

## THE IMPACT OF COMPLIANCE WITH THE PUBLIC RECORDS ACT: THE CITY OF SEATTLE (2011-2015)

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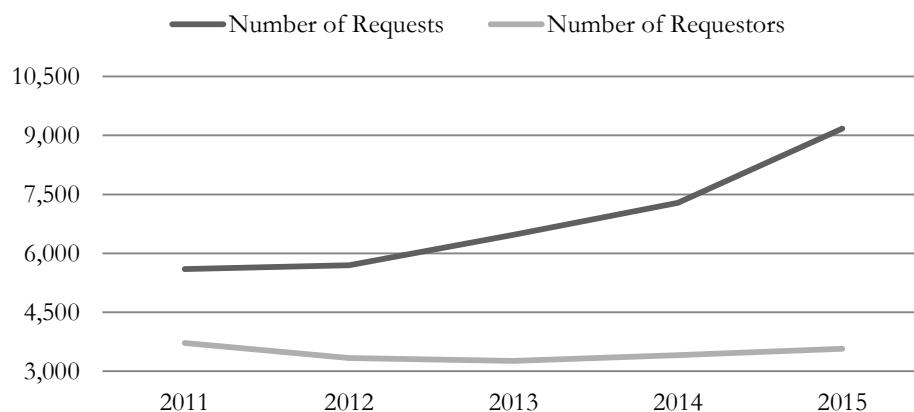
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### I. INTRODUCTION

From 2011 to 2015, the City of Seattle received more than 34,000 Public Records Act requests during which the City spent an estimated 54,000 hours with tracked costs of nearly \$2,400,000.

Over the past four years, the City received more requests from fewer requestors. The number of requests received per year increased 64% from 5,600 in 2011 to over 9,000 in 2015, while the number of requestors decreased by 5.5% from nearly 3,800 in 2011 to roughly 3,600 in 2015:

**Number of Requests versus Number of  
Requestors Per Year - City of Seattle  
(2011-2015)**



The major factors underlying these figures were serial requestors who made multiple requests to the City, asking for records with greater frequency and requiring significantly more time and cost by the City than the average requestor. The serial requestors' raw contribution over the past four years was nearly 5,400 requests, requiring 11,000 hours of public disclosure officer (PDO) time at a cost of at least \$470,000 to fulfill. The average serial requestor submitted 277.5 requests on which the City spent 521.9 hours and \$23,505 in wages. By comparison, the average requestor submitted roughly two requests on which the City spent three hours and \$135 in wages to fulfill.

The Seattle Police Department bore the brunt of responding to Public Records Act requests submitted to the City in the last four years. SPD received 69% of the City's requests and spent nearly 28,000 hours and roughly \$815,000 in wages during the period. More recently, the percentage of requests received by SPD compared to the rest of the City increased from 62.8% of all requests in 2013 to 74% of all requests in 2015.

Lastly, although these figures are noteworthy, they represent an underestimate of the City's actual hours and cost for two reasons. First, the City does not presently track all of its costs and hours associated with Public Records Act compliance. As a result, these figures do not include costs and hours associated with PDO's benefits and overhead; other employee's time spent searching for, gathering, and reviewing records; legal review; litigation expenses; electronic file review; and more. Second, the City's calculations inflated the estimated number of requestors because a requestor who submitted more than one request would be doubled counted where the City misspelled the name, did not spell the name the same way for each request, or where the requestor used an unknown pseudonym instead.

## II. PURPOSE

The purpose of this study is to highlight and analyze the City of Seattle's tracked data relating to the Public Records Act to demonstrate the reason for the significant increase in the number of Public Records Act requests over the past four years. After finding that serial requestors were primarily responsible for the increase in requests, this study highlights the serial requestors' impact in contrast to the average requestor over the past four years. This study shows that while serial requestors had a proportionally greater impact on the Seattle Police Department than the rest of the City of Seattle, serial requestor also affected the rest of the City, including its legislative, executive, and administrative departments.

## III. METHODOLOGY

The data in this study was gathered through three separate resources: the Seattle Police Department's internal public records tracking system, the administrative branch's Public Disclosure Tracking System (PDTs), and informal surveys sent to the public disclosure officers throughout the City of Seattle. The data from each of these sources was then compiled into various spreadsheets from which this study's data and analysis resulted.

The study calculated its figures by isolating the total number of requestors, the serial requestors, and the average requestor and by reviewing each in light of three categories: the number of requests, the tracked hours spent per request, and the tracked cost per request. The number of requestors figures were calculated by removing duplicate requestor names from the spreadsheets and counting the number of remaining requestors. The serial requestor figures were calculated by filtering the spreadsheets for the names or pseudonyms under which individuals or entities submitted requests, and then by identifying the ten most frequent or highest requestors in each category. The average requestor was calculated by removing the top ten requestors by category to fulfill the requests and then by calculating the “trimmed” average of the remaining number for each category based on the total number of discrete requestors.

#### IV. LIMITATIONS

Generally speaking, the study contains two core limitations, underestimated hours and cost data and the overestimated number of requestors. First, the study contains underestimated hours and cost data for two reasons: (1) the City primarily tracked only public disclosure officer (PDO) time and wage cost, and (2) the tracked time and cost figures were underreported due to a combination of staffing, PRA priorities, and technology.

The City’s hour and cost estimates reported below primarily tracked PDO time and cost, and as a result, is an underestimated depiction of the City’s time and cost spent in compliance with the PRA for several reasons. First, the PDO estimates were underreported because the figures did not include the full cost of PDOs. SPD and most of the rest of the City’s estimated costs<sup>1</sup> were a function of the PDO’s hourly wages multiplied by hours spent, with overhead and benefits not factored in.

Additionally, measuring the impact of compliance with the PRA by looking exclusively to the wage cost of the City’s PDOs does not include other significant time and costs figures which the City incurred, but did not historically track with consistency. These time figures include time spent by non-PDOs administering, coordinating, and researching records for PRA requests and time spent by attorneys reviewing records for exemptions. The cost figures include employment cost of non-PDO employees and attorneys, and actual cost of providing electronic records, data storage, specialized software purchasing and licensing fees, and supplies.

For the PDO time and cost figures that the City measured, the figures were very likely underreported due to understaffing, lack of automation in reporting, and the fact that this study’s data collection occurred during a tracking system transition process. First, both SPD and the rest of the City historically used systems that relied on self-reporting to track request data. This led to a high possibility of underestimating data because responding to requests took primacy over reporting the

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<sup>1</sup> The rest of the City’s remaining estimated costs included a relatively small minor amount of processing, appeals, and in-house litigation expenses, not including the expenses incurred by the City’s Law Department. The non-Law Department litigation and appeals figures constitute less than one percent (.6%) of the costs tracked by PDTS from 2011 to 2015.

response to the request, leaving many hours and cost figures underreported. Another factor that led to underreporting in hours and costs was that, in the past year, the City of Seattle began transitioning from its prior in-house tracking system to GovQA, a more streamlined and automated reporting and tracking system.

The secondary limitation in the study is that the number of requestors may be overestimated in two ways. First, a single requestor whose name occurred more than once in the spreadsheet but whose name was inadvertently misspelled or not spelled consistently with prior entries would be considered more than one requestor. For example, John Smith, John Smiht [*sic*], Johnathan Smith, and John Smith, Esq. would be calculated as four requestors even if all requests actually came from one lawyer named John Smith. Second, the number of requestors may be inflated due to intentional use of pseudonyms by serial requestors. For example, a particular serial requestor for the City of Seattle is known to submit requests under names such as Tracy Record, Police Video Requests, and Justin Carder, among others.

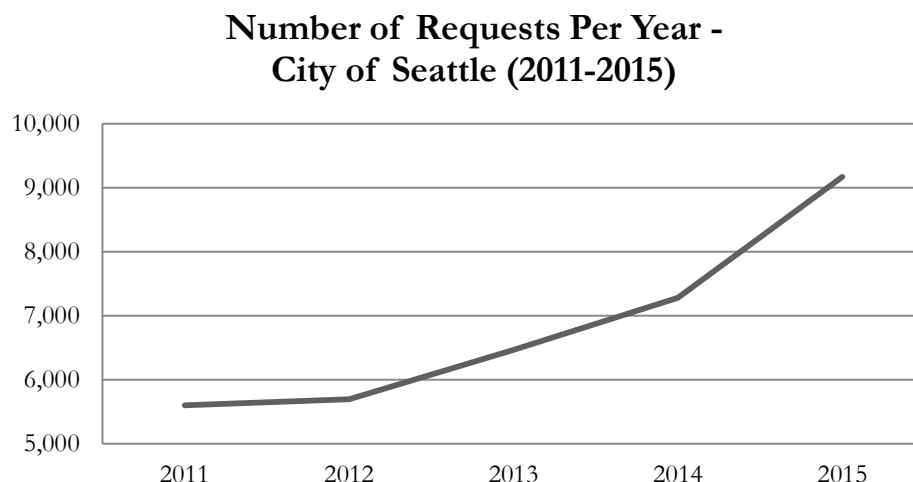
The underestimated time and hour figures and the overestimated requestor figures likely mean that the actual numbers behind compliance with the Public Records Act are much greater in number and in proportion. The underestimated time and hour figures reduces both the total number of hours and cost spent by the City, but also reduces the number of hours and cost spent per requestor, dampening the outlier requestor's actual impact. An inflated figure for the number of requestors also diminishes the outlier requestor's impact because it makes the disparity between number of requests and requestors appear less than it may actually be.

## V. DATA AND ANALYSIS

Part V summarizes and analyzes the City of Seattle's tracked PRA data from 2011 to 2015. Section A highlights the total number of requests received by the City over the past few years, and Section B analyzes that figure in light of the total number of requestors, explains the impact of the serial requestors, and highlights the serial requestor's impact with regard to the Seattle Police Department specifically. Section C describes the serial requestor's impact compared to that of the average requestor in terms of number of requests, hours spent, and cost. Section D highlights the Seattle Police Department's PRA data to showcase SPD's greater PRA burden relative to the rest of the City. Section E concludes Part V with a description of the City's observations about the manner of requests becoming more broad and complex over the past four years.

**A. Total Requests Increased by 64% from 2011 to 2015**

From 2011 to 2015, the City of Seattle's Public Records Act requests consistently increased each year, with more dramatic increases in the past two years:



The number of requests received by the City of Seattle increased by 64% from 2011 to 2015, rising in number from approximately 5,500 requests in 2011 to more than 9,000 requests in 2015.

**B. Serial Citizen and Media Requestors Were the Primary Cause of the Increase in Total Requests**

The fact that the City's total requests per year increased does not fully explain the reason for the increase. As will be explained below, the dramatic increase in the number of requests was **primarily** a result of a relatively small number of serial requestors who submitted requests with such frequency and breadth that they distorted the statistical landscape.

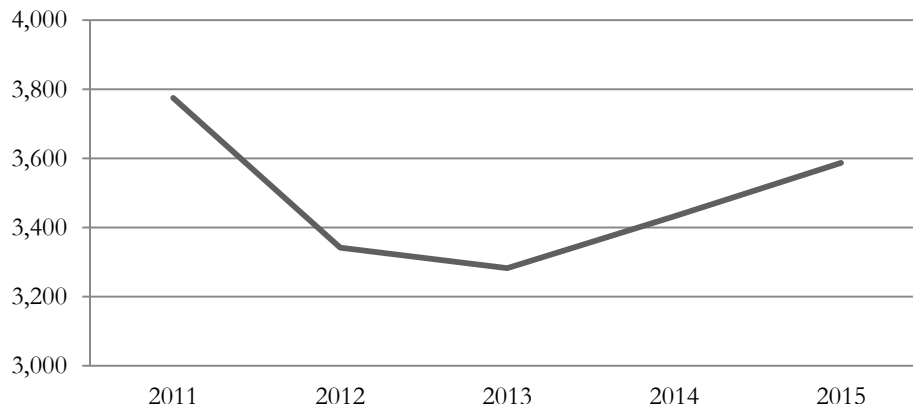
**1. The Increase in the Number of Requests Was Not Due to a Parallel Increase in the Number of Requestors**

At first glance, the increase in number of requests might be attributed to a parallel increase in the number of requestors, where each year, new requestors joined previous requestors and made similar numbers of requests for records.

However, the increase in the total number of requests cannot be attributed to parallel increases in the total number of requestors. Upon reviewing the total number of individual

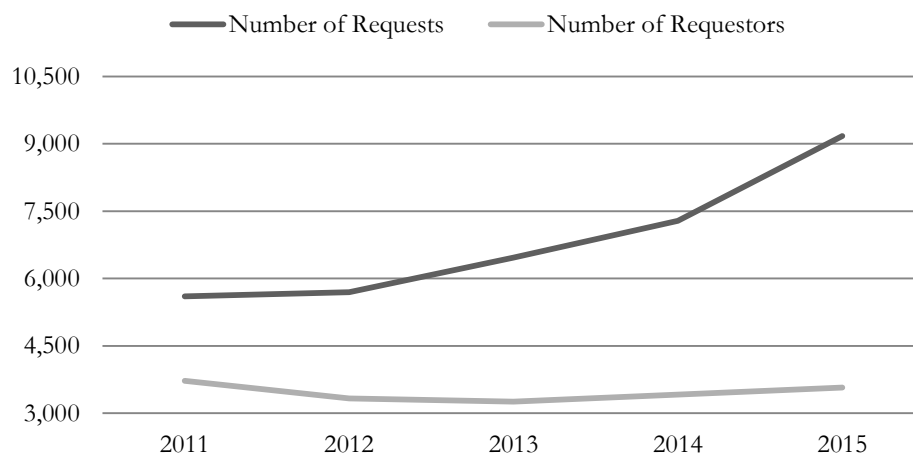
requestors from 2011 to 2015, the number of requestors **decreased overall** and only began to gradually increase again in 2014 and 2015 from roughly 3,300 in 2013 to nearly 3,600 in 2015:

**Number of Requestors Per Year -  
City of Seattle (2011-2015)**



When placed on the same chart, it becomes clear that the requests rate from 2011 to 2015 does not line up with the requestors rate:

**Number of Requests versus Requestors Per  
Year - City of Seattle (2011-2015)**



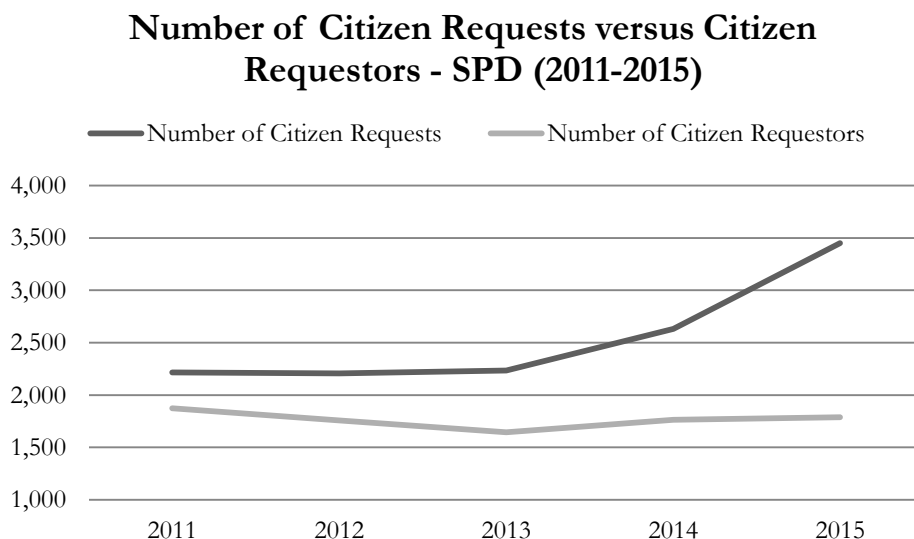
From 2011 to 2015, the number of requests increased 64% from roughly 5,600 requests in 2011 to nearly 9,200 requests in 2015. By comparison, the number of requestors decreased by 5.5% from 3,800 requestors in 2011 to 3,600 requestors in 2015. Consequently, when the total number of requests is compared to the total number of requestors, the increase in requests cannot be attributed to a parallel increase in requestors.

2. The Increase in the Total Requests Was Primarily Due to Serial Citizen and Media Requestors and Secondarily Due to a Mild Increase in Total Requestors

The increase in the total number of requests was primarily a function of a handful of serial requestors who submitted significantly more requests than the average requestor, and secondarily, a 9% increase in the total number of requestors in the past two years. This pattern held for citizens and media requests and requestors, and less so for attorneys and all other requestors.<sup>2</sup>

A review of the Seattle Police Department's data regarding the rate of change for the number of requests and requestors from 2011 to 2015 demonstrates this trend. The following graphs show that the handful of serial requestors tended to be either members of the media or citizens, instead of other categories of requestors, such as attorneys.

For citizen and media requestors, the rate of increase in the number of requests did not parallel the overall decrease in the number of requestors. First, the gap between the number of citizen requests versus the number of citizen requestors widened significantly from 2011 to 2015:

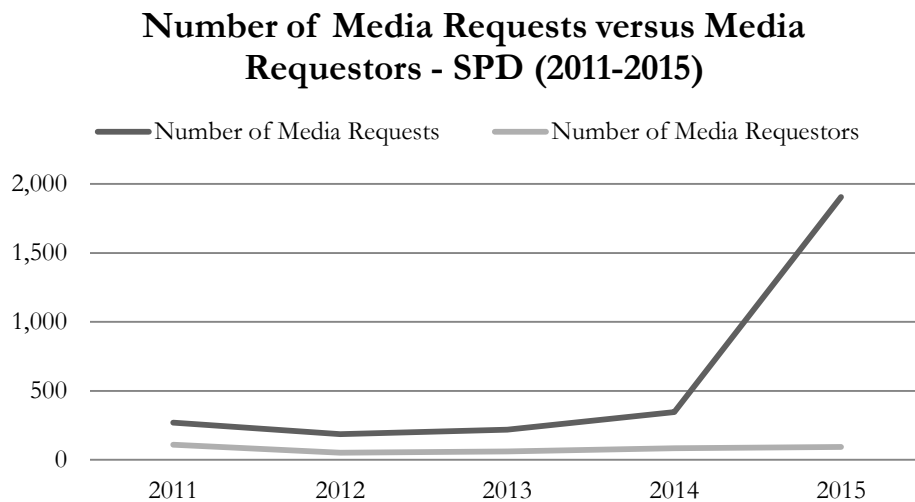


From 2011 to 2015, the number of citizen requests increased at a rate of 64.3% and the number of citizen requestors decreased at a rate of 4.7%.

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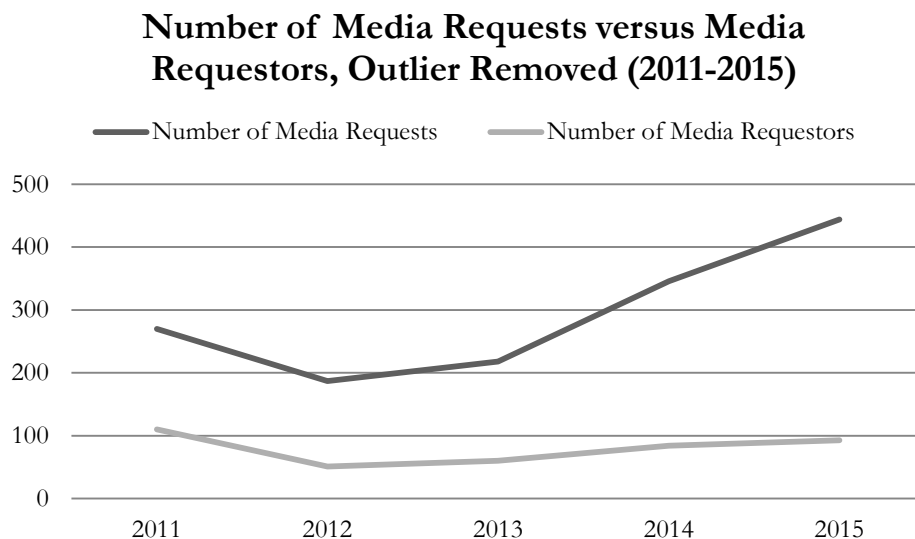
<sup>2</sup> The other category represents a mix of businesses, non-profits, city employees, insurance or investigation companies, students, and labor unions

The same pattern emerged for media requests and requestors, increasing much faster in 2015:



The increase in 2015 is attributable to a single serial requestor who is an outlier among outliers. The increase from 346 media requests in 2014 to nearly 2,000 requests in 2015 can be attributed to this individual who requested roughly 1,500 records in 2015 using “bot” requests automatically submitted by a computer program under various names.

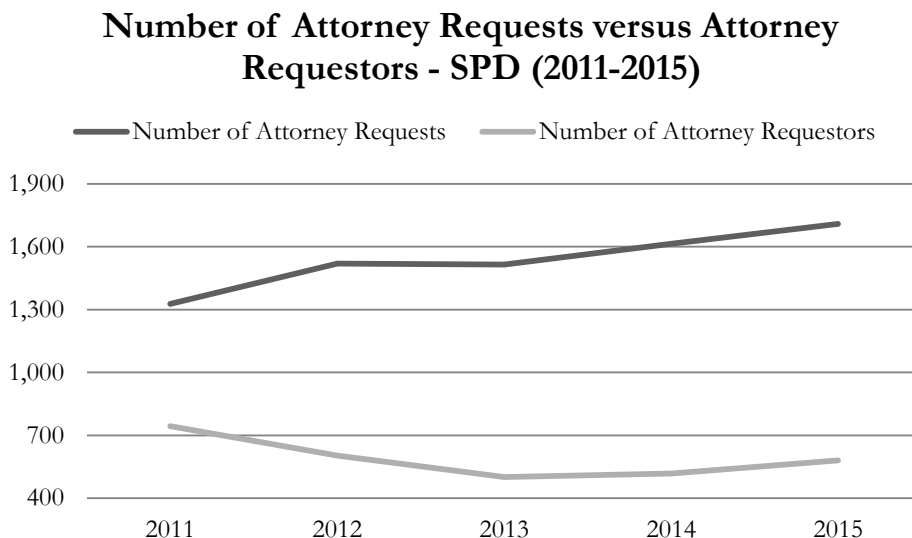
Excluding that individual requestor from the data, however, media requestors followed a similar pattern as seen with citizen requests and requestors:



From 2011 to 2015, the number of media requests increased by 60.8% and the number of media requestors decreased by 18.3%.



For attorney requestors, however, the increase in requests at times seemed to more closely parallel the increase in requestors:



From 2011 to 2015, the number of attorney requests increased 28.7%, and the number of attorney requestors decreased by 21.9%.

More recently, however, from 2013 to 2015, the number of attorney requests increased by 12.8% and the number of attorney requestors increased by 20%. This parallel growth from 2013 to 2015 may indicate that attorneys are submitting PRA requests slightly more consistently each year, possibly to supplement or replace discovery in litigation.

Taking these graphs into consideration, serial requestors in both the citizen and media categories were the primary cause for the increase in the number of requests and attorney requestors may have contributed not as serial requestors, but as an increased baseline of total attorney requestors. The specific numbers behind the top ten serial requestors are the topic of the next section.

### **C. Serial Requestors Had an Outsize Impact on the City of Seattle's Public Records Requests, Response Times, and Wage Cost**

#### **1. The Number of Requests, Hours Spent, and Costs for Serial Requestors Were Significantly Above Those of the Average Requestor**

Compared to the average requestor, serial requestors submitted a significantly higher number of requests which required the City to spend significantly more hours responding to those requests with substantially greater costs associated with responding to those requests. The top ten requestor in any given category for SPD or the rest of the City typically represented nearly 15% to 20% of the number of total requests, time spent, and wage costs over the past four years.

Surprisingly, little overlap occurred between those top individuals who requested records from SPD and the top individuals who requested records from the rest of the City. This signals that

the rest of the City and SPD had distinct groups of serial requestors as opposed to one group of serial requestors submitting requests to the entire City. The following chart and graphs summarize the top ten requestors in each category compared to the average requestor for both SPD and the rest of the City from 2011 to 2015.

The average top ten requestor scored significantly higher than the average requestor in all measured categories across the City for the past four years. The following chart demonstrates these scores, showing the average requestor compared to the average top ten requestor in terms of the number of requests, and the hours and cost spent in responding to those requestors:

**Average Top Ten Requestor versus Average Requestor –  
City of Seattle (2011-2015)**

	Number of Requests	Hours Per Requestor	Cost Per Requestor
Average Top Ten	277.5	521.9	\$23,505
Average Requestor	1.8	3.0	\$135
Difference	275.7	518.9	\$23,370

Taking these numbers into consideration, over the past four years, a typical top ten requestor sent in roughly 275 requests more than the average requestor, and the City's response to the typical top ten requestor took nearly 520 hours (sixty-five full work days) and cost \$23,000 in wages more than the average requestor.

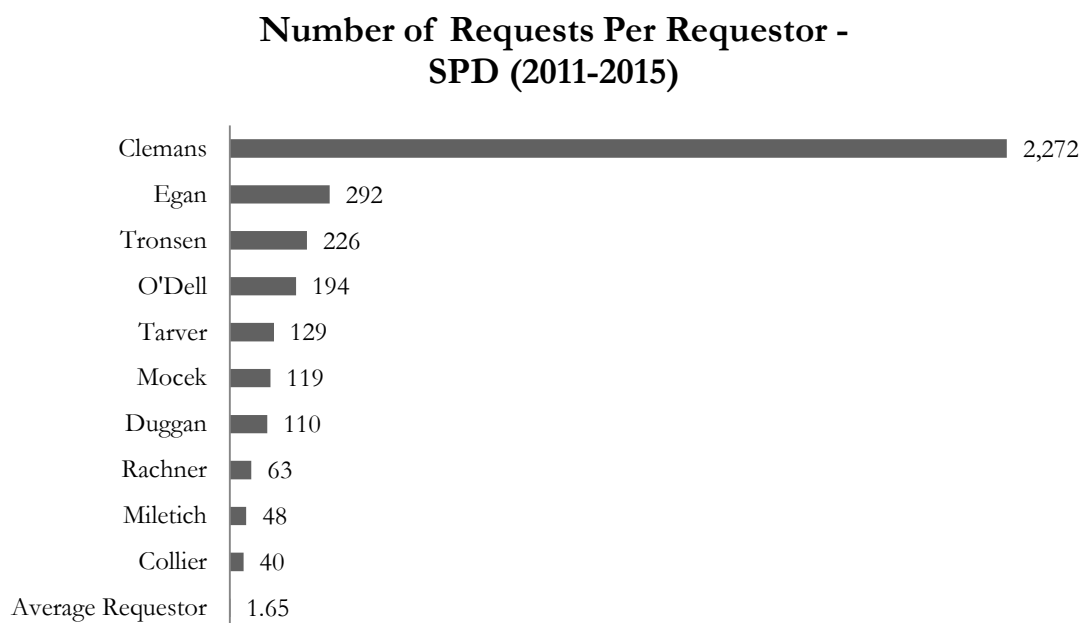
The following sections go into these figures in greater detail by reviewing and comparing the top ten requestors to the average requestor in each category for the Seattle Police Department and the rest of Seattle, respectively.

**2. The Seattle Police Department**

From 2011 to 2015, SPD received almost 24,000 records requests, spent roughly 28,000 hours on those requests, at a cost of nearly \$815,000 in public records officers' wages.

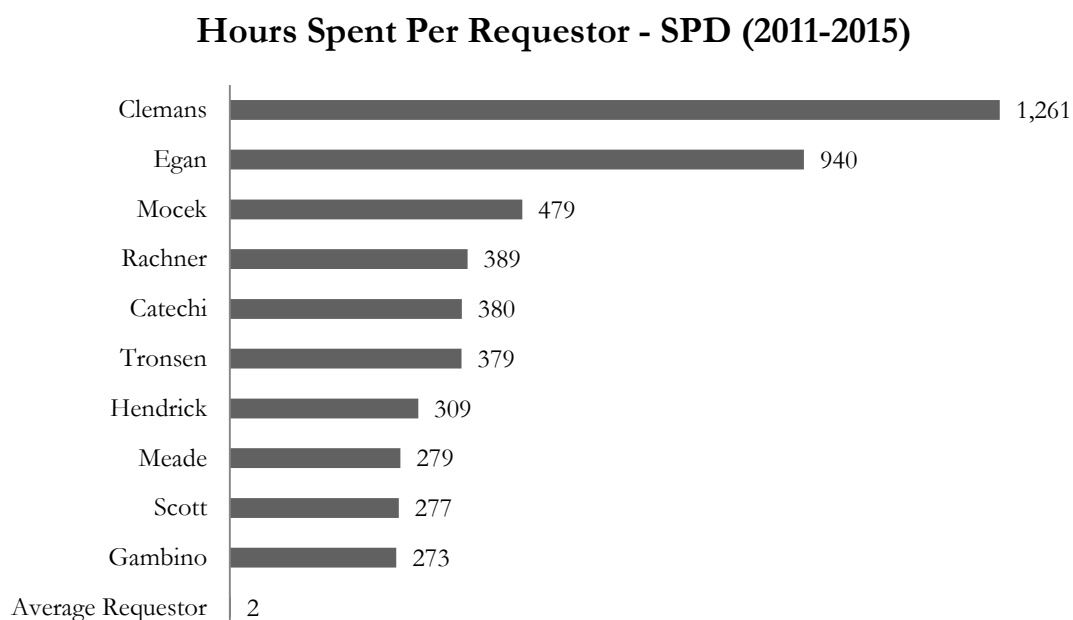
During the same time, the top ten requestors in each of those categories sent in a total of nearly 3,400 requests (14% of requests), and SPD spent nearly 4,600 hours (16% of hours) at a cost of more than \$147,000 (19% of wage costs) responding to their requests. The top ten requestors in

all categories were significantly higher than for the average requestor. With regard to the number of requests, a large gap existed between the number of requests by the average requestor versus that of the top ten requestors:



The average requestor who issued a request to SPD sent in a request for a public record a little more than 1.5 times over four years. However, other individuals sent in twenty-five to **nearly 1,400 times more requests** than the average requestor over the span of four years.

Similarly, SPD's number of hours spent per requestor varied wildly when the most time-intensive requestors were compared to the average requestor over the past four years:

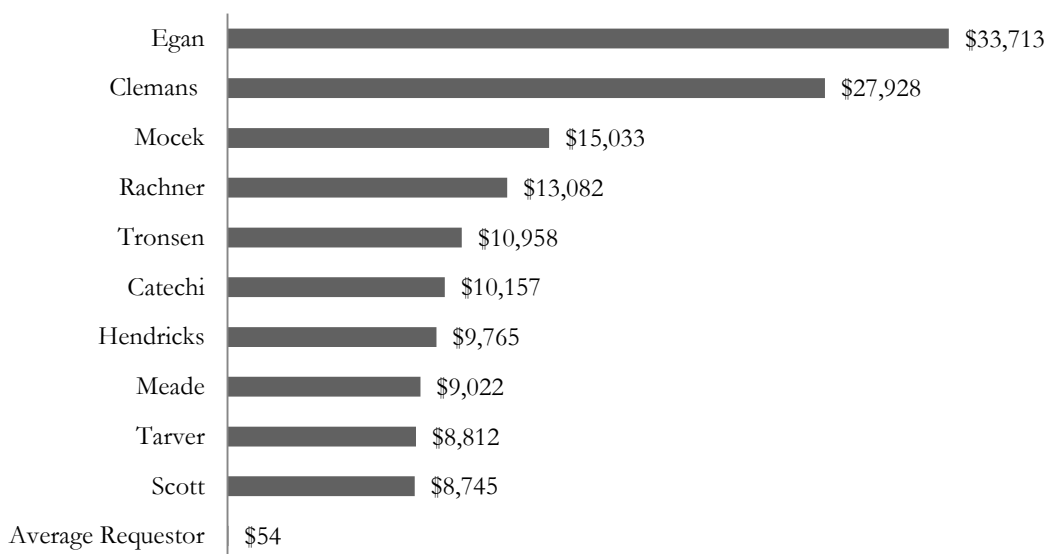


Although SPD took a little over an hour and fifty minutes per average requestor from 2011 to 2015, SPD took from nearly 250 to over 1,200 hours to fulfill the records requests by the top ten requestors.

To put those hours in perspective, one employee working full-time would have spent from seven full work days (273 hours) to eleven full work days (389 hours) to more than **seven full work months** to respond to the highest outlier (1,261 hours).

Lastly, the wage cost per requestor<sup>3</sup> followed a similar pattern with the average requestor's cost being significantly below that of the average outlier requestor's cost.

### Wage Cost by Requestor - SPD (2011-2015)



The wage cost by requestor for SPD from 2011 to 2015 ranged from more than 150 times as much spent on one requestor (\$8,745) than the average requestor to over **600 times more** on the highest requestor (\$33,713) than on the average requestor.

### 3. The Rest of the City

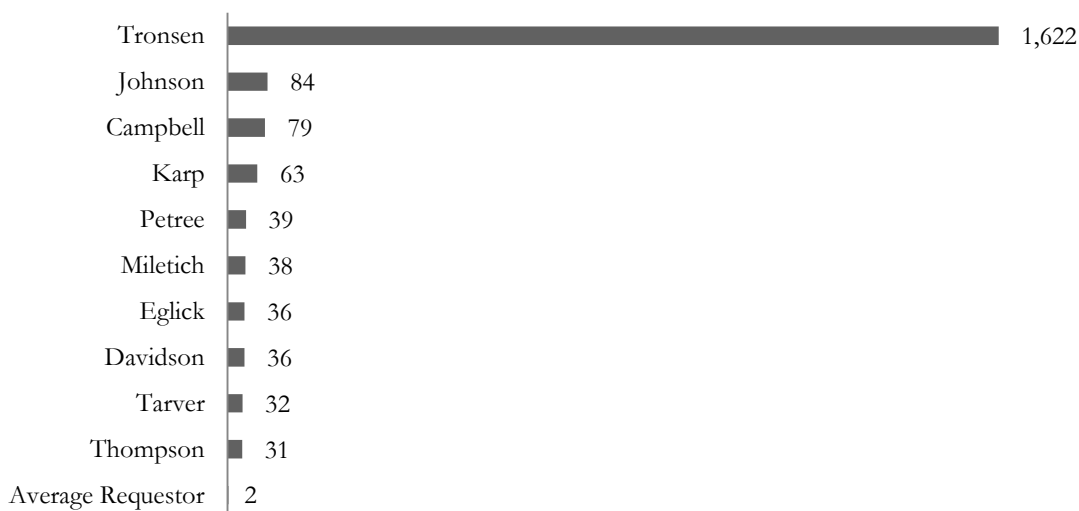
The serial requestor's impact on the rest of the City was similar to its impact on SPD. Looking at all requests from 2011 to 2015, the rest of the City of Seattle received over 9,000 requests, spent over 27,000 hours fulfilling those requests, for a total cost of nearly \$1,578,000. Taking only the top ten requestors in each of those categories into consideration, however, resulted in the top ten requestors being responsible for more than 2,000 requests (21% of requests), almost 5,500 hours (20% of hours) and nearly \$323,000 dollars (20% of cost) spent in responding to their requests by the rest of the City.

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<sup>3</sup> The wage cost per requestor was calculated by multiplying the number of a PDO's hours spent on a requestor's requests by that PDO's hourly salary and adding the sum of those per-request costs for a total cost per requestor.

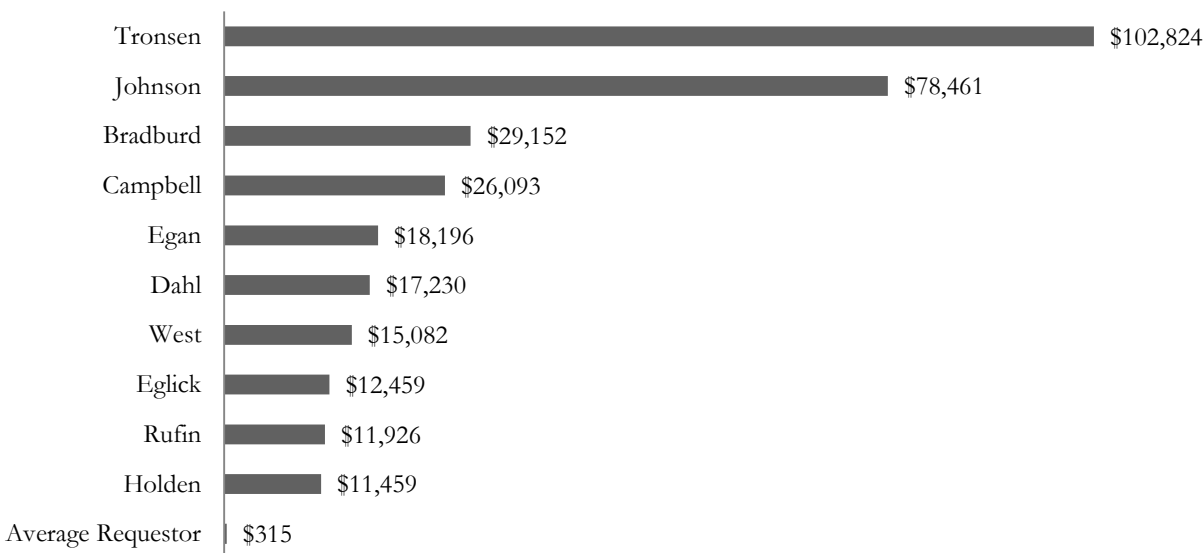
With regard to the number of requests issued per requestor, from 2011 to 2015 the average requestor submitted two requests for documents from the City. However, several individuals represented a significant departure from that average, submitting a public records request from 15 to **over 800 times** more often than the average requestor:

### Number of Requests Per Requestor - Rest of City (2011-2015)

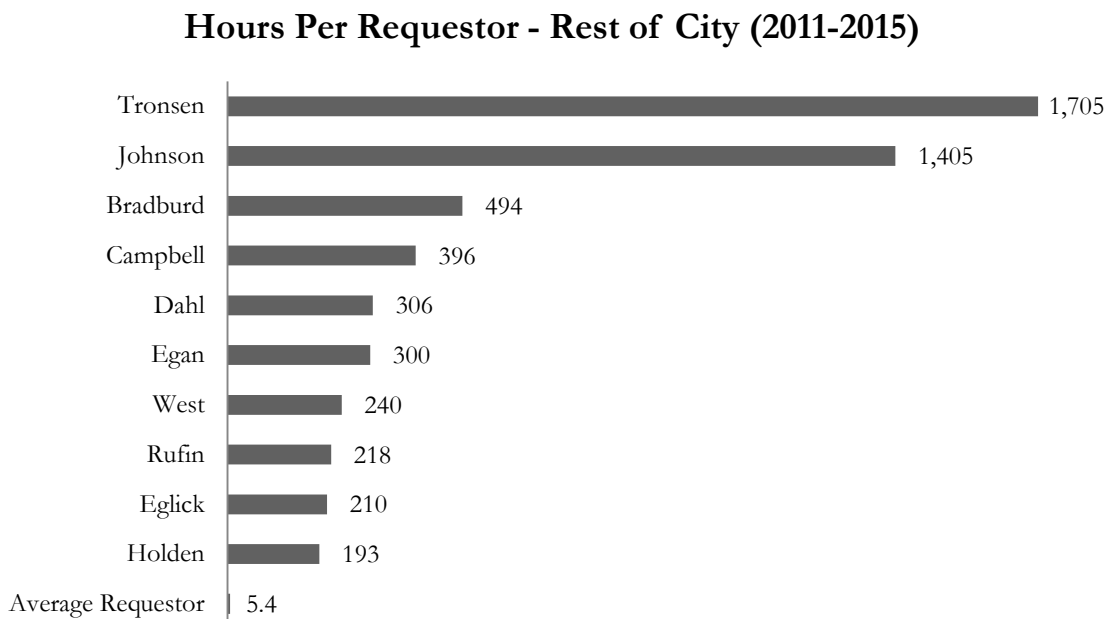


The average cost per requestor for the rest of the City followed a similar disproportion. The average cost per requestor was just above \$300 per requestor. Numerous individuals, however, cost the City a minimum of 35 to more than 300 times as much as the average requestor:

### Cost by Requestor - Rest of City (2011-2015)



A similar gap exists for the number of hours the rest of the City spent on particular requests from 2011 to 2015. During that time, on average, the rest of the City spent around five and a half hours per requestor, or roughly an hour and twenty minutes per year per requestor. With regard to a handful of individuals, however, the rest of the City spent from **50 to 250 times more hours** on select requestors:



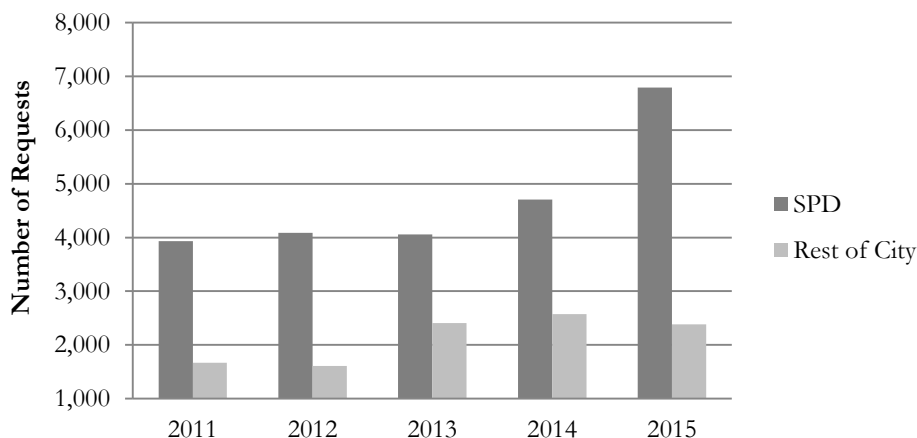
To put these hours in perspective, one public disclosure officer would need to work for nearly **three uninterrupted years** to respond to the top ten public records requestors for the rest of the City. A public disclosure officer working on public records requests full time for four consecutive years could only spend a total of 8,256 hours responding to public records requests. And, in light of the top ten requestors, the rest of the City's time required to respond to the top ten requestors over the past four years constituted nearly 5,500 work hours, or nearly three years of work-time.

In sum, the average top ten requestor had a greater impact than the average requestor in all categories across the entire City of Seattle. This difference in impact is not a matter of small degree. On average, the average top ten requestor caused the City to handle roughly 150 times more requests, and spend 175 times more hours and cost responding to requests, making the impact on the City significant and substantial in degree.

**D. The Seattle Police Department Shouldered the Supermajority of the City's Requests and Requestors**

Data from the past four years indicates that SPD handled the supermajority of Public Records Act requests and requestors when compared to the rest of the City of Seattle. For one, SPD consistently handled a much greater number of public records requests than the rest of the City:

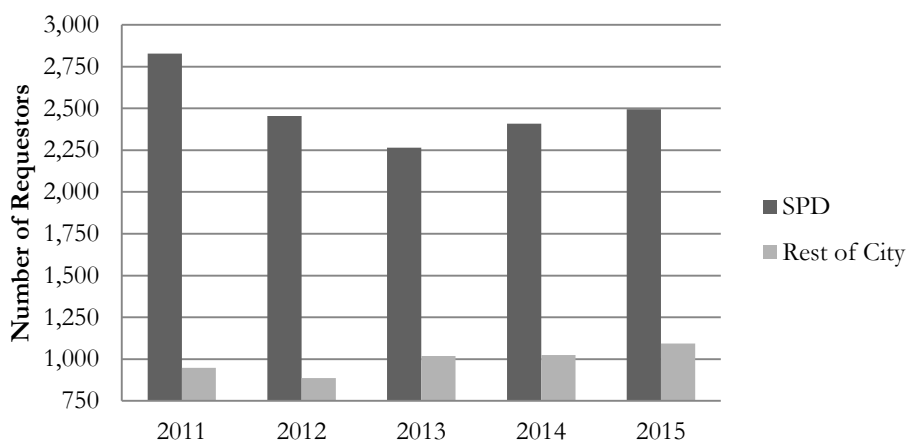
**Total Requests Per Year, SPD versus Rest of City (2011-2015)**



From 2011 to 2015, SPD received 69% of the requests, peaking at 74% of the requests in 2011, as few as 63% in 2013, and 69% of the requests in 2015.

In addition, SPD received requests from a larger number of requestors than the rest of the City:

**Total Requestors Per Year, SPD versus Rest of City (2011-2015)**



SPD received requests from 71% of the total number of requestors from 2011 to 2015, with 75% in 2011 and 70% from 2013 to 2015.

## E. Broad and Complex Requests Are Becoming More Frequent

The City of Seattle's experience over the past few years reflects what one court described as agencies "beleaguered" with public records requests. *Andrews v. Washington State Patrol*, 183 Wn. App. 644, 646, 334 P.3d 94, 95 (2014) *review denied*, 182 Wn.2d 1011, 343 P.3d 760 (2015). The City's data shows that this is because of a few, persistent requestors who routinely submit massive requests that require hundreds, and even thousands, of hours to process. For instance, they have requested all Automated Vehicle Locator (AVL) data related to all SPD vehicles, all internal investigations files since 2010, all Incident Action Plans for the past decade, and requests for the entire contents of databases have become the norm. Even one of these requests can be inordinately costly for the City to both respond to the request and properly exempt portions of the record. For the AVL request mentioned above, in order to settle a lawsuit, the City expended \$45,000 to redact the exempt portions of the data.

The City has tried to post ever-increasing volumes of data online, but the number of requests continues to rise and requestors use the open data to generate even more requests. For example, when the City started posting its COBAN in-car video log online, two requestors used data derived from the log to generate requests for dozens of videos and related records.

Tim Clemans, a top requestor for SPD, has single-handedly taken submitting PRA requests to a new level. Mr. Clemans has submitted requests to the City seeking massive volumes of records, such as all 911 recordings in SPD and the Seattle Fire Department, and more than 412,000 in-car videos. Recently, Mr. Clemans submitted his broadest request yet, asking for effectively **all of the City of Seattle's records**, without mention of a timeframe, department, or other limiting factor.

Without a change in the Act, we see no end in sight to this trend.

## VI. CONCLUSION

From 2011 to 2015, the City of Seattle experienced two overarching trends: a significant increase in the number of Public Records Act requests, on the one hand, and an overall decrease in the number of requestors on the other. The City attributes this trend to a group of serial requestors who issue requests in such numbers and of such complexity that, when compared to the average requestor, they require the City to spend substantial and increasing amounts of resources to maintain compliance with the Public Records Act. During this time, the Seattle Police Department bore the brunt of the resource demand, receiving over two-thirds of the requests from over two-thirds of the requestors. The City predicts that the overall increase in requests will continue and no evidence indicates that the disparity between the number of requests and requestors will shrink.

Over the past four years, it is apparent that the increase in the number of requests does not reflect more interest in public records by more individuals. Instead, the City is spending more time and more money on more requests from fewer people.