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Judge won't permanently block release of Navy nuclear data in Kitsap County

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A federal court judge has declined to permanently block the release of Kitsap County documents about government plans to a nuclear emergency at the Navy Kitsap-Bangor base or other Navy facilities.

by [Hal Bernton](#)

Seattle Times staff reporter

A federal court judge has declined to permanently block the release of Kitsap County documents about response plans to a nuclear emergency at the Navy Kitsap-Bangor base or other Navy facilities.

U.S. District Court Judge Ronald Leighton on Dec. 15 had issued a temporary injunction restricting the release of what was termed “sensitive and protected national security information” contained in these federal government documents.

Since then, public-records requests to access the documents have been withdrawn, and the judge has found that most of the issues involved in the case have now been rendered moot.

“Because no request is pending ... a live case or controversy regarding the County’s potential disclosure does not exist,” Leighton wrote in a ruling he signed Thursday.

The unusual case was filed in U.S. District Court in Tacoma, and resulted from a dispute between the Navy and Kitsap County over what information could be released under state public-records laws.

“From our perspective, we have the state laws — the public-records act — to comply with, so we were a little bit caught in the middle in this,” said Shelley Kneip, senior deputy prosecuting attorney for Kitsap County.

The case centers on a public-records request made by [peace activist Glen Milner](#) in January 2015. He asked Kitsap County to release documents about the consequences of a nuclear incident at Kitsap County Navy facilities, and also information about emergency response.

By the summer, that public-records request had yielded nearly 6,000 pages of [documents](#) from Kitsap County.

But Kitsap County and federal officials were at odds about what information in additional documents could be released, including details about a county exercise that simulated the response to a nuclear incident.

At one point, the county was warned the release of protected information would expose their employees to the risk of criminal prosecution, according to a footnote in a brief filed by the U.S. Attorney's Office in Seattle, which represents the Navy in the case.

Then on Dec. 14, amid Navy concerns that more documents would soon be released, the U.S. Attorney's Office [sued](#) to prevent the disclosure of what was termed unclassified but sensitive information held by Kitsap County.

"The broader dispute was over lines of authority, and who made decisions," said Katherine George, an attorney representing Milner.

Affidavits filed by government officials detailed their concerns over possible release of more information on how the government would respond to nuclear incidents.

One scenario, for example, "set the stage for the actions required to mitigate the consequences of a terrorist attack involving a nuclear weapon in Department of Defense custody at a military installation," according to an affidavit filed by Antonio Aragon, of the National Nuclear Security Administration.

The day after the lawsuit was filed, Leighton issued his temporary restraining order. A few days later, Milner withdrew his public-records request, and a second request for the information made by Kitsap Sun reporter Ed Friedrich also was withdrawn.

"I had already received most of the information that I wanted," Milner said.

With the public-records requests withdrawn, Leighton, in his April decision, declined to issue the permanent injunction sought by the Navy.

In his ruling, Leighton did find that one issue remain unresolved — whether the county could be required to return documents requested by the Navy. The judge wrote that the federal government could sue in federal court to enforce "it's contractual and property rights" to the documents.

Emily Langlie, a spokeswoman for the U.S. Attorney's Office in Western Washington, said "we are exploring ways to resolve this matter and are hopeful that we can reach an understanding with the county short of litigation."

In the meantime, Langlie said the temporary injunction barring release of the information remains in effect.

Kneip, of Kitsap County, declined to comment on whether a temporary injunction remains in effect. But she said the county is in conversations with federal officials, and "we think we can work it out."

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