

To: Toby Nixon, Allison Ross
Cc: all counties and various others
From: Joe Beavers
Date: October 21, 2014
Re: WCOG Survey of PRA costs - current review status

This is the follow up to my letter to you of September 8 in which I said:

“I am now curious how inaccurately the report reflects upon what actually happened. I will get back to you on that.”

Meanwhile, let me add in some comments from the previous letters to you so that this letter stands on its own.

The WCOG report of

**Executive Summary: Survey of State and Local Agencies Regarding Costs of
Processing Records Requests
February 2014**

summarized the results of the WCOG investigation into the analysis of costs of responding to public records requests. The investigation was made in light of House Bill 1128 which sought to provide agencies with a method to respond to such requests within a budgetary limit. The investigation was done to determine what evidence was available to support the bill.

For the record, I did not support House Bill 1128. I felt it tried to micro-manage RCW 42.56.100 which in my opinion did not need any micro-managing. It died and I had no problem with that.

Once I read the WCOG summary in early September 2014, I saw what was written versus what I had experienced with the survey. Several areas looked extremely exaggerated, if not totally bogus to me. So that created the September 8 letter and comment.

To investigate the investigation, I submitted public records requests to all 39 counties (I am a big fan and user of RCW 42.56, but hopefully in a responsible manner) such as:

“Please provide the request from the Washington State Coalition for Open Government for costs associated with the processing of public records requests and the County’s response(s). This request may have come in by postal mail or by email. An email address that may be connected with this request is:

Allison Ross phyllebo@comcast.net.

The time frame for this request is mid 2013. Providing the bulk of the communications is fine. If you log and track requests in some sort of spreadsheet or data base, that report would be appreciated.”

The first issue with the WCOG Executive Summary comes from page 5:

“Nine counties, eight cities and one port did not respond at all to WCOG’s records request, notwithstanding the PRA requirement to respond within 5 days by producing or denying records or providing a reasonable time estimate for production.”

I was really surprised that nine counties would not even provide a 5 day letter. What I found was that many counties had no record of ever receiving the WCOG request. To date, I have found the following counties reporting no record of ever receiving the WCOG request:

Adams
Clark
Columbia
Jefferson
Lincoln
Pacific
Snohomish
Whitman.

Counties are allowed to have each department as an independent records unit and are not required to independently query all departments, although some do. Cowlitz County noted that the Prosecutor did not have purview over the items of the request and provided a central contact email, but evidently this was never pursued. So, getting a response from the Prosecutor is not necessarily the same as getting a response from the full county.

While I did not contact all county departments, all County Prosecutors were (or are being) contacted, as those seemed to be the contact that Allison Ross used.

The second issue with the WCOG Executive Summary starts on page 2:

“Of the 104 government entities surveyed, not one could point to any study or even rudimentary analysis of how much it spent providing records to the public.”

King County provided WCOG a cost spreadsheet for 2012 direct salary cost estimates which identified almost \$ 1.5 million in staff labor costs. San Juan provided WCOG a detailed cost analysis for August 2012 to January 2013, but evidently this was not a “study”. It seems that in phone conversations with responders, the bar for what defined a “study” was raised and other request requirements were dropped. If the King and San Juan county responses are not considered responsive, I guess we could say the request was narrowed to a null set.

The omission of Snohomish County is a really red flag.

The conclusion that there were no formal studies (pretty cover page, table of contents, etc) made was correct. However, there were responsive documents to what WCOG specified in their letter. As noted above, subsequent conversations narrowed the request dramatically.

Some counties noted that they were either starting studies or else such a study was needed. These studies take staff time from other duties and require a serious allocation of resources to do well. Some counties did not have an intensity of requests that exceeded casual responses, so they had no interest in such a study.

One thing that WCOG elides over is that the problems are caused by a few requestors, for one reason or another. Neither the proponents nor opponents of HR 1128 seemed to look into the cause(s) for this and on the extreme costs of compliance for these requestors. Protecting the extremes is at the expense of the responsible. Is that a good use of public funds? Or is it effectively a backdoor gifting of public funds to the extremes?

I do not fault WCOG for their summation. WCOG is a single issue advocacy group and would be expected to spin their study to support their contentions. It just doesn't work any other way.

However, I do have one more issue to cover.

WCOG ended the summary saying:

“In closing, WCOG reminds the Legislature to heed the words of the voters in adopting the PRA more than 40 years ago:

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”.

That is a little bit off. That statement appears in RCW 42.56.030 and was created by the legislature. The statement in the 1972 Official Voters Pamphlet was:

“That, mindful of the right of individuals to privacy and of the desirability of the efficient administration of government, full access to information concerning the conduct of government on every level must be assured as a fundamental and necessary precondition to the sound governance of a free society.”

This is a different balance between the needs of the many and the wants of the few.

I will be pursuing this some more. However, I just recently learned that WCOG is supporting “blatantly abusing the PRA”, so need to work on that for a bit.

There does need to be a study of costs, but again, concentrating on the extreme actions of a few who absorb large amounts of resources paid for by the many. The study also needs to evaluate the benefit distribution of the costs.

SUMMARY OF RESPONSES AS OF OCT 21, 2014

COUNTY	RESP DATE	COUNTY RESPONSES TO WCOG REQUEST OF JULY 2013 <i>comments in italics are continuing activities</i>
Adams	09-09-14	no record of a WCOG request received, all departments
Asotin	09-10-14 10-20-14	no record of a WCOG request received by BOCC <i>sent email to PRO re Prosecutor 10-20-14</i>
Benton	09-08-14	study proposed but not done by Prosecutor copy revenues provided
Chelan	09-03-14	no study done, copy revenues provided
Clallum	09-04-14	no cost records kept, request listing provided
Clark	09-03-14	no record of a WCOG request received, all departments
Columbia	10-16-14	no record of a WCOG request received, all departments
Cowlitz	09-15-14	request not in Prosecutor domain, send to other publicrecords@. no record of request sent to BOCC or central contact
Douglas	09-04-14	no study of costs, very few public records requests
Ferry	09-18-14 10-02-14	no record of a WCOG request received by HR <i>waiting on response from Prosecutor</i>
Franklin	09-22-14	no study done, copy revenues provided by Prosecutor no study done, copy revenues available by Planning & Building no responsive records by Superior Court no responsive records by Juvenile Justice Center no responsive records by Treasurer no responsive records by TRAC Center no study done, copy revenues available by Public Works no study done, copy revenues available by Prosecutor no responsive records by County Clerk

		no responsive records by Assessor no study done, copy revenues provided by County Administrator no responsive records by Extension Office no study done, copy revenues available by District Court
Garfield	09-08-14	no study done, copy revenues available, all departments
Grant	09-10-14	no responsive records per phone conversation
Grays Harbor	09-12-14	only study on Court copy fees, copy revenues available
Island	09-08-14 10-21-14	no record of a WCOG request received by Auditor no record of a WCOG request received by Prosecutor
Jefferson	09-04-14	no record of a WCOG request received, all departments
King	09-05-14	Executive cost study provided for 2012 with costs of: Direct Salaries \$1,493,686.07 Other studies on scanning costs provided
Kitsap	09-19-14	no formal study done, one is needed
Kittitas	09-18-14 10-16-14	no record of a WCOG request received by Auditor <i>sent email to Prosecutor 10-16-14</i>
Klickitat	09-04-14 10-20-14	no record of a WCOG request received by BOCC no responsive records by Prosecutor, that office only
Lewis	09-09-14	only copying costs done from Prosecutor only
Lincoln	09-18-14	no record of a WCOG request received, all departments
Mason	09-17-14	<i>waiting on response from Prosecutor</i>
Okanogan	09-04-14 09-18-14 10-20-14	no record of a WCOG request received by Auditor no record of a WCOG request received by BOCC no responsive documents, only cost invoices

Pacific	09-10-14	no record of a WCOG request received, all departments
Pend Orielle	09-05-14	no responsive records to WCOG request, all departments
Pierce	09-05-14 10-20-14	no record of a WCOG request received by Auditor <i>sent postal mail request to Prosecutor 10-20-14</i>
San Juan	09-10-14	detailed cost analysis provided, but not a "study"???
Skagit	09-12-14 10-20-14	no record of a WCOG request received by BOCC <i>sent email to Prosecutor 10-20-14</i>
Skamania	09-04-14	no studies of costs made, all departments
Snohomish	09-08-14	no record of a WCOG request received, all departments
Spokane	09-18-14	no study, copy cost analyses provided
Stevens	09-12-14	no responsive records to WCOG request
Thurston	09-09-14	no study, requests listing from Sheriff response cost study in work as of Sept 4, 2012 discussions of copying costs
Wahkiakum	09-17-14	no study done
Walla Walla	09-04-14	no study done, some listing of time to respond provided
Whatcom	09-04-14	no record of a WCOG request received, all departments
Whitman	09-08-14	no record of a WCOG request received, all departments
Yakima	09-04-14	no study done, copy revenues provided