

The Firehouse Lawyer

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Be sure to visit firehouselawyer.com to get a glimpse of our various practice areas pertaining to public agencies, which include labor and employment law, public disclosure law, mergers and consolidations, financing methods, risk management, and many other practice areas!!!

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Upcoming Municipal Roundtable

On Friday, March 23, 2018 the Firehouse Lawyers, Quinn and Quinn, P.S., will hold our next quarterly Municipal Roundtable, a free discussion group in which we consider issues that are relevant to the fire service and other municipal corporations. Topics lately have included bid law compliance and alternative financing mechanisms. This roundtable will be held at South King Fire and Rescue, Station 68, 1405 SW 312th St, Federal Way, WA 98023, from 9:00 AM to 11:00 AM. The topic of this roundtable will be audits by the Department of Retirement Systems, and issues that our clients have faced during such audits. The Municipal Roundtable gives us all an opportunity to learn from each other. Make sure to attend: you will be better for it.

News Flash: Facebook Posts Can be Deemed Public Records

Under Washington law, a public record is (1) any writing (2) related to the conduct of government that is (3) *prepared*, owned, used or retained by a public agency, regardless of physical form or characteristics. RCW 42.56.010 (3).

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The Washington Court of Appeals, Division Two, recently decided *Arthur West v. City of Seattle*, No. 49857-0-II (2018). In *West*, Division Two found that "a public official's posts on a **personal** Facebook page can constitute an agency's public records subject to disclosure under the PRA if the posts relate to the conduct of government and are prepared within a public official's *scope of employment or official capacity*." (emphasis added).

This means that a governing official or other officer or a public agency may create public records on their *own Facebook page*, if any posts relate to the conduct of government and are within the scope of their duties. The issue in *West* was whether Facebook posts by a city councilmember on a private Facebook page were "prepared" by the City of Puyallup (hereinafter "City") and were therefore "public records."

In *West*, City councilmember Julie Door created a "Friends of Julie Door" Facebook page, separate and apart from the City's official Facebook page. The "Friends" page included various posts that were pertinent to City government, including but not limited to information pertaining to City meeting agendas, construction of City sidewalks, and Sound Transit presentations at City council meetings. There were some comments related to these posts but the councilmember did not respond to them.

The requestor made a request to the City for "All City related public records sent to or received at Council Member Door's 'Friends of Julie Door' Facebook site, 2014-2016, or any such records in the possession of the City." This proceeded to court. The City councilmember submitted a declaration stating that the "Friends" page "was not used or intended to be used to conduct any governmental function and had not been used or referenced by the City at City meetings or cited in support of any agency action." She further declared that the "Friends" page "was a campaign site used for campaign purposes or to provide information to her supporters."

Ultimately, the *West* court found that the posts on the "Friends" page were *not* made in the scope of the councilmember's duties, and therefore the posts on her personal Facebook page were not "prepared" by the City and were *not* public records.

For the **Safety Bill**, remember to maintain records of occupational injuries and illness. *See* WAC 296-305-01501 (2).

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