No. 09-559

IN THE
Supreme Court of the United States

JOHN DOE #1, *et al.*,
Petitioners,
v.
SAM REED, WASHINGTON SECRETARY OF STATE, *et al.*,
Respondents

On Writ of Certiorari to the United States Court of Appeals for the Ninth Circuit

BRIEF *AMICI CURIAE* OF NATIONAL AND WASHINGTON STATE NEWS PUBLISHERS, NEWS BROADCASTERS AND NEWS MEDIA PROFESSIONAL ASSOCIATIONS IN SUPPORT OF RESPONDENTS

BRUCE E.H. JOHNSON*
ERIC M. STAHL
SARAH K. DURAN
DAVIS WRIGHT TREMAINE LLP
1201 Third Avenue, Suite 2200
Seattle, WA 98101-1688
206-757-8069
brucejohnson@dwt.com
Counsel for *Amici Curiae*

*Counsel of Record

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[Additional Counsel listed on inside cover]

Advance Publications
Richard A. Bernstein
Neil M. Rosenhouse
Sabin, Bermant & Gould LLP
Four Times Sq., 23rd Fl.
New York, NY 10036

The American Society of News Editors
Kevin M. Goldberg
Fletcher, Heald & Hildreth, P.L.C.
1300 17th St. N., 11th Fl.
Arlington, VA 22209

The Associated Press
David H. Tomlin
450 W. 33rd Street
New York, NY 10001

Belo Corp.
David S. Starr
400 South Record St.
Dallas, TX 75202

Bloomberg L.P.
Charles J. Glasser, Jr.
731 Lexington Avenue
New York, NY 10022

Cable News Network LP, LLP
David C. Vigilante
Johnita P. Due
One CNN Center
Atlanta, GA 30303

Cox Media Group, Inc.
Dale M. Cohen
6205 Peachtree Dunwoody Rd.
Atlanta, GA 30328

Dow Jones & Co., Inc.
Jason P. Conti
Gail Gove
1211 Ave of the Americas, 7th Fl.
New York, NY 10036

The Hearst Corp.
Jonathan R. Donellan
300 W. 57th St.
New York, NY 10019

Magazine Publishers of America
Bradley Weltman
1211 Connecticut Avenue NW, Suite 610
Washington, DC 20036

Newsweek, Inc.
Stephen Fuzesi Jr.
395 Hudson St.
New York, NY 10014

New York Times Co.
David E. McCraw
620 Eighth Ave.
New York, NY 10018

ProPublica
Richard J. Tofel
One Exchange Plaza,
55 Broadway 23rd Floor
New York, NY 10006

Tribune Co.
Karlene W. Goller
145 S. Spring Street, 3rd Floor
Los Angeles, CA 90012

The Washington Post Co.
Eric N. Lieberman
1150 15th Street N.W.
Washington, DC 20071

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INTEREST OF AMICI CURIAE[1]

Amici, identified and described in Appendix A, are leading print and online news publishers, news broadcasters, and news media professional associations, both nationally and in the State of Washington. They share an interest in assuring the vitality of freedom of information laws such as Washington's Public Records Act. News media depend on such records laws to fulfill their constitutionally essential watchdog role.

SUMMARY OF ARGUMENT

The Petitioners' disregard for – indeed, disparagement of – the value of public records statutes would, if accepted by this Court, threaten the ability of the press to provide accurate and timely news coverage about government actions and matters of public importance. *Amici* particularly urge this Court to reject Petitioners' unprecedented proposal to "apply[] strict scrutiny to each application of a disclosure statute." Such a far-reaching rule is unnecessary to decide this case, and adopting it would turn routine records requests into constitutional disputes any time a public record happens to name an individual. This Court instead should recognize, as it has in the past, the critical role that public records laws play in assuring an

[1] Letters of consent have been filed with the Clerk. Pursuant to Supreme Court Rule 37.6, *Amici* state that no counsel for a party authored this brief in whole or in part, and no person or entity other than *Amici* and their counsel made a monetary contribution to the preparation or submission of this brief.

informed electorate and a functioning democracy. The decision below accordingly should be affirmed.

I. Like the federal Freedom of Information Act and similar records laws in all 50 states, Washington's Public Records Act ("PRA") mandates broad disclosure of records used by public agencies in conducting government business. Such statutes assure that citizens have a means of keeping tabs on those who govern them, which is "vital to the functioning of a democratic society," *N.L.R.B. v. Robbins Tire & Rubber Co.*, 437 U.S. 214, 242 (1978), and of "critical importance to our type of government in which the citizenry is the final judge of the proper conduct of public business." *Cox Broad. Corp. v. Cohn*, 420 U.S. 469, 495 (1975).

Petitioners ask this Court to do what no court, at any level, has ever done: declare that a public records statute violates the *First Amendment* "right to privacy" of an individual who is named in a disclosable public record. Their position fundamentally misapprehends the PRA. The statute compels no speech, nor does it burden the speech or improperly impair the privacy of private individuals. It simply requires, in a non-discriminatory fashion, that Washington agencies provide access to all public records unless a specific exemption applies.

II. Petitioners also misapprehend Washington's referendum process and First Amendment precedent. The referendum process is in no sense private. Rather, individuals who add their signatures to these public records do so freely. And they do so with the constructive, if not actual, knowledge that the PRA requires Washington

agencies to provide access to public records unless a specific exemption applies. Unlike individuals disseminating anonymous leaflets, as in *McIntyre v. Ohio Elections Commission*, 514 U.S. 334 (1995), people who sign public petitions knowingly expose their identities to full public view, including to petition organizers, public officials and innumerable other strangers. They have no reasonable expectation of privacy.

Indeed, the nature of Washington's referendum process makes Petitioners' privacy claim particularly unmeritorious. Under Washington law, referendum signers act as participants in a fourth branch of government, exercising power reserved in the State Constitution to legislate. Such legislative activity is historically public. So is the very act of petitioning itself. The right of petition was understood, at and before the Nation's founding, to be a means of *publicly* seeking redress from the government. The Petitioners' attempt to distinguish between "public disclosure" and "private disclosure to the government only" is contrary to this tradition of public petitioning; to the entirely public nature of Washington's referendum process; and to the PRA itself, which only applies to records used by public agencies to do the public's business.

III. Petitioners' proposal to apply strict scrutiny "to each application of a disclosure statute," if accepted, would dramatically change the public records landscape across the country, and not just with respect to election records. It would place barriers to the public's right to know and its ability to hold government accountable. Petitioners'

argument that strict scrutiny is required because of the allegedly high cost of all public records disclosure rests on questionable evidence that has never been subject to cross-examination, and on unsubstantiated fears about technology. On the latter point, as this Court recognized earlier this Term, the advent of the Internet makes public disclosure more, not less, important. The experience of *Amici*, who rely regularly on records statutes, confirms that strong public records laws remain essential to assuring an informed electorate and robust public debate. Without ready access to public records, countless important stories – including stories about election fraud and malfeasance by officials, partisans, and individual voters – would go unreported.

Disclosure under the PRA implicates no cognizable First Amendment right, and there is no authority holding that disclosure under such a records statute is any burden on speech. But even if strict scrutiny applied, the PRA in general, and the disclosure at issue in this case, are narrowly tailored to serve compelling interests in assuring an informed electorate, the integrity of elections, and the sovereignty of citizens over their public agencies.

ARGUMENT

I. Washington's Public Records Act, Like Other State and Federal Records Laws, Neither Limits Nor Compels Speech, but Simply Provides for Public Access to Government Records

Petitioners' brief scarcely addresses the statute that they portray as an unconstitutional

infringement on free speech. Washington's Public Records Act does not compel anyone to speak, nor limit anyone's right or ability to speak. Contrary to the premise of all of Petitioners' arguments, the PRA does not regulate speech at all. It simply mandates that public records held by state government are generally available for public inspection.

In 1972, Washington voters – using the same petition process relied on 37 years later by the sponsors of Referendum 71 – placed on the statewide ballot a public disclosure measure known as Initiative 276. The initiative was approved by over 72 percent of voters. Washington State Bar Ass'n, *Public Records Act Deskbook: Washington's Public Disclosure and Open Public Meeting Laws* 2-2 (2006) ("PRA Deskbook"). The preamble to the measure, codified in the PRA itself, states that the law's purpose is to promote transparency and government accountability:

> The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created.

Wash. Rev. Code § 42.56.030 (2009). "The stated purpose of the Public Records Act is nothing less than the preservation of the most central tenets of representative government, namely, the sovereignty

of the people and the accountability to the people of public officials and institutions." *Progressive Animal Welfare Soc'y v. Univ. of Wash.*, 884 P.2d 592, 597 (Wash. 1994).

Petitioners contend that the PRA is impermissibly content-based because it "places heavier burdens on those *opposing* government action than those supporting it." Petrs.' Br. 41-42. But the PRA makes no distinction based on content. Rather, it applies to *all* records retained or used by state and local government agencies. Wash. Rev. Code § 42.17.020(2), (42) (definitions of "agency" and "public record"); Wash. Rev. Code § 42.56.070(1). Nor does the PRA impose burdens, of disclosure or otherwise, on any individual or private entity. It compels no person to speak.[2] The statute applies only to government agencies. *Id.* An agency's obligation is to make its records available for

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[2] The "three levels of compelled speech" alleged by Petitioners (Petrs.' Br. 35-38) are a fanciful construct with no basis in reality. The State does not compel referendum supporters to say anything or to associate with anyone. However one characterizes disclosure of the referendum petitions, it is not "compelled speech" as this Court has ever used that term. All of this Court's compelled speech cases involve an element of state coercion, wholly absent in this case, in which the government forced individuals to make statements they would not otherwise have made, or to associate with speech with which they disagree. *See, e.g.*, *Wooley v. Maynard*, 430 U.S. 705 (1977) (state could not force residents to display message on license plate offensive to their religion); *Miami Herald Publ'g Co. v. Tornillo*, 418 U.S. 241 (1974) (striking statute requiring newspapers to publish candidate statements); *W. Va. State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943) (students could not be forced to recite Pledge of Allegiance).

inspection or copying upon request, unless a specific statutory exemption to disclosure applies. The PRA applies to the referendum petitions at issue here because they are records "relating to the conduct of government or the performance of any governmental … function" that are "owned, used, or retained" by the Secretary of State, a state agency. Wash. Rev. Code § 42.17.020(42).[3]

The PRA is not unique. Similar public records statutes exist in all 50 states.[4] The PRA was

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[3] Petitioners do not contend that the referendum petitions fall outside the PRA's definition of "public records," or that any statutory exemption applies. They contend that the petitions are not public records under State "precedent" (Petrs.' Br. 9 n.18), but they cite no binding authority, and most of the extra-judicial statements Petitioners rely on for this point pre-date the PRA – which, as noted above, mandates disclosure of *all* public records unless a specific exemption applies. Wash. Rev. Code § 42.56.070(1).

[4] *See* Ala. Code 36-12-40 *et seq.*; Alaska Stat. 40.25.110 to .125; Ariz. Rev. Stat. Ann. 39-121 to -128; Ark. Code Ann. § 25-19-101 *et seq.*; Cal. Gov't Code §§ 6250 to 6270; Colo. Rev. Stat. 24-72-201 *et seq.*; Conn. Gen. Stat. § 1-200 *et seq.*; 29 Del. C. § 10001 *et seq.*; D.C. Code Ann. § 2-531 *et seq.*; Fla. Stat. Ann. 119.01 to 119.15; Ga. Code Ann. 50-18-70 to -77; Haw. Rev. Stat. § 92F-1 *et seq.*; Idaho Code 9-338 to -347; 5 ILCS 140/1 – 140/11.5; Ind. Code Ann. 5-14-3-1 to -10; Iowa Code Ann. 22.1 to .14; Kan. Stat. Ann. 45-215 to -250; Ky. Rev. Stat. Ann. 61.870 to .884; La. Rev. Stat. Ann. 44:31-41; Me. Rev. Stat. Ann. 1-13 § 401-412; Md. Code Ann. State & Govt. 10-611 to -630; Mass. Gen. Laws Ann. Ch. 4, § 7, Ch. 66, § 10; Mich. Comm. Laws 15.231 *et seq.*; Minn. Stat. Ann. 13.03; Miss. Code Ann. 25-61-1 *et seq.*; Mo. Ann. Stat. 109.180 to .190; Mont. Code Ann. 2-6-101 to -111; Neb. Rev. Stat. § 84-712, § 84-1201-1227; Nev. Rev. Stat. Ann. 239.001 to .330; N.H. Rev. Stat. 91-A:1-9; N.J.S.A. 47:1A-1 *et seq.*; 14-2-1 NMSA 1978 *et seq.*; NY Pub. Off. Law Sec. 84-90; N.C. Gen. Stat. 132-1 to -10; N.D. Cent. Code 44-04-

modeled, in large measure, on the federal Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, which was enacted just six years earlier.[5] Yet Petitioners are unable to identify *any* authority supporting their contention that disclosing a public record – under any state or federal records statute – burdens the speech of a subject of that record. Indeed, *Amici* are aware of no decision, other than the district court opinion in this case, upholding a First Amendment challenge to a public records law. Certainly nothing in this Court's FOIA jurisprudence supports Petitioners' novel argument that public records statutes threaten citizens' speech. On the contrary, the Court has recognized that such laws are essential to informed public dialogue. Like the PRA and similar laws in other states, FOIA's purpose is "to ensure an informed citizenry, vital to the functioning of a democratic society, needed to check against corruption and to hold the governors accountable to the governed." *Robbins Tire*, 437 U.S. at 242. Public records laws such as FOIA are "a

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18 to -32; Ohio Rev. Code Ann. 149.43; Okla. Stat. Ann. Tit. 51.24A.1 to .29; Or. Rev. Stat. 192.410 to .505; Pa. Cons. Stat. Ann. Tit. 65 P.S. § 67.101 *et seq*.; R.I. Gen. Laws 38-2-1 to -15; S.C. Code Ann. § 30-4-10 *et seq*.; S.D. Codified Laws Ann. 1-27-1 to -45; Tenn. Code Ann. 10-7-503 *et seq*.; Tex. Code § 552.001 *et seq*.; Utah Code Ann. 63-2-201 to-207; Vt. St. Ann. 1, § 315-320; Va. Code § 2.2-3704; W. Va. Code S 29B-1-1 *et seq*.; Wis. Stat. Ann. 19.31 to .39; Wyo. Stat. Ann. 16-4-201 *et seq*.

[5] Though similar in their purpose, basic operation, and presumption of access, the PRA and FOIA are not identical. There are differences in procedures, remedies, and the scope of certain exemptions, among other things. *See PRA Deskbook*, at 19-4 to 19-6.

means for citizens to know 'what their Government is up to.' This phrase should not be dismissed as a convenient formalism. It defines a structural necessity in a real democracy." *Nat'l Archives & Records Admin. v. Favish*, 541 U.S. 157, 171-72 (2004) (citation omitted).

Petitioners seek to turn this "structural necessity" on its head. They invite the Court to recast public records statutes not as a mechanism for securing informed public participation in the democratic process, but as a threat to it. The Court should reject this view, and instead should confirm its commitment to statutory schemes that presume broad access to public records. This presumption of access is critical to the functioning of public records laws like the PRA and FOIA, under which disclosure is the rule and exemptions are narrowly circumscribed by statute. *See N.L.R.B. v. Sears, Roebuck & Co.*, 421 U.S. 132, 136 (1975) (disclosure of records is required under FOIA unless a specific exemption applies); 5 U.S.C. § 552(b); Wash. Rev. Code § 42.56.030; *cf. EPA v. Mink*, 410 U.S. 73, 79 (1973) (federal records act prior to enactment of FOIA "came to be looked upon more as a withholding statute than a disclosure statute" because exemptions were vague and broadly worded). Petitioners' view threatens the ability of *Amici* and others to use public records laws to "know what their Government is up to."

II. The First Amendment Does Not Guarantee a Right of Anonymity To Those Who Sign State Referendum Petitions

A. No "Right to Privacy" Applies To Signing a Referendum Petition, Which Is Not Private Speech But Rather an Act of Lawmaking Conducted in Full Public View

The crux of Petitioners' argument is that disclosure of public records identifying individuals who sign a ballot measure petition violates those individuals' "First Amendment right to privacy." This argument fails because the referendum process is in no way private; rather, it is legislative activity, historically open to public scrutiny.

Participation in Washington's referendum process is not "private" speech. First, Washington citizens who sign a referendum petition are not expressing a private opinion or privately urging officials to take action. Rather, they are engaged in legally operative conduct that is, by definition, an act of lawmaking. Under the Washington Constitution, although legislative authority is vested in the state legislature, the people expressly reserve to themselves the power both to enact (by initiative) and revoke (by referendum measure) state statutes. Wash. Const. art. II, § 1; Wash. Rev. Code § 29A.72.010. This constitutional power "provides a 'fourth element [to the three branches of government:] the people, reserving the right to assert its will over the legislative department of the government.'" *Wash. State Farm Bureau Fed'n v. Reed*, 115 P.3d 301, 305 (Wash. 2005) (quoting *State*

ex rel. Brislawn v. Meath, 147 P. 11, 16 (Wash. 1915)); *Belas v. Kiga,* 959 P.2d 1037, 1040-41 (Wash. 1998) ("A referendum ... is an exercise of the reserved power of the people to legislate ...."). This Court has recognized that initiatives and referenda enacted under Washington law are "plainly 'legislation'" and have "the effect and status of ordinary laws in every respect." *Cammarano v. United States*, 358 U.S. 498, 505-06 (1959).

Because signing a referendum petition is an exercise of legislative power, it is an inherently public process. There is no constitutional right to legislate secretly. To the contrary, treating such lawmaking as "private speech" would be antithetical to a free and open democracy. *See* R.B. Bernstein, *The Founding Fathers Reconsidered* 75 (2009) (noting that state ratifying conventions of the federal Constitution were open to the public, which "set a precedent for later legislative bodies to stop meeting behind closed doors and to open the galleries for ordinary citizens and for journalists to attend the sessions of legislatures – the first stirrings of the public's right to know.") Madison, for example, recognized the importance of assuring that lawmakers were exposed to both public sentiment and public scrutiny:

> Whatever facilitates a general intercourse of sentiments, as good roads, domestic commerce, a free press, and particularly a circulation of newspapers through the entire body of the people, *and Representatives going from, and returning among every part of*

> *them*, is equivalent to a contraction of territorial limits, and is favorable to liberty, where these may be too extensive.

Public Opinion, Nat'l Gazette, Dec. 19, 1791 (emphasis added). Assuring that lawmaking is done in the light of day cannot be unconstitutional. Rather, it furthers the public interest in holding its lawmakers accountable, which is "of critical importance to our type of government in which the citizenry is the final judge of the proper conduct of public business." *Cox Broad.*, 420 U.S. at 495.

The second reason why referendum petitions are not private speech is that those signing them have no reasonable expectation of privacy. As detailed in Respondents' briefing and the decision below, the referendum process is public from beginning to end. Signatures are gathered in public, and signers can be identified by anyone in the vicinity, by signature gatherers, and by others who are asked to sign the same petition form. Referendum organizers have no obligation to keep the identity of signers a secret. Indeed, organizers themselves can post the names of petition signers online, use the names for political, marketing or other purposes, and even sell the list of signers to commercial or other concerns with no connection to the referendum campaign. Moreover, Washington law *requires* the sponsors to submit the petitions to the Secretary of State for verification and canvassing, in a process that can be publicly observed and challenged in court. Wash. Rev. Code § 29A.72.230, .240.

The entire process, in sum, is neither private nor anonymous. Petitioners attempt to obscure this fact by positing a distinction between "public disclosure" and "private disclosure to the government only." Petrs.' Br. 38. But there is no authority suggesting that any such constitutional distinction exists.[6] Moreover, the factual record and statutory requirements noted above make clear that referendum petition signers are not making a "private disclosure." Petitioners assert that distribution of the petitions sometimes may occur without disclosure to other signers, and that those who sign the petitions might not mind if their identities are revealed to "like-minded" individuals

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[6] Petitioners rely on *Campaign for Family Farms v. Glickman*, 200 F.3d 1180 (8th Cir. 2000), but that case rested on FOIA's statutory privacy exemption, not the First Amendment. *Glickman* concerned a petition by pork producers to the Department of Agriculture, seeking a referendum vote to terminate a federally imposed marketing assessment. In holding that the identity of the petitioners was exempt from disclosure under FOIA, the Eighth Circuit rested on the fact that the petition did not merely call for a referendum, but specifically disclosed the petitioner's position on the ultimate issue. *Id.* at 1188. The R-71 petitions contain no such disclosure. Petitioners also rely on *AFL-CIO v. FEC*, 333 F.3d 168 (D.C. Cir. 2003), but that case is not remotely comparable to this one. It concerned the FEC's proposed release of a union and a political party's confidential internal documents revealing strategy, mobilization efforts, polling data and the like. The court had little difficulty in concluding that disclosure of such information – obtained by the FEC in response to subpoenas and agency investigative demands – burdened political speech and the organizations' future political efforts. *Id.* at 176-78. Neither *Glickman* nor *AFL-CIO* supports the contention that signing a petition that actually sponsors legislation in an exercise of state legislative power is a "private disclosure."

such as the organizers or other petition signers, or to government officials for verification purposes. Petrs.' Br. 36-38. No record support is offered for any of these contentions, but even if they are true, they do not support a finding that the petition signers are entitled to any expectation of privacy. Signatures are widely circulated and publicly available long before the PRA enters the picture.

In addition, Petitioner's ill-defined category of "private disclosures to the government" is, at best, superfluous in the context of the PRA. The distinction between "public disclosure" and "private disclosure to the government" is accounted for in the statute itself: the PRA applies only to agency records that contain "information relating to the conduct of government or the performance of any governmental or proprietary function." Wash. Rev. Code § 42.17.020(42).[7] Moreover, privacy concerns are fully accounted for in the statute's numerous exemptions to disclosure. *See, e.g.*, Wash. Rev. Code § 42.56.230 (certain personal information exempt); .240 (investigative records exempt to extent needed to protect personal privacy); Wash. Rev. Code § 42.56.270 (trade secrets and certain private financial information exempt).

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[7] Petitioners assert that disclosure of referendum signatures "is 'public' only in the sense that it is revealed to a public official[.]" Petrs.' Br. 37. Petitioners miss the critical point – which is that once the records are submitted to a public agency for a government-related purpose, they are "public records" subject to the public's right to be "informed so that they may maintain control over the instruments that they have created." Wash. Rev. Code § 42.56.030.

Finally, although the State-created right of direct legislation is not an exercise of the right to "petition" as that term is used in the First Amendment,[8] it bears mention that petitioning has been understood historically as an inherently public act. Petitioners claim that they have a constitutional right not to be identified with "their belief that a measure should be placed on the ballot." Petrs.' Br. 15. Setting aside the point that the referendum petitions contain no significant expression (but are instead legally operative legislative *conduct*), where is the constitutional harm from disclosure? Petitioners answer this question primarily by likening the petition process to balloting, which, since the adoption of the Australian Ballot, generally has been treated by States as entitled to confidentiality. Petrs.' Br. 18-22.

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[8] Those exercising the referendum process are not merely urging officials to provide redress or to act on their behalf. They are instructing the Secretary of State to place a legislative measure on the ballot – an instruction the State has no discretion to ignore if the petitions meet the statutory criteria.

But petitions are not ballots.[9] Historically, petitions have been used to make a *public* plea to the government. The first colony to recognize the right to petition (Massachusetts, in 1641) expressly understood it as such, recognizing it as a right to appear at official proceedings to seek public redress: "Every man … shall have libertie to come to any publique Court, Council or Towne meeting, and either by speech or writeing to move any lawfull, seasonable, and materiall question, or to present any necessary motion, complaint, petition, Bill or information whereof that meeting hath proper cognizance[.]" Colonial Laws of Massachusetts, p. 90 (1641). Petitions were understood by the Founders as a means by which the people "may communicate their will" to government officials. 1 Annals of Cong. 738 (James Madison, Aug. 15, 1789). At the time of the nation's founding, it was understood that the very point of petitions was to make them fully visible to the community at large:

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[9] The cases Petitioners rely on for the assertion that the two are equivalent involved petitions that did not merely seek a vote, but required the petition signers to declare how they would vote on the ultimate issue. *Id.* at 20-21 (citing *Anderson v. Mills*, 664 F.2d 600 (6th Cir. 1981)) and *Glickman*, 200 F.3d 1180. The R-71 petitions contain no such declaration of intent with respect to the ultimate issue – a fact that several of Petitioners' supporting *amici* concede. *See, e.g.*, Br. of Amicus Common Sense for Oregon *et al.* at 11 (signatures on referendum petition are "clearly not statements of public support for the initiative…. One may not divine from a signature on a petition that the signer ultimately supports or opposes the measure; nothing in the language of the petition sheets supports such a claim.").

> The petition is then handed from town to town, and from house to house; and, wherever it comes, the inhabitants flock together, that they may see that which must be sent to the king. Names are easily collected. One man signs, because he hates the papists; another, because he has vowed destruction to the turnpikes; one, because it will vex the parson; another, because he owes his landlord nothing; one, because he is rich; another, because he is poor; one, to show that he is not afraid; and another, to show that he can write.

Samuel Johnson, *The False Alarm* (1770). This Court likewise has recognized the public nature of petitions: "The very idea of a government, republican in form, implies a right on the part of its citizens to meet peaceably for consultation in respect to public affairs and to petition for a redress of grievances." *United States v. Cruikshank*, 92 U.S. 542, 552 (1875).

The right Petitioners seek to vindicate here – a right to maintain secrecy as they sponsor laws in their capacity as citizen legislators – cannot be squared with the nation's tradition of public petitioning. Petitioners also ignore the public attributes, and the absence of privacy, that pervade Washington's referendum petition process. In no way can the act of signing the petitions at issue in this case be deemed "private."

B. There Is No Precedent For the Right of Anonymity Sought By Petitioners Here

No court has held that the Constitution mandates anonymity for individuals who sign referendum or initiative petitions. The circumstances in which this Court has recognized First Amendment protection for anonymity are readily distinguishable from the case at bar.

Petitioners rely heavily on *Meyer v. Grant*, 486 U.S. 414 (1988) and *Buckley v. American Constitutional Law Foundation, Inc.*, 525 U.S. 182 (1999) (*Buckley II*), for the proposition that state regulation of the initiative process is subject to strict scrutiny because it burdens political speech. But both cases involve direct restrictions on those who were permitted to *gather* petition signatures; neither discussed the disclosure of public records identifying petition signers. In *Meyer*, the Court found that a statutory prohibition on paid signature gatherers imposed an unconstitutional burden on political speech. But the "burden" recognized by the Court was that the prohibition "limit[ed] the number of voices who will convey [petition sponsors'] message[.]" *Meyer*, 486 U.S. at 422. Subsequent public identification of those involved in the petition process imposes no such burden – a point made expressly in *Buckley II*. There, this Court struck certain portions of a Colorado statute directly restricting who could collect signatures, but affirmed the Tenth Circuit's holding that it was no burden on political speech to require signature gatherers to provide affidavits containing their name, address and signature. 525 U.S. at 198. This was so despite

the fact that the affidavit is *a public record* under Colorado law. *Id.* The Court further recognized that the affidavit requirement supported the state's interest in assuring the integrity of the ballot process. *Id.*[10]

Unlike *Meyer* and *Buckley II*, this case involves no regulation of signature gatherers; no limitation on the number of voices available to convey the organizers' message; and no limitation on any rights of association, as the petition signers are not part of any organized political group.[11] In fact, the PRA does not restrict petition signers' political speech in any way.

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[10] The Court distinguished the affidavit, which was available as a public record *after* the signatures were filed, from a requirement that signature gatherers wear identification badges containing their names. The badge requirement burdened political speech because it "forces circulators to reveal their identities at the same time they deliver their political message," whereas the affidavit "is separated from the moment the circulator speaks." 525 U.S. at 198-99. The disclosure at issue in this case is likewise separated in time from the petition signing. As noted above, the signatures are subject to disclosure under the PRA only after they are submitted to the Secretary of State.

[11] This fact also distinguishes *NAACP v. Alabama*, 357 U.S. 449 (1958). Petitioners rely on that case for the proposition that the First Amendment prevents compelled disclosure of one's association with a political organization. But that holding assumes some group exists. Here, those who sign the referendum petitions are not disclosing any association with a political group; they are simply voters taking action to qualify a ballot measure.

Petitioners also rely on *McIntyre v Ohio Elections Commission*, 514 U.S. 334 (1995). But this case does not resemble *McIntyre* at all. Mrs. McIntyre was not trying to enact legislation. She was an individual citizen expressing her personal opinion against a proposed tax levy in a leaflet. Noting the long tradition of anonymous literature and the many reasons why individual speakers may wish to remain anonymous, the Court held that the leaflet at issue was core political speech, and that an Ohio statute prohibiting the circulation of all anonymous campaign literature could not survive strict scrutiny. But the Court expressly disclaimed any broad reading of this holding, noting particularly that in the context of assuring fair elections, a state's enforcement interest could "justify a more limited identification requirement, but Ohio has shown scant cause for inhibiting the leafletting at issue here." *Id.* at 353.[12]

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[12] As Justice Ginsburg noted,

> In for a calf is not always in for a cow. The Court's decision finds unnecessary, overintrusive, and inconsistent with American ideals the State's imposition of a fine on an individual leafleteer who, within her local community, spoke her mind, but sometimes not her name. We do not thereby hold that the State may not in other, larger circumstances require the speaker to disclose its interest by disclosing its identity.

Id. at 358 (Ginsburg, J., concurring). Gathering signatures statewide on a publicly circulated petition aimed at placing a referendum on a ballot is such a "larger circumstance." Petitioners call to mind Justice Scalia's caution that "[t]he

McIntyre does not apply here, first, because unlike Mrs. McIntyre's handbill, referendum petitions are – by definition – not anonymous. They are circulated among voters, who must identify themselves in order to effectuate the petition's purpose of placing a measure on the ballot. Second, the petitions are public, not private, documents, for the reasons set forth above. Third, the petitions are not an individual's expression of opinion, but rather are an act of lawmaking. Indeed, unlike Mrs. McIntyre, the petition signers here do not control the content of their supposed expression; they are signing on to legally operative language prescribed by the State. States are not constitutionally required to impose secrecy in such circumstances. Rather, "States allowing ballot initiatives have considerable leeway to protect the integrity and reliability of the initiative process, as they have with respect to election processes generally." *Buckley II*, 525 U.S. at 191.

The First Amendment protects the right of Petitioners, and others, to engage individually in anonymous speech supporting or opposing Referendum 71. The First Amendment also limits the State's ability to regulate petition signature gatherers in a manner that restricts the organizers' ability to circulate their message. But no case, and no First Amendment principle, precludes the State from treating as a public record the publicly

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silliness that follows upon a generalized right to anonymous speech has no end," *id.* at 381 (Scalia, J. dissenting), when they propose treating a statewide referendum campaign as no different than a lone anonymous pamphleteer.

circulated, State-reviewed petition forms used to place legislation on the ballot. As set forth below, these are matters of public concern, and as such they should not be shrouded in secrecy and anonymity based on an amorphous and previously unrecognized First Amendment right.

III. Disclosure of Referendum Petitions Under the PRA Does Not Violate the First Amendment

Nothing in this Court's First Amendment decisions grants Petitioners any right to remain anonymous in the circumstances presented here. Nor do Petitioners cite any authority for their novel theory that public records laws burden speech. Accordingly, the PRA implicates no cognizable First Amendment right.

Nevertheless, the decision below assumed, without deciding, that signing a referendum petition contains some expressive conduct and that the PRA's access requirements have an incidental effect on speech. Based on those assumptions, it applied intermediate scrutiny. *Doe v. Reed*, 586 F.3d 671, 678 (9th Cir. 2009) (citing, and applying, the standard set forth in *United States v. O'Brien*, 391 U.S. 367, 376 (1968)). *Amici* submit that if the record disclosure at issue in this case is subject to First Amendment scrutiny at all, this standard is sufficient, and was correctly applied below.

Petitioners urge this Court to go even further, arguing that the previously unknown right to anonymously legislate must be protected by strict scrutiny. Their three arguments for doing so (Petrs.'

Br. 40) all rest on fictions. First, they claim that the PRA burdens core political speech; but, as detailed in section I above, the PRA does not limit or compel any type of speech, political or otherwise. Second, they claim the PRA is content- or viewpoint-based; but, as also addressed above, it is neither. The PRA applies in non-discriminatory fashion to all public records held by State agencies, regardless of whether the record supports or is contrary to a governmental action or policy. Third, Petitioners claim that strict scrutiny is required because the PRA "imposes heavy disclosure costs[.]" Petrs.' Br. 43. The fallacy of this claim is discussed below.

Petitioners' far-reaching position, if accepted by this Court, would undermine public records laws throughout the Country. It would impose new barriers to the public's rights of access by encouraging constitutional challenges to public records requests whenever (as is often the case) the record happens to mention an individual. The Court should reject Petitioners' broad arguments, which rest on specious factual grounds and on reasoning that is contrary to this Court's precedent. Regardless of how this case is resolved, the Court need not and should not declare that the cost of access to public records is suddenly too high to bear. Disclosure of public records, in this case and as a general matter, serves compelling interests, and the PRA is sufficiently narrow to meet any level of scrutiny.

A. Time and Experience Confirm the Compelling Interests Served by Public Records Statutes, and by Disclosure in This Case

Petitioners contend that "[t]ime, experience, and studies have revealed the true costs inflicted by disclosure," and that the "costs of disclosure" support imposing strict scrutiny "to each application of a disclosure statute." Petrs.' Br. 43. They ask this Court to declare as outdated, in all public disclosure contexts, its long-standing recognition that "sunlight is the best of disinfectants."[13] *Id.*

Petitioners could not be more wrong. Disclosure under the PRA is not in tension with the First Amendment, but continues to further its very purpose. As this Court has long recognized, ready access to public records and, more generally, the free flow of information on matters of public concern, is a core constitutional value. *See, e.g.*, *Favish*, 541 U.S. at 172 (access to public records is "a structural necessity in a real democracy"); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 572

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[13] Petitioners attribute this statement to *Buckley v. Valeo*, 424 U.S. 1, 67 (1976), but it originated in an article by future Justice Brandeis, first published in *Harper's Weekly* in 1914, which extolled the work of the House of Representatives' "Pujo Committee" in publicizing abuses by the banking industry and rooting out corruption. *See* Louis D. Brandeis, *Other People's Money* 92 (Frederick A. Stokes ed. 1914); Melvin I. Urofsky, *The Value of 'Other People's Money,'* N.Y. Times, Feb. 6, 2009, at A21. Justice Brandeis called for continued public disclosure as a necessary and effective means of preventing further abuses of the public's trust.

(1980) ("People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing."); *New York Times Co.* v. *United States*, 403 U.S. 713, 728 (1971) (Stewart, J., concurring) ("informed and critical public opinion" essential to "protect the values of democratic government"); *Grosjean v. Am. Press Co.*, 297 U.S. 233, 250 (1936) ("informed public opinion is the most potent of all restraints upon misgovernment"). The compelling interest in upholding strong public records laws is also supported by the related First Amendment right to receive information, particularly regarding public and political information. "It is now well established that the Constitution protects the right to receive information and ideas…. It is the right of the public to receive suitable access to social, political, esthetic, moral, and other ideas and experiences which is crucial here." *Kleindienst v. Mandel*, 408 U.S. 753, 762-63 (1972) (citations omitted).[14]

The need for robust public records disclosure has not abated. News organizations across the country regularly rely on records statutes like the PRA to uncover and report on issues of extreme public importance, including the operation of elections and ballot measure campaigns. For

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[14] *See also Griswold v. Connecticut*, 381 U.S. 479, 482 (1965) ("The right of freedom of speech … includes not only the right to utter or to print, but the right to distribute, the right to receive, the right to read[.]"); *Associated Press v. United States*, 326 U.S. 1, 20 (1945) (First Amendment "rests on the assumption that the widest possible dissemination of information from diverse … sources is essential to the welfare of the public").

example, after Washington State's disputed gubernatorial race in 2004, *The Seattle Times* relied on access to poll books and voting records to examine allegations of dead-voter fraud. Jonathan Martin, et al., *Voting by dead people isn't always a scam*, The Seattle Times, Jan. 7, 2005, at A1, available at http://tinyurl.com/Dead-Voters. The *Times* found 22 instances where the dead were credited with voting, in a statewide election decided by a mere 129 votes. In 2008, the *Sun Sentinel* (Ft. Lauderdale, Fla.) reviewed the voting rolls for Palm Beach County, and found more than 65,000 ineligible and duplicate voters, including one woman who had been dead 23 years and a felon whose criminal record included voter fraud. Peter Franceschina et al., *Mattie Lee Blitch died in 1985 . . . and she's still registered to vote*, Sun-Sentinel, Oct. 29, 2008, at Al. In 2006, *The Atlanta Journal Constitution*'s analysis of a statewide voter registration database found many instances where people listed false addresses, such as schools, Atlanta's city hall and the county's own election office, even though Georgia law requires voters to provide accurate home addresses. Alan Judd, *Registration in Georgia: Bogus addresses clutter voter rolls*, The Atlanta Journal-Constitution, Jan. 10, 2006, at 1A. After the disputed 2000 presidential election, *The New York Times* analyzed a database of uncounted ballots and revealed that black precincts had more than three times as many rejected ballots as white precincts. Ford Fessenden, *Examining the Vote: The Patterns*, The New York Times, Nov. 12, 2001, at A17, available at http://tinyurl.com/vote-patterns.

Under Petitioners' view, these stories, and innumerable others about all manner of important public issues, could not be reported to the public unless release of the underlying records survived strict scrutiny. Petitioners' primary basis for proposing this hurdle is a 2007 "study," commissioned by *amicus curie* Institute for Justice, of public attitudes regarding campaign finance disclosure provisions. *See* Petrs.' Br. 43; Dick M. Carpenter II, *Disclosure Costs*: *Unintended Consequences of Campaign Finance Reform* (2007). The "study" is in fact a public opinion poll, surveying respondents in six states about attitudes toward disclosure and whether they view campaign contribution records before voting. *Id.* at 7, 11. It is doubtful that this study would even constitute admissible evidence, and it has never been subject to cross-examination or to review by any Court. Moreover, the study involves campaign finance disclosure, which is not in issue here; it says nothing at all about public records laws. In any case, First Amendment rights are not determined based on popularity contests, and this study provides no basis to erect new barriers to the public's access to government records in contravention of the will of Washington voters and this Court's precedent.

Petitioners also argue that access to public records should be subjected to greater constitutional scrutiny because "[t]echnology has dramatically altered the disclosure environment" since *Buckley v. Valeo*, 424 U.S. 1, 67 (1976). Petrs.' Br. 46. This Court rightly rejected a similar appeal to technophobia earlier this Term, recognizing that the interests served by public disclosure of campaign

information are furthered, not diminished, by the ready availability of such information on the Internet. *Citizens United v. FEC*, 558 U.S. __, 130 S. Ct. 876, 916 (2010) (citing the amicus briefs submitted in that case by the Institute for Justice (at 13-16) and the Alliance Defense Fund (at 16-22), both *amici* here). The Court noted with approval that "modern technology makes disclosures rapid and informative," *id.*, and explained why technology makes disclosure more, not less, desirable:

> With the advent of the Internet, prompt disclosure of expenditures can provide shareholders and citizens with the information needed to hold corporations and elected officials accountable for their positions and supporters. Shareholders can determine whether their corporation's political speech advances the corporation's interest in making profits, and citizens can see whether elected officials are "'in the pocket' of so-called moneyed interests." The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and give proper weight to different speakers and messages.

Id. (citations omitted). The same is true in the public records context: the ready availability of records on the Internet, and the relative ease of searching them

in electronic form, makes information about government more accessible. This furthers the core purpose of the PRA and similar records laws.

For all of the reasons set forth above, the State's interest in assuring ready PRA access to the records at issue in this case would be sufficient even if strict scrutiny were applied. The court below found that the State has an interest both in "providing Washington voters with information about who supports placing a referendum on the ballot," and in "preserving the integrity of the election by promoting government transparency and accountability[.]" *Doe*, 586 F.3d at 679. Both of these interests are compelling. "A State indisputably has a compelling interest in preserving the integrity of its election process." *Eu v. S.F. County Democratic Cent. Comm.*, 489 U.S. 214, 231 (1989); *Buckley II*, 525 U.S. at 191. The anonymity proposed by Petitioners would "facilitate[] wrong by eliminating accountability, which is ordinarily the very purpose of the anonymity." *McIntyre*, 514 U.S. at 385 (Scalia, J., dissenting). The PRA directly advances the State's interest in securing clean elections by assuring that referendum petitions receive oversight not merely by state officials and the limited number of interested parties (who have access to the petitions as part of the "official" signature canvass, Wash. Rev. Code § 29A.72.230), but also by citizens, who are entitled to know "what their Government is up to," *Favish*, 541 U.S. at 171, and by the press in exercising its watchdog function. The alternative proposed by Petitioners – review by the Secretary of State only, with no public oversight and no public access to the records in his possession – would

deprive Washington citizens of the sovereignty over state government agencies, and the right to control them. "Without the PRA, the public is effectively deprived of the opportunity independently to examine whether the State properly determined that a referendum qualified, or did not qualify, for the general election." *Doe*, 586 F.3d at 680. This concern is not theoretical. As pointed out by Respondents, incidents of fraudulent signature-gathering are well documented. In some instances the fraud was detected only after public disclosure allowed a citizen to discover that his own name had been included on a petition that he did not sign. In other instances, voters were able to correct state officials' errors in disallowing valid signatures

The voter-information interest is likewise compelling. Consistent with the First Amendment right to receive information, Washington voters have a right to know who is supporting the referendum, since these citizens are acting in a legislative capacity. Voters are entitled to evaluate the measure based on whether particular groups, or officials, or neighbors, support putting the referendum to the people. Even the Referendum 71 sponsors, presumably recognizing the value of endorsements and the fact that citizens sometimes evaluate political measures based on who else supports them, identified certain supporters of the measure on the petitions themselves. JA32. But Petitioners now denigrate the value of such disclosure, suggesting it may be used to "spread misinformation." Petrs.' Br. 49; *see also* Br. of *Amicus Curiae* Inst. For Justice at 28 (arguing that citizens "often do not make the best use of" campaign

disclosure information). In other contexts, this Court has rejected as "highly paternalistic" attempts to limit the public's access to truthful information on the ground that some recipients may misapprehend it. *Va. State Bd. v. Va. Citizens Consumer Council, Inc.*, 425 U.S. 748, 770 (1976); *accord 44 Liquormart, Inc. v. Rhode Island*, 517 U.S. 484, 496-98, 503 (1996) (plurality opinion); *id.* at 520-23 (Thomas, J., concurring). It should do so here as well. By law, the State of Washington has no "right to decide what is good for the people to know and what is not good for them to know," Wash. Rev. Code § 42.56.030, and neither do the Petitioners. The PRA directly advances the public's compelling interest in understanding who the backers of a referendum petition are, in the same manner as they are entitled to know where their elected legislators stand.

B. The PRA Is Narrowly Tailored and Reflects the Considered Judgment of Washington and Its Voters Regarding The Importance of Ready Access to Public Records

Given that the stated purpose of the PRA is public access to the information used by officials to govern, there can be no less restrictive alternative than disclosure in this case. Moreover, the disclosure of names of those citizens who support placing a referendum on the ballot is necessary to effectuate the State's election integrity interest: no more limited alternative would give the public the ability to assure that referendum petitions are properly verified, and that there has been no fraud or favoritism in the review process. Disclosure also is

the only means of serving the voter-information interest: no other alternative would enable the public to receive complete information about the identity of those acting as citizen legislators.

Nor is the law overly broad by virtue of the fact that some states do not require public disclosure of initiative petitions. States have leeway with respect to the release of such petitions. Washington has chosen not to exempt from disclosure the referendum petitions submitted signed by voters acting as citizen legislators. The PRA is narrowly tailored nevertheless. The statute, as amended over the last 37 years, contains numerous exemptions to disclosure, reflecting the balance fixed by the State between the public's strong interest in access to information about government conduct, and legitimate countervailing interests.

Basic precepts of federalism, and this Court's longstanding recognition of the critical role played by robust public records laws, dictate that the Court not interfere lightly with the choice made by the people of Washington. Petitioners have not provided this Court with a sufficient basis for holding disclosure unconstitutional in this case. More broadly, this Court should reject Petitioners' proposal, in the name of a previously unknown right of anonymity, to place substantial new roadblocks to the free flow of information to citizens.

CONCLUSION

For the foregoing reasons, the decision of the Ninth Circuit should be affirmed.

Respectfully submitted,

BRUCE E.H. JOHNSON*
ERIC M. STAHL
SARAH K. DURAN
DAVIS WRIGHT TREMAINE LLP
1201 Third Avenue, Suite 2200
Seattle, Washington 98101
(206) 622-3150
brucejohnson@dwt.com

Counsel for *Amici Curiae*

* Counsel of Record

APPENDIX A

Identity of Individual *Amici Curiae*

Advance Publications, Inc., directly and through subsidiaries, publishes over 20 magazines with nationwide circulation, daily newspapers in over 20 cities, and weekly business journals in over 40 cities throughout the United States. It also owns, directly or through its subsidiaries, many internet sites and has interests in cable systems serving over 2.3 million subscribers.

Allied Daily Newspapers of Washington, Inc. is a not-for-profit association representing 24 daily newspapers serving the state of Washington and the Washington bureaus of the Associated Press.

The American Society of News Editors, with some 500 members, is an organization that includes directing editors of daily newspapers throughout the Americas. ASNE changed its name in April 2009 to the American Society of News Editors and approved broadening its membership to editors of online news providers and academic leaders. Founded in 1922, as the American Society of Newspaper Editors, ASNE is active in improving freedom of information, diversity, readership and credibility of newspapers.

The Associated Press, founded in 1846, is one of the largest and most trusted sources of independent newsgathering. On any given day, the AP serves thousands of daily newspaper, radio, television, and online customers with coverage in text, photos, graphics, audio and video, reaching more than half the world's population.

The Association of Capitol Reporters and Editors was founded in 1999 and currently has approximately 200 members. It is the only national journalism organization for those who write about state government and politics.

Belo Corp. owns twenty television stations, six cable news channels, and the stations' associated Web sites. In Washington State, Belo owns broadcast stations KING in Seattle, KREM and KSKN in Spokane, and Seattle-based cable news station NorthWest Cable News. Nationwide, Belo stations, which include affiliations with ABC, CBS, NBC, FOX, CW and MyNetwork TV, reach more than 14 percent of U.S. television households

Bloomberg L.P., based in New York City, operates Bloomberg News, which is comprised of more than 1500 professionals in 145 bureaus around the world. Bloomberg News publishes more than 6000 news stories each day, and The Bloomberg Professional Service maintains an archive of more than 15 million stories and multimedia reports and a photo library comprised of more than 290,000 images. Bloomberg News also operates as a wire service, syndicating to over 450 newspapers worldwide with a combined circulation of 80 million people, in more than 160 countries. Bloomberg News operates eleven 24-hour cable and satellite television news channels broadcasting worldwide in six different languages; WBBR, a 24-hour business news radio station which syndicates reports to more than 840 radio stations worldwide; Bloomberg Press, a book publisher responsible for the Economist line of books in the U.S. and Canada; Bloomberg

Magazines, which publishes twelve different magazines each month; and Bloomberg.com.

Cable News Network LP, LLP, a division of Turner Broadcasting System, Inc., a Time Warner Company, operates fifteen cable and satellite television networks; twelve Internet websites, including CNN.com; three private place-based networks; two radio networks; and CNN Newsource, the world's most extensively syndicated news service. CNN's combined branded networks and services are available to more than one billion people in more than 212 countries and territories.

Cowles Publishing Inc. is a diversified family-owned corporation that publishes *The Spokesman Review*, a daily newspaper in Spokane, Washington. Cowles Publishing has a number of major affiliates, including Cowles CA Media; television stations KHQ in Spokane, KNDO in Yakima, Washington, and KNDU in Kennewick, Washington; *Journal of Business*; *Nickels Worth* and New Media Ventures.

Cox Media Group, Inc. ("CMG") is a Delaware privately-held corporation. CMG's direct and indirect subsidiaries and affiliates include companies that own and operate a variety of news media, including television stations, radio stations, newspapers and websites in multiple markets throughout the United States, including KIRO in Seattle.

The Daily Herald Company is a subsidiary of The Washington Post Company and publishes *The Herald*, a local daily newspaper in Everett, Washington started in 1901. The Daily Herald also

publishes a monthly business journal, titled *Snohomish County Business Journal*, a weekly Hispanic newspaper designed to serve the entire Puget Sound, and HeraldNet, the main web site for The Herald newspaper.

Dow Jones & Company, Inc. is the publisher of *The Wall Street Journal*, a daily newspaper with a national circulation of over two million, *WSJ.com*, a news website with more than one million paid subscribers, *Barron's*, a weekly business and finance magazine, and through its Dow Jones Local Media Group, community newspapers throughout the United States. In addition, Dow Jones provides real-time financial news around the world through Dow Jones Newswires as well as news and other business and financial information through Dow Jones Factiva and Dow Jones Financial Information Services.

The Hearst Corporation is a diversified, privately held media company that publishes newspapers, consumer magazines and business publications. Hearst also owns a leading features syndicate, has interests in several cable television networks, produces movies and other programming for television and owns and operates twenty-nine television and two radio broadcast stations. In the Seattle market, Hearst is the owner-operator of seattlepi.com, the first major metro daily newspaper to go online-only.

Magazine Publishers of America, Inc. is a national trade association including in its present membership more than 240 domestic magazine publishers that publish over 1,400 magazines sold at

newsstands and by subscription. MPA members provide broad coverage of domestic and international news in weekly and biweekly publications, and publish weekly, biweekly and monthly publications covering consumer affairs, law, literature, religion, political affairs, science, sports, agriculture, industry and many other interests, avocations and pastimes of the American people. MPA has a long and distinguished record of activity in defense of the First Amendment.

The New York Times Company publishes *The New York Times,* a national newspaper distributed throughout the United States and the world. The New York Times Company also publishes the International Herald Tribune, The Boston Globe, 15 other daily newspapers and more than 50 Web sites, including NYTimes.com, Boston.com and About.com.

Newsweek, Inc., a subsidiary of The Washington Post Company, publishes the weekly news magazines *Newsweek* and *Newsweek International*, which are distributed nationally and internationally, and today has a worldwide circulation of more than 2 million. *Newsweek* offers comprehensive coverage of world events with a global network of correspondents, reporters, contributors and editors covering national and international affairs, business, science and technology, society and the arts and entertainment. Newsweek.com offers the weekly magazine online, daily news updates, Web-only columns from Newsweek's top writers, photo galleries, audio and video reports from correspondents, podcasts, mobile content and archives.

ProPublica is an independent, non-profit newsroom that produces investigative journalism in the public interest. ProPublica is led by Paul Steiger, the former managing editor of The Wall Street Journal. Stephen Engelberg, a former managing editor of The Oregonian, Portland, Oregon and former investigative editor of The New York Times, is ProPublica's managing editor. Established in 2007 and headquartered in Manhattan, ProPublica has a newsroom of 32 working journalists dedicated to investigative reporting on stories with significant potential for major impact. Many of ProPublica's stories are offered exclusively to a traditional news organization (138 such stories in 2009 with 38 different partners), free of charge, for publication or broadcast.

The Seattle Times Company publishes four newspapers in the State of Washington: *The Seattle Times*, Washington's most widely circulated daily newspaper; the *Yakima Herald-Republic*; the *Walla Walla Union Bulletin*; and *The Issaquah Press*. Since 1896, The Seattle Times has been the Northwest's most trusted source of local news and information.

Tribune Company, is an industry-leading media company, operating businesses in publishing, interactive and broadcasting. In publishing, Tribune's leading daily newspapers include the *Los Angeles Times*, *Chicago Tribune*, *The Baltimore Sun*, *Sun Sentinel* (South Florida), *Orlando Sentinel*, *Hartford Courant*, *Morning Call* and *Daily Press*. The company's broadcasting group operates 23 television stations, including KCPQ Q13Fox in Seattle, WGN America on national cable, and

Chicago's WGN-AM. Popular news and information websites complement Tribune's print and broadcast properties and extend the company's nationwide audience.

Washington Newspaper Publishers Association (WNPA), represents 110 community newspapers in Washington state. WNPA is an advocate for community newspapers, freedom of the press and open government. The association is dedicated to helping members advance editorial excellence, financial viability, professional development, and a high standard of publication quality and community leadership.

The Washington Post Company is a diversified media company that operates newspaper, magazine print and online publishing, television broadcasting and cable television systems. The company owns Cable ONE, serving subscribers in midwestern, western and southern states; Washington Post Media (The Washington Post, washingtonpost.com, Express and El Tiempo Latino); Post-Newsweek Stations (in Detroit, Houston, Miami, Orlando, San Antonio and Jacksonville); The Slate Group (Slate, TheRoot.com, DoubleX, TheBigMoney.com and Foreign Policy); The Gazette and Southern Maryland Newspapers; The Herald (Everett, Washington); and Newsweek magazine (Newsweek.com).

Washington State Association of Broadcasters first organized in 1935, is a not-for-profit trade association for radio and television. WSAB represents all of the free, over-the-air radio and television stations (commercial and noncommercial) in Washington State.