# Public Records Act

Robert D. Butler

Washington State Office of Public Defense

Wenatchee

October 24, 2014

# GOAL OF THE PUBLIC RECORDS ACT

"The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created."

RCW 42.56.030

# GOAL OF THE PUBLIC RECORDS ACT

*"The people of this state* ***do not*** *yield their sovereignty to the agencies that serve them. The people, in delegating authority,* ***do not*** *give their public servants* ***the right to decide*** *what is good for the people to know and what is not good for them to know. The* ***people insist*** *on remaining informed* ***so that they may maintain control over the instruments that they have created****."*

RCW 42.56.030

# WHAT ARE RECORDS?

*. . . **any writing** containing information relating to the conduct of government or **the performance** of any governmental or proprietary function **prepared, owned, used, or retained** by any state or local agency **regardless of physical form or characteristics.***

RCW 42.56

# WHAT IS A WRITING?

"Writing" means handwriting, typewriting, printing, Photostatting, photographing, and **every other means of recording** any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

RCW 42.56.010(4)

# GETTING RECORDS: NUTS & BOLTS

Step 1: Find agency that has the records you want

Step 2: Make your request

Step 3: Track & Review Response

# AGENCY RESPONSES

# REDACTION LOG SHOULD ACCOMPANY

| Document Description | Document Date | Nature of redaction or withholding | Citation | Explanation |
|---|---|---|---|---|
| Items 1 thorugh 6 were reviewed by David McEachran prior to his issuing the "Brady" letter | | | | |
| | | | | |
| Report authored by Sergeant Mede | 9/5/2012 | Withheld | RCW 5.60.060 (2)(a) | Attorney work product is privileged |
| Report authored by Sergeant Mede | 3/29/2013 | Withheld | RCW 5.60.060 (2)(a) | Attorney work product is privileged |
| Case file under event #2012A17819 | | Withheld | RCW 5.60.060 (2)(a) | Attorney work product is privileged |
| Preliminary Inquiry by Chief Deputy Chadwick | 3/1/2013 | Withheld | RCW 5.60.060 (2)(a) | Attorney work product is privileged |
| Review of Preliminary Inquiry by Undersheriff Parks | 3/12/2013 | Withheld | RCW 5.60.060 (2)(a) | Attorney work product is privileged |
| Depositions & deposition summaries taken in the civil lawsuit involving Paul Murphy | | Withheld | RCW 5.60.060 (2)(a) | Attorney work product is privileged |

# HOW DO I USE THIS TOOL?

# EXAMPLES

# The Search For Brady

- **RAPE**
- OBSTRUCTION/RESISTING ARREST
- FELONY MALICOUS MISCHIEF
- ASSAULT
- DRUG POSSESSION
- RIOT
- DUI

- RAPE
- **OBSTRUCTION/RESISTING ARREST**
- FELONY MALICOUS MISCHIEF
- ASSAULT
- DRUG POSSESSION
- RIOT
- DUI

POLICE

- RAPE
- OBSTRUCTION/RESISTING ARREST
- **FELONY MALICOUS MISCHIEF**
- ASSAULT
- DRUG POSSESSION
- RIOT
- DUI

Case Date
Oct 30 2011 8:57AM

**Bellingham Police Department**

*Longarm Case Report*

June 15, 2013

Page 1 of 2

# 11B-39875 GRAFFITI

**ASSOCIATES**

Follow-Up Author: **ALMER, DONALD** Rpt date: **Feb 01, 2013 2:15PM** Appvd: **111**

Case Date
Oct 30 2011 8:57AM

**Bellingham Police Department**

*Longarm Case Report*

June 15, 2013

Page 2 of 2

# 11B-39875 GRAFFITI

**NARRATIVE**

Follow-Up Author: **BEAN, KEVIN** Rpt date: **Nov 06, 2011 2:00AM** Appvd: **175**

- RAPE
- OBSTRUCTION
- FELONY MALICOUS MISCHIEF
- **ASSAULT**
- DRUG POSSESSION
- RIOT
- DUI

- RAPE
- OBSTRUCTION
- FELONY MALICOUS MISCHIEF
- ASSAULT
- **DRUG POSSESSION**
- RIOT
- DUI

DX8100 Viewer

PELCO

[CH 01] 03-30-2013 04:34:40:234

DX 8100 SERIES
DIGITAL VIDEO RECORDER



9:46 AM
6/9/2014

- RAPE
- OBSTRUCTION
- FELONY MALICOUS MISCHIEF
- ASSAULT
- DRUG POSSESSION
- **RIOT**
- DUI

- RAPE
- OBSTRUCTION
- FELONY MALICOUS MISCHIEF
- ASSAULT
- DRUG POSSESSION
- RIOT
- **DUI**

# BE CREATIVE

THIS DOG TELLS ME YOU'RE ON DRUGS
POLICE
I'M ON DRUGS? YOU'RE THE ONE TALKING TO A DOG!

Oh this is bullshit...

# PLACES TO LOOK

- TORT CLAIMS
- PHONE RECORDS
- TRAINING RECORDS
- CERTIFICATIONS
- USE OF FORCE POLICY
- RECORD RETENTION POLICY - lists what records exist…
- ***EMAIL***
  - Prosecutor with witness
  - Prosecutor with Expert

# THE SCARY

# NON INCLUSIVE LIST OF SCAREY

- EMAIL WITH SNARK SENT TO PUBLIC ENTITY ( PROSECUTOR?)
- ABUSE OF PRA COULD LEAD TO ELIMINATION OR SHORTCUT
- CLIENT MATERIALS
  - SOSSA EVALS, MENTAL HEALTH REPORTS USED TO CONVINCE PROSECUTOR IN NEGOTIATONS

# CONCLUSION

- **Be creative**
- **ASK FOR IT**
- **Use this weapon for good . . . not evil**

*bob@rdbutlerlaw.com*