



STATE OF WASHINGTON
WASHINGTON STATE PATROL

Risk Management Division • PO Box 42600 • Olympia, WA 98504-2600 • www.wsp.wa.gov

September 8, 2021

VIA ELECTRONIC MAIL: 112923-87371361@requests.muckrock.com

Mr. Phil Mocek

RE: Public Disclosure Request – Tracking No. R006573-052721

The Washington State Patrol (WSP) received your email dated September 7, 2021, stating that you appeal the WSP's handling of your above-referenced public disclosure request. The WSP interprets your email as a request for review pursuant to RCW 42.56.520(4). This letter is the agency's response to your requested review.

The WSP complies with the letter and spirit of the Public Records Act (PRA), including the requirements to construe the PRA liberally, and interpret exemptions and prohibitions to disclosure narrowly. The nature of your request implicates the WSP's obligations under RCWs 42.56.070(9) and 42.56.080, which the Washington Court of Appeals (COA) interpreted in the case cited to you by the WSP staff assigned to your request (*i.e.*, *SEIU Healthcare 775NW v. Dep't of Soc. & Health Servs.*, 193 Wn. App. 377, 377 P.3d 214, 2016 Wash. App. LEXIS 727, 193 Wn. App. 377, 377 P.3d 214, 2016 Wash. App. LEXIS 727).

The COA stated:

RCW 42.56.070(9) expressly states that a government agency "shall not" provide access to lists of individuals requested for commercial purposes. This language impliedly places some burden on the agency to avoid disclosing lists of individuals to a party intending to use the list for commercial purposes.

The PRA generally prohibits an agency from inquiring about the purpose of a records request, but it provides an express exception for RCW 42.56.070(9). RCW 42.56.080 states:

Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose of the request *except to establish whether inspection and copying would violate RCW 42.56.070(9)* . . .
.[italics in the COA's opinion] . . .

We hold that the agency must investigate . . .



Mr. Phil Mocek
September 8, 2021
Page 2

The agency in that case attempted to persuade the COA to consider it legally sufficient for the agency to address its obligation to investigate through reliance upon an affirmation from the requesting party. But the COA responded that “merely requiring an affirmation from the requesting party is not sufficient to satisfy the agency’s obligation to investigate under RCW 42.56.070(9).”

To comply with its obligations under RCWs 42.56.070(9) and 42.56.080, as interpreted by the COA, the WSP provided you with a declaration and reiterated its commitment to processing your requests consistent with the law.

Conclusion

The nature of the request that you submitted implicates the WSP’s obligations under RCWs 42.56.070(9) and 42.56.080, as those obligations have been interpreted by the Washington Court of Appeals. The WSP appreciates the opportunity to review your review request, but respectfully disagrees that it has not properly handled your request. The WSP remains committed to handling every public disclosure request, including the one referenced above, consistent with all applicable laws.

Sincerely,



Dory L. Nicpon
Risk Management Division