

State of Washington  
PUBLIC DISCLOSURE COMMISSION

711 Capitol Way Rm. 206, PO Box 40908 • Olympia, Washington 98504-0908

(360) 753-1111 • FAX (360) 753-1112

Toll Free 1-877-601-2828 • E-mail: [pdcc@pdcc.wa.gov](mailto:pdcc@pdcc.wa.gov) • Website: [www.pdcc.wa.gov](http://www.pdcc.wa.gov)

**MINUTES – Regular Meeting**

9:30 a.m. | July 26, 2018

Evergreen Plaza Building, Room 206

711 Capitol Way

Olympia, Washington

**Commission Members Present**

Anne Levinson, Chair; David Ammons, Vice-Chair; Jack Johnson, member; Bill Downing, member.

**Staff Present**

Peter Lavallee, Executive Director; BG Sandahl, Deputy Director; Kim Bradford, Communications and Outreach Director; James Gutholm, Chief Technology Officer; Jennifer Hansen, Compliance Officer; Kurt Young, Compliance Officer; Jana Greer, Administrative Officer; John Meader, Assistant Attorney General; and Chad Standifer, Assistant Attorney General.

The regular meeting of the Public Disclosure Commission (PDC) was called to order by Commission Chair Anne Levinson at 9:30 a.m.

**Public Comments | [PDC Meeting Video](#)**

**Cheryl Aichle**

Cheryl Aichle, a resident of Vancouver, Washington, shared concerns about campaign finance violations within the local political party organizations and candidates, and about potential retaliation when a complaint is filed with the PDC.

Chair Levinson thanked Ms. Aichle for bringing her concerns to the Commission's attention, mentioned that because the concerns may result in a possible enforcement matter, she should not go into specific detail in the event that a case later comes before the Commission, and asked the Executive Director to have the PDC compliance division follow-up with her directly. Chair Levinson also asked the staff to add protection against retaliation to the Commission's list of items to consider for this session's agency-request legislation.

*Next Steps/Follow-up:* Executive Director Lavallee will ask a compliance staff member to follow up with Ms. Aichle. Staff will add retaliation to the agency-request bill outline.

**Conner Edwards**

Conner Edwards submitted via email a comment regarding a previous APA petition. The email was printed and provided to the Commission for review. Staff will add retaliation to the agency-request bill outline.

**John Geniuch**

John Geniuch submitted via email a comment regarding the PDC complaint process. The email was printed and provided to the Commission for review.

*Next Steps/Follow-up:* Chair Levinson asked that Commission members and staff review both the emails/comments submitted. The submissions will be placed in the meeting record, and staff will follow-up with the submitters.

### **Meeting Minutes | [PDC Meeting Video](#)**

The Commission considered approval of the June 28, 2018, regular meeting minutes.

**Motion 18-051** Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

**The Commission approve the June 28, 2018, regular meeting minutes.**

The motion passed 4-0.

### **Modification Requests for F-1 Reports | [PDC Meeting Video](#)**

Jennifer Hansen, Compliance Officer, presented requests for reporting modification.

Commissioners Levinson and Downing reported that they have individually worked with both Judge Bender and Judge Doyle but did not feel that would affect their ability to be fair and impartial in hearing these matters.

### Renewals with Retroactive Requests

- Johanna Bender – Superior Court Judge, King County Superior Court [WAC 390-28-100\(d\)](#)

Judge Bender participated via conference call.

Judge Bender requested a reporting modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for her residential address on her Personal Financial Affairs Statement covering calendar year 2017.

She also requested a retroactive modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for her residential address on her F-1 report covering calendar year 2015 and her F-1 report covering calendar year 2016.

As a Superior Court Judge, she is assigned both criminal and civil cases, and presides over those cases at all phases of proceedings, including pre-trial motions, trials, sentencing, and post-adjudicative motions. In addition, she is also responsible for administrative duties on behalf of the court which include serving as a member of the Court's Executive Committee.

For the past six years, she has been assigned to calendars involving community members with serious mental illness (King County Regional Mental Health Court and King County Involuntary Treatment Act Court).

Judge Bender included additional safety concerns related to her work as a judge, the nature of which presumes that there is potential for an actual assault or threat to occur. She also referenced specific threats/harassment her family has suffered.

**Motion 18-052** Moved by Commissioner Downing, seconded by Commissioner Johnson that:

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**The Commission grant the partial reporting modification as requested for each reporting period, finding that literal application of the law would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the Act.**

The motion passed 4-0.

- Theresa Doyle – Superior Court Judge, King County Superior Court [WAC 390-28-100\(d\)](#)

Judge Doyle waived personal appearance at the hearing.

Judge Doyle requested a reporting modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for her residential address on her Personal Financial Affairs Statement covering calendar year 2017.

In addition, she requested a retroactive modification that would exempt her from reporting real estate, including street address, parcel number, or legal description, for her residential address on her F-1 report covering calendar year 2015 and her F-1 report covering calendar year 2016.

Judge Doyle has served as a Judge for the past 20 years. She has made many hundreds of criminal law, family law and parental rights decisions that could provide persons with a motive to retaliate. In her role as Assistant Chief Criminal Judge from 2011 to 2012, she came in direct contact with over 100 persons each week accused of felonies, some violent offenders. Judge Doyle has been a past victim of direct threats.

**Motion 18-053** Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

**The Commission grant the partial reporting modification as requested for each reporting period, finding that literal application of the law would cause a manifestly unreasonable hardship on the applicant and that a limited modification would not frustrate the purposes of the Act.**

The motion passed 4-0.

#### Discussion | Reporting modification process – updating forms and application materials

Chair Levinson discussed, as part of the need to reform the modification process, a need to align the statute and the WAC to more clearly articulate the expectations for filers and explain the required standard of review. The goal is to have information and guidance that is consistent throughout related materials and easy to find on the website.

Kim Bradford, Communications and Outreach Director, reported that staff have begun to reach out to judges and other groups of filers to participate in future stakeholder work on these kind of process improvements. Continued outreach will be made, and information will be coming back to the Commission for review at the September meeting.

**Compliance and Enforcement Update | [PDC Meeting Video](#)**

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Kurt Young, Compliance Officer, updated the Commission on compliance and enforcement matters from June 27, 2018 through July 24, 2018.

Total number of open cases as of July 24, 2018: **488 cases**

Total number of cases closed during the period: **19 cases**

**Case summary categorization for the current period:**

New complaints received, and cases opened during the period:

**29** new complaints filed with the PDC during the period covered by this report.

Complaints received, and cases opened since June 7, 2018:

**5** complaints were filed with the PDC after ESHB 2938 came into effect on June 7, 2018:

- Complaints received over the previous 1-10 days: 3 new complaints
- 11-20 days: 6 new complaints
- 21-30 days: 7 existing complaints
- 31-40 days: 24 existing complaints
- 41-50 days: 4 existing complaints

Cases closed – technical correction(s) ([RCW 42.17A.005\(51\)](#) & [WAC 390-37-060\(1\)\(b\)](#)): 1

Cases closed - no minor violation occurred – ([WAC 390-37-060\(1\)\(a\)](#)): 10

Cases closed-minor violation (filing error occurred) – Reminder letter issued ([WAC 390-37-060\(1\)\(c\)](#)): 1

Resolved through Statement of Understanding – Violation found ([WAC 390-37-143](#)): 2

Cases closed – Action Commenced by Citizen under [RCW 42.17A.765](#) (pre-ESHB 2938): 1

Penalty reporting and Alliance One collection

Current penalty report status shows penalties unpaid that have been sent to Alliance One for further attempt at collection.

Jana Greer, Administrative Officer, will compile a report of those cases at Alliance One and show the total amount due to-date. The Executive staff and Commission can then make a determination as to how to proceed with these matters.

*Next Steps/Follow-up:* Ms. Greer will send the report to the Commission Chair and Executive Director Lavallee to determine next steps.

**Strategic Plan – Quarterly Review 2 Qtr. | [PDC Meeting Video](#)**

Peter Lavallee, Executive Director, reported on 2<sup>nd</sup> quarter measurements and outcomes.

- Review internal data in “follow the money” for baseline and increase website use by 5 % annually. Collect baseline data and report monthly.
  - Website traffic shows that since the introduction of the new search tools last October, an increasing number of website visitors are using them to find the information they are seeking about candidates and campaigns. Visits using these “advanced” features are up from 9,400 in October 2017 to 41,580 in May 2018.
- Reduce number of public records requests for complaint intake-related documents by 5% annually – establish FY2018 baseline.
  - The baseline in FY18 was 42 requests.
  - Additional compliance documents are being added to the online datasets. Having that information available online will likely reduce the number of records requests.
- Approve updated onboarding materials and plan.
  - Onboarding checklist of key items, policies, PDC history, and new employee information has been implemented.

*Next steps/follow-up:* Chair Levinson asked that staff, for future reporting, show where the PDC originally intended to be with each measure and where we are. Also include future goals of where we want to be with each measure for next reporting period.

Executive Director Lavallee suggested that this more detailed reporting be done on an annual or semi-annual basis.

### **Rulemakings and Interpretations | [PDC Meeting Video](#)**

#### **Revised rulemaking schedule for ESHB 2938**

Deputy Director Sandahl reviewed the revised rulemaking and outreach timeline for ESHB 2938.

At the end of July, PDC will receive feedback from legislative staff and the AGO on the list of items to be addressed in agency-request legislation. A final version of the outline for agency request legislation will be sent to the Commission on July 31.

The first draft of the agency-request legislation will be available for the Commission’s review and consideration prior to the August 23<sup>rd</sup> meeting. Legislative request packages are due to the Governor’s office (OFM) on the 12<sup>th</sup> of September.

Deputy Director Sandahl suggested that the Commission may want to consider a special meeting on September 6<sup>th</sup> to possibly approve the legislation.

In August, staff will begin focused stakeholder outreach on specific proposed rules. At the upcoming August 23<sup>rd</sup> meeting, the Commission will need to consider for adoption an extension of the emergency rules previously adopted for ESHB 2938 due to the agency’s statutory limit on rulemaking during the election season.

A public hearing for ESHB 2938 rulemaking is scheduled for the September 27<sup>th</sup> regular Commission meeting. Staff will then synthesize comments and present them at the October regular Commission meeting. Also, in October, emergency rules will need to be drafted for the DISCLOSE Act (SSB 5991).

By November 29<sup>th</sup>, the Commission will need to have a special meeting to adopt the final rules. The final rule will be filed with the Code Reviser by November 30<sup>th</sup>.

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On January 1, 2019, the permanent rules for ESHB 2938 and emergency rules for SSB 5991 will go into effect. Staff will post permanent rules on the PDC website and notify stakeholders.

Rulemaking development agenda July 31, 2018 – Jan 31, 2019

Deputy Director Sandahl reviewed the semi-annual rulemaking agenda for Commission consideration and approval for submission to the Code Reviser.

- Continuation of the permanent rulemaking for [Title 390 WAC](#) to implement Chapter 304, Laws of 2018 (ESHB 2938).
- Emergency and permanent rulemaking for [Title 390 WAC](#) to implement Chapter 111, Laws of 2018 (SSB 5991).

Staff requested that the Commission adopt the rules development agenda as presented for submission to the Washington State Register for the period of July 31, 2018 to January 31, 2019.

**Motion 18-054** Moved by Commissioner Johnson, seconded by Commissioner Ammons that:

**The Commission approve the proposed rules development agenda as submitted.**

The motion passed 4-0.

Interpretations agenda for July 2018 – January 2019

Deputy Director Sandahl presented the Interpretations calendar for July 2018 – January 2019 for Commission consideration:

- Interpretation 00-02 – Guidelines for contributions made over the internet, via 1-900 telephone numbers, and using other technologies such as text messaging.
- Interpretation 12-01 – In-kind loans, pledges, and disclosure of contributions on 21- and 7- day pre-election reports.

Staff requested that the Commission adopt the Interpretations development agenda as presented for submission to the Washington State Register for the period of July 2018 – January 2019.

**Motion 18-055** Moved by Commissioner Ammons, seconded by Commissioner Johnson that:

**The Commission approve the Interpretations development agenda for July 2018 – January 2019 as presented.**

The motion passed 4-0.

**Legislative Update | [PDC Meeting Video](#)**

Preliminary review of agency-request bill

Deputy Director Sandahl reviewed the agency-request bill, which includes further refinements to ESHB 2938 and [additional RCW 42.17A](#) improvements, where updating or clarification is needed.

Commissioner Levinson reviewed items that have been identified for possible inclusion in the legislation.

**Management Team Updates | [PDC Meeting Video](#)**

Hiring Update

Kim Bradford, Communications and Outreach Director, introduced new Customer Service and Filer Assistance staff members.

Deputy Director Sandahl introduced new compliance staff team members.

### Budget

Executive Director Lavalley presented an overview of highlighted expense areas/items for FY 19.

One item new to the PDC is the “Transparency Fund (22W Fund),” a fund into which penalties, attorney fees, etc. will be collected from [RCW 42.17A](#) matters. Monies that are collected can then be appropriated by the Legislature for the purpose of enforcing [RCW 42.17A](#).

Commissioner Ammons asked about requesting additional FTEs for designated purposes. Would funding for these positions come from the transparency fund? Staff suggested that such funding would be appropriate for “one-time” project staffing rather than ongoing staffing since the monies cannot be counted on as a steady stream of income, at least until a “steady-state” of fund availability and usage can be established, if possible.

PDC staff will present the draft agency budget for Commission review and adoption at the August Commission meeting.

### Lease Update

The current negotiations for additional space within the Evergreen Plaza are going well. Executive Director Lavalley is encouraged to see it come together, with a potential increase in rent no greater than in line with inflation and that would provide for the build-out of the additional space and the retrofitting of existing space.

### Communications, Outreach and Filer Assistance Update

Kim Bradford, Communications and Outreach Director, highlighted customer service statistics for the month of June and updates on reporting modification improvements.

The drafting of the annual report has begun and will include the updated numbers for campaigns in November. Staff will present for Commission consideration at the November special meeting.

### F-1 Publication Update

The PDC has been working with the Office of Privacy and Data Protection and the Attorney General’s public records section to identify and troubleshoot any issues that may arise with the publication of F-1 forms.

Publication will begin with documents filed in 2018.

A notification will be sent to filers letting them know these items will be published. The planned release date is August 21, 2018.

### IT Update

James Gutholm, Chief Technology Officer, reported on the approach to projects required for the implementation of ESHB 2938. Staff wants to find the fastest way possible to deliver the basic functionality required and then build on that baseline as needed.

IT has developed a way for candidates and committees to file their intent to dissolve. IT also has developed a tool to notify filers about filing outages. This information goes out to all users who have subscribed to the alerts, and it also displays in a banner across all pages on the PDC website.

Upcoming projects:

- Jurisdiction Management – ensuring good data structures to help answer questions.
- Tracking enforcement cases to meet critical timelines and increase efficiency.

### **Process Improvement Spotlight** | [PDC Meeting Video](#)

#### IT Fast Lane (Every other Friday)

The PDC is a small agency with a huge backlog of IT projects. IT staff has created the IT Fast Lane process to identify smaller projects that can be accomplished with limited staff time but don't necessarily qualify as urgent needs. These items will be assessed and addressed every Friday, as opposed to placing them on the list of backlog projects to complete at some time in the future.

### **Executive Session**

The Commission went in to Executive Session at 12:11 p.m. to discuss matters allowed in Executive Session pursuant to [RCW 42.30.110](#), including but not limited to discussion of enforcement matters, pending and potential litigation with legal counsel. Any action regarding pending litigation, or other matters properly discussed during executive session, would be taken following the Executive Session.

Adjourned at 1:15 p.m.

Approved August 23, 2018.