



WASHINGTON STATE ATTORNEY GENERAL
ROB MCKENNA
AG REQUEST LEGISLATION - 2008 SESSION

PENALTY AWARDS

THE PROBLEM

According to statistics from the Department of Corrections the increase in public records requests from inmates has been to the detriment of its ability to respond to serious requestors of public documents. Inmates have not won many of their lawsuits against the agency. However, this does not seem to have an impact on the filing of claims. The “public disclosure act lottery” is a major incentive for filing these requests, providing inmates with the opportunity to “win” hundreds of thousands of dollars if they file enough requests to force the DOC into non-compliance.

BACKGROUND

In April 2006, the Department of Corrections (DOC) began to track public disclosure requests on a department-wide basis. From April through December of 2006, DOC received 3,617 public record requests from inmates, consuming 9,575 staff hours.

Through September of 2007, DOC has already logged 4,039 requests and the use of 11,738 staff hours. The 2006 data recorded showed DOC received payment for only 54,536 of the more than 250,000 pages that were made available to inmates. That trend has continued in 2007 with more than 315,000 pages delivered with payment for only 90,015.

Earlier this year, DOC agreed to pay a record fine of \$541,000 for wrongly withholding employee-discipline records from a prison watchdog magazine. Paul Wright, editor of the magazine and an inmate at the time, filed a couple of requests in 2000. DOC released more than 1,000 pages, but Wright filed suit in 2001 to gain access to the information redacted from the documents he was given. The state Supreme Court ruled in 2005 that DOC must release the information to Wright and pay fines and attorney fees. The paper Wright operated received \$200,000 in fines.

PENALTY AWARDS LEGISLATION

The Attorney General’s Office proposes to amend RCW 42.56.550(4) to prohibit an incarcerated person requesting public records from receiving penalty awards for an agency’s unlawful non-disclosure. The penalty awards would instead be paid to the crime victims’ compensation program as outlined in RCW 7.68.