



# "Public Right to Know"

*The following are meeting notes taken from the February 2005 Puget Sound Chapter meeting and published in the chapter newsletter, Soundings. They are republished here because of the interest of the public in this topic. This program is an excellent example of the kind of programs available to members of the Puget Sound Chapter of ARMA International, the Association for Information Management Professionals. For more information about membership in the Puget Sound Chapter, contact Debbie Jones, Membership Chair, (206) 878-0166 or [filetextdj@aol.com](mailto:filetextdj@aol.com).*

Puget Sound Chapter members had an opportunity to hear two terrific speakers at the chapter's February meeting.

Nancy Krier, an attorney in the Licensing and Administrative Law Division of the WA State Attorney General's Office gave a presentation entitled "Open Public Records." Ms Krier said the Public Records Act is a result of the Public Disclosure Initiative - proposed by the League of Women Voters - which passed in 1972. The Act states that all records are open unless there is an exemption. Some exemptions include records from DSHS, the Department of Corrections, trade secrets and materials protected by attorney-client privilege. She said, "If a public agency chooses not to honor a request, you need to say why and cite the statute or law." Nancy further discussed pertinent definitions and obligations an agency must comply with in answering records requests. She talked about the Hangartner v. City of Seattle decision which raised several issues regarding records requests. Some conclusions are: A records request for "all records" can be over-broad and the agency may not need comply. In addition, Hangartner, addressed the attorney-client privilege saying that just because an attorney may be in a corner (like a "potted plant"), it does not necessarily make the requested documents exempt from the PDA. Nancy concluded her presentation by discussing other Washington case law that protects the public's right to know

Linda Moran, Division Chief of the Licensing and Administrative Law Division of the AG's Office opened her presentation by discussing the new GR (General Rule) 31. She explained that it is a new court rule which will affect records managers and attorneys. Ms. Moran said, "The Courts are concerned with private, identifiable information. This rule puts the burden on the Courts not to supply as much personal information as in the past." For example, full social security numbers (use only the last 4 digits now) and names of children (use the initials, instead) are no longer allowed in court documents. The Courts also now consider drivers licenses as private and personal and are not subject to disclosure. Linda said Public Records litigation is on the increase.

Ms. Moran continued her presentation by further discussing the "abuse" of attorney-client privilege by the public as it relates to e-mail. She said, "Just because you say the e-mail communication is attorney-client privilege doesn't mean it is. You cannot decide after the fact that the conversation was attorney-client privilege and is not discloseable!" Attorney-client privilege is tricky. She said agencies "waive" the privilege when sending e-mails to even one other person that doesn't belong in the primary group. Alternatively, just because you "cc" the attorney, does not designate the communication as "privileged".

***Puget Sound Chapter members: If you missed this fabulous presentation and would like a copy of the handouts, contact Sue Lord at [slord@vjglaw.com](mailto:slord@vjglaw.com)***