

From: Mitchell, Kristen (ATG) <KristenM1@ATG.WA.GOV>
Subject: RE: PRA request re RCW 90.64.130
To: "D. Ellsworth" <[REDACTED]>
Date: Wednesday, December 26, 2012, 5:55 PM

Mr. Ellsworth –

Thank you for your response. As I indicated on the phone, Ms. McNagny is away from the office on vacation and I believe she will be back around Jan. 3 or 4. At that point in time we will be contact to let you know how long it will take to provide you with an agency certification of the records attached to your previous email.

I also need to provide you with a clarification. I apologize if I was not clear in my explanation but do not want to leave you with any misunderstanding. It is true that the Public Records Act applies to all “agencies” defined in RCW 42.56.010 as “all state agencies and all local agencies.” But I’m not sure that is really the issue you are concerned about and I don’t believe that was the issue we discussed. You were interested in the application of specific exemptions in the Act to particular records held by agencies other than WSDA. WSDA has no authority to make any determination that records held by other agencies either 1) fall within the scope of records covered by a specific exemption in the Act or 2) have been properly provided (or not) to a records requestor by that agency. It does not matter whether the question concerns an actual records request or is presented to WSDA as a hypothetical question.

Thanks,

Kristen

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RE: RE: PRA request re RCW 90.64.130
Monday, December 31, 2012 12:37 PM
From: "Mitchell, Kristen (ATG)" <KristenM1@ATG.WA.GOV>
To: "D. Ellsworth" <[REDACTED]>

Mr. Ellsworth -

I've received your multiple emails. The process you describe for providing you a certification of public records is fairly similar to what I had in mind. It may be a simple process but it will still take a little time. We will do our best and ask for your patience.

I am not in a position where I can provide you legal advice but I can provide some general information. Two thoughts on your public records questions: first, the Public Records Act as a whole provides access to records except when the record is exempt by law - either in an exemption in the Act or elsewhere in law. Thus you cannot look at individual exemptions in isolation from the rest of the Act or from other potentially applicable exemptions. Second, I believe the phrase "ranges that provide meaningful information to the public while ensuring confidentiality of business information" in RCW 42.56.610 was intended to provide direction to WSDA in development of ranges in rule and does not create any general obligation to responding agencies to provide "meaningful information." The role that WSDA was given by the Legislature to implement the section was limited to rulemaking related to the numerical ranges. RCW 42.56.610 is an exemption to disclosure - thus the importance of looking at the Public Records Act as a whole and not at a phrase taken out of context. I'll repeat what I said in my prior email: WSDA has no authority to make any determination that records held by other agencies either 1) fall within the scope of records covered by a specific exemption in the Act or 2) have been properly provided (or not) to a records requestor by that agency.

Thanks,

Kristen

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