NO. 56160-3-II

WASHINGTON STATE COURT OF APPEALS
DIVISION II

LISA EARL,

Appellant,

v.

CITY OF TACOMA,

Respondent.

**BRIEF OF *AMICI CURIAE*
AMERICAN CIVIL LIBERTIES UNION OF WASHINGTON, CONFEDERATED TRIBES AND BANDS OF THE YAKAMA NATION, CENTER FOR INDIAN LAW AND POLICY, CENTER FOR CIVIL AND HUMAN RIGHTS, FRED T. KOREMATSU CENTER FOR LAW AND EQUALITY, LEGAL VOICE, AND CHIEF SEATTLE CLUB IN SUPPORT OF APPELLANT**

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I. INTRODUCTION

In this time of social reckoning, our Washington Supreme Court has directed our legal community to eliminate the systemic inequities and racial biases in our law enforcement and justice systems. The Public Records Act ("PRA" or "Act"), Chapter 42.56 RCW, is a key transparency and accountability framework to ensure that the police equitably protect the communities they serve and carry out their duties in a manner consistent with anti-racist and democratic principles.

Good recordkeeping and open examination of public records affords the public and policymakers the ability to fully understand police practices so that they can be addressed in the public interest. When, in response to a PRA request, a government agency fails to adequately search for responsive records, fails to disclose or produce responsive records, or misrepresents and otherwise conceals the existence of responsive records, the statute of limitations should be tolled to effectuate the policy and purpose of the PRA. Such is the case here.

The City of Tacoma ("City") unlawfully concealed records Ms. Earl sought related to the fatal police shooting of her pregnant and unarmed daughter, who was a member of the Puyallup Tribe of Indians. To ensure that law enforcement agencies are held accountable under the PRA, courts must toll the statute of limitations when faced with agency action that undercuts the purpose of the PRA and fosters the insidious legacy of racism that remains present in policing practices, particularly regarding deadly use-of-force incidents involving Native Americans.

II. IDENTITY AND INTEREST OF AMICI CURIAE

The identity and interest of amici curiae are set forth in the motion for leave to file brief of amicus curiae, filed contemporaneously with this brief.

III. STATEMENT OF THE CASE

Amici adopt the Brief of Appellant Earl's Statement of the Case ("Appellant's Brief"), on pages 3-11.

IV. ARGUMENT

A. Courts Must Guarantee the PRA Provides Government Transparency and Accountability

The Public Records Act became law in 1972 by the direct vote of the people. *See Spokane Police Guild v. Wash. State Liquor Control Bd.*, 112 Wn.2d 30, 33, 769 P.2d 283 (1989). The primary purpose of the Act is to foster governmental transparency and accountability by providing Washington's citizens with full access to public records. *Doe ex rel. Doe v. Wash. State Patrol*, 185 Wn.2d 363, 371, 374 P.3d 63 (2016). "The stated purpose of the [PRA] 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. v. Univ. of Wash.*, 125 Wn.2d 243, 251, 844 P.2d 592 (1995) (en banc).

"The PRA is a strongly worded mandate for broad disclosure of public records." *Dotson v. Pierce Cnty.*, 13 Wn. App. 2d 455, 468, 464 P.3d 563 (2020) (citing *Resident Action*

Council v. Seattle Hous. Auth., 177 Wn.2d 417, 431, 327 P.3d 600 (2013)). Under the PRA, government agencies must "make available for public inspection and copying all public records, unless the record falls within the specific exemptions." RCW 45.56.070.

The Act mandates that its provisions "shall be liberally construed" to promote full access to public records. RCW 45.56.030. The Washington State Supreme Court has vigorously upheld this mandate, instructing courts to "liberally construe" the PRA and take into account the Act's "policy that free and open examination of public records is in the public interest, even though such examination *may cause inconvenience or embarrassment* to public officials or others." *Progressive Animal Welfare Soc.*, 125 Wn.2d at 251 (emphasis added).

In light of the systemic inequities present in our law enforcement and justice systems, the essential purpose of the PRA is particularly important when applied to records involving the policing of people of color.

B. Interpreting the PRA's Statute of Limitations to Facilitate Government Transparency and Accountability Combats Systemic Inequities in the Policing of Native Americans

The governmental transparency and accountability principles of the PRA are especially vital to monitoring law enforcement records in deadly use-of-force incidents involving Native Americans. The systemic inequities in our justice system and violence perpetrated by governmental officials against Native American people predates the founding of our nation and continues to disproportionally impact Native American people. In the twenty-first century, law enforcement officers in the United States kill Native Americans like Ms. Earl's daughter at a rate disproportionally higher than any other racial group in the United States. Applying an exception to the PRA's statute of limitations in a manner consistent with the accountability and transparency principles works to undo the structural inequities in policing that disparately impact Indigenous people like Ms. Earl's pregnant, unarmed Tribal daughter and countless others across Washington and the United States.

1. Police kill Native American citizens at a higher rate than any other racialized group in the United States

The records Ms. Earl sought from the City of Tacoma related to the fatal shooting of her pregnant and unarmed daughter, a member of the Puyallup Tribe, by Tacoma Police officers. The violence and discrimination Ms. Earl's daughter experienced when she was killed by the Tacoma Police represents this country's centuries-old legacy of racial injustice towards Native American people. The historical treatment of our nation's indigenous people by the American government and legal system illustrates the structural racism Native American people have faced for centuries. Our nation's history clearly documents systemic, sanctioned violence against Native American people as an integral part of the conquest and colonization of Tribal lands by non-Indian people. Both state and federal officials have spent the majority of the past two centuries waging a campaign of genocide and ethnocide against Tribal Nations, fueled by the implicit and explicit racism and greed of those who then held power. Vital to the efforts of government

officials was the intentional weaponization of legal and political systems to oppress and dispossess Native people of their ancestral homelands, inherent authority, resources, and cultures. Untold numbers of indigenous men, women, and children perished as a result, including by violence committed by or with the permission of government actors.

The systemic violence and oppression perpetrated against Native people by government officials remains present in our law enforcement and legal systems. Nationally, law enforcement officers kill Native American people at a higher rate than any other demographic in the United States. "The racial group most likely to be killed by law enforcement is Native Americans, followed by African Americans, Latinos, Whites and Asian Americans."[1] Data from the Centers for Disease Control and Prevention collected between 1999 and 2011 shows that Native

[1] Center on Juvenile and Criminal Justice, Who are Police Killing? (Aug. 24, 2014), *available at*: http://www.cjcj.org/news/8113.

Americans—who comprise less than one percent of the United States population—disproportionally comprise 1.9 percent of police killings. Native Americans are 3.1 times more likely to be killed by law enforcement officers than white people. The number of Native Americans killed by police is likely underreported, because Native people are often misidentified as another racial or ethnic group, or go unclassified in government records.[2]

2. Native Americans in Washington experience racialized and violent policing

Law enforcement officers in Washington are no exception to these sobering statistics—they too contribute to the disproportionate number of fatal and biased police encounters

[2] Melissa A. Jim, et al., Racial Misclassification of American Indians and Alaska Natives by Indian Health Service Contract Health Services Delivery Area, Am. J. Public Health (June 2014), *available at*: https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4035863/; *see also* Elise Hansen, The forgotten minority in police shootings, CNN (Nov. 13, 2017), *available at*: https://edition.cnn.com/2017/11/10/us/native-lives-matter/index.html.

with Native people. The Research Working Group of Task Force 2.0 on Race and Washington's Criminal Justice System this week presented the 2021 Report to the Washington Supreme Court, which confirms what Native people have long known: Indigenous people experience disproportionalities and disparities at alarming rates in Washington's criminal justice system.[3] The Task Force found that Indigenous people, in comparison to non-Hispanic White people:[4]

- were killed at a higher rate by law enforcement (3.3x);
- were more likely to have forced used against them by law enforcement in three of the four cities examined[5] (2.9x, 5x, 1.3x-2x);
- were stopped more frequently by law enforcement in both cities examined (5.8x and 2.6x);

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[3] Research Working Group Task Force 2.0, Race and Washington's Criminal Justice System: 2021 Report to the Washington Supreme Court (2021).

[4] *Id*. at 2 ("The 2011 Preliminary Report, issued by the previous task force, for the most part failed to examine or report disproportionalities as experienced by Indigenous people.").

[5] The Research Working Group examined data from four cities in Washington to determine comparative disproportionality ratios: Seattle, Spokane, Tacoma, and Vancouver. *Id*. at 12.

- were searched more frequently in the two cities examined as well as by the Washington State Patrol;

- were arrested more frequently in all four years examined (2017, 2.6x; 2020, 2.6x);

- received felony sentences at a higher rate in the three years examined (2018, 1.5x; 2019, 1.5x, 2020, 1.7x);

- bear a disproportionate per capita share of legal financial obligations; and,

- are incarcerated at a higher rate (3.7x).[6]

A recent report from the Center for Policing Equity on the Seattle Police Department likewise found significant racial disparities in non-lethal law enforcement encounters with Native Americans.[7] This report analyzed "Terry stops between 2015 and 2019 [that] found racial disparities in stop rates in every SPD sector across the city."[8] The report found that "[p]er capita, Native American persons were stopped nearly 9 times as

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[6] *Id*.

[7] Center for Policing Equity, The Science of Justice: Seattle Police Department (Jan. 2021) (emphasis omitted), *available at*: https://www.documentcloud.org/documents/21015602-spd_cityreport_final_11121-1.

[8] *Id*. at 3.

frequently as White persons," and once stopped, "28% of Native American men were searched for weapons, compared to 21% of White men."[9] The report also showed that "White persons were less likely than Native American or Black persons to be arrested at a stop," and once stopped, "28% of Native Americans and 26% of Black persons were arrested, compared to 23% of stopped White persons."[10]

Among the disproportionate number of Indigenous people killed by Washington law enforcement officers over the last decade are the following Tribal members, who were often unarmed, experiencing a mental health crisis, and threatening no one at the time they were killed by police:

- In 2010, a Seattle Police Department officer fatally shot John T. Williams, a Nuu-chah-nulth wood carver, as he was walking down the street while carrying a piece of cedar and his carving knife. The investigation revealed that Williams threatened no one and his knife blade was closed before he was fatally shot.

- In 2015, a Lakewood Police officer fatally shot Daniel

[9] *Id*. (emphasis omitted).
[10] *Id*. at 3-4 (emphasis omitted).

Covarrubias, a Suquamish Tribal member, after mistaking his cell phone for a firearm. Daniel was experiencing a mental health crisis, unarmed, and did not threaten anyone prior to his death.

- In 2015, a Snohomish County Sheriff's deputy killed Cecil Lacy, Jr., a Tulalip tribal member, when he restrained Cecil in a prone position with weight on his neck and back. Cecil pleaded with the deputy that he could not breathe immediately before he passed. Cecil was not under suspicion of a crime, was unarmed, and threatened no one.

- In 2016, King County Sheriff's deputies fatally shot Renee Davis, a Muckleshoot Tribal member who was three months pregnant, during a welfare check. Renee was the mother of three, and her two small children were present in the home when the deputies forced their way in and fatally shot Renee while she was experiencing a mental health crisis.

- In 2019, a Poulsbo police officer fatally shot Stonechild Chiefstick, a Cowichan/Cree tribal member and Suquamish community member, after failing to de-escalate the situation or use non-lethal force while Stonechild was experiencing a mental health or substance abuse crisis. Stonechild was unarmed and the father of six.

None of the officers involved in the deaths of these Indigenous people were ever criminally charged or otherwise held accountable; in some cases, they were even promoted. These law enforcement officers are often investigated by their

own. Issues with transparency and accountability led to the reforms passed by the Legislature in HB 1267 last year, which requires an independent investigation of officer-involved use-of-force incidents.[11]

3. Full disclosure of public records by law enforcement agencies is critical to ending the biased policing of Native Americans

Disclosure of public records under the PRA related to police encounters with Native American citizens is the only way many families, stakeholders, and policymakers can understand what happened, what role racial bias played in the incident, and how to reform the policing of people of color. Preventing transparency and accountability for police agencies that fail to fully and adequately disclose public records based on a non-jurisdictional technicality like the statute of limitations only serves to perpetuate the systemic inequities in our law enforcement and justice systems.

[11] 2021 Wash. Sess. Laws ESHB 1267 (creating Office of Independent Investigations—Police Use-of-force).

C. The Trial Court's Dismissal of Ms. Earl's Complaint was in Error

1. Ms. Earl's suit was timely under a plain reading of the PRA's Statute of Limitations

The PRA's statute of limitations did not begin to accrue when the City informed Ms. Earl on November 23, 2016, that "it was determined that there are no other records responsive to your request . . . [a]s such your request is now considered closed." Instead, the statute of limitations began to run on September 25, 2018—the date the City disclosed for the first time a SWAT Document responsive to Ms. Earl's timely PRA request.[12] Thus, the trial court's dismissal of Ms. Earl's complaint was in error.

The PRA mandates that "[a]ctions under this section must be filed within one year of the agency's claim of exemption or

[12] The City attached the SWAT Document at issue to the affidavit of Tacoma Police Department Detective Jack Nasworthy in support of its opposition to Ms. Earl's motion seeking to reopen discovery in a separate, but related, civil rights suit filed in the U.S. District Court for the Western District of Washington. *See Earl v. Campbell*, No. 3:17-cv-05315 BHS, Dkt. #119 (W.D. Wash. Feb. 18, 2020) (order granting plaintiff's motion for reconsideration and defendant's motion for summary judgment).

the last production of a record on a partial or installment basis." RCW 42.56.550(6). Where the plain meaning of the statute is evident, the statute must be given "effect . . . as an expression of legislative intent" and the entirety of the Act must be considered to "enforce the law's overall purpose." *Rental Hous. Ass'n of Puget Sound v. City of Des Moines*, 165 Wn.2d 525, 536, 199 P.3d 393 (2009).

The statute of limitations begins to run "on an agency's final, definitive response to a public records request." *Belenski v. Jefferson Cnty.*, 186 Wn.2d 452, 460, 378 P.3d 176 (2016). An agency response to the effect that it has no other responsive records relevant to the PRA has been relied on to trigger the statute of limitations, even if this answer was incorrect. *Belenski*, 186 Wn.2d at 461. Courts have, however, viewed the "silent withholding" of responsive records as agency conduct that violates the PRA—and, at a minimum, an agency withholding records should identify and properly claim an exemption to trigger the statute of limitations under the plain meaning of the

statute. *See Rental Hous. Ass'n of Puget Sound*, 165 Wn.2d at 537–38. Permitting an agency to trigger the statute of limitations through a self-serving response that it has no more responsive records undercuts the plain language of the PRA and promotes "silent withholdings."

As noted in the record, the City did not claim any exemption from production, and it disclosed the responsive SWAT Document on September 25, 2018. Furthermore, the City's November 23, 2016, email did not equate to a "last production of a record" as required under the plain language of the statute. The later disclosure of the SWAT Document equates to the agency's last production of a record on a partial or installment basis and thus operates as the trigger for the one-year statute of limitations under the PRA. Any conclusion to the contrary diminishes the plain meaning of the statute and undercuts the objectives of the PRA. Ms. Earl timely pursued her claims under the plain language of the PRA.

2. The PRA's Statute of Limitations is tolled when the government fails to conduct an adequate search, fails to disclose or produce all responsive records, and makes misrepresentations to the public while concealing responsive documents

When evaluating whether government conduct complies with the PRA, the Court must construe the PRA's statute of limitations liberally and prioritize the public interest over any inconvenience pled by the City regarding the search for or production of responsive records. *Progressive Animal Welfare Soc.*, 125 Wn.2d at 251.

Our justice system recognizes exceptions to the statute of limitations when a party is inequitably barred from relief because of the wrongdoing by the other party. Ms. Earl's PRA claim represents one of those cases. The equitable tolling, estoppel, and discovery rule exceptions apply to toll the statute of limitations applicable to Ms. Earl's PRA claim because the City (1) failed to adequately search for responsive records, (2) failed to correctly disclose or produce responsive records, and, (3) misrepresented to Ms. Earl that it had disclosed all responsive records and

otherwise concealed additional documents responsive to her request for information about the killing of her unarmed and pregnant daughter by Tacoma Police. Equity and justice demand the Court hold an exception to the PRA's statute of limitations applies to the City's egregious conduct in this case.

a. Equitable tolling applies to toll the PRA's Statute of Limitations when the government fails to conduct an adequate search, fails to disclose or produce all responsive records, and makes misrepresentations to the public while concealing responsive documents

The PRA's statute of limitations is subject to equitable tolling. *Belenski*, 186 Wn.2d at 462. "Equitable tolling is a remedy that permits a court to allow an action to proceed when justice requires it, even though a statutory time period has lapsed." *In re Carlstad*, 150 Wn.2d 583, 593, 80 P.3d 587 (2003). "Equitable tolling of a statute of limitation is appropriate when consistent with the policies underlying the statute and the purposes underlying the statute of limitation." *In re Bonds*, 165 Wn.2d 135, 141, 196 P.3d 672 (2008). "The predicates for equitable tolling are bad faith, deception, or false assurances by

the defendant and the exercise of diligence by the plaintiff." *Millay v. Cam*, 135 Wn.2d 193, 206, 955 P.2d 791 (1998).

Ms. Earl exercised diligence by monitoring the City's responses to her PRA request and filing suit upon learning of the SWAT Document's existence and the City's concealment of that responsive document. The City falsely assured Ms. Earl that it had produced all responsive documents while it concealed the existence and refused to disclose the responsive SWAT Document. Ms. Earl has therefore met the predicates necessary for the application of equitable tolling.

Equitable tolling of the PRA's statute of limitations is also consistent with the PRA's underlying policies of government transparency and accountability because the suit sheds public light on the City's policing practices, including inadequate evidence and documentation maintenance, and requires the City to atone for its egregious PRA violation. Equitable tolling is also consistent with the purposes underlying the statute of limitations

because Ms. Earl did not know she possessed a right of action until the document was produced.

b. <u>Equitable Estoppel applies to toll the PRA's Statute of Limitations when the government fails to conduct an adequate search, fails to disclose or produce all responsive records, and makes misrepresentations to the public while concealing responsive documents</u>

Equitable estoppel applies to prevent inequity if (1) a party's act or admission is inconsistent with a later assertion, (2) another party acts in reliance on the first party's earlier act or admission, and (3) the party relying on that act or admission would be injured if the first party was not estopped from repudiating its earlier act. *Davidheiser v. Pierce Cnty.*, 92 Wn. App. 146, 153, 960 P.2d 998 (1998); *see also Cent. Heat, Inc. v. Daily Olympian, Inc.*, 74 Wn.2d 126, 134, 443 P.2d 544, 44 A.L.R.3d 750 (1968) (equitable estoppel applies to "prevent a fraudulent or inequitable resort to the statute of limitations as a defense."). "Estoppel applies where the defendant conceals facts or otherwise induces the plaintiff not to bring suit within the period of the applicable statute of limitations." *Cent. Heat, Inc.*,

74 Wn.2d at 134. "To prevail on a claim for equitable estoppel, a party must show both that it did not know the facts and there was no convenient and available way to obtain those facts." *Greenhalgh v. Dep't of Corr.*, 170 Wn. App. 137, 153, 282 P.3d 1175 (2012).

Equitable estoppel applies to Ms. Earl's claim. The City informed Ms. Earl it had produced all records responsive to her request, concealing the fact that it possessed a responsive record. The City's later production of the responsive SWAT Document was inconsistent with its representation that it had produced all responsive records. Ms. Earl relied on the City's initial misrepresentation and was injured as a result of the City's misrepresentation and failure to disclose the SWAT Document. Ms. Earl did not know about the existence of the undisclosed SWAT Document until more than a year after the City informed her that it had produced all records responsive to her request, when the SWAT Document was finally revealed by the City through a federal civil rights lawsuit.

c. The Discovery Rule applies to toll the PRA's Statute of Limitations when the government fails to conduct an adequate search, fails to disclose or produce all responsive records, and makes misrepresentations to the public while concealing responsive documents

The discovery rule is an exception to the general rule of accrual, and Washington courts have applied it to claims where "injured parties do not, *or cannot*, know they have been injured." *In re Estates of Hibbard*, 118 Wn.2d 737, 744-45, 826 P.2d 690 (1992) (emphasis added). "The decision to extend the discovery rule to a cause of action is essentially a matter of judicial policy." *Denny's Rests., Inc. v. Sec. Union Title Ins. Co.*, 71 Wn. App. 194, 216, 859 P.2d 619 (1993). "Under the discovery rule, a cause of action accrues when the plaintiff knew or should have known the essential elements of the cause of action." *Allen v. State*, 118 Wn.2d 753, 757-58, 826 P.2d 200 (1991).

Ms. Earl was made aware of the SWAT Document on September 25, 2018, approximately two years after the City made the false assurance that it had produced all responsive documents. The City engaged in the "silent withholding" of this

critical document. Ms. Earl had no reason to know that the City had concealed the SWAT Document, nor did she have any mechanism for ferreting out the truth.

Instead, Ms. Earl was made aware of the SWAT Document when the City conveniently used it as part of a presentation to oppose Ms. Earl's attempts at seeking further discovery in her quest to obtain justice for her daughter. Upon being made aware of the SWAT Document that contained new details about the night her daughter was killed, Ms. Earl promptly initiated her cause of action under the PRA within one year. The discovery rule should be applied in PRA cases to uphold the purpose of the Act and to discourage the silent withholding and concealment of responsive documents.

3. Tolling the PRA's Statute of Limitations when the government fails to conduct an adequate search, fails to disclose or produce all responsive records, and makes misrepresentations to the public while concealing responsive documents will not undermine the finality concerns of the PRA

The purpose of a statute of limitations is to "compel the exercise of a right of action within a reasonable time so opposing

parties have a fair opportunity to defend." *Stenberg v. Pac. Power & Light Co.*, 104 Wn.2d 710, 714, 709 P.2d 793 (1985). Statutes of limitation are intended to provide certainty and bring finality to transactions for both parties. *Atchinson v. Great W. Malting Co.*, 161 Wn.2d 372, 382, 166 P.3d 662 (2007). "However, liberally construing the PRA to effectuate open government—as we must—does not defeat these goals." *Rental Hous. Ass'n of Puget Sound*, 165 Wn.2d at 540–41. In fact, "[c]ertainty and finality are promoted" by a construction of the PRA that fully effectuates its purpose and considers the Act's goals in its entirety. *Id.* It remains clear that the PRA's purpose is to effectuate transparency and to promote government accountability—especially when the government agency conceals responsive documents and then later attempts to use them against the requestor in a judicial proceeding. Tolling the PRA's statute of limitations under these circumstances serves to promote the ends of the Act and only supports true certainty and finality.

D. Ensuring full and adequate disclosure of law enforcement records honors the Supreme Court's call to eradicate racism in our justice system

In response to the public outcry following the murder of George Floyd by the Minneapolis Police, the Washington Supreme Court issued an open letter calling on our judicial and legal community to work together eradicate racism in our justice system.[13] The Court acknowledged "[t]he devaluation and denigration of [B]lack lives is not a recent event," but it remains "a persistent and systemic injustice that predicates this nation's founding."[14] Among the injustices Black Americans face, the Court noted the "racialized policing and the overrepresentation of [B]lack Americans in every stage of our criminal and juvenile justice systems."[15]

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[13] Letter from Washington Supreme Court to Members of the Judiciary and the Legal Community (June 4, 2020), *available at*: http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/Judiciary%20Legal%20Community%20SIGNED%20060420.pdf.

[14] *Id*. at 1.

[15] *Id*.

The Court has called upon all in the legal community, including the courts, to "administer justice and support court rules in a way that brings greater racial justice to our system as a whole."[16] The Court recognized that administering justice in a manner that brings greater racial justice to our community requires "that even the most venerable precedent must be struck down when it is incorrect and harmful."[17]

This case presents an opportunity for the Court to honor the Supreme Court's mandate to administer justice in a manner that brings racial justice to our legal system. By holding the PRA's statute of limitations is tolled when a law enforcement agency fails to make an adequate search for responsive records, fails to disclose or produce responsive records, and misrepresents and otherwise conceals the existence of responsive records, the Court ensures government accountability and transparency purposes of the PRA.

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[16] *Id.*
[17] *Id.*

V. CONCLUSION

Government accountability is undermined when effectuation of the PRA is carried out by the self-interested agency without oversight. This framework makes PRA violations virtually impossible to discover, thereby necessitating equitable tolling and estoppel exceptions to the statute of limitations. This is critical in cases involving police violence, where there is historical, systemic disparate impact on Indigenous communities and other communities of color.

Dated this 1st day of October, 2021.

Certificate of Compliance: I certify that pursuant to RAP 18.17(b) the following document contains 4,493 words.

Respectfully submitted,

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