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The Honorable Katherine M. Stolz  
Hearing Date: May 7, 2003

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SUPERIOR COURT OF WASHINGTON  
FOR PIERCE COUNTY

JOSEPH and DEBORAH A. KIRBY,

Plaintiffs,

vs.

CITY OF TACOMA, et al.,

Defendants.

No. 99-2-13911-4

MOTION OF *THE SEATTLE POST-INTELLIGENCER*, *THE SEATTLE TIMES*,  
THE ASSOCIATED PRESS, THE  
WASHINGTON NEWSPAPER  
PUBLISHERS ASSOCIATION AND THE  
WASHINGTON COALITION FOR OPEN  
GOVERNMENT TO SHORTEN TIME

*The Seattle Post-Intelligencer*, *The Seattle Times*, The Associated Press, The Washington  
Newspaper Publishers Association and The Washington Coalition for Open Government  
(collectively, "Movants") have moved to intervene, vacate a protective order and unseal records  
filed with the Court pursuant to the protective order.

Upon information and belief, this lawsuit concerns allegations of misconduct by David  
Brame, Tacoma's former police chief who shot his wife and then committed suicide on April 26,  
2003. Given the public interest in the circumstances surrounding the hiring, promotion and  
retention of Brame as police chief, the public and the press are entitled to immediate access to the  
court file in this case.

The motion should be considered on shortened time so that the records can be unsealed  
now. The tradition of open access to court records means contemporaneous access. In *Matter*  
*of Continental Illinois Securities Litigation*, 732 F.2d 1302 (7<sup>th</sup> Cir. 1984), the court held, "[t]he

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1 presumption of access normally implies a right of contemporaneous access: disclosure of the  
2 contents would have been proper at the time the motion was still pending." 732 F.2d at 1310.  
3 The public's rights have been violated since the protective order was entered, depriving the public  
4 of materials filed with a dispositive motion for summary judgment. Furthermore, the Washington  
5 Supreme Court in *Nast v. Michels*, 107 Wn.2d 300, 303, 730 P.2d 54 (1986), ruled the public has  
6 the right to same day access to court files. This Court's erroneous protective order delayed  
7 access, so the Movants urge expeditious treatment of their Motion to Intervene, Vacate the  
8 Protective Order and Unseal Records to obtain the sealed records as soon as possible.

9 The Motion to Shorten Time should be granted.

10 DATED this 7th day of May, 2003.

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