization cards of public employees 2010 574 Personal Information 42.56.230(11) Information submitted to state regarding people self- excluding themselves from gambling activities under RCW 9.46.071 and 67.70.040 2019

575 Personal Information; Firearms 42.56.230(12) Personal information of individuals who participated in the bump-fire stock buy- back program under RCW 43.43.920 2019

576 Financial Commercial, and Proprietary Information 42.56.270(31) Confidential, valuable, commercial information filed with the Department of Ecology regarding the architectural paint stewardship program 2019

577 Agriculture and Livestock; Financial, Commercial, and Proprietary Information; Trade Secret 42.56.380(15) Trade secrets, commercial information, and other confidential information obtained by the federal Food and Drug Administration by contract 2019

578 Agriculture and Livestock; Financial, Commercial, and Proprietary Information; Trade Secret 15.130.150 Trade secrets, commercial information, and other confidential information obtained by the federal Food and Drug Administration by contract 2019

579 Insurance & Financial Inst. 42.56.400(29) Findings and orders that disapprove the acquisition of a state trust company 2019 580 Personal Information; Employment and Licensing 42.56.660 (effective 7/1/2020) Agency employee records if the requester sexually harassed the agency employee 2019 581 Personal Information; Employment and Licensing 42.56.675 (effective 7/1/2020) Lists of agency employees compiled by agencies to administer RCW 42.56.660 2019 582 Health Care 42.56.650, 41.05.410(3)(b) Data submitted by health carriers to the Health Benefit Exchange and Health Care Authority 2019 583 Court Proceedings; Guardian 11.130.300(3) (effective 1/1/21) Visitor report and



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

professional evaluation regarding appointment of guardian for an adult 2019 584 Court Proceedings; Conservator 11.130.410(3) (effective 1/1/21) Visitor report and professional evaluation regarding conservatorship of a minor 2019 585 Health Care 19.390.070 Information submitted to the attorney general regarding potential anticompetitive conduct in the health care market 2019 586 Placeholder 587 Personal Information; Investigative, law enforcement, and crime victims 26.44.175(5) Information provided to multidisciplinary child protection team members in the course of a child abuse or neglect investigation 2019

588 Insurance and Financial Institutions; Financial Commercial and Proprietary 30B.44B.170 Department of Financial Institutions' records in connection to involuntary liquidation of a state trust company 2019 Sunshine Committee Schedule of Review

Category RCW Description Date Enacted Public Records Exemptions Accountability Committee Proposed Legislation & Related Bills Materials Presented Recommendation

589 Insurance and Financial Institutions; Financial Commercial and Proprietary 30B.53.100(3) Department of Financial Institutions' findings and order on the disapproval of a proposed acquisition of a state trust company 2019

590 State Government; Financial Commercial, and Proprietary Information 43.155.160(6)(g) Broadband service provider confidential business and financial information submitted as part of an objection to an application for a grant to expand access to broadband service 2019

591 State Government 42.17A.120(3) Modification hearing information on the suspension or modification of campaign finance reporting requirements under 42.17A.710 2019 592 State Government; Health Care 43.71C.030(2) Pharmacy benefit manager information reported to the Health Care Authority 2019 593 State Government; Health Care 43.71C.050(7); 060(5); 070(3) Prescription drug manufacturer information reported to the Health Care Authority 2019 594 State Government; Health Care 43.71C.100 Health Care Authority prescription drug data 2019 595 Insurance; Health Care; Personal Information 48.43.505(4) Nonpublic personal health information held by health carriers and insurers 2019

596 Financial, Commercial, and Proprietary Information; Marijuana 69.50.561(6) Licensed marijuana business's financial and proprietary information supplied during consultative services by the Washington State Liquor and Cannabis Board 2019

597 State Government; Health Care 70.225.040(1) Information submitted to the prescription monitoring program 2019 598 State Government; Financial Commercial, and Proprietary Information 70.375.130 Confidential, valuable, commercial information filed with the Department of Ecology regarding the architectural paint stewardship program 2019





## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

599 State Government; Health Care 70.58A.400(5) (effective 1/1/21) Sealed birth records with adoption decrees under chapter 26.33 RCW 2019 600 State Government; Health Care 70.58A.500(3) (effective 1/1/21) Sealed live birth records 2019

601 State Government; Health Care 70.58A.530(15), (16) Certification of birth or fetal death, including certification of birth resulting in stillbirth, that includes information from the confidential section of the birth or fetal death record 2019

602 State Government; Health Care 70.58A.540 (effective 1/1/21) Vital records, reports, statistics, and data 2019 603 Employment and Licensing; Personal Information 42.56.250(11) Personal demographic details voluntarily submitted by state employees 2020 604 Financial, Commercial, and Proprietary Information 42.56.270(32) Commercial information obtained by the Liquor and Cannabis Board in connection with distiller licensing 2020 605 Educational Information 42.56.315 Certain student information received by school districts 2020 606 Health Care 42.56.360(1)(I); 41.04.830 Medical information about members of retirement plans 2020 Public Records Exemptions Accountability Committee Schedule of Review

Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills Sunshine Committee Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills 607 Health Care 70.390.030(7) Health care information held by the Health Care Cost Transparency Board that could identify a patient 2020

608 Educational Information; Crime Victim and Witnesses 42.56.375; 28B.112.060(3); 28B.112.070(2); 28B.112.080(5) Identifying information regarding sexual misconduct complainants and witnesses 2020

609 Insurance and Financial Information; Health Care 42.56.400(31); 48.200.040; 48.43.731 Contracts with health care benefit managers filed with the Insurance Commissioner 2020

610 Firearms; Health Care 9.41.111(1)(c) Mental health information received in connection with a firearm frame or receiver purchase or transfer application 2020

611 Juvenile Records; Investigative, law enforcement and crime victims 13.50.260(12) Confidential information and sealed records accessed through the Washington state identification system by criminal justice agencies 2020

612 Juvenile Records; Public Assistance 74.13.730(7) Reports, reviews, and hearings involving certificates of parental improvement 2020 613 Education Information 28B.96.020(8) Data collected by the Undocumented Student Support Loan Program 2020 614 Motor Vehicle/Driver Records 43.59.156(6)(a) Confidential information obtained by the Cooper Jones Active Transportation Safety Council 2020 615 Motor Vehicle/Driver Records 46.20.117(6); 46.20.161(6) Self-attestations and data



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

provided for identicard and driver's license designations 2020 616 Juvenile Records 28A.300.544(6) Confidential information received by the work group on students in foster care and/or experiencing homelessness 2020

617 Public Utilities and Transportation 81.88.160(7) Gas pipeline company reports submitted to the UTC that contain proprietary data or where disclosure would affect public safety 2020

618 Financial, Commercial, and Proprietary Information 42.56.270(12)(a)(iii) Financial and proprietary information provided to the Department of Commerce in connection with the industrial waste coordination program 2021

619 State Government; Public Health 42.56.380(16) Certain information obtained from the federal Food and Drug Administration by Department of Health public health laboratories for monitoring food supplies for contaminants 2021 620 Elections 42.56.420(7) Certain election security information 2021 621 Personal Information 42.56.680 Personal information obtained by the Department of Commerce from residential real property notices of default 2021 c 151 s 12

622 Security 42.56.422; 43.105.450(7)(d) State agency information technology security reports and information compiled in connection with the Office of Cybersecurity 2021 c 291 s 8; 2021 c 291 s 1 Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee Category RCW Description Date Enacted Materials Presented Recommendation Proposed Legislation & Related Bills 623 Personal information; Crime Victims 7.105.105(2) Confidential party information forms accompanying petitions for civil protection orders 2021 c 215 s 14

624 Financial, Commercial, and Proprietary Information; Trade Secret 36.32.234(7)(a) Trade secrets and proprietary information submitted by bidders, offerors, and contractors in connection with electric ferry design and procurement, when requested and county concurs 2021 c 224 s 1

625 State Government; Financial, Commercial, and Proprietary Information 36.32.234(7)(b) Electric ferry procurement documents, until notification of finalist made or selection terminated 2021 c 244 s 1

626 Personal Information; Motor Vehicle/Driver Records 46.22.010 Information and records containing personal and identity information obtained by the Department of Licensing to administer driver and vehicle records 2021 c 93 s 4

627 Personal Information; Health Care 49.17.062(3) During public health emergencies, certain personally identifiable information regarding employees of the Department of Labor and Industries 2021 c 252 s 2

628 Health Care 70.14.065(4) Records obtained or created relating to partnership agreements for



## Does 1, 2, 4, 5, Appellants/cross-respondents V. Sam Sueoka, Et Al., Respondents/cross-appellant

2023 | Cited 0 times | Court of Appeals of Washington | June 26, 2023

production, distributing, and purchasing generic prescription drugs and insulin 2021 c 274 s 1

629 Health Care 71.40.140; 71.40.120(3) Communications, records, and files of the Office of Behavioral Health Consumer Advocacy, and related organizations and advocates 2021 c 202 s 12; 2021 c 202 s 14  
630 State Government 70A.245.030(2) Reports and information submitted to the Department of Ecology by producers of certain plastic products, when requested 2021 c 313 s 4

631 Security; State Government 42.56.422 The report detailing the Office of Cybersecurity's independent security assessment of state agency information technology security program audits 2021

632 Industrial Insurance; Injured Worker 51.04.063(13) Information relating to individual claim resolution settlement agreements submitted to the board of industrial insurance appeals 2014

\*For subsequent legislative history, see statutes online on the state legislative's website; see also Code Reviser's Office list ("Exemptions from Public Records Disclosure and Confidential Records") available on Sunshine Committee web page. Schedule of Review Public Records Exemptions Accountability Committee Sunshine Committee

