

Ms. Stein,

Attached you will find a zip file containing the first installment of records related to request #19-0043.

In addition to the zip file is an exemption log, listing the attorney client redactions and the attorney work product redactions.

In order to better serve you, please help me by identifying what departments would likely have the relevant records. To broadcast this request to over 800 employee's seems excessive. Your help is greatly appreciated.

I anticipate the 2nd installment of records to be available on or about March 22nd.

Thank you,

Cori Russell, CPRO
Public Records Officer
(received Feb. 27)

March 5, 2019

Dear Ms. Russell:

We submitted a public records request to Skagit County on January 31, 2019. We received our first communication from you regarding this request on February 14, 2019. This letter responds to your most recent communication, an email with attachments dated February 27, 2019. We have looked up some court decisions and believe the following is correct:

1) The County hasn't performed an adequate search for the public records we identified in our request.

The law requires the County to conduct a search "reasonably calculated to uncover all relevant documents." Neighborhood Alliance of Spokane County v. County of Spokane, 172 Wn.2d 702 at 720 (2011). "The adequacy of a search is judged by a standard of reasonableness, that is, the search must be reasonably calculated to uncover all relevant documents... Additionally, agencies are required to make more than a perfunctory search and to follow obvious leads as they are uncovered. The search should not be limited to one or more places if there are additional sources for the information requested." Neighborhood Alliance, cited in Block v. City of Gold Bar, 189 Wn. App. 262, 355 P.3d 266 (2015)

The message with the first installment of documents requests that we "help me by identifying what departments would likely have the relevant records. To broadcast this request to over 800 employee's seems excessive". It is up to the County to search for and produce the public records we identified. Your request seems to shift the burden to the citizens to know where County records are kept. That is something the County can find out, if it doesn't know, while we can only guess.

The Washington State Supreme Court has also stated: "Administrative inconvenience or difficulty does not excuse strict compliance with the PRA." Zink v. City of Mesa, 140 Wn. App. 328, 337, 166 P.3d 738 (2007). We believe your response violates the PRA.

2) Inadequate Exemption Log.

Your message states that you provide an exemption log, but an exemption log must contain a brief explanation why each document fits within the exemption: "an agency withholding or redacting any record must specify the exemption and give a brief explanation of how the exemption applies to the document. RCW 42.56.210(3)." Sanders v. State, 169 Wn.2d 827, 240 P.3d 120 (2010). In Sanders,

the State Supreme Court went on to say "Allowing the mere identification of a document and the claimed exemption to count as a "brief explanation" would render the brief-explanation clause superfluous." And "[C]laimed exemptions cannot be vetted for validity if they are unexplained." In other words, we cannot tell from a blanket claim of exemption for numerous documents why you claim they are exempt. Simply asserting that an exemption applies, without providing an explanation, does not constitute a sufficient exemption log.

3) **Good Faith.**

We expected that our County would in good faith provide the requested public records so that the we can be informed about how county government handled the charter issues in 2018. Instead, we are effectively told to find the records ourselves, and then, the content of most of the documents claimed to be provided are largely redacted.

In all of the cases we read, this provision of the law is fundamental to public records disclosure requests:

The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created. This chapter shall be liberally construed and its exemptions narrowly construed to promote this public policy and to assure that the public interest will be fully protected...

RCW 42.56.030

We hope that the County will in fact produce the records that we have requested without further delay. We expect no less than good faith compliance with state law from an open and responsive county government.

Christie Stewart Stein
Timothy Manns
Gary Wickman