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REPORT OF INVESTIGATION

DATE: October 12, 2016

FROM: Penny L. Allen, Senior Counsel - GCE Division
Chad Crummer, Investigations Manager - CP Division

SUBJECT: **Report of Investigation - Sound Transit Citizen Action Letter**

On August 20, 2016, Connor Edwards filed a Citizen Action Notice under RCW 42.17A.765(4) with the state Attorney General and the prosecuting attorney for King County. In his notice, Mr. Edwards alleged that Sound Transit had violated provisions of RCW 42.17A.

I. SUMMARY OF ALLEGATION

Mr. Edwards alleged that Sound Transit violated RCW 42.17A.555 by improperly releasing ORCA cardholder email addresses to the campaign committee, Mass Transit Now, in response to a public records request from its campaign manager.

II. OVERVIEW

On March 28, 2016, Abigail Doerr, Mass Transit Now campaign manager, submitted a public disclosure request to Sound Transit Authority requesting "the list of the entirety of Sound Transit's email subscribers." On April 11, 2016, Sound Transit's public records officer Q'Deene Nagasawa responded providing a list of email addresses. The list included the email addresses for ORCA cardholders. An ORCA card is a smart card which an individual may use to pay fares on several Western Washington's transit systems. A provision of the state Public Records Act allows any personally identifying information pertaining to ORCA cards to be claimed as exempt from public disclosure under RCW 42.56.330(5).

In his notice Mr. Edwards alleged that Sound Transit improperly released ORCA cardholder email addresses to the campaign committee, Mass Transit Now. Mr. Edwards alleged that the release violated RCW 42.17A.555 which, in pertinent part, prohibits the use of public facilities to support or oppose a ballot measure. Mr. Edwards filed the same complaint with the state Public Disclosure Commission.

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The Public Disclosure Commission staff conducted a preliminary investigation and presented findings to the Commission. Sound Transit provided a copy of its own internal investigation results to the Commission at a hearing conducted on September 23, 2016. Following consideration of the presentations, the Commission recommended to the Attorney General that no further action be taken because there was no apparent violation of RCW 42.17A.555.

After receipt of the Commission's recommendation and staff report, further investigation was conducted by the Attorney General's Office by the authors of this memo.

III. INVESTIGATION

A. Records Reviewed

The investigative team reviewed the following documents:

1. Connor Edward's Citizen Action Notice;
2. Abigail Doerr's March 28, 2016 Online Public Disclosure Request to Sound Transit;
3. Brock Howell's July 23, 2016 Public Disclosure Request to Sound Transit;
4. Sound Transit email detailing the gathering and release of the requested information including approximately 16 emails from a variety of individuals including Sound Transit employees Q'Deene Nagasawa, Public Records Officer; Craig Davison, Executive Director of Communications and External Affairs; Jennifer Dice, Sr. Digital Communications Manager; Geoff Patrick, Sr. Media Relations and Public Information Officer; and Elizabeth Anderson, Digital Communications Specialist;
5. A copy of the responsive list of email addresses provided to Ms. Doerr by Sound Transit;
6. Sound Transit Organization Chart;
7. ORCA Public Records Disclosure Policy;
8. May 9, 2016 Communications and External Affairs All Staff Meeting Agenda;
9. August 19, 2016 Seattle Times article regarding the improper disclosure;
10. Public Disclosure Commission Report of Investigation and supporting documents;
11. Sound Transit's Internal Investigation Report and supporting documents;
12. Sound Transit Membership Information for Transportation Choices Coalition;
13. Sound Transit's website;
14. Transportation Choices Coalition website;
15. Mass Transit Now website;
16. Mass Transit Now's filings with the Public Disclosure Commission, and;
17. Transportation Choices Coalition filings with the Public Disclosure Commission.

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B. People Interviewed

The following people were interviewed as part of the investigation. Sound Transit employee interviews were conducted on October 4, 2016 at Sound Transit's Offices. Ms. Doerr and Mr. Howell were interviewed on October 5, 2016 at the Seattle AGO office. Each interview was conducted under oath with a court reporter present.

1. Craig Davison, Sound Transit Executive Director of Communications and External Affairs
2. Geoff Patrick, Sound Transit Sr. Media Relations and Public Information Manager
3. Elizabeth Anderson, Sound Transit Digital Communications Specialist
4. Jennifer Dice, Sound Transit Sr. Digital Communications Manager
5. Q'Deene Nagasawa, Sound Transit's Public Records Officer
6. Kathryn Van Sanden, Sound Transit Marketing Promotions Lead
7. Abigail Doerr, Mass Transit Now's Campaign Manager
8. Brock Howell, Mass Transit Now's Deputy Campaign Manager

C. Chronology of Events

1. November 2011: ORCA cardholder email addresses are uploaded into Sound Transit's GovDelivery account to allow ORCA to send a survey to ORCA cardholders through Sound Transit's GovDelivery license.
2. October 30, 2015: Mass Transit Now registers with the Public Disclosure Commission as a political committee supporting the regional transportation improvement district ballot measure.
3. February 9, 2016 - 5:38 p.m.: Sound Transit employee, Yvette Lopez requests that ORCA cardholder email addresses be uploaded into GovDelivery system¹ to allow an ORCA Fare Change Alert to be sent to ORCA cardholders. She notes that the list had been deleted after a previous alert/email had been sent.
3. February 10, 2016 - 2:59 p.m.: Elizabeth Anderson uploads a list of ORCA cardholder email addresses into GovDelivery to be able to send an ORCA Fare Change Alert to ORCA cardholders.
4. March 28, 2016 - 2:20 p.m.: Abigail Doerr submits an online public disclosure request to Sound Transit, requesting "[T]he list of the entirety of Sound Transit's email subscribers.

¹ GovDelivery is a licensed software system which allows public agencies to send digital communication. One function of the software system is to allow a large number of emails to be sent at one time and not have them marked as spam. Sound Transit has a license. Until recently ORCA did not have a license.

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- Please include the following if possible: 1. Email 2. Contact's name 3. Which list they are subscribed to 4. Date they first subscribed to the email list." Ms. Doerr lists her personal address, phone number and email address on the request.
5. March 28, 2016: Ms. Doerr's public disclosure request is logged into Sound Transit's public disclosure system; a file is opened and given to Sound Transit's Public Records Officer, Q'Deene Nagasawa.
 6. March 28, 2016 - 3:54 p.m.: Ms. Nagasawa sends a SharePoint link with Ms. Doerr's request to Jennifer Dice. Ms. Nagasawa indicates that she would like "to discuss this request with assigned staff."
 7. March 28, 2016 - 4:05 p.m.: Because Ms. Nagasawa's initial email to Ms. Dice contained the wrong link, she resends her email request with a corrected SharePoint link.
 8. March 28, 2016 - 4:22 p.m.: Ms. Dice forwards the link to Craig Davison and Geoff Patrick to make them aware of the request for a list of Sound Transit subscribers' email addresses.
 9. March 28, 2016 - 4:24 p.m.: Mr. Davison responds to Ms. Dice from his iPhone asking "Do we know who?"
 10. March 28, 2016 - 4:27 p.m.: Mr. Patrick responds to Ms. Dice's email indicating that "She is with Transportation Choices Coalition."²
 11. March 28, 2016 - 4:51 p.m.: Ms. Dice requests Ms. Anderson to ask GovDelivery to generate a spreadsheet with the following data: "Email addresses for all subscribers to Topics in GovDelivery (please include only Topics, not invitation lists. Include only email addresses, not cell numbers); (if available) date subscriber was added to our records; Topics subscribed to be each subscriber." Ms. Dice copies Ms. Nagasawa on the email.
 12. March 28, 2016 - 4:55 p.m.: Ms. Anderson requests Sammi Wassing of GovDelivery to prepare a list for Sound Transit with the following data: "Email addresses for all subscribers to Topics in GovDelivery (please include only Topics, not invitation lists. Include only email addresses, not cell numbers); (if available) date subscriber was added to our records; Topics subscribed to be each subscriber."
 13. April 1, 2016 - 7:48 a.m.: Ms. Wassing provides the requested information to Ms. Anderson.

² Mr. Patrick's email was portrayed as a response to Mr. Davison's email in the Seattle Times article as well as Sound Transit's investigation when in fact it is not. Mr. Davison's email was sent only to Ms. Dice and Mr. Patrick did not receive it. When called to his attention in the interview, he acknowledged that he did not receive Mr. Davison's email and must have sent his response on his own.

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14. April 1, 2016 - 10:11a.m.: Ms. Anderson informs Ms. Dice that the information has been received and attaches a copy of the file.
15. April 1, 2016 - 1:18 p.m.: Ms. Dice briefly reviews the list and notifies Ms. Nagasawa that the requested list has arrived and has been saved to the appropriate folder.
16. April 4, 2016 - 2:28 p.m.: Ms. Nagasawa acknowledges Ms. Doerr's public records request and indicates that "it will take another 1 -2 weeks to identify and gather responsive records."
17. April 11, 2016 - 7:59 p.m.: Ms. Nagasawa sends Ms. Doerr an excel spreadsheet which lists subscriber email addresses, the date the subscriber was added and the topics to which each person subscribed.
18. April 12, 2016 - 11:24 a.m.: Ms. Nagasawa forwards Mr. Davison a copy of the response she sent to Ms. Doerr.
19. May 3, 2016: Michael Harbour, Sound Transit Deputy Chief Executive Officer; Craig Davison, Executive Director Communications and External Affairs; Ann McNeil, Sound Transit Government and Community Relations Director; Eric Ilgenfritz, Sound Transit Executive Director - Planning, Environment and Project Development; Trinity Parker, Sound Transit Government and Community Relations Officer; Wesley King, Sound Transit Expansion Program Manager; and Kathy Duyangan-Albert, Sound Transit Strategic Business Officer make a contribution to Mass Transit Now.
20. July 25, 2016 - 10:33 a.m.: Mass Transit Now Deputy Campaign Manager Brock Howell sends Ms. Nagasawa an email requesting any email subscribers who subscribed after March 28, 2016. Additionally, he requests a list of all public comments and attendees who signed in at a Sound Transit 3 (ST3) hearing, open house or other public forum or meeting, online or in-person.
21. Late July. Mr. Howell sends public disclosure requests to other transit authorities such as Snohomish and Everett.
22. Mid-August. Sound Transit responds to Mr. Howell's July request. No ORCA cardholder email addresses were provided.
23. August 16, 2016: Mass Transit Now sends emails regarding the Sound Transit 3 ballot initiative to expand Sound Transit to people on Mass Transit Now's campaign email list. Its list includes addresses received from Sound Transit per Ms. Doerr's public records request in March, addresses from Sound Transit per Mr. Howell's public records request in July, addresses received from other transit organizations received per public records requests to those organizations, and email address lists Mass Transit Now received from

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Let's Move Seattle and Restore Pierce Transit Now³. Mass Transit Now's email urged recipients to support the ST3 ballot proposition.

24. August 17 or 18, 2016: A recipient of the Mass Transit Now email complained to the Seattle Times about Sound Transit's disclosure of his email address which the recipient used solely for communications with the ORCA program.
25. August 18, 2016: Lewis Kamb, Seattle Time's staff reporter contacted Sound Transit and Mass Transit Now regarding the disclosure of the ORCA cardholder email addresses. Sound Transit first learns of the issue through this contact.
26. August 19, 2016 – 7:31 p.m.: Desmond Brown, Sound Transit's General Counsel, emailed Ms. Doerr and told her that there had been an inadvertent release of ORCA cardholders email addresses in Sound Transit's response to her March public disclosure request. Mr. Brown requested that the ORCA cardholder email addresses, which were identified in an attached spreadsheet, be deleted from Mass Transit Now's email database and that Mass Transit Now not send any further emails to any ORCA cardholders at their email addresses. Mass Transit Now discarded the March 2016 list it received from Sound Transit and has not used the March 2016 list to send any further emails.
27. August 20, 2016: Conner Edwards files a Citizen Action Notice regarding the release of the ORCA cardholder email addresses. Mr. Edwards alleged that Sound Transit improperly coordinated with Mass Transit Now to influence the outcome of the ST3 ballot measure.

D. Additional Information

1. Background on Sound Transit

Sound Transit was created through a ballot measure which passed in 1996. The measure provided a regional transit system in Snohomish, King and Pierce County. Sound Transit operates express buses, commuter rail, and light rail in the region. It is a public agency.

Sound Transit maintains a system which allows people to sign up to receive information regarding "topics." The topics include information about Sound Transit, Rider Alerts, and latest project updates. People who subscribe may do so either through a text message or an email message and need to provide either a cell phone number or email address. As part of signing up to receive information on a topic, subscribers are told that Sound Transit will not distribute

³ The use of Let's Move Seattle and Restore Pierce Transit Now email lists were reported by Mass Transit Now as an in-kind contribution to Mass Transit Now. The Let's Move Seattle list was valued at \$26.70 and the Restore Pierce Transit Now list was valued as \$20.00.

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information such as an email address about them unless the subscriber has consented or is required to do so by law such as public disclosure law.

In November 2008, voters approved ST2 which increased Sound Transit's funding enabling it to build additional projects including an extension of light rail.

2. ST3 Ballot Measure

In June 2016, the Sound Transit Board approved the Sound Transit 3 (ST3) ballot measure for the November 2016 election. Planning on the Board's consideration of the ST3 measure started a year prior, in the summer of 2015.

ST3 proposes to spend \$53.8 billion dollars to expand Sound Transit. Expansion would include additional light rail, buses and Sounder trains. From the \$53.8 billion budget for ST3, \$27.7 billion would be funded through new tax dollars. The remaining funding would come from federal grants, existing Sound Transit revenues, bonds and interest.

3. Transportation Choices Coalition

Transportation Choices Coalition is a statewide policy and advocacy nonprofit dedicated to "bringing Washington more and better transportation choices." Its focus is on preserving and expanding access to public transit. Transportation Choices provides education and outreach programs to encourage people to choose alternatives to driving alone. It also engages in lobbying and grassroots advocacy.

Sound Transit is a dues paying member of Transportation Choices Coalition. Sound Transit's dues are used for education and policy and are not used to fund any lobbying or advocacy efforts. Sound Transit paid \$35,000 in dues for 2016.

Transportation Choices Coalition supports Mass Transit Now. Mass Transit Now shares space and staff with Transportation Choices Coalition. Since February 2016, Transportation Choices Coalition has provided \$12,754.79 in in-kind contributions to Mass Transit Now for staff time, printing, design and rent.

4. Mass Transit Now

On October 30, 2015, Mass Transit Now registered as a political committee to support the ST3 ballot proposition. Abigail Doerr is Mass Transit Now's campaign manager. Brock Howell is the deputy campaign manager.

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E. Interview Summaries

1. Craig Davison, Sound Transit Executive Director of Communications and External Affairs

Mr. Davison joined Sound Transit Authority approximately two and one-half years ago. He supervises Jennifer Dice and Geoff Patrick. He was unable to recall whether he had any public records training as part of his initial orientation with Sound Transit. After reviewing the agenda for the May 9, 2016 All Staff meeting agenda, Mr. Davison recalled that Ms. Nagasawa attended the May 9 All Staff meeting and provided public records training. Ms. Nagasawa's training included information regarding what are public records, and the expedient use of email. The agenda also included a presentation on ST3 which was a factual update on the proposed project and the information provided through the website.

Mr. Davison has not worked with or volunteered for Transportation Choices Coalition, Mass Transit Now, or any other organization either supporting or opposing ST3.

Mr. Davison first became aware that Sound Transit received a request for its subscriber email addresses list through an email from Jennifer Dice. Mr. Davison responded to Ms. Dice's email by asking who was the requestor. Before Ms. Dice could respond, Mr. Patrick responded to Ms. Dice's email indicating that Ms. Doerr was with Transportation Choices Coalition. Mr. Davison asked because he was concerned about the list and how it may be used. He stated that government agencies, such as Sound Transit, have a high rate of people opening emails and he was concerned about how the list may be used and the impact on the rate of openings. He indicated that he attached no significance to the fact that the request came from Transportation Choices Coalition.

Mr. Davison believed that he had requested that Ms. Nagasawa send him a copy of public disclosure requests going to his division. However, he was not sure whether he made that request before or after the receipt of Ms. Doerr's request. He believed that Ms. Dice forwarded him Ms. Doerr's request because he had not originally been copied on the email from Ms. Nagasawa.

Mr. Davison believes that he spoke with Ms. Dice regarding the legality of providing email addresses. Mr. Davison was not involved with the identification or gathering of the requested information. Mr. Davison received an "FYI" email from Ms. Nagasawa on April 12. The email forwarded Sound Transit's response to Ms. Doerr's public records request which included the excel spreadsheet. He did not recall opening the spreadsheet at that time.

Mr. Davison did not know who Brock Howell was. Mr. Davison had no interaction with ORCA.

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Mr. Davison first learned that the ORCA cardholder email addresses may have been released from his staff who were contacted by the media. He was unaware until this issue came up that ORCA cardholder email addresses were exempt from disclosure.

Mr. Davison participated in a Sound Transit phone conference to discuss the possible release of ORCA cardholder email addresses. During the phone conference, Sound Transit staff first tried to determine whether any ORCA cardholder email addresses were in the subscriber list, and if so, how many. He was surprised that approximately 174,000 ORCA cardholder email addresses were included on the list.

Sound Transit did two things to rectify the disclosure of ORCA cardholders email addresses. It first sent an email to ORCA subscribers telling them about the error and apologizing. It then contacted Ms. Doerr and asked that ORCA cardholder email addresses be removed from any mailing list and not to use them again.

Mr. Davison was not disciplined nor did he discipline any of his staff as a result of this disclosure. Mr. Davison indicated that the staff involved in the release were devastated. When shown a copy of the list of email addresses which had been provided to Ms. Doerr, he thought it was apparent that they included ORCA cardholder email addresses.

Mr. Davison believes that the disclosure was inadvertent and was not intentionally done to aid Mass Transit Now or Transportation Choices Coalition.

2. Geoff Patrick – Sound Transit Senior Media and Public Relations Manager

Mr. Patrick has worked with Sound Transit for ten years. Mr. Patrick did not recall attending a staff meeting on May 9, 2016 at which Ms. Nagasawa presented training on public disclosure. He may have walked in at the end of her presentation. He did not recall giving an ST3 update and thought someone might have covered for him that day. ST3 updates consist of updating information regarding the proposed project. He did not recall a presentation from Robin Murphy of the legal department about the Do's and Don'ts of Communication regarding ST3. However, he was aware that any communication needed to be factual and unbiased.

Mr. Patrick volunteered for Transportation Choices Coalition and Mass Transit Now in 2008 for the ST2 campaign. He has not volunteered for either organization with regard to ST3, but will probably do so. He has not donated to ST3 and is waiting to see if they need his money before donating.

Mr. Patrick first became aware of Ms. Doerr's request from Ms. Dice's email. He had thought that he was responding to Mr. Davison's question about who sent the request. However, after realizing that he had not been copied on Mr. Davison's email, he concluded that he simply

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volunteered the information that Ms. Doerr was with Transportation Choices Coalition. When he saw the public records request email, he thought "Oh they are going to do that again." Mr. Patrick had been with Sound Transit during the ST2 campaign in 2008. In 2008, Mass Transit Now had also requested a list of email subscribers.

Mr. Patrick had met Ms. Doerr in passing but they were not close personal friends. He indicated that Transportation Choices Coalition was closely linked with Mass Transit Now but was unsure how the organizations were set up legally.

Mr. Patrick indicated that Sound Transit was a member of Transportation Choices Coalition and paid approximately \$35,000 in dues. He indicated that he thought Transportation Choices Coalition was a 501(c)(3) organization. He directed us to Ann McNeil for further questions regarding Sound Transit's membership.⁴

Mr. Patrick was not involved with gathering information responsive to Ms. Doerr's request or in releasing the list to Ms. Doerr.

Mr. Patrick talked with a Seattle Times reporter about the release and was quoted in the newspaper article. He believed his comment regard that the response was more broadly construed than it should have been and was taken out of context. He believes that the ORCA cardholder email addresses were inadvertently provided and that the release was not done to assist Mass Transit Now or Transportation Choices Coalition.

In reviewing a copy of the list of email addresses released to Ms. Doerr, Mr. Patrick also believed it was obvious that they were ORCA cardholder email addresses.

Mr. Patrick was involved in preparation of an online survey regarding ST3 before the Board vote to place the measure before voters. He knows that the Public Disclosure Commission requested that a question be pulled because it was not neutral. The question asked about why someone would vote for ST3. Sound Transit removed the question from the survey before it was sent out.

3. Elizabeth Anderson – Sound Transit Digital Communications Specialist

Ms. Anderson has worked for Sound Transit for three years and has held her current position for the last six months. Ms. Anderson is supervised by Jennifer Dice.

⁴ Ms. McNeil was not available on the day of the interviews. However, Sound Transit provided two documents regarding its membership and the fees it pays.

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Ms. Anderson recalls public records training as part of her new employee training. She also recalls the staff meeting in which Ms. Nagasawa came to speak about public disclosure. In general, she recalled that all her emails would be considered a public record.

Ms. Anderson first became aware that ORCA cardholder email addresses were exempt from public disclosure during an August 19 Sound Transit staff conference call. Her supervisor, Ms. Dice, was on vacation that week and Ms. Anderson was acting in her stead that week.

Ms. Anderson first became aware of the request for Sound Transit's subscriber lists from Ms. Dice. Ms. Anderson believes that she and Ms. Dice spoke about the request prior to Ms. Dice sending her an email. Ms. Anderson believes that she and Ms. Dice discussed which information to exclude from the request. After receiving an email from Ms. Dice confirming the information to request, Ms. Anderson sent an email to Sammi Wassing, Ms. Anderson's GovDelivery contact, requesting the information. Ms. Anderson indicated that Ms. Wassing had no questions regarding the March request; however, she stated that Ms. Wassing expressed concerns when the Brock Howell July request was received. She recalls commiserating with Ms. Wassing regarding the necessity of releasing email addresses.

Ms. Anderson knew that ORCA cardholder email addresses were included in the list but did not know they were exempt from disclosure until August. Ms. Anderson had personally uploaded ORCA cardholder email addresses into GovDelivery in February 2016 at the request of Yvette Lopez. Ms. Lopez requested the email addresses be loaded to GovDelivery to allow an email to be sent regarding an ORCA fare change. Ms. Anderson did not delete the ORCA cardholder email addresses after the rider alert was sent. Ms. Anderson indicated that she simply got busy with other tasks and did not delete them.

Ms. Anderson explained that GovDelivery is licensed software that allows public agencies to send bulk emails that will not be caught in spam filters. She explained that Sound Transit uses GovDelivery to push information to a variety of people. Sound Transit maintains an email address list for those it invites to events and the list is maintained in GovDelivery. This group was referred to as "invite only" in Ms. Dice's email and was excluded from the list of email addresses that Sound Transit requested from GovDelivery.

Ms. Anderson also explained that there is a set list of topics for which subscribers can sign up. Sign up is automatic for those signing up through Sound Transit website. None of those lists pertain to ORCA cards. Any topic containing the word ORCA in the spreadsheet was attached to an ORCA cardholder email address. Typically no more than 50 to 100 people a day sign up through the Sound Transit website. Sound Transit also has the ability to add a list of email addresses to the system manually.

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4. Jennifer Dice – Sound Transit Senior Digital Communications Manager

Ms. Dice has been with Sound Transit for 16 years.

Ms. Dice has not volunteered or donated to either Transportation Choices Coalition or Mass Transit Now.

Ms. Dice was employed by Sound Transit in 2008 when the last public records request for email addresses was received. Ms. Dice recalls it being fully vetted and that the emails were released. Ms. Dice expects that Sound Transit's Public Records Officer would only send Ms. Dice public disclosure requests for releasable documents. She anticipated that if the request was for nondisclosable information, the legal office would not send it to her.

Ms. Dice attended the May 9, 2016 staff meeting in which Ms. Nagasawa gave a presentation on public records.

When she received Ms. Nagasawa's email about the Abigail Doerr request, Ms. Dice sent it to Mr. Patrick and Mr. Davison because she was concerned that Sound Transit might get complaints regarding the release of email addresses. Neither Mr. Davison nor Mr. Patrick requested an update on the status of Ms. Doerr's request.

Once she was informed about who Ms. Doerr was and her association with Transportation Choices Coalition, Ms. Dice did not disclose that information to either Ms. Anderson or Ms. Nagasawa. Ms. Dice did not know who Ms. Doerr was prior to Mr. Patrick's email. Ms. Dice did not recall speaking to Ms. Anderson before requesting that she gather the requested information. Ms. Dice recalls only a brief conversation with Ms. Anderson after sending the email to Ms. Anderson regarding the request. She did not recall the specifics of the conversation.

Ms. Dice stated that she is familiar with GovDelivery. She indicated that it was a program under which large number of emails could be sent and not be characterized as spam. She stated that GovDelivery uses topics to distinguish subscribers. Sound Transit maintains a list of 50 -60 topics to which the public can subscribe. The topics include 20-30 project topics, 20 bus routes and 3-4 other topics. Signing up for a topic via Sound Transit's website automatically adds an email address to the appropriate topic list. On average, there are 10-50 signs-up a day.

The GovDelivery system deletes email addresses if it receives a "bounce back" indicating an invalid email address from the recipient. GovDelivery does not collect names.

Ms. Dice understands that ORCA cardholder email addresses were included in the GovDelivery email addresses lists. Ms. Dice did not know until August 2016 that ORCA cardholder email addresses were not disclosable.

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After Ms. Anderson sent Ms. Dice the email address spreadsheet, she attempted to open and determined that a password was needed. She obtained the password, saved the list in the appropriate folder, and sent the password to Ms. Nagasawa.

5. Q'Deene Nagasawa – Sound Transit Legal Office Paralegal

Ms. Nagasawa has worked for Sound Transit for thirteen years. Prior to working with Sound Transit, Ms. Nagasawa worked for the Foster Pepper law firm. Ms. Nagasawa started working with Sound Transit's previous public records officer in 2014. After the previous public records officer retired in 2015, Ms. Nagasawa was appointed as the Public Records Officer for Sound Transit. In addition to her on-the-job training from the previous public records officer, Ms. Nagasawa received training from Municipal Research Service Center (MRSC) and the state public records officers association (WAPRO).

Ms. Nagasawa has not volunteered or donated to either Transportation Choices Coalition or Mass Transit Now.

Ms. Nagasawa described Sound Transit's public records process. She stated that in general, once a public records request is received, it is logged into the public records system. The system assigns the request a number and allows specific tickle dates to be set. She then sends the request to the appropriate division/department to gather the records. After she receives the records, she reviews the records to determine if any redaction is necessary; after that, she sends a response.

Ms. Nagasawa indicated that currently there are three people in the public records unit. In addition to herself, there are two additional staff people who assist in opening files. In March 2016, there was only her and one other staff person.

Ms. Nagasawa provides public records training to new employees once a month. In her training, she talks about what to do if you get a request and cautions new employees that emails are disclosable.

After Ms. Doerr's request was logged in on March 28, Ms. Nagasawa sent it to Ms. Dice to gather the requested documents. Ms. Nagasawa does not recall speaking with any other Sound Transit employee about the Doerr request. Although she indicated in her email to Ms. Dice that she would like to speak to the staff assigned to gather the records, she did not. She did not speak with anyone else in the legal department and she considered the request as routine. She knew that the subscriber lists were disclosable from Sound Transit's 2008 release and her training with WAPRO.

Ms. Nagasawa likewise knew that ORCA cardholder email addresses were not disclosable. However, she did not pass this information on because she believed that Sound Transit did not

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have any ORCA information. She stated she understood that ORCA information is separate from Sound Transit information. Further, the request only asked for Sound Transit subscriber information and not ORCA cardholder email addresses.

Ms. Nagasawa received the spreadsheet list of email addresses on April 1, 2016 but did not open until the day she disclosed it.

Ms. Nagasawa sent a five day acknowledgment email to Ms. Doerr indicating it would take another one to two weeks to gather the responsive records. Ms. Nagasawa indicated as she had not reviewed the spreadsheet she did not know whether she had received the full list or if other records still needed to be gathered. She based her timeline to respond on the number of other pending requests.

Prior to sending the responsive documents to Ms. Doerr, Ms. Nagasawa opened the list and perused it for about five minutes. While she did see that a lot of the topics listed referred to ORCA, she did not know that the email address linked to the ORCA topics were actually ORCA cardholder email addresses. She stated that she only asked for Sound Transit subscription data and thought she had received only Sound Transit data. She believed that ORCA information was separate from Sound Transit information; she further believed that Sound Transit did not have access to ORCA data.

Ms. Nagasawa sent the requested information to Ms. Doerr on April 11, 2016 at about 8:00 p.m. She did not redact or withhold any document or information because she did not believe that ORCA cardholder email addresses were contained in the Sound Transit system.

Given Ms. Doerr's requested list, Ms. Nagasawa had some concern regarding the potential for commercial use of the list. To address this concern, Ms. Nagasawa highlighted in red the prohibition about commercial use of the list when she sent it to Ms. Doerr.

Ms. Nagasawa did not talk with Ms. Doerr prior to sending the response. Likewise, Ms. Nagasawa also did not talk with anyone at Sound Transit prior to August regarding her April response.

Ms. Nagasawa processed Mr. Howell's request similarly to Ms. Doerr's. She did not recall the dates she acknowledged or responded to Mr. Howell's request.

Ms. Nagasawa first knew that ORCA cardholder email addresses were included in the information she sent to Ms. Doerr in August.

6. Kathryn Van Sanden – Sound Transit Marketing Promotions Lead

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Ms. Van Sanden has worked for Sound Transit for approximately five years. Ms. Van Sanden worked with ORCA in 2011. She recalls that ORCA wanted to send a survey to ORCA cardholders but did not have its own capacity to do so. Because of the expense of the GovDelivery system, ORCA decided to use Sound Transit's GovDelivery license to send the survey to ORCA cardholders. She does not believe there was a discussion, agreement, or memorandum of understanding regarding ORCA's use of Sound Transit's GovDelivery license. She recalls uploading ORCA cardholder email addresses into the GovDelivery system. She does not recall any discussion about deleting the email addresses after use and she did not delete them.

Ms. Van Sanden does not know who else at Sound Transit might know that the ORCA cardholder email addresses were in the Sound Transit GovDelivery system.

7. Abigail Doerr - Advocacy Program Manager for Transportation Choices Coalition; Campaign Manager for Mass Transit Now committee

Ms. Doerr is on "loan" from her position at Transportation Choices Coalition for the ST3 campaign. Ms. Doerr indicated that Transportation Choices Coalition and Mass Transit Now are affiliated. Mass Transit Now is housed with Transportation Choices Coalition. Ms. Doerr understands that most of her salary is still paid by Transportation Choices Coalition. She remembers starting the campaign for ST3 in November 2015. ST3 was approved for the ballot on June 23, 2016 by the Sound Transit Board.

Ms. Doerr knows Craig Davison personally. They live in the same neighborhood and sometimes ride the same train/bus to Seattle. She has never spoken to him about her public disclosure request directed to Sound Transit.

Ms. Doerr is also acquainted with Trinity Parker who also works at Sound Transit. She met her through her previous employment as a legislative assistant to Sally Bagshaw. Other than Mr. Davison and Ms. Parker, Ms. Doerr did not know anyone else who worked at Sound Transit. Ms. Doerr stated that Sound Transit has provided no support to Mass Transit Now.

To the best of Ms. Doerr's knowledge, no one from Sound Transit has volunteered for Mass Transit Now. She indicated that it was possible that a Sound Transit employee could have attended a Mass Transit Now event, or donated to Mass Transit Now but was unaware of any Sound Transit employees volunteering for Mass Transit Now.

Ms. Doerr is familiar with public disclosure rules and procedures. In making her request, Ms. Doerr did not ask for ORCA cardholder email address information nor did she anticipate receiving it. No one from Sound Transit assisted her in drafting her request. She is a subscriber to Sound Transit topics which is how she came to know to ask for the subscriber list email.

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In March 2016, Ms. Doerr made a public disclosure request to Sound Transit. Ms. Doerr used her personal email address and telephone number because she did not yet have a Mass Transit Now email address. She thought that its subscriber list was likely to be a good place to start as the ballot measure dealt with Sound Transit. After receiving the list, she looked at the list but did not realize that ORCA cardholder email addresses were included. She assumed that she had received only Sound Transit subscriber emails.

Ms. Doerr indicated that Mass Transit Now had researched whether Mass Transit Now's use of Sound Transit's email address list would be a commercial use. They determined that unless they requested donations, it was not a commercial use.

Mass Transit Now did not use the email address list received from Sound Transit until August 2016. In part, this was because Ms. Doerr was busy with other things.

Ms. Doerr hired Brock Howell on July 13, 2016 as the deputy campaign manager. Mr. Howell sent his request for an updated email subscriber list to Sound Transit. Mr. Howell also sent public disclosure requests to other transit organizations.

On August 16, 2016, Mass Transit Now sent an email to everyone on the list it had compiled urging recipients to support ST3. After it was sent, the Seattle Times contacted Mass Transit Now about the email; the reporter spoke with James Canning who is Mass Transit Now's media person. It was through Mass Transit Now's interaction with the Seattle Times reporter and subsequent interaction with Sound Transit that Ms. Doerr became aware that ORCA cardholder email addresses were included in the list and that those email addresses were not subject to public disclosure.

Ms. Doerr recalls receiving an email from Desmond Brown, General Counsel for Sound Transit. Mr. Brown told her that ORCA cardholder email addresses were inadvertently included in the list provided to her. He asked Mass Transit Now to delete them and no longer use them. She confirmed that Mass Transit Now deleted all the emails it received from Ms. Doerr's request and will not be using them again. Mass Transit Now did retain one copy of the Sound Transit list to assist in answering questions.

Ms. Doerr has no reason to believe that this was anything other than an inadvertent release.

8. Brock Howell – Deputy Campaign Manager for Mass Transit Now

Mr. Howell is an attorney, but is not currently licensed in Washington. He joined the Mass Transit Now campaign in July 2016. He is a paid staff member.

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Mr. Howell has no relationship, either personally or professionally, with anyone at Sound Transit.

Mr. Howell acknowledged that he sent a public records request to Sound Transit, in particular to Ms. Nagasawa, for an updated list of email addresses. He chose to send the email directly to her because Ms. Doerr had received the previous list from Ms. Nagasawa and Ms. Nagasawa was a proven avenue of communication with Sound Transit. He requested both an updated email address list and a list of people who commented on ST3.

Mr. Howell used his personal email address and phone number to make his request. At the time he sent the request to Sound Transit, he had his personal email account open and used it. He was uncertain whether, at the time he sent the request, Mass Transit Now had provided him with an email account.

Mr. Howell does not recall the exact date he received the response from Sound Transit. He did review the list prior to the interview, and is confident that he did not receive any email addresses linked to an ORCA topic. He uploaded the list into Mass Transit Now's email list.

Mr. Howell also received a .pdf file regarding the comments on the ST3. As it was not in a usable spreadsheet format, he has not added the names to Mass Transit Now's campaign email address list. He would be required to manually enter each address.

PLA:rj