

Subject: PRR 04262021

June 4, 2021

Hello Ms. Boyer,

Thank you for your communications dated 6-1-21.

My response is as follows:

YOU STATED:

“Dear Requestor:

On May 29, you appear to object, for the first time, following the District’s first installment to you dated May 3, 2021, and its second installment to you dated May 27, 2021, that you are not able to retrieve digital video recordings that you have requested, which are posted on the District’s public sites at the links that have been provided to you. You state, “The various links you have provided do not contain any digital copies of the video recordings originally requested.” That is not correct. You have been provided with access to hundreds of original digital video recordings that are responsive to your request.

Referring a requestor by means of a link to an agency’s publicly maintained webpage or website, on which requested records are or may be posted, is an appropriate manner in which to respond to a public records request.

I do not understand your objection in this regard. If you need assistance retrieving the digital video recordings posted on the sites to which I have provided links, please advise.”

MY RESPONSE:

You provided links to STREAM or VIEW digital videos online. I have requested COPIES of the digital video media files themselves. The links you have sent to not provide a digital copy of the original video, which is what was originally requested.

From Wikipedia on the nature of Streaming Media:

Streaming media is multimedia that is delivered and consumed in a continuous manner from a source, with little or no intermediate storage in network elements. Streaming refers to the delivery method of content, rather than the content itself.

Streaming is an alternative to file downloading, a process in which the end-user obtains the entire file for the content before watching or listening to it.

The links you provided to STREAM the digital video files all stream videos that appear to have been edited. What content has been edited from the original videos? What are the file names of each digital video file? When was each digital file created? In what format was each digital video file stored? Why have you not provided exemption logs explaining what content was redacted or edited from each digital media file and why? Which digital video files have been withheld in their entirety and why?

You provided “access” to STREAMS of “original” digital video recordings that have been edited. You are correct in that if I had requested to “view” various digital video streams, the District providing a link to publicly maintained websites to “view” the content of the videos would most likely satisfy such a request. Links to stream video files do not satisfy this public records request.

This request is and always has been for DIGITAL COPIES of the ORIGINAL DIGITAL MEDIA VIDEO FILES themselves. Preferably unedited and unredacted except where allowed by law, each file produced in its original native digital media format. Delivered to the requestor via internet link or in the alternative on data CD-ROM.

If in fact the links you have provided can provide an original copy of the original digital media video files requested in original native digital format unedited, with the original dates of creation and file names attached, then yes I do require assistance. I am unaware as to how to receive original unedited digital video files from YouTube and Facebook Links.

Please see this partial YOUTUBE Terms of Service Agreement:

<https://www.youtube.com/static?template=terms>

“...Permissions and Restrictions

You may access and use the Service as made available to you, as long as you comply with this Agreement and applicable law. You may view or listen to Content for your personal, non-commercial use. You may also show YouTube videos through the embeddable YouTube player.

The following restrictions apply to your use of the Service. You are not allowed to:

access, reproduce, download, distribute, transmit, broadcast, display, sell, license, alter, modify or otherwise use any part of the Service or any Content except: (a) as expressly authorized by the Service; or (b) with prior written permission from YouTube and, if applicable, the respective rights holders...”

As the service agreement states “you are not allowed to... download” among other things the original video files themselves. Please provide digital copies of all requested digital media files.

YOU STATED:

“With respect to the Commercial Purposes Declaration, you have pointed out that it contained a caption, “Request for List of Names.” I offered to you the option of striking out that caption, and initialing your strikeout, if you believed the caption did not apply. To accommodate you further, I have attached a revised version of the Declaration in which that caption is removed. You may complete this version of the Declaration if you prefer. I will extend the due date for returning the Declaration, for your convenience, to June 8, 2021.”

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"Washington law prohibits the Bellevue School District from providing access to lists of individuals when such lists are requested for commercial purposes. RCW 42.56.070(8)."

MY RESPONSE:

I have requested no list of individuals and this public records request is not for commercial purposes.

RCW 42.56.080(2):

" The Public Records Act expressly authorizes an agency to inquire as to a requestor's purpose when necessary, to determine whether the requestor is seeking a list of individuals for commercial purposes. RCW 42.56.080(2)."

This public records request is not for commercial purposes of any kind. No list has been requested.

YOU STATED:

"The District cannot process your request without a signed declaration stating the purpose of your request."

MY RESPONSE:

I object. This statement is a violation of the Public Records Act:

RCW 42.56.080

Identifiable records—Facilities for copying—Availability of public records.

(2) Public records shall be available for inspection and copying, and agencies shall, upon request for identifiable public records, make them promptly available to any person including, if applicable, on a partial or installment basis as records that are part of a larger set of requested records are assembled or made ready for inspection or disclosure. Agencies shall not deny a request for identifiable public records solely on the basis that the request is overbroad. Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons.

RCW 42.56.070(8)

This chapter shall not be construed as giving authority to any agency, the office of the secretary of the senate, or the office of the chief clerk of the house of representatives to give, sell or provide access to lists of individuals requested for commercial purposes, and agencies, the office of the secretary of the senate, and the office of the chief clerk of the house of representatives shall not do so unless specifically authorized or directed by law: PROVIDED, HOWEVER, That lists of applicants for professional licenses and of professional licensees shall

be made available to those professional associations or educational organizations recognized by their professional licensing or examination board, upon payment of a reasonable charge therefor: PROVIDED FURTHER, That such recognition may be refused only for a good cause pursuant to a hearing under the provisions of chapter 34.05 RCW, the administrative procedure act.

RCW 42.56.070(8) does not apply. Digital video files are not "lists of individuals requested for commercial purposes."

RCW 42.56.240(14):

Body worn camera recordings to the extent nondisclosure is essential for the protection of any person's right to privacy as described in RCW 42.56.050, including, but not limited to, the circumstances enumerated in (a) of this subsection. A law enforcement or corrections agency shall not disclose a body worn camera recording to the extent the recording is exempt under this subsection.

RCW 42.56.240(14) does not apply. The District is not a law enforcement agency. No body worn camera videos have been identified to date in this records request.

YOU STATED:

"If the District has not received a completed declaration within thirty (30) days of today's date, your request will be closed."

This District lacks the statutory authority to close this public records request without due process. Please advise if the District has closed this records request. If so, it is this requestor's intention to seek equitable relief in Superior Court.

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"I, <Printed name of Requestor> have made a public records request for a list of individuals."

I have made no such request.

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"My request was made for, on behalf of, or with an intent to provide or consider providing the response to, the following person or persons, entity, association, or organization (if applicable):"

Not applicable.

Text from your "revised" Commercial Purposes Declaration PRR 04262021:

"The purpose of my request for a list of individuals is:"

Agencies shall not distinguish among persons requesting records, and such persons shall not be required to provide information as to the purpose for the request except to establish whether inspection and copying would violate RCW 42.56.070(8) or 42.56.240(14), or other statute which exempts or prohibits disclosure of specific information or records to certain persons.

Text from your “revised” Commercial Purposes Declaration PRR 04262021:

“I hereby declare, under penalty of perjury under the laws of the State of Washington, that the list of individuals that I have requested from the Bellevue School District will not be used for any commercial purpose.”

I have requested no list of individuals and this public records request is not for commercial purposes.

YOU STATED:

“The names of participants in many digital recordings are shown within the recording. For that reason, it is appropriate for the District to conduct an inquiry under RCW 42.56.080(2).”

My answer to the District’s inquiry: I have requested no list of individuals for a commercial purpose. No portion of this public records request seeks a list of individuals and no portion of this public records request is for a commercial purpose of any kind.

This records request is for “digital copies of all internet video call recordings in the District's care, custody, or control recorded between the dates 01-01-20 through 4-22-21” requests digital copies of specific identifiable and subsequently identified public records.

It is in the best interests of the public that the District preserve all digital video file public records requested, and provide copies of these public records as requested as soon as possible.

Thank you.