

WASHINGTON SUPREME COURT

Fisher Broadcasting-Seattle TV LLC v. City of Seattle

180 Wash. 2d 515 (2014) · Decided June 12, 2014

SUMMARY

The Washington Supreme Court considered whether the Seattle Police Department violated the Public Records Act by denying requests for records concerning retained police dash-camera recordings. The court held that the department properly denied the request for officers' log sheets but violated the Act by failing to produce a partially responsive list of retained videos. It further held that the privacy statute provides only a limited exemption for videos relating to actual, pending litigation, and remanded for further proceedings.

CASE DETAILS

COURT	Washington Supreme Court
WRITING FOR THE COURT	González, J.; Fairhurst; González; Johnson; Madsen; McCloud; Owens; Stephens; Wiggins
JURISDICTION	Washington
DECIDED	June 12, 2014
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Fisher Broadcasting-Seattle TV LLC appealed directly from the trial court's summary judgment rulings in its Public Records Act action against the Seattle Police Department.
STANDARD OF REVIEW	De novo review of both the agency action and the lower court opinions.
PRECEDENTIAL VALUE	published precedential Washington Supreme Court opinion
PARTIES	Fisher Broadcasting-Seattle TV LLC v. City of Seattle, Seattle Police Department

TOPICS

administrative law

judicial review of agency action

statutory interpretation

legislative intent

summary judgment

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether the Seattle Police Department complied with the Public Records Act by denying the request for officer log sheets on the ground that no responsive records existed.
2. Whether the Department violated the Public Records Act by refusing to provide a list of retained in-car video and audio recordings because generating the requested compilation required querying or combining database information.
3. Whether RCW 9.73.090(1)(c) created a blanket exemption from Public Records Act disclosure for law-enforcement vehicle recordings or instead applied only to recordings relating to actual, pending criminal or civil litigation.

HOLDINGS

1. The Seattle Police Department complied with the Public Records Act when it denied the request for officer log sheets because the requested paper forms had not been used since 2002 and had been destroyed in 2004.
2. The Department violated the Public Records Act by telling the requester that no responsive records existed when it had the capacity to produce at least a partially responsive electronic record.
3. RCW 9.73.090(1)(c) is a limited exception to immediate Public Records Act disclosure that applies only when the recordings relate to actual, pending criminal or civil litigation; it does not create a blanket exemption for recordings that might later become relevant to litigation.

KEY QUOTATIONS

“The PRA mandates broad public disclosure.” (521-22)

“Merely because information is in a database designed for a different purpose does not exempt it from disclosure. Nor does it necessarily make the production of information a “creation” of a record.” (524)

“We hold that RCW 9.73.090(1)(c) is a limited exception to immediate disclosure under the PRA, but it is one that applies only where there is actual, pending litigation.” (528)

“We hold that RCW 9.73.090(1)(c) may exempt specific videos from public disclosure during the pendency of litigation but does not create a blanket exemption for any video that might be the subject of litigation.” (529)

FACTUAL BACKGROUND

The Seattle Police Department operated a COBAN electronic system containing in-car video and audio recordings from its patrol fleet. Reporter Tracy Vedder requested officer log sheets, a list of retained recordings and related identifying information, and copies of retained recordings. The Department denied the requests on the grounds that the log sheets no longer existed, the system could not generate the requested reports, and the Washington Privacy Act barred release of the videos; later evidence showed that the system could produce at least a partially responsive database record.

PROCEDURAL HISTORY

KOMO sued the Seattle Police Department under Washington's Public Records Act for failing to timely produce records responsive to three requests concerning dash-cam recordings. On cross-motions for summary judgment, the trial court ruled that the Department properly denied the request for officer log sheets and the request for the videos themselves, but improperly denied the request for a list of retained videos. The Washington Supreme Court granted direct review, affirmed the ruling concerning the log sheets, held that the Department violated the Act concerning the list and its initial response concerning the videos, and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

Remand for further proceedings consistent with the opinion, including proceedings concerning the request for the retained videos and the limited application of RCW 9.73.090(1)(c). KOMO is entitled to attorney fees on the claims on which it prevailed.

CASES CITED

- Sargent v. Seattle Police Department, 179 Wn.2d 376, 314 P.3d 1093 (2013)
- Hearst Corp. v. Hoppe, 90 Wn.2d 123, 580 P.2d 246 (1978)
- Gendler v. Batiste, 174 Wn.2d 244, 274 P.3d 346 (2012)
- Newman v. King County, 133 Wn.2d 565, 947 P.2d 712 (1997)
- Sperr v. City of Spokane, 123 Wn. App. 132, 96 P.3d 1012 (2004)
- Neighborhood Alliance of Spokane County v. Spokane County, 172 Wn.2d 702, 261 P.3d 119 (2011)
- Citizens for Fair Share v. Department of Corrections, 117 Wn. App. 411, 72 P.3d 206 (2003)
- Smith v. Okanogan County, 100 Wn. App. 7, 994 P.2d 857 (2000)
- O'Neill v. City of Shoreline, 170 Wn.2d 138, 240 P.3d 1149 (2010)
- Ameriquist Mortgage Co. v. Office of the Attorney General, 170 Wn.2d 418, 241 P.3d 1245 (2010)
- Department of Ecology v. Campbell & Gwinn, LLC, 146 Wn.2d 1, 43 P.3d 4 (2002)
- Deer v. Department of Social & Health Services, 122 Wn. App. 84, 93 P.3d 195 (2004)
- In re Dependency of K.B., 150 Wn. App. 912, 210 P.3d 330 (2009)
- Progressive Animal Welfare Society v. University of Washington, 125 Wn.2d 243, 884 P.2d 592 (1994)