

S T E F A N S H A R K A N S K Y

January 27, 2005

**VIA FACSIMILE (360) 586-4311: ORIGINAL TO BE MAILED**

Mr. Steve Lyle  
Contracts/Public Records Disclosure Officer  
Office of Secretary of State  
PO Box 40224  
Olympia, WA 98504-0224

RE:PUBLIC RECORDS REQUEST

Dear Mr. Lyle:

I am requesting public records from the Secretary of State pursuant to RCW 42.17. The purpose of this request is to obtain public records identical to those disclosed to the Seattle Times on January 3, 2005. Those records contain voter registration records with voters' dates of birth in a CD format. Since the Secretary of State has disclosed these records to the Seattle Times, it is prohibited by law from distinguishing among requestors and must disclose these records to others. RCW 42.17.270.

It is my understanding that you have recently denied these very same records to the Seattle Post-Intelligencer and others on the grounds that the dates of birth are exempt under RCW 29A.08.710(2). That provision explicitly applies to county auditors. The public disclosure act requires that exemptions are to be construed narrowly, and when exemptions are limited by express terms, they may not be expanded by implication. *ACLU v. City of Seattle*, 121 Wn. App. 544 (2004).

Additionally, I have learned that while you maintain these public records are exempt from disclosure to the public at large, the office of the Secretary of State continues to disclose these records to litigants in the Chelan County election contest, *Timothy Borders, et. al., v. King County, et. al.*, No. 05-2-00027-3. While these public records were disclosed pursuant to a stipulated confidentiality agreement, the WA State Supreme Court has ruled that public records "available to another party under superior court rules of pretrial discovery" must be produced through public record requests pursuant to RCW 42.17. *O'Connor v. DSHS*, 143 Wn.2d 895, 906 (2001).

These public records have been available in CD format since January 3, 2005. Please have them ready for me to pick up at your office in five business days pursuant to RCW 42.17.320.

Sincerely,

Stefan Sharkansky

Cc: Greg Overstreet