

## **CASE REPORT**

**PUBLIC RECORDS ACT - TIME ESTIMATES FOR PRODUCING RECORDS - EXTENSIONS OF TIME.** The Public Records Act does not require an agency to provide a precise estimate of time for the agency to respond to a request nor does it limit the number of extensions that may be provided by an agency. *Andrews v. Washington State Patrol*, \_\_\_ Wn.App. \_\_\_ (September 16, 2014).

**I. Facts.** On March 8, 2012, after learning that some attorney-client telephone conversations had been recorded in a Washington State Patrol (“WSP”) breath alcohol concentration room, John Andrews submitted a public records request seeking a variety of records, including recordings of those attorney-client conversations. In its initial response, WSP estimated it would need 20 days to provide the responsive records. On April 11, 2012 WSP extended another 20 days, which expired on May 1. On May 1 the WSP neither provided the records nor issued a new estimate of time required. On May 3, 2012, Mr. Andrews filed his complaint for violation of the Public Records Act, alleging WSP’s failure to produce records within its own time estimates and failure to provide a reasonable estimate of time to produce the records. On May 9, WSP informed Mr. Andrews the new estimate was May 31, 2012. On May 25, WSP produced the complete response. At the trial court level, WSP moved for summary judgment, arguing the Public Records Act lacked a provision expressly requiring an agency to produce records by the agency’s estimated response date. Andrews cross moved for summary judgment claiming that it was unreasonable for WSP to request three 20-day extensions and ignore two of its own deadlines. The trial court ruled in favor of the WSP and dismissed the lawsuit, finding that WSP’s estimates were reasonable given the complexity of the public records request which had several parts and involved information that affected a third party’s privacy rights. The court further recognized the volume of requests WSP had to deal with in addition to Andrews’ request.

**II. Applicable Law and Analysis.** On review, the Court of Appeals (Division 3), found that the Public Records Act did not contain language requiring an agency to strictly comply with its estimated production dates. The Court stated that RCW 42.56.520 gives an agency the ability to provide an estimate of additional time needed to locate and assemble the records provided, and specifically found that RCW 42.56.520 did not limit the number of extensions an agency may make. The requester argued that the WSP should have been bound to its own time estimates but the Court stated that requirement to provide the fullest assistance to requesters in the most timely possible action did not equate to a mechanically strict finding of a violation whenever timelines were missed. Rather, the court stated, the purpose of the Act is for agencies to respond with reasonable thoroughness and diligence, and in this case, WSP’s thoroughness of response was not at issue as the uncontested facts in the case established WSP acted diligently.

**III. Conclusion.** While the WSP missed some of its self-imposed deadlines, the Court did not strictly hold the WSP to those deadlines. It's important to note that the Court relied heavily on the uncontested fact that the WSP acted diligently in pursuing completion of the public records request. If an agency does not show it acted diligently, it is possible a court may find a violation and assess penalties for withholding records beyond the estimated timelines for completion of a request. If you have any questions relating to the reasonableness of your agency's need for additional time to respond to a public records request, please contact your city attorney.