
PUBLIC HEARING

CR-102

WASHINGTON STATE REGISTER 26-11-042

June 30, 2026

Olympia, Washington

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APPEARANCES:

FOR WASHINGTON STATE
ATTORNEY GENERAL'S
OFFICE:

MR. MORGAN DAMEROW
MS. ANGIE ADAMS
MR. ALEJANDRO SANCHEZ-CRUZ
P.O. Box 40100
Olympia, WA 98504
(360) 664-3801
morgan.damerow@atg.wa.gov
angie.adams@atg.wa.gov
alejandro.sanchezcruz@atg.wa.gov

1 BE IT REMEMBERED that on Tuesday, June 30, 2026,
2 at 3:00 p.m., at John A. Cherberg Building, 304 15th Avenue
3 SW, Olympia, Washington, before REBECCA S. LINDAUER,
4 Certified Court Reporter, in and for the State of
5 Washington, the following proceedings were had, to wit:

6
7 MR. DAMEROW: So good afternoon, everyone. I'm
8 going to with introductions. I am Morgan Damerow, chief
9 transparency counsel for the Attorney General's Office and
10 today's hearing officer for the Public Records Act Model
11 Rules. Also present with me this afternoon are numerous
12 folks from the Attorney General's Office. Seated to my
13 immediate left is Alejandro Sanchez-Cruz, who will be
14 helping with the Zoom parts of the presentation, promoting
15 folks, and helping folks testify. Also is Angie Adams who
16 will be helping keep us online, keeping us on track with the
17 timer, and just coordinating those kinds of things. Other
18 folks are here from the AG's Office to help. We'll transfer
19 out a couple of people as we go along, but those are the
20 immediate folks who will be participating as we get going
21 here.

22 So far, except for the difficulties with starting the
23 webinar, the technology has cooperated. I obviously hope
24 this continues when -- if and when that doesn't happen,
25 please be patient with us, and we'll regroup, and we'll fix

1 what's going on and then continue on.

2 So, for the record, today is June 30, 2026. We are in
3 Meeting Rooms A, B, C of the Cherberg Building. It's 3:00
4 in the afternoon, and we are here today to conduct a public
5 hearing and take public testimony on the proposed amendments
6 to the PRA Model Rules, which are in Chapter 44-14 of the
7 WAC.

8 The Attorney General's Office filed a CR-102, which is
9 a notice of proposed rulemaking. This was published in the
10 Washington State Register, WSR 26-11-042. Copies of the
11 proposed rules are here in the room and are also available
12 on the AGO's rulemaking web page.

13 For the model rules, we are accepting both oral and
14 written comment. If you are present with us today and have
15 written comment, please make sure that you leave it with us
16 and don't inadvertently take it home. For people
17 participating remotely, you can email a copy of any written
18 comments to agorulemaking -- and that's all smashed
19 together -- at atg.wa.gov. Please do so before 5:00 today.
20 We have received a lot of written comments in advance of
21 today's hearing. Thank you everyone who took the time to
22 share their thoughts with us. We'll be posting all of this
23 material on our rulemaking web page.

24 I also wanted to thank everyone for participating in
25 this hearing on the PRA Model Rules, both the folks who are

1 present with us this afternoon and the folks that are
2 participating via Zoom.

3 Just to avoid a little bit of confusion that occurred
4 with our first hearing on the PRA Model Rules, there was a
5 question about the authority for the rules. This is a rules
6 hearing being conducted under the procedures in
7 Chapter 34.05 RCW, the APA, as it's commonly known. This is
8 not an Open Public Meetings Act governed procedure under
9 42.30.

10 Here's what you can expect today. As I mentioned,
11 we've received written comments to proposed model rules, and
12 we will be posting those to our website. Today we have, it
13 appears, five people who have appeared to provide live
14 testimony, and we have approximately 17 people who have
15 signed up to provide comments via Zoom.

16 If anybody who has signed up via Zoom did so with the
17 intent of just observing today's hearing and doesn't intend
18 to provide public testimony, would you please let us know in
19 the chat so we can watch for that as we work through the
20 folks who have signed up to testify. There's also the
21 ability just to watch the hearing. We made a public link
22 available, and we have numerous people participating that
23 way as well.

24 In providing public comments today, we have allotted
25 five minutes for each individual. I ask that you focus your

1 comments on the model rules and information related to the
2 PRA and refrain, please, from making comments about other
3 individuals who are here to share their thoughts and views
4 on the PRA Model Rules and on the PRA.

5 In looking at the number of people who have joined us
6 today, my plan is to alternate between in-person and remote
7 testimony. Based upon the number of participants, my plan
8 is to start with folks that are present with us in the
9 audience, probably have three individuals share their
10 thoughts, then we'll shift to three folks remotely, and then
11 come back to live testimony for any other additional live
12 comments that are going to be provided and then finish off
13 with everybody else who has indicated that they wanted to
14 provide testimony via Zoom.

15 One of the screens will have a five-minute timer on it.
16 I ask that you keep your eye on this as we work through
17 testimony. It will help us wrap things up on time. During
18 the first hearing on the model rules, everybody did an
19 excellent job kind of watching this, and I don't think we
20 had any issues and hopefully that will continue today.

21 If, perchance, you can't see the timer, please let us
22 know and we're happy to let you know when there's a minute
23 remaining, 30 seconds, and when your time has expired.

24 We have a court reporter here with us today that is
25 taking down everything that is being said. As a person who

1 tends to speak rather quickly, I ask that you please don't
2 mimic me or mirror me. Please be kind to our court
3 reporter. Please speak clearly and not too quickly. In the
4 event that you switch into auctioneer mode or start talking
5 as fast as I can, our court reporter will ask you to slow
6 down and repeat what you said. So please do your best to be
7 kind to our court reporter and their ability to track what
8 is being said.

9 Because there is a court reporter, there will be a
10 transcript of today's hearing. We will post that on our
11 rulemaking page as well when we have it.

12 Today's hearing is solely for the purpose of taking
13 public hearing, taking comments on the proposed model rules.
14 We are here to listen. This is not a question-and-answer
15 period. We did a lot of work and had a lot of conversations
16 with stakeholders prior to filing the original CR-102. A
17 few people have reached out to me to talk about the proposed
18 model rules, and I apologize for not calling you back, but I
19 felt it was not appropriate for the hearings officer to have
20 separate conversations about the rules outside of this
21 public process. To that extent, I apologize. I probably
22 should have reached out to you and explained that to folks a
23 little better so I apologize to the extent somebody felt
24 ghosted by me.

25 So in terms of the actual mechanics of how testimony

1 will work today, when we call folks to testify, folks in the
2 live audience, we have a podium with a microphone so that
3 everybody should be able to hear both the people that are
4 present here today and people that are participating via
5 Zoom. For those folks who are testifying via Zoom,
6 Alejandro will promote you to a panelist, which allows you
7 to turn on your microphone and your camera. As we've
8 learned from these technologies over the last few years,
9 occasionally that eats a lot of bandwidth. If you see that
10 your connection is getting slow or unstable, sometimes
11 turning off your camera helps, helps normalize that
12 connection so we will at least be able to hear you.

13 So going forward, we're about ready to start hearing
14 from folks. The plan is, like I said, we'll hear from three
15 people that are present with us today. We're going to start
16 of with Richard Potter, Rowland Thompson, and then Candice
17 Bock, and then we'll switch to Zoom testimony, and I'll do
18 the same thing. As we switch over, I'll announce the first
19 three people for Zoom testimony, and then we'll come back to
20 the live audience.

21 So with that, Richard, I'll turn the mic and the floor
22 over to you.

23 MR. POTTER: Thank you. Good afternoon. I am
24 Richard Potter. In this proceeding, my colleague, John
25 Gray, and I are representing the administrative law section

1 of the Washington State Bar Association. The section has a
2 long-time special interest in the Public Records Act and its
3 proper implementation. It's just about 20 years ago now
4 that the section first published a Public Records Act
5 textbook, which was traded in partnership with the Attorney
6 General's Office. The section is currently working on
7 another update, and over the years the section's presented
8 numerous seminars on the Public Records Act. So in those
9 roles, the section is very much interested in the issues
10 with regard to promptness and diligence and responding to
11 public records that were raised by the media's rulemaking
12 petition in this case.

13 But the section is actively participating in this
14 proceeding because it's a chance to pursue some objectives
15 the section's had for a long time with regard to the model
16 rules for implementing the PRA's requirement that state
17 agencies have indexing systems for four types of records.
18 And in our opinion, the issues with implementing those
19 indexing requirements are really quite straightforward and
20 easily accomplished compared perhaps to the more complex
21 issues with regard to how agencies are responding to Public
22 Records Acts. So the PRA's requirement is found in
23 RCW 42.56.070(5) the model rule is WAC 44-14-030(2). The
24 comment to that rule with regard to the indexes is
25 44-14-03003.

1 The section submitted comprehensive comments in October
2 last year responding to proposed rules that had been
3 published at that time. Our comments explained that PRA's
4 requirement that state agencies establish by rule a system
5 of indexing four types of documents and the requirement that
6 such rules must contain at a minimum specific components
7 that are described in that statute.

8 Our comments explained the significant benefits to the
9 public and to the state agencies themselves that can be
10 realized by state agencies complying with the law and using
11 best practices to do so. Our comments also explained in
12 detail the improvements needed in the model rule and the
13 comment, and we set forth the texts of reviewed model rules
14 and the comment that would make those improvements.

15 The revised model rules published by the Attorney
16 General's Office last month are unchanged on these issues.
17 There are a couple of changes on the table for the model
18 index's rule. There's still no proposed changes to the
19 comment.

20 Yesterday we emailed in the brief supplemental
21 comments. In short, the model rule comment continues to
22 give state agencies the incorrect advice of, quote, using
23 their records retention schedules as their index, closed
24 quote. This must be corrected. If you only did one thing
25 that we are asking in this proceeding, that would be it.

1 State agencies have been following this incorrect
2 advice, which results in them not creating and providing the
3 records indexes as required by the PRA. The statute
4 requires indexes that direct users to specific documents.
5 Records retention schedules do not list specific documents.
6 They just list types of documents.

7 Next, the draft revised model rule does make one
8 improvement, but it still does not cover all of the index
9 rule components required by the PRA.

10 Next, the draft model rule takes a spartan
11 fill-in-the-blanks approach. That approach can work but
12 only if the related comment provides sufficient information
13 and advice on how to fill in those blanks in a way that
14 meets the minimum requirements of the PRA and also provides
15 best practices advice for structuring the index system and
16 its rules and for actually providing indexes that benefit
17 the agencies and the public. The unchanged comment does
18 none of this.

19 The revised rules and comments text proposed in our
20 October comments make all those needed improvements. So
21 when we read the concise explanatory statement that the APA
22 requires to be published by the Attorney General's Office in
23 this reading, we will hope to see that upon consideration
24 the office has not rejected our proposals but has adopted
25 them. Thank you.

1 MR. DAMEROW: So that folks are aware, Rowland,
2 one of the people online, indicated we were having an echo.

3 MR. THOMPSON: Okay.

4 MR. DAMEROW: So I'm going to mute this. There's
5 a speaker in the microphone in the evening -- excuse me, in
6 the ceiling.

7 MR. THOMPSON: Okay.

8 MR. DAMEROW: And I'm going to see if they can
9 hear you okay without this. If they need to --

10 MR. THOMPSON: Do you want to do a test?

11 MR. DAMEROW: I like that even better.

12 MR. THOMPSON: I don't know if -- you can't turn
13 that off at the microphone.

14 MR. DAMEROW: You can't so you're going to get an
15 echo. Thank you. High-tech solution, just unplug it. If
16 you wouldn't mind, Rowland, that would be great.

17 MR. THOMPSON: Is this okay --

18 MR. DAMEROW: Yeah, this is --

19 MR. THOMPSON: -- for whoever is online? Are
20 there any thumbs up? Any...?

21 MR. DAMEROW: Can folks online hear Rowland okay?

22 MR. THOMPSON: Am I all right? I think it's
23 great. No problem.

24 MR. DAMEROW: Thank you. I appreciate it.

25 MR. THOMPSON: Thank you. Good afternoon. My

1 name is Rowland Thompson. I'm here representing the LA
2 Daily Newspapers of Washington and the Washington State
3 Association of Broadcasters. I'm also, at this time, the
4 acting chair of the Sunshine Committee, and I want to make
5 it clear that I'm not here in that capacity, since there
6 might be some confusion, but in 2024 LA Daily Newspapers and
7 the Washington State Association of Broadcasters joined
8 other media organizations in a rulemaking petition to
9 improve the model PRA rules. The petition was borne out of
10 our frustration as reporters and editors about a falling off
11 on the part of governmental entities in responding to our
12 requests for records.

13 We've been -- we were seeing long delays in records
14 that we had requested for timely reporting on governmental
15 actions, and that frustration led us to come forward with
16 this, this -- asking for this change and we're very happy
17 that the Attorney General has stepped up to address those
18 issues for us.

19 We want a law that -- the APA section of the -- for the
20 changes that they put forward just now, and that's made me
21 cut some parts out of my testimony as well, but overall we
22 think that the proposed rules would improve the compliance
23 with the act and should be adopted as soon as possible.
24 Especially important and very much appreciated are these
25 five revisions: we want to make sure that there's prompt

1 disclosure, that there's diligent processing, and the time
2 estimates based on specific requests are not just part of a
3 general backlog of requests that the agency already faces.

4 There's also the question we want to stop preventing --
5 we want to prevent storage of public records solely on
6 private devices, and we want to avoid pointless lawsuits,
7 which have come forward of late, from third-party notice
8 when the statutes do not require that when there are large
9 requests that go out with multiple third parties that are
10 named in those requests and they receive third-party notice
11 without any statutory requirements, and with that I would
12 like to say thank you.

13 MR. DAMEROW: Thank you.

14 MR. THOMPSON: You bet.

15 MR. DAMEROW: Candice?

16 MS. BOCK: Thank you. I'm Candice Bock with the
17 Association of Washington Cities. Thank you for the
18 opportunity to comment today. We've also submitted written
19 comments again, and they have some similarity to our written
20 comments that we submitted previously.

21 I want to mention that Washington has 281 cities and
22 towns, 57 percent of those are a population of 5,000 or
23 less, which means that in those cities you have just a
24 handful of staff and probably a city clerk that is doing --
25 triple duty doesn't capture it. They are serving as a

1 public records officer and many other roles. So it is
2 important to us that these model rules help provide greater
3 clarity to them and certainty for jurisdictions of all sizes
4 but really keeping in mind some of the very small
5 communities and the impact on them when there are questions
6 and concerns about public records.

7 With that, I just want to highlight a couple of our
8 main comments. Just reflecting on the proposed requirement
9 to transfer records from a personal device to a public
10 device or account within five days, we certainly, you know,
11 appreciate the desire to provide greater clarity there and a
12 goal of five days, but we don't think it's actually adding
13 anything to the underlying law to move it as -- as soon as
14 possible essentially.

15 It just creates, perhaps, more questions about what are
16 the unusual circumstances in which five days would not be
17 the right number of days. We definitely agree that those
18 records should be transferred as soon as possible and are
19 not sure that putting five days in there adds anything to
20 the underlying models rules.

21 I also want to highlight some of the concerns we raised
22 last time about the changes to 44-14-040(1) and (3)
23 requiring or encouraging classifying requests as either
24 simple or complex. This, again, sounds straightforward, but
25 it puts public records officers in the position of

1 determining what's truly -- what's simple, what's complex.
2 Similarly with time sensitive, it puts them in the position
3 of determining what's time sensitive and what's nonurgent,
4 and we feel like this could really have requesters pitted
5 against one another for the limited time and resources that
6 are available and put a records officer in the position of
7 trying to arbitrate over those questions just really
8 creating more liability.

9 It's possible to imagine a scenario where a public
10 records officer continuously prioritizes what's perceived as
11 simple requests, never finding the time to get to the
12 complex requests. So, again, I appreciate the intent and
13 idea behind that. We just don't know that it will work as
14 envisioned in practice.

15 Many of our comments are, again, similar to previously.
16 I do, again, want to thank the Attorney General's Office,
17 the staff present. We appreciate all the work that's gone
18 into this and do agree that, you know, it's a good time to
19 update. We haven't done an update in a while and really
20 appreciate the opportunity to provide comment for the public
21 records officers, the city clerks out there to provide
22 comment. I think you'll be hearing from some of them. I
23 know they've submitted written comment and encourage you to
24 listen to the practitioners on what it's like for them in
25 the day-to-day business of trying to, as quickly as possible

1 and as efficiently as possible, respond to the many and
2 varied public records requests they receive. With that, I
3 just encourage you to refer to my written comments. Thank
4 you.

5 MR. DAMEROW: Thank you.

6 So we're going to shift to folks online for the next
7 three public comments starting with Joe Kunzler, then Tammy
8 Sunderlin, and Natasha Langer.

9 MR. KUNZLER: Hello. Can everyone hear me?

10 MR. DAMEROW: Yes. We can hear you just fine, and
11 we can -- you're small on the screen, but we can see you as
12 well.

13 MR. KUNZLER: All right. Thank you. I didn't
14 mean to get small, but Joe Kunzler here. You can start my
15 time. I want to thank you for your time and attention to
16 this matter on public records rules, as I work up my
17 comments, and I did want to respond to some of the
18 commenters today both in support and in opposition.

19 I mean, it's important that we review the model rules
20 every 10 years or so. I also think it's important that we
21 have model rules for public meetings. I know it's probably
22 not surprising because we all need to know the rules of the
23 road, and the state legislature cannot legislate everything.
24 That's why we have model rules. And I want to start with
25 that, considering I reviewed some of the YouTube of the last

1 hearing and some of the good comments there.

2 I would also add respectfully, with four minutes left
3 to go, that I really appreciate the focus on promptness and
4 triaging. I think that when members of the media come
5 forward and say, hey, I'm on a deadline and I need these
6 records by such and such, that needs to be prioritized when
7 it's clearly a credible news outlet, not someone's blog, not
8 someone's Beehiiv, per se, but a credible news outlet that's
9 been recognized.

10 And the reason why I stress that is I worked for an
11 aviation news publication for three years and three months.
12 I obviously considered using public records, and I decided
13 in all my wisdom to not request public records because I
14 knew I would not get them in time for the timelines my
15 editor set, and it's kind of hard to go back to a story long
16 after. So we need to improve the speed of public records
17 production.

18 I would also note, as I will in my comments, written
19 comments, the exact numbers that according to JOC incomplete
20 data, that the cost of producing the public records is far
21 higher than the return -- you know, cost recovery in fees
22 for document production. I think it may be best to waive
23 the fees for all but the most complex public records. I
24 also think the model rules should recommend but not require
25 that all agencies track their costs and turn in to JOC so we

1 can have a more complete picture. It's important we
2 understand whether this is truly burdensome or not. It's
3 important we understand how efficient and proficient public
4 records officers are based on data and not just oral
5 testimony that can be veered towards the extremes.

6 It's also important that we remember that we require
7 public records because we want the public to have
8 sovereignty over the government, and without public records
9 it's hard to do that. Going back to my journalist role,
10 again, I personally prefer having public records in hand
11 because then I can speak to the facts. For instance, it
12 would have been nice to request public records about airport
13 improvements and such. At least I got good PR handouts, but
14 you kind of see where I'm going.

15 I would also add -- and, yes, I intend to use my full
16 five minutes. Shocker -- that I really want to just in the
17 last 30 seconds hammer home how important it is that we have
18 efficient, friendly public records production. We have many
19 great public records officers in this state, and I can make
20 a long list, but we don't have time. That's not my issue.

21 My issue is we need to make clear that we need to not
22 be having public records on private devices. I think five
23 days is way to long. It should be three days. Why?
24 Because, quite frankly, it's disrespectful to the people who
25 pay the bills. And with 55 seconds left to go, I would also

1 add that with the limited time and with declining press, we
2 live in time when the news media is under attack.

3 We've got -- I've got to be careful how I say this
4 because this is before PDC at my prompt, but we've got
5 people who are playing journalists and appear to be
6 lobbyists -- appear to be lobbyists under review here trying
7 to supplant those of us who, honest to God, this work of
8 going through public records and putting out what's out
9 there. And it's really important to prioritize supporting
10 journalism in these public records requests and also let the
11 public be informed.

12 This is a -- but those who show up and that's how I
13 choose to live my life, and I'm grateful for the Washington
14 Coalition for Open Government giving me a Key Award for
15 that. And with that, my time has run out. Thank you for
16 public service as always. Thank you.

17 MR. DAMEROW: Thank you. And Tammy and Natasha,
18 yeah, we don't see that you've joined us online. If
19 that's -- if you are there, we didn't see your name. Would
20 you please chat us in the chat function.

21 And with that, we'll move back to live testimony
22 starting with Colette Weeks and then Arthur West and then
23 Cassidy Mueller.

24 MS. WEEKS: Good afternoon. I'm Colette Weeks,
25 executive director of the Washington Coalition for Open

1 Government, also known as WashCOG, and I do want to thank
2 the Attorney General's Office for moving forward to improve
3 the model rules. We do support that effort. The coalition,
4 for any who don't know, is a nonpartisan, non-profit that
5 advocates for the people's right to know what government is
6 doing in their name. We're a mostly volunteer-run
7 organization that works through the legislature, courts, and
8 civic education efforts to defend and strengthen the state's
9 public information and access laws.

10 The coalition preferred the earlier draft of the
11 improvements, and we do support the changes now advocated by
12 the news media petitioners, with one exception. We do not
13 believe agency personnel who conduct public business on
14 private electronic devices should have more than two days to
15 transfer those records into a publicly maintained system.
16 Five days is too much. We believe that promptness has been
17 a dominant theme for the Public Records Act from the
18 beginning and should remain. We want to see that word
19 remain prominent in the rules.

20 Other issues we support: triage of requests to ensure
21 simple ones are not pushed far behind the more complex. It
22 could be a little complicated to do that, but I'm sure that
23 the smart people of Washington government can figure it out.

24 Third-party notification, we do not believe parties
25 should be notified prior to release of a record. The laws

1 say which are exempt, and if there's confusion, the question
2 should go to an agency's legal counsel or perhaps the
3 Attorney General's Office to find out if there is an
4 exception in question before going to the third party
5 because what happens is a delay that interferes with the
6 people's right to know.

7 We care that records remained organized and accessible
8 and that the culture of government be focused on serving the
9 public, which includes the right to know because they do
10 deserve -- they have the right to know what their public
11 servants are doing.

12 There are -- I'm not going to take my five minutes
13 today because I didn't think I would have but two, but
14 others from WashCOG are online and will speak today on some
15 of these topics. Thank you very much.

16 MR. DAMEROW: Thank you.

17 MR. WEST: Good afternoon. My name is Arthur
18 West. I'm a citizen that employs the Public Records Act. I
19 like the model rules, most of them. They seem to be a step
20 forward. I think the focus on promptness and triage is
21 good. I oppose any tiering or analysis of who the person
22 is. I think that the ordinary peasant should be in the same
23 position as the fourth estate or anyone else when you make a
24 records request. So I would oppose any type of favoritism,
25 as one of the previous commenters talked about.

1 As far as use of personal devices to conduct public
2 business, I think that there ought to be rules that that is
3 inappropriate. Many cities have adopted such rules. I
4 think the model rules should state that this is not
5 appropriate, and the agency should take reasonable steps to
6 make sure that doesn't happen. If it does, five days is
7 long enough, I think.

8 And while I'm very happy that these rules, in many
9 respects, are a step forward, in regard to the production
10 and installments, we're in a situation of one step forward
11 and two steps back. As anyone knows now, one of the
12 significant loopholes of the -- two significant loopholes is
13 agencies can take forever to produce records in
14 installments. It's not uncommon to have 20, 30
15 installments, and the new rules eliminate the 30-day period
16 for abandonment of a request.

17 They reference any agreed date, and some agencies have
18 flaunted the local rules. I think the Department of Health,
19 the Department of Revenue have employed a 10-day period. I
20 don't think that that's appropriate. I think citizens
21 should have a reasonable amount of time. 30 days is a
22 pretty established period so I resist the removal of the
23 30-day abandonment requirement. I think that's totally
24 inappropriate, especially in an area where there can be
25 literally scores of productions. So it's very difficult to

1 keep up with an agency that's going to make, you know, 30 or
2 40 installments. So that I think is the main thing that I
3 have against it.

4 The other loophole is the destruction of records. If
5 an agency destroys records prior to a request, they get away
6 scot free, and these rules, I don't think, go far enough to
7 the institutional pattern of destruction of records. The
8 Teams fiasco where the agencies were using Microsoft Teams
9 and records were routinely being destroyed and I'm not sure
10 exactly if that process is going on still, but I think we
11 need to have some very strict rules to prevent destruction
12 of records because that's a significant loophole.

13 I don't think the rules go far enough as far as that is
14 concerned, especially as to the institutional patterns of
15 destruction, evidenced by the use by WATech of the Microsoft
16 Teams auto destruct feature. So I would like to see that
17 clarified.

18 Other than that, I'm very happy with the rules. They
19 seem to be a good step forward. And, again, aside from the
20 elimination of the 30-day period to claim or pay for
21 records, I think they're good. I think there also needs to
22 be a provision if a state agency requires payment for
23 records that they accept electronic payment because it's
24 very burdensome meeting these, like, 10-day period response
25 periods and having to go to your bank and issue a paper

1 check and send that in and get that received within 10 days.
2 Very difficult to do. So thanks very much for your time.

3 MR. DAMEROW: Thank you. Good seeing you again.

4 MS. MUELLER: Good afternoon. My name is Cassidy
5 Mueller, deputy city clerk for the city of Issaquah. I come
6 before you today representing the Washington Municipal
7 Clerks Association, which submitted a letter to you via
8 email yesterday. I'm also representing the board of the
9 King County Municipal Clerks Association, which supports the
10 WMCA letter. Firstly, thank you for your work over these
11 past several years to update the Public Records Act Model
12 Rules and for considering feedback throughout the process
13 from the agencies and public records officers who process
14 requests.

15 WMCA supports the goals of transparency,
16 accountability, and meaningful public access to government
17 records. Municipal clerks play a central role in helping
18 public agencies meet their obligations under the Public
19 Records Act. Every day clerks work to balance a variety of
20 duties and obligations related to records management,
21 transparency, public disclosure of records and information,
22 legal compliance, and many other operational
23 responsibilities.

24 Our comments focus on three areas, which we believe the
25 proposed Public Records Act Model Rules amendments could

1 benefit from additional clarification or revision. The
2 first is that records management should be guided by records
3 professionals. WMCA supports the goals of maintaining
4 public records in an organized and accessible manner.
5 However, we are concerned that portions of the proposed
6 amendments move beyond public disclosure practices and into
7 prescribing specific records managements requirements.
8 Records retention, preservation, and records management
9 standards are already regulated through RCW Chapter 40.14
10 and the Washington State Archives.

11 Sorry. I'm going to keep this on time so I'm going to
12 skip ahead a little bit. So WMCA believes that model rules
13 should focus on public disclosure principles while
14 continuing to defer to RCW 40.14 and the Washington State
15 Archives guidance regarding records management and best
16 practices. This approach would promote consistency and
17 avoid creating overlapping or potentially conflicting
18 expectations for public agencies.

19 Point 2 was that public records must remain available
20 and accessible. WMCA strongly supports the principle that
21 public records should be available and accessible to the
22 public. Municipal clerks are committed to providing prompt
23 access to records and helping requesters obtain the
24 information that they seek.

25 Many agencies have invested substantial resources in

1 modern records system, websites, electronic document
2 repositories, and online portals that make records readily
3 available for inspection. These efforts advance the spirit
4 and purpose of the Washington Public Records Act, but at the
5 same time, agencies must maintain flexibility in how they
6 organize records and allocate resources. Public records
7 responsibilities do not exist in isolation.

8 Clerks and records staff are often simultaneously
9 supporting public meetings of elected and appointed
10 officials, public notices, contracts, licensing activities,
11 and countless other public services. The current model
12 rules recognize that agencies are best positioned to
13 determine how to process requests efficiently while
14 balancing available resources and operational needs.

15 Number 3 is that full assistance requires flexibility.
16 WMCA strongly supports the Public Records Act requirement
17 that agencies provide full assistance to requesters. In
18 fact, providing assistance is at the heart of what municipal
19 clerks do every day. We regularly help residents identify
20 records, clarify requests, locate information, and navigate
21 agency processes.

22 Our concern is not with the goal of fullest assistance
23 but with the possibility that the proposed amendments may
24 unintentionally limit an agency's ability to determine how
25 to best provide that assistance. The current model rules

1 already require agencies to process requests in a manner
2 that allows the greatest number of requests to be completed
3 as efficiently as possible. This principle recognizes that
4 agencies vary significantly in staffing, workload, and
5 available resources. Requiring agencies to follow a
6 prescribed triage process could unintentionally reduce their
7 ability to provide timely and equitable service to all
8 requesters.

9 WMCA believes that fullest assistance would remain a
10 practical and flexible standard. Agencies should be
11 measured by whether they are helping requesters obtain
12 records promptly and fairly, not by whether they follow a
13 specific workflow or categories system. Providing
14 flexibility allows agencies to adapt to local circumstances
15 while remaining focused on the ultimate goal, helping the
16 public -- helping the public to access records.

17 WMCA remains committed to transparency, public access,
18 and responsible stewardship of public records, and we
19 appreciate the opportunity to provide these comments. Thank
20 you.

21 MR. DAMEROW: Thank you.

22 So next is going to be going back to Zoom. I think
23 that completes the folks that are testifying in person
24 today.

25 It will be Martin Turney, Raju Dahlstrom -- I apologize

1 if I didn't get your name exactly right -- and Dr. Mary
2 Templeton. We'll start with Martin Turney.

3 MR. TURNEY: Good afternoon. My name is Martin
4 Turney. I serve as the chief of finance operations for the
5 Issaquah School District. I'm speaking today on behalf of
6 the school alliance. Public agencies strongly support the
7 public's right to access records. We share the goal of
8 transparent, accessible, and effective public records
9 process. However, we're concerned that the several proposed
10 amendments may unintentionally reduce efficiency, create
11 additional administrative burdens, and expose agencies to
12 increased legal risk.

13 As we understand it, the rulemaking petition stems, in
14 part, from concerns about slow responses to public requests.
15 To that end, rather than add more administrative processes,
16 we suggest that the model rules address one of the root
17 patterns of delays. Striking the language in the model
18 rules governing the automated or bot requests would benefit
19 both people who make their requests and public agencies.

20 The current rules focus on multiple requests submitted
21 within a 24-hour period. That framework no longer reflects
22 the reality agencies face today. Automated systems can
23 generate coordinated, duplicative, or computer-generated
24 requests spread across multiple days with identities or
25 slightly different wording.

1 We recommend updating the model rules to allow agencies
2 to aggregate and manage related requests that exhibit signs
3 of automated or high volume activity. Agencies should also
4 be permitted to use reasonable technical safeguards such as
5 captives or brake limiting tools to verify the requests are
6 being submitted by actual individuals.

7 Second, we are concerned about the proposal to make a
8 requester's name optional. The Public Records Act directs
9 agencies to provide requested records to any person, but
10 agencies are increasingly receiving requests submitted under
11 names that appear to be fictions or commuter generated.
12 Agencies need a practical mechanism to confirm that a
13 request originates from a person and communicate effectively
14 with that requester when clarification is needed. We
15 recommend that the AG not move forward the revised proposed
16 rules that makes the requester's name optional.

17 Third, we anticipate operational problems with
18 implementing the proposed prioritization and triage
19 requirements as drafted. The proposed rules would encourage
20 agencies to assess whether a request is urgent, and in some
21 circumstances, prioritize it over other pending requests.
22 This creates substantial operational challenge.

23 Public records officers will be required to make
24 subjective judgments about the relative importance of
25 requests, potentially exposing agencies to legal challenges

1 when requesters disagree with those decisions. If all
2 requesters claim that time is of the essence or one
3 requester submits multiple priority requests, agencies will
4 be placed in the difficult position of deciding whose
5 requests receive priority. Agencies will then need to
6 document every triage and prioritization decision and engage
7 in additional communications with the requesters to reduce
8 legal risks.

9 If the AG proceeds with prioritization framework, we
10 urge you to adopt a safe harbor provision. Agencies and
11 public records officers acting in good faith should not face
12 liability for reasonable prioritization decisions made under
13 competing demands and faced with limited resources. To the
14 extent an agency prioritized an urgent request over another
15 request, the requester who is deprioritized should not be
16 able to sue for daily penalties during the period that they
17 were deprioritized while the agency fulfilled an urgent
18 request.

19 In addition, the revised proposed rules require that
20 agencies will work with a requester to identify priorities
21 if time is of the essence but the records production is not
22 possible within their time frame. We recommend modifying
23 the proposed language to replace "will" with "should." This
24 provides needed flexibility while still encouraging
25 collaboration. Agencies should make reasonable efforts to

1 work with requesters but circumstances may not always permit
2 extensive back-and-forth communications and full compliance
3 of the proposed schedule.

4 Finally, we are concerned about replacing the standard
5 of the current model rules. The current rule allows
6 agencies to require public records requests to be submitted
7 only to designated persons. A clear and designated intake
8 process helps to ensure the requester is quickly routed to
9 trained public records staff. Allowing the requester
10 numerous informal challenges increases the risk that a
11 request will be missed or delayed. This does not serve the
12 interests of the requester or of the agencies. We request
13 that the AG retain the current model rules language that
14 allow agencies to adopt procedures directing requests to
15 designated persons.

16 In closing, we appreciate the Attorney General's
17 commitment to improving the Public Records process. We
18 welcome continued collaboration on these issues. If the
19 proposed revisions move forward, we encourage the AG's
20 Office to convene stakeholders and develop operational
21 guidance for agencies, particularly in the areas I've
22 highlighted in these comments. Thank you for your time and
23 consideration.

24 MR. DAMEROW: Thank you. And then I believe next
25 is Raju Dahlstrom? No?

1 Apparently they weren't able to join us today so
2 Dr. Mary Templeton.

3 DR. TEMPLETON: All right. Good afternoon. Thank
4 you so much. I really --

5 MR. DAMEROW: The court reporter needs to take
6 down what you say so please --

7 DR. TEMPLETON: Got it.

8 MR. DAMEROW: -- slow down and please start again.

9 DR. TEMPLETON: Sure.

10 MR. DAMEROW: Thank you.

11 DR. TEMPLETON: Thank you. I'm happy to be here.
12 My name is Dr. Mary Templeton, and I'm superintendent of the
13 Lake Stevens School District, and I wanted to make sure that
14 I was able to weigh in on the proposed rules.

15 First of all, I want to thank you. Anytime we have
16 accountability components that partner with public
17 education, we think that's a great thing. It gives
18 confidence to our taxpayers in the product that we produce
19 and that's the 1 million children in our state and their
20 success, which is, as all know, that's the paramount duty.

21 We support the state auditor's office when they audit
22 us. It's just a good -- it's good for all of us so I just
23 wanted let you know we support public records completely.

24 As it relates to the rules currently, I thought it
25 would be important to share with you the complexities that

1 will occur for us with the rules as proposed. There will be
2 a lot of additional time and training and responsibility.
3 Other folks have mentioned some of the challenges associated
4 with the public records, the new rules as submitted.

5 As I think about the prime function of public
6 education, and I can speak for my entity, it's to educate
7 the children, to make sure that every kid can understand
8 math fluency and literacy. Those are the -- that's our main
9 hustle. And in order to accomplish that mission, we're very
10 eager to have our resources focused on that. And anytime we
11 have things that are pulling from that, we feel compelled to
12 just acknowledge that this is a pull.

13 And so the Public Records Act -- the proposed rules
14 will be a pull for us as it relates to resources. And just
15 in my district, we have about 10,000 students, so we're not
16 the biggest school district in the state. We're not the
17 smallest. We're about midsize. We spent almost 700 hours
18 of our time last year responding appropriately to public
19 records, and we've always done that, and we will continue to
20 that, but with additional requirements, I'm anticipating
21 perhaps up to 1,000 hours of our time.

22 And although we will do that, and I know that this is
23 not the venue to request a funding mechanism -- there's no
24 fiscal note here -- but I'll ask anyway. As we move into
25 the additional requirements for public records, we will do

1 our duty because it's the right thing to do. It's the legal
2 thing to do, but we'll ask for some sort of funding relief
3 for that so it doesn't become yet another unfunded mandate
4 for public education.

5 I would like to just close with what we would like to
6 spend our 1,000 hours on, if we can get some support to make
7 sure we fulfill our duty with public records. I think about
8 math, and we haven't accomplished what we need to accomplish
9 and I'll say that publicly as the superintendent. We have
10 work to do, and I acknowledge that. And with 1,000 hours, I
11 could run a math camp for my elementary students. I could
12 get more students there with a Golden ticket in their hand
13 when they cross that stage and move in to our system.

14 And in Washington State, public education is an
15 economic driver. We're the social justice driver. We are
16 the ones that are producing healthy families, healthy
17 communities. When we're successful, we're all successful.
18 So I just wanted to bring to your attention that we, of
19 course, are in compliance and support of public records and
20 transparency how every tax dollar is used, but there is an
21 impact and so I just wanted you to be aware. Thank you very
22 much for your time.

23 MR. DAMEROW: Thank you.

24 Next we'll hear from Katherine George and Robert
25 McClure and Lunell Haught.

1 MS. GEORGE: Are you ready for me?

2 MR. DAMEROW: We are. Good to see you again.

3 MS. GEORGE: Hi. Thanks. I'm Kathy George,
4 public records attorney. Over the last two years on behalf
5 of the Seattle Times and its partners in the rulemaking
6 petition, I worked with the Attorney General's Office on
7 efforts to improve the model rules. And I am grateful for
8 Nick Brown's leadership in conforming the model rules Public
9 Records Act, including these four key mandates: prompt
10 disclosure, diligence, avoiding disorganization such as when
11 employees keep public records solely on private devices, and
12 reasonable time estimates that are based on the difficulty
13 of the request.

14 It bears emphasis that when Washington voters
15 resoundingly approved the records law in 1972, they
16 demanded, in these words, prompt disclosure and the most
17 timely possible action on requests. And that language still
18 governs state and local agencies today, yet many have lost
19 sight of it as we learned from some of the comments in this
20 rulemaking process.

21 Adopting the changes to Model Rules 010 and 020 will
22 help fulfill the law's promise of timely public oversight
23 and combat the pervasive disclosure delays which inspired
24 the media petition two years ago.

25 And, of course, as we've heard today, there is tension

1 around limited resources and privacy concerns and the
2 current proposal is mostly acceptable, though not perfect in
3 addressing the agency reactions. Of most concern, however,
4 is the addition to the proposal of subjective terms such as
5 available, limited review, reasonable, and regarding
6 third-party notice may affect the rights of others.

7 And that latter phrase is vague and loose, unlike the
8 very strict legal test for a third-party injunction, which
9 has consistently been upheld by the Washington Supreme
10 Court, including last year, and which has encouraged
11 numerous lawsuits that waste the resources of all involved.
12 So I encourage you to please revert to your earlier proposal
13 to confirm the third-party notice language to the law. And
14 in closing, thank you and please do move forward on
15 improving the model rules.

16 MR. DAMEROW: Thank you. Robert McClure, good
17 afternoon.

18 MR. MCCLURE: Hello. Good afternoon. Thank you
19 for your help. Thank you for hearing me today. Thank you.
20 I am Robert McClure. I am a volunteer and board member at
21 the Washington Coalition for Open Government. Thank you so
22 much for updating and improving these model rules. We
23 really appreciate Attorney General Brown's attention to this
24 long overdue update.

25 We really want prompt disclosure, and that's what these

1 are all about, and that's what the voters said they wanted.
2 And that's what the voters still want, and we can cite many
3 modern examples of how this electorate here today really
4 supports the Public Records Act and prompt disclosure.

5 We agree with the news media that the current proposal
6 is good but not as good as the originally proposed rules and
7 agree with their critiques of some key terms such as
8 available, reasonable, may affect the rights of others.

9 We strongly support the model rules reminding agencies
10 that the voters specified that these records should be
11 released promptly and calling on records officers to triage
12 requests so that simple requests can be fulfilled more
13 quickly than complex ones.

14 We strongly disagree with the currently proposed
15 language that allows records officers to contact third
16 parties in case of release of information that -- this is
17 the quote -- may affect rights of others and may be exempt
18 from disclosure. That's also vague and loose. We endorse
19 the news media petitioner's suggested language, which
20 directs disclosure without notification of third parties if
21 the information is not exempt from disclosure. If it's not
22 exempt, you don't have to notify.

23 In cases -- if the record officer is not sure, then we
24 also support the language directing the records officers to
25 contact requesters to offer them an opportunity to revise

1 the request to avoid third-party notification. The reason
2 we're unhappy about this is these third-party notifications
3 cause dramatic delays, and remember that although the
4 statute permits notification of third parties, it does not
5 permit delays for third-party notification. We also agree
6 with the news media that the title of 14.40.040(6) should
7 not speak of a, quote, right for third parties to oppose
8 release of information. There is no such right.

9 In several instances the AGO's office has replaced
10 practicable with reasonable in terms of releasing
11 information. Please go back to practicable. Reasonable is
12 extremely suggestive.

13 I'll echo what's been said about use of personal
14 devices by employees and officials. It's frowned on. It
15 should be frowned on, and it is officially frowned on, and
16 yet it goes on. It's rampant, and we've seen lots of
17 examples of why these official government communications
18 have been lost, deleted, whatever because they were on some
19 person's personal device who was not reelected or something
20 like that. I want to echo what's been said about you must
21 let requesters communicate and pay electronically versus
22 snail mail. I can go into a lot more on that, but come on.
23 This is the land of Microsoft and Amazon. I mean, why are
24 we sending checks through the mail? I can understand the
25 clerk's worries that have been expressed here today, but I

1 think that can be worked out.

2 Time and training will no doubt be necessary, as
3 Dr. Templeton said, but there's also an ongoing need
4 identified by WashCOG's 2024 report, which you'll hear about
5 a little bit later, dissecting the problems in administering
6 the PRA. I also support Dr. Templeton's position that more
7 resources are needed to make sure we fulfill our basic
8 obligation to keep the public informed.

9 So I serve as chair of WashCOG's government committee.
10 I'm a volunteer. So what I'm about to say -- what I've said
11 before is representative of WashCOG, that position. What
12 I'm about to say represents my personal opinion. I would be
13 glad to have a conversation about the difficulties
14 Mr. Turney described regarding multiple high-volume requests
15 from nonhuman requesters.

16 However, it is important for real people to be able to
17 request records anonymously, and I can cite a number of
18 recent examples of why this is important. And starting with
19 the last six weeks with the whole blowup down at the
20 Timberland Public Library where an apparent employee had to
21 request PRA through the PRA records that might have brought
22 retribution on them. I believe -- I believe the moniker
23 they used was squirrel nut zipper, or something like that,
24 but the point is real people should be able to use the PRA
25 and not have to fear retribution. Okay. Thank you for your

1 time today. I really appreciate you doing this.

2 MR. DAMEROW: Thank you. Next is Lunell Haught
3 and then after that be will Michael Fancher, Cheryl Portier,
4 and then Diana Kramer. We still have Robert.

5 Lunell, it looks like your microphone is on.

6 MS. HAUGHT: It is. I'm ready. Can you hear me?

7 MR. DAMEROW: There you are. It just a took
8 minute for technology to catch up with us.

9 MS. HAUGHT: Well, you know, I like being faster
10 than technology. I'm in Spokane, which is a distance, and
11 just so that you know, I work for local government, so I do
12 have some background in this. Thank you for tackling the
13 public records issues. Making the public's business
14 available to the public without interfering with what other
15 services, departments, and agencies provide is a challenge
16 in balancing priorities.

17 This is about administrative procedures, and my
18 concerns really are about how the PRA is operationalized.
19 Access to physical documents, not much of an issue as it was
20 in the pre-electronic document age, but a different issue
21 arises related to the public records officers specified in
22 RCW 42.56.580. Their job is to oversee the agency's
23 compliance with the public record disclosure requirements of
24 the chapter, and I'm suggesting a mechanism to ensure
25 compliance should be considered in this effort.

1 Additionally, the rules in RCW 42.56.152 state that
2 they shall provide for the fullest assistance to inquirers
3 and the most timely possible action on requests for
4 information. So it's easy for training to lapse and
5 maintenance to be deferred. Both of those things increase
6 the time and effort required to comply with these RCWs. So
7 as you work through this, please prioritize public access,
8 which relies on record maintenance and organization, and
9 you've had some good comments from those professionals
10 already.

11 The agencies do have different missions. What they do,
12 as our superintendent reminds us, but how they do that with
13 transparency supports public trust in government, which is
14 essential. Seriously consider not using private devices. I
15 bet it doubles the compliance time because so many of us
16 forget, yeah, I have to transfer that information to
17 Harriet. Private devices -- the use of them creates a
18 liability. And YM- -- WMCA, the public records officials,
19 probably have some guidance on that. The real question is
20 are we getting the results that we want? And that's what's
21 important. The result that we want is for the public to be
22 informed, trust their government, and for the agencies to
23 not feel stressed about the kind of work that they have to
24 do that may feel like an additional responsibility, but
25 really it is the way that they do their public work. Thank

1 you so much for your time.

2 MR. DAMEROW: Thank you. It's Michael Fancher and
3 then after that will be Cheryl Portier, who may not be with
4 us, and then after that is Diana Kramer.

5 MR. FANCHER: Thank you. I'm Michael Fancher,
6 president of the Washington Coalition for Open Government.
7 In 2024 the coalition produced a special report on the
8 erosion of public access to government information in
9 Washington State. We called it your right to know.

10 The report identified recurring problems regarding the
11 administration of the PRA. One of the main problems is that
12 agencies failed to provide fullest assistance to requesters
13 because administration isn't regarded as an essential
14 government service, complete with adequate funding and
15 staffing, and I say that with sincere sympathy for
16 Dr. Templeton's expressed need for greater support from the
17 state.

18 WashCOG especially appreciates the parts of the
19 proposed model rules that seek to improve two points made in
20 our report. One, that agencies fail to properly maintain,
21 organize, and disclose records. And, two, that officials
22 use personal technology to evade public records law. We
23 support the expectation of most timely action possible to
24 fulfill requests.

25 I would also like to add a personal perspective on why

1 these model rules and the public's right to know matter so
2 much and why we prefer the AGO's original proposal to the
3 current proposal. I retired from Seattle Times in 2008
4 after 30 years there, including 20 years as executive
5 editor. The following year I helped write a report for the
6 Knight Commission on the information needs of communities in
7 a democracy, a joint effort of the Knight Foundation and the
8 Aspen Institute.

9 The Knight Commission made these declarations:
10 information is as vital to the healthy functioning of
11 communities as clean air, safe streets, good schools, and
12 public health. A community is a healthy democratic
13 community when government is open and transparent. An
14 informed community with regard to health of its information
15 environment as being as central to community success as the
16 quality of its water system or its electrical grid.

17 And finally, it would protect that health by persistent
18 and simultaneous focus on issues of information
19 availability, citizen capacity, and public engagement. I
20 think those conclusions are relevant to both the spirit and
21 the specifics of the PRA model rules. Thank you for your
22 consideration.

23 MR. DAMEROW: Thank you. Appreciate your time.

24 And Diana Kramer and after that will be Michele
25 Matassa, Sally Deneen, and then Marissa Huntley.

1 Diana, it looks like there's some technical issue with
2 your ability to promote. There you go.

3 MS. KRAMER: Am I on there? Shall I start over?

4 MR. DAMEROW: Yes, please start. We heard nothing
5 up until that moment so please start again.

6 MS. KRAMER: I'm Diana Kramer. I'm a private
7 citizen living in King County, Washington. And I'm just
8 here to thank the Attorney General's Office for your
9 leadership in reviewing the model rules and to doing what
10 you can to help restore the original intent of the act,
11 which is to construe access broadly.

12 I think that promptness is really important. I think
13 that people should not be using their private devices to
14 store electronic records because it's going to be either
15 intentional or inadvertent that those things are not -- that
16 that information is not transferred in a timely way to a
17 public receptacle so that the citizens can maintain
18 oversight over the government and the things that we have
19 created and we pay for.

20 I think we are seeing a lot of frustration and loss of
21 trust, primarily at the federal level when information is
22 harder to get. Not even the legislative branch can get
23 access to information and I would hate to see anything that
24 happens in this state that replicates that in any way.

25 There are no shortage of things that the government

1 requires of me as a citizen, and it requires that I satisfy
2 those requests on certain deadlines. And if I fail to do
3 so, I can incur penalties or fines, and yet it seems like
4 some of the discussion here has to do with relieving some
5 burdens on the government to satisfy requests promptly.

6 So whatever we do moving forward, there should be more
7 emphasis on public access, and I support the speakers who
8 have been pushing for that. I thank you for your time
9 today, and, again, thank you for the important work that
10 you're doing.

11 MR. DAMEROW: Thank you for joining us.

12 Next will be Michele Matassa Flores and then Sally
13 Deneen.

14 MS. MATASSA FLORES: Hi there. Good afternoon.
15 Can you hear me okay?

16 MR. DAMEROW: Yes, we can. Thank you. Please go
17 ahead.

18 MS. MATASSA FLORES: Okay. Well, thank you for
19 time today and for the work you've put into this important
20 update of the PRA's Model Rules. I'm Michele Matassa
21 Flores. I'm the executive editor of the Seattle Times, and
22 I also speak today as a representative of the media
23 petitioners who proposed this update. The latest proposal
24 makes good progress towards clarifying and strengthening the
25 rules, and we appreciate Attorney General Brown's support of

1 the act and of transparency and government in general.

2 We watched this process because of a disturbing pattern
3 of public records requests being inappropriately denied or
4 delayed often due to agencies misunderstanding their legal
5 obligations or misinterpreting guidelines that were vague in
6 some places.

7 We do understand the need for compromise and for the
8 attorney general to consider feedback from public agencies,
9 which often, we recognize, are working with small staff and
10 under difficult circumstances, as they've described here
11 today.

12 We believe this current set of revisions does improve
13 the existing rules, but it also falls short on a few key
14 points. We've submitted comment that detailed those points,
15 and I would like to highlight just a few things here. In
16 sections addressing how agencies should provide the, quote,
17 fullest assistance, the latest revision adds some subjective
18 qualifiers that weaken rules, and you've heard from others
19 about this today. Specifically, I'll call out the rule for
20 the process that an agency must aim for a five-day
21 turnaround if a record is deemed, quote, available. What
22 does that word mean? It's never defined here.

23 The same section also says quick action is necessary
24 only if a record requires limited review or exempt content.
25 Limited also is not defined, and this draft would also allow

1 agencies to decide what time frame is reasonable for quick
2 action. These vague words do not align with text of the law
3 itself, and we encourage you to remedy that.

4 Finally, and very importantly, I would like to address
5 the section on third-party notification. We believe the
6 current revision, while an improvement over the existing
7 model rule, will still encourage frivolous lawsuits that
8 waste the resources of everyone involved. The rule should
9 parallel the language of the statute itself, which imposes a
10 strict test for injunctions. For example, it says the
11 seeker of an injunction must prevent disclosure, quote, that
12 would clearly not be in the public interest and would,
13 quote, substantially and irreparably damage any person or
14 vital government function. We strongly urge you to revisit
15 this language and tighten this section to comport with the
16 law.

17 This is not an esoteric or an academic matter for news
18 organizations. We're dealing with a tide of third-party
19 lawsuits seeking to block the release of records for no good
20 reason. These cases are almost always without merit and
21 proved unsuccessful but only after months and sometimes
22 years of delays and legal bills that threaten grave danger
23 to news organizations already facing existential financial
24 crises.

25 At the Seattle Times we had to spend about \$60,000 in

1 one case to defend against a meritless third-party
2 injunction lawsuit by Eastside Catholic School football
3 players who were accused of raping a fellow student. This
4 case was clearly in the public interest. We were
5 investigating prosecutorial decisions in this case, and we
6 weren't seeking to name the players. We won at the lower
7 court and on appeal and still the suit against us filed on
8 behalf of John Does after a third-party notice issued by
9 prosecutors lasted more than two years until the state
10 supreme court denied a petition for review in March of 2022.
11 Disclosure of those records was held up the entire time the
12 case wound through the courts.

13 That delay was not in the public interest and the
14 expense is only one examples of multiple such cases we faced
15 at the Times. It cut into our ability to staff our newsroom
16 and inform the public. For a smaller news organization,
17 those expenses can be the difference between staying in
18 business or closing for good.

19 We urge you to maintain the high bar for third-party
20 challenges as provided for in the statute and in our your
21 prior rule proposal, and we appreciate you moving forward
22 with these proposed model rule updates. Thank you for your
23 time.

24 MR. DAMEROW: Thank you for your comments.

25 Next will be Sally Deneen, then Marissa Huntley, and

1 then Otto Pointer.

2 MS. DENEEN: Hello. Can you hear me?

3 MR. DAMEROW: We can hear you just fine.

4 MS. DENEEN: Great. Hi, I'm Sally Deneen. I'm a
5 concerned citizen. I live in Seattle. I am here today to
6 ask you to make these model rules as friendly as possible to
7 maximum release of government records to the public. These
8 rules restate what the voters did when they originally
9 passed the law that the release of records requested by the
10 public should be prompt.

11 It's my understanding that between the release of the
12 Attorney General's first set of proposals and the ones under
13 consideration today changes were made that seem likely to
14 make it more difficult for the public to access government
15 information. Please change that to maximize release of
16 information by the government. Thank you for your
17 consideration.

18 MR. DAMEROW: Thank you.

19 MS. DENEEN: That's it.

20 MR. DAMEROW: Marissa Huntley and then Otto
21 Pointer.

22 MS. HUNTLEY: Hello. Can you hear me okay?

23 MR. DAMEROW: We can, and we can see you as well.

24 MS. HUNTLEY: Thank you. Good afternoon, members
25 of the Attorney General's rulemaking team. My name is

1 Marissa Huntley, and I work for Sammamish Plateau Water and
2 Sewer District, a special purpose district located in King
3 County.

4 Thank you for your work in updating the model rules and
5 for the opportunity to comment on the proposed amendments to
6 the model rules. I support the efforts to improve guidance
7 for transparency and access to public records. However,
8 some of the proposed amendments would create unnecessary
9 administrative and financial burdens, introduce legal
10 ambiguity, and may not be scalable across agencies of
11 different sizes.

12 I did submit written comments that more specifically
13 identify which provisions. In short, my overall comment is
14 that the PRA model rules should preserve flexibility so
15 agencies of all sizes can fulfill public records requests in
16 the most efficient manner while reflecting each agency's
17 operational needs and available resources.

18 The Public Records Act is implemented across a wide
19 range of local governments with very different staffing
20 levels, workloads, and technical capacity. The model rules
21 should support that diversity by avoiding rigid or
22 subjective requirements and instead allow agencies to apply
23 practical resource-based approaches that ensure timely and
24 equitable responses. Maintaining this flexibility will help
25 agencies comply with the act consistently, reduce

1 unnecessary administrative burden, and better support both
2 transparency and effective public service.

3 Thank you for considering these comments as well as the
4 written comment I submitted prior to this hearing. Thank
5 you.

6 MR. DAMEROW: Thank you.

7 And then Otto Pointer.

8 MR. POINTER: I think I'm unmuted. Can you hear
9 me?

10 MR. DAMEROW: We can, yeah, great.

11 MR. POINTER: Okay. Great. Well, I'd like to
12 turn my camera on. I would like to say hello to everybody.
13 Let me see if I can figure that out. Anyway, I don't want
14 to waste all your time. Morgan, thank you for the
15 opportunity to comment today.

16 I'm speaking being because the Public Records Act is
17 not abstract to me. I had to rely on people -- here we go.
18 Okay. I'm back again. Can you hear me?

19 MR. DAMEROW: We can hear you, and we'll see if we
20 can activate your camera for you, and we'll reset the timer.
21 There we go.

22 MR. POINTER: Okay. Good. I'm here. Morgan,
23 it's great to meet you. We've had a lot of chats over the
24 past three years.

25 I'm speaking because the Public Records Act is not

1 abstract to me. I had to rely on the PRA request to uncover
2 records communications, omissions, and misconduct concerns
3 that are now before state authorities. I'm under court
4 protection order, and I'm enrolled in an adverse
5 confidentiality program example because of a death threat
6 connected to my PRA activity and a SEPA appeal.

7 I'm also a witness in a state level investigation
8 involving senior law enforcement officials and alleged
9 interference by a state senator, issues that came to light
10 through public records requests. I also had to use personal
11 funds to file a PRA complaint against the city for
12 withholdings vital records during that appeal.

13 I mention this only because it shows why the model
14 rules must work for ordinary citizens and volunteers like
15 myself before litigation, not after. My comments are
16 directed specifically to the proposed changes to
17 WAC 44-14-010, -020, -030, and -040. Prompt access, fullest
18 assistance, record organization, triage, reasonable
19 estimates, installments --

20 (Reporter clarification.)

21 MR. POINTER: Okay. Talking about installments,
22 exceptions, explanations, later discovered records, and
23 disclosure notices. Blaine is a real world case study
24 showing why the CR-102 model changes need to be explicit
25 enough to prevent constructive denial by delay, vague

1 estimates, missing and withholding explanations, incomplete
2 installments, and premature closure. In Blaine citizens use
3 PRA to request records needed to evaluate major land use
4 decisions and in environmental decisions affecting public
5 health and water quality issues.

6 These were not curiosity requests. They were
7 commercial requests. These were records needed to deliver a
8 live SEPA appeal, which I head, with community persons from
9 Birch Bay and Blaine where deadlines were running and
10 citizens had to prepare motions, evidence, and testimony.
11 What we experienced was slow production by the city,
12 stalling where the city could appear to comply but was
13 functioning denying access. The city could claim the
14 response was complete with additional responsive records
15 that were still pending. It kept saying no exempt logs were
16 needed because no records were being withheld, while emails
17 and other records remained under review.

18 It could provide partial box.com productions, omit
19 material environmental records from public-facing project
20 files, and then place a burden on the citizen to figure this
21 out. We had over 60 records that were withheld from us in
22 different records requests, and then the city came back and
23 told us it was going to take two years. This is not
24 meaningful transparency. This is constructive denial. For
25 citizens in a SEPA appeal, records produced two years later

1 are not timely.

2 They technically can be produced, but they're useless
3 for the public decision that affects the livelihoods of over
4 15,000 people in the communities that we were representing.
5 That's why I support the strength of the model rules, but I
6 believe they need to be more explicit. First, when
7 production is incomplete, the agency should identify what
8 remains pending. A requester should not guess what an
9 agency is still searching, still reviewing, withholding
10 records, or simply closing the file.

11 Number two, when records are withheld, redacted,
12 excluded, or claimed privilege, like we experienced, the
13 agency should provide a withholding log for or equivalent
14 explanation. It is not enough to say nothing is being
15 withheld while responsive records are still under review.
16 Citizens cannot challenge an exempt that is never
17 identified.

18 Third, when an agency gives a long estimate, especially
19 30, 60, 90 days, or in our case two years, when the agency
20 should provide the factual basis, a variable year estimate
21 is not good enough. It damaged us during this appeal
22 process.

23 Four, agencies should use rolling estimates and
24 prioritize time-sensitive records needed for hearings,
25 environment review, and urgent public health questions that

1 we face, including criminal investigations of police
2 officers.

3 Fifth, a request should not be closed until no
4 responsive records remain unproduced or under review. The
5 Blaine story matters because transparency can fail in the
6 state with an outright denial. It can fail through silence,
7 delay, vague estimates, missing logs, premature disclosure,
8 and the list goes on and on.

9 The PRA process should not depend on whether a citizen
10 can afford to sue. The rules should prevent lawsuits in the
11 first place. Thank you for your time today.

12 MR. DAMEROW: Thank you. And good to meet you in
13 this virtual context. I know we've spoken a number of times
14 over the last couple years so good to have a face with a
15 name finally.

16 MR. POINTER: We sure have. We sure have. Good
17 to meet you, Morgan.

18 MR. DAMEROW: So is there anybody else who is
19 signed up and who is online as an attendee who had intended
20 to testify today and who hasn't been given the opportunity?
21 I see one person's hand raised. Maybe two people. Okay.

22 We will -- the first person who promoted is that one,
23 yeah. We'll promote you. You've signed in as anonymous so
24 it's -- it takes a second for the machine to catch up but in
25 a second you should be able to turn your microphone and your

1 camera on. And then the second person was Tina Irwin.
2 You'll be next.

3 UNIDENTIFIED SPEAKER: Hi, there. Can you hear
4 me?

5 MR. DAMEROW: We can.

6 UNIDENTIFIED SPEAKER: Okay. Public records
7 requests are not paperwork. They are protection. I know
8 that personally. I am an anonymous complainant with the
9 Criminal Justice Training Commission after a court-verified
10 death threat was made against me and other victims. Without
11 PRA requests, I would never have known that Senator Sharon
12 Shewmake exposed my name, my husband's name, even though he
13 was not a complainant, and the names of other victims. Her
14 letter was received by the CJCT on May 18th. The
15 investigation was closed on May 19th. It has since been
16 reopened. That timeline should alarm every citizen. She
17 did not just expose us. She put our lives at risk. She
18 used her office to disparage victims of a death threat.

19 MR. DAMEROW: Excuse me. Can I -- I'm going -- I
20 appreciate if this is context, and I would ask you to focus
21 comments on the model rules and on the PRA and your thoughts
22 on whether there should be amendments to them or your
23 position on the model rules.

24 UNIDENTIFIED SPEAKER: I'm here to let you know
25 the importance of PRAs. My life was on the line, and I

1 depended on those PRAs. She exposed my anonymous name. How
2 does the public hold a senator accountable if the public is
3 not allowed to see what the senator did? This is why they
4 are called public records. They belong to the public.
5 They're one of the last lines of defense against corruption,
6 retaliation, and abuse of power. Thank you.

7 MR. DAMEROW: Thank you.

8 And, Tina Irwin, you should be able to turn on your
9 camera and your microphone. I think as the public hearing
10 has gone longer and longer, it takes longer and longer for
11 the Zoom to catch up with us. There we go. I see your
12 microphone is active. We can't hear you, Tina. Can you try
13 to say something?

14 Tina, we're going to try demoting you and bringing you
15 back in to the -- we're going to put you back as an attendee
16 and then we'll bring you back as a panelist again, Tina, and
17 see if the second time around we do better. It says your
18 microphone is working. We'll try one different -- we'll try
19 a different way. Thank you, Tina. Please feel free to
20 submit written comment today as well. Apparently the
21 technology did not work out and whatnot.

22 It looks like one other individual wishes to provide
23 public comment. Jay Taber.

24 MR. DAMEROW: There we go. Now we're getting --
25 we can hear you.

1 MR. TABER: Hello?

2 MR. DAMEROW: Yep. You have five minutes,
3 Mr. Taber. Go ahead.

4 MR. TABER: Okay. My name is Jay Taber, and I'm
5 an open government activist in Blaine, and I'm under a civil
6 protection order from Whatcom District Court from a death
7 threat. I filed the Criminal Justice Commission Complaint
8 against Blaine Police Department for retaliatory policing,
9 which is political in nature, against my open government
10 activism by the mayor.

11 My first three public records requests were this month,
12 two to the Criminal Justice Commission and one to the
13 legislative ethics board. The Criminal Justice Commission
14 procedural defects were discovered when I asked for records
15 and five days later promptly got them. Those records
16 revealed an apparent conspiracy between state officials,
17 Blaine officials, and Blaine police and an attorney for one
18 of the police officers.

19 This prompted me to make my second request in all my
20 74 years and to get records about the communications between
21 Blaine and state officials that led to the improper closing
22 and then reopening of my case when they found out they had
23 violated their own rules of procedure. I got a response
24 from the Criminal Justice Commission that it would take two
25 months to get those records, the records that I needed to

1 defend my life, which is under threat from a state senator's
2 actions.

3 So in August I'll get to know more about this apparent
4 conspiracy. Meanwhile, I'm fighting for my life. I haven't
5 gotten an ETA on the public records I requested from the
6 state legislature for communications between my 42nd
7 District Senator Shewmake and the Blaine mayor and the city
8 manager.

9 But I can see, as someone who can't afford an
10 attorney -- I'm a low income disabled senior. So for me the
11 public records and the Public Records Act are not a matter
12 of simple democratic values. For me, they're a matter of
13 life and death, and I think I'll leave it there. Thank you
14 very much.

15 MR. DAMEROW: Thank you.

16 A little pause as we're trying to determine whether
17 another individual wants to make public comments on the
18 model rules. And you're -- the additional individual, you
19 should be able to turn on your microphone and provide
20 comments on the Public Records Act rules.

21 MR. JENNER: Thank you. I appreciate this
22 opportunity on short notice. I did not sign up to give oral
23 comments so I'm glad I can join in. I'm Stuart Jenner,
24 resident of Normandy Park, King County. I'm a volunteer
25 writer on education and environmental issues for a website

1 called the Highland Journal. I filed several public records
2 requests with the local school district and a few other
3 entities.

4 I hope my comments today provide a lens for looking at
5 the proposed rules that maybe they can lead to improvements
6 in the proposals where people can say, okay, in this
7 scenario here's what would be helpful. I'm not a lawyer. I
8 have the greatest respect -- I'm kind of in awe to see some
9 of these names of people who are on here because I've read
10 their work for so long, and I feel like they know so much
11 more than I do. Some of these details are really hard to
12 understand.

13 I've appreciated the help from the Washington Coalition
14 with questions I've had, and I support their comments and
15 really trust what they say, but here are some additional
16 comments. First of all, this act is really important.

17 Second, it's very hard as a citizen newbie, rookie
18 filing records to know what's realistic. I got some very
19 good advice ultimately from a records officer. I thought I
20 needed to cast a really wide net. She said, actually, it's
21 better to file narrow requests. So my suggestion is maybe
22 to have a suggestions area of suggestions that public
23 records officials can provide to requesting parties when
24 they're starting with this process.

25 Another comment, one of the challenges is when a

1 request is deemed closed by the agency, the requester has to
2 file a new request. The response I've gotten sometimes is,
3 well, there are no more records, and I think, well, I know
4 there are more records. I know there's some other stuff
5 going on here. So were things destroyed or damaged or lost
6 or really maybe I'm mistaken?

7 It can be hard for the person who is handling these
8 requests to respond to questions or clarifications, but that
9 lack of response, especially lack of a timely response leads
10 to a sense of I'm being stonewalled. I am not getting fair
11 treatment here. I don't know if that needs to be addressed
12 in formula laws and procedures or if there's any way to
13 improve the situation.

14 The changes talk about prompt disclosure. I've heard
15 of other volunteer reporters saying they're told we can
16 fulfill this request in six months or even it will take a
17 year. I know Melissa Westbrook of the Save Seattle Schools
18 blog has repeated instances of very long delays, and I sent
19 this off to her just a few minutes ago. I wish she could
20 provide some comments too. But I would suggest that maybe
21 the districts or agencies need to provide an update, each
22 month saying, yes, we still have your request. We haven't
23 lost it.

24 Also, it would help for the records person saying why
25 it's going to take such a long length of time. Maybe there

1 are ways to simplify the request, as I mentioned earlier.
2 Maybe the person fulfilling the request can provide some
3 feedback and say, you know what? If you were asking for 20
4 people, it's going to take a year. If you choose two
5 people, we can get that done in three weeks or a month or
6 something like that. So that's just an idea.

7 Also talking about prompt, if there's a vote in
8 November and it's early September that -- you know, it would
9 be really nice to have the response back before the voter --
10 before the ballots drop. And getting a response and saying
11 it's going to take us until April, well, that's like
12 obsolete. It doesn't matter at that point. So I don't know
13 if there's any way to say why something is urgent or get
14 things sped up, but that matters. The question then is who
15 judges? Who says, oh, it's important. This is urgent and
16 we need to get this done in a week versus even two weeks.
17 So it's hard to know in that situation how these -- how this
18 model act really assists with that.

19 The wide variety of messaging options leads to a lot of
20 potential confusion and obfuscation. I think it's good to
21 give examples, Instagram, Messaging via mobile or desktop,
22 Facebook, et cetera, but also in a few years there may be
23 something new. So I think that's something I'm hoping
24 they're going to act and address.

25 It's hard to know how private a request is, and this is

1 something I've wondered about. Are people informed that I'm
2 asking? Are there going to be consequences or potential
3 retaliation? Can the person who I'm asking about or records
4 from say to the records person, slow them down, please?
5 After all, that person may well be the boss or the coworker
6 of that records official. Really hard to know how this
7 works.

8 There's one instance -- or a couple instances where
9 I've literally had to pay a dime. I couldn't make the
10 transaction online so I had to bring in the dime, and
11 unfortunately the dime got lost between dropping off at the
12 front desk and getting it upstairs to the right people, and
13 so I didn't get the information as soon as I wanted. I'm
14 suggesting that fees less than a dollar be waived and that
15 the costs of the fulfilling agency taking that dime may be
16 greater than the money received. Maybe there's a way that
17 the state could take the payment and notify the district,
18 agency, et cetera. This is done.

19 MR. DAMEROW: You're at --

20 MR. JENNER: And final comment --

21 MR. DAMEROW: You're at five minutes so --

22 MR. JENNER: Thank you.

23 MR. DAMEROW: So thank you. I appreciate your
24 comments.

25 MR. JENNER: Yes, and I will email these in as

1 well. I'll send them in right now. Thank you so much.

2 MR. DAMEROW: Thank you.

3 And with that, I believe we have gone through everybody
4 who wanted to make public comment today. Thank you to
5 everybody, both in person and who participated online. If
6 there's a benefit that came out of the pandemic, it's this
7 technology. It really lets people participate more than
8 having to drive to do public hearings like this. I'm not
9 trying to diminish people who came in person because it's
10 always nice to see people, but thank you everybody for
11 participating.

12 What you can expect next is we will get a transcript of
13 today's hearing. We will review the comments that were
14 provided today, both the oral comments and the written
15 comments. And as you heard from our first commenter this
16 morning, we will prepare what's called a concise explanatory
17 statement, which is a bit of an oxymoron because they tend
18 to be rather long, but it will summarize and address all the
19 points that were made.

20 And then from that, assuming that we're at the decision
21 point, we'll proceed with filing the 103 and filing the
22 final rules. I know this has been an interest for the media
23 for some time, and there's an interest I think in both the
24 requester community and agencies to have this completed. My
25 goal is to have that completed by the end of the summer.

1 With that, I will close this public hearing and thank
2 everybody again for participating and for everybody's time.

3 (Concluded at 4:40 p.m.)
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C E R T I F I C A T E

I, REBECCA S. LINDAUER, a Certified Court Reporter in and for the State of Washington, residing at Lacey, do hereby certify:

That the foregoing public hearing was taken before me and completed on the 30th day of June 2026, and thereafter transcribed by me by means of computer-aided transcription; that the public hearing is a full, true, and complete transcript of the proceedings;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That I am herewith emailing the public hearing to MR. MORGAN DAMEROW.

IN WITNESS HEREOF, I have hereunto set my hand this 20th day of July 2026.

A large, stylized handwritten signature in black ink, appearing to be 'R. Lindauer', with a long horizontal line extending to the right.

Rebecca S. Lindauer, CSR#2402
Certified Court Reporter, in and for the
State of Washington, residing at Lacey.

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