

BEFORE THE MISSISSIPPI ETHICS COMMISSION

IVANA KANENGISER WILLIAMS

COMPLAINANT

VS.

PUBLIC RECORDS CASE NO. R-25-002

MISSISSIPPI DEPARTMENT OF PUBLIC SAFETY

RESPONDENT

ORDER OF DISMISSAL

This matter came before the Mississippi Ethics Commission through a Public Records Complaint filed by Ivana Kanengiser Williams against the Mississippi Department of Public Safety (“DPS”). DPS filed a response by and through its attorney. The Ethics Commission has jurisdiction over this matter pursuant to Section 25-61-13, Miss. Code of 1972. The hearing officer presented a Recommendation of Dismissal to the Ethics Commission at its regular meeting held on October 3, 2025, at which time the commission approved this Order of Dismissal in accordance with Rule 5.6, Rules of the Mississippi Ethics Commission.

I. FINDINGS OF FACT

1.1 Ivana Kanengiser Williams alleges the Mississippi Department of Public Safety violated the Public Records Act by failing to timely respond to her public records requests. She also believes DPS has “willfully withheld responsive information which has been produced through past records requests.”

1.2 She submitted two records requests, the first on December 12, 2024, which she requested:

...[A] roster of all active and retired law enforcement data for all agencies under dps to include first name, last name, agency, type, status, date of hire, date of termination/resigned or retired, and certificate number....

Please have dates between July 1, 2021-Present....

Also, Flight logs of all department aircraft and helicopters from July 1, 2020 till present to include the following information: name of all passengers including pilots, departure city, arrival city, reason for flight.

List of all vehicles assigned to all non mhp Troopers under DPS to include the following information: name of the assigned user, job title, is vehicle assigned to law enforcement officer, vehicle year, model and make, was vehicle purchased under state contract and if not provide purchase invoice.

List of all employees under dps agencies who receive a clothing allowance to include name, job title and amount received.

1.3 In the second request, submitted on December 17, 2024, she requested:

...[A]ny incoming and outgoing phone calls and text messages along with any emails from [nine (9) named employees] from the date July 1, 2022-Present.

1.4 On December 23, 2024, the seventh working day after receiving the December 12, 2024 request and the fourth working day after receiving the December 17, 2024 request, DPS acknowledged receipt of both requests in writing, stating that:

You have requested an extensive number of records that will require a sizable amount of time and effort to compile and review and redact. Where possible, the agency will attempt to produce documents without charge; however, a full waiver of fees is not feasible.

DPS anticipates being able to provide an update on the progress of compiling the records along with an estimate of cost for production for you by Friday, January 10, 2025. Though not required, any information you could provide to help narrow the scope of records needing to be reviewed would be appreciated and should assist in both reducing the time and cost of record production.

1.5 By proclamation dated October 16, 2024, Governor Tate Reeves declared the following dates legal state holidays, where all offices of the State of Mississippi were closed - December 24, and 25, 2024 and January 1, 2025. Accordingly, the January 10, 2025 date is the 18th working day after receiving the December 12th request and the 15th working day after receiving the December 17th request.

1.6 On January 5, 2025, the complainant responded to the December 23, 2024, DPS email to state: "Hi I was just wondering how much longer until I will receive the information. Thank you!"

1.7 On January 10, 2025, the complainant sent another email to DPS to state that she believes a response to her December 12, 2024 request was due by January 6, 2025 and a response to her December 17, 2024 request was due by January 9, 2025. She states in the email that "No mutual agreement was made to extend this deadline."

1.8 The same day, DPS provided the complainant a detailed response outlining exemptions and providing cost estimates for non-exempt public records:

Request 1: *[A] roster of all active and retired law enforcement data for all agencies under dps to include first name, last name, agency, type, status, date of hire, date of termination/resigned or retired, and certificate number. I am asking for waiver of all fees for this request. Please have dates between July 1,2021-Present. I also ask that all fees be waived.*

Response: Please be advised that the information you requested does not constitute a data field maintained as a regularly kept business record by the Mississippi Dept. of Public Safety (MDPS). As such, your request does not constitute an "identifiable record" maintained by the MDPS under the Mississippi Public Records Act of 1983. (See R-14-001 *Miller v. Rankin County School District* and R-14-034 *Ellis v. Rankin County School District*). Furthermore, the

MDPS has no duty to create such a record under the law. (See MS AG Op., Robertson (October 13, 2006), 2006 WL 3824125).

Request 2: *Also, Flight logs of all department aircraft and helicopters from July 1, 2020 till present to include the following information: name of all passengers including pilots, departure city, arrival city, reason for flight.*

Response: DPS has estimated the cost of compiling these records at \$142.30 based on the following:

- Labor: \$45.52/hour (estimate of 1 hour)
- Review and Redaction: \$48.39/hour (estimate of 0.5 hour)

Request 3: *List of all vehicles assigned to all non mhp Troopers under DPS to include the following information: name of assigned user, job title, is vehicle assigned to law enforcement officer, vehicle year, model and make, was vehicle purchased under state contract and if not provide purchase invoice.*

Response: Please be advised that the information you requested does not constitute a data field maintained as a regularly kept business record by the Mississippi Dept. of Public Safety (MDPS). As such, your request does not constitute an “identifiable record” maintained by the MDPS under the Mississippi Public Records Act of 1983. (See R-14-001 Miller v. Rankin County School District and R-14-034 Ellis v. Rankin County School District). Furthermore, the MDPS has no duty to create such a record under the law. (See MS AG Op., Robertson (October 13, 2006), 2006 WL 3824125).

Request 4: *List of all employees under dps agencies who receive a clothing allowance to include name, job title and amount received.*

Response: DPS has estimated the cost of compiling these records at \$74.17 based on the following:

- Labor: \$33.32/hour (estimate of 1.5 hours)
- Review and Redaction: \$48.39/hour (estimate of 0.5 hour)

Request 5: *Any incoming and outgoing phone calls and text messages along with any emails from the following people from the date July 1, 2022-Present. [Seven named individuals]. I am asking for waiver of all fees for this request.*

Response: DPS has estimated the cost of compiling these records for [each named individual] at \$2,035.60 based on the following:

- Email Data Retrieval: \$50.00/hour (estimate of 2 hours)
- Review and Redaction: \$48.39/hour (estimate of 40 hours)

...

Request 6: *I would also like to add [two named individuals] to the request from the previous email.*

Response: DPS has estimated the cost of compiling these records for [each additional named individual] at

\$2,035.60 based on the following:

- Email Data Retrieval: \$50.00/hour (estimate of 2 hours)
- Review and Redaction: \$48.39/hour (estimate of 40 hours)

1.9 Ms. Williams also argues that “DPS has in bad faith stated that 2 of my requests were not identifiable records,” specifically Requests 1 and 3, as identified by DPS. With regard to Request 1, DPS explains:

Ms. Williams alleges DPS falsely denied the existence of records, claiming identical records had previously been produced in 2023 for a public records request made by MuckRock News. DPS did not knowingly attempt to withhold access to public records. The agency in good faith understood Ms. Williams’ request to be based upon information kept in personnel records since it included a request for resignation and retirement data relating only to agencies under DPS – not for all certified law enforcement in Mississippi as in the MuckRock News request....

The public records request was made by MuckRock News on January 3, 2023. Over 3,000 public records requests were submitted to DPS in 2023 and 2024, and DPS simply did not make the connection between Ms. Williams’ request, and one issued almost two years before, being similar. Upon review of the MuckRock News request, DPS notes that while similar, it is not identical. The information provided to MuckRock News included was a capture of the current information for all certified Mississippi law enforcement officers available at that time. It is not reflective of changes to status, employment, or employers “between July 1, 2021 – Present.” DPS cannot readily provide a document or report including data from July 2021, 2022, 2023 and 2024 that includes the information as requested by Ms. Williams. The information requested simply does not constitute a data field maintained as a regularly kept business record by DPS.

DPS can provide Ms. Williams with the same report that was given in response to the MuckRock News request. However, said report will not provide data as requested by Ms. Williams because it does not include a record of movement or changes, employment termination cause (termination, resignation, or retirement), or year by year reports, and will not be limited to only those agencies that fall under the DPS umbrella....

1.10 With regard to Request 3, DPS explains:

Ms. Williams provides two forms as exhibits in an attempt to show the information requested does exist as a record. However, these documents do not

provide all of the information she requested, nor do they correspond to a searchable database capable of generating a report or list containing all of her requested fields. Instead, the forms provided are maintained as attachments to entries in different modules contained within Mississippi's Accountability System for Government Information and Collaboration (MAGIC). The process to assemble the data as requested would require navigating multiple modules to produce reports containing fields that do not crosswalk between modules. This would then have to be followed by individualized queries utilizing data provided in the prior reports to find any supplemental or missing data. That is to say, DPS would have to review multiple databases and a significant number of separate, individual records in order to build a list and create a new public record to satisfy the request as made by Ms. Williams.

Simply put, Ms. Williams' request does not constitute an "identifiable record" maintained by the MDPS under the Mississippi Public Records Act of 1983.

1.11 Finally, Ms. Williams asserts that the cost estimate provided for the flight logs is in excess of the hourly cost provided and is excessive cost under the Act. In its response, DPS concurs that the cost estimate is a scrivener's error in excess of the hourly rate. Initially, DPS estimated the time required for review and redaction to be one hour; however, upon review, it was reduced to half an hour instead. The time was reduced, but the total amount was not corrected. ... This was a simple error, not a bad faith attempt to overcharge, and Ms. Williams incurred no damages as a result. The correct fee should be \$69.71 and is not an excessive cost under the Act.

1.12 DPS notes that while the complainant has a right under the Act to request public records, she is also a former DPS employee and has brought suit against DPS in an appeal of her termination to the Mississippi Employee Appeals Board ("EAB") and in a federal lawsuit against both DPS and its commissioner. Ms. Williams filed these public records requests after a DPS motion to dismiss the EAB appeal was granted on December 27, 2024. When DPS moved to dismiss the complainant's federal lawsuit, an order was entered staying all discovery. DPS argues that, with these public records requests, the complainant is inappropriately attempting to circumvent the scheduling and discovery orders in her federal lawsuit.

II. CONCLUSIONS OF LAW

2.1 The Mississippi Public Records Act of 1983 (the "Act"), codified at Section 25-61-1, et seq., Miss. Code of 1972, provides that public records shall be available for inspection or copying by any person unless a statute or court decision "specifically declares" a public record to be confidential, privileged, or exempt. Sections 25-61-2 and 25-61-11. Section 25-61-5(1)(a) mandates that "[n]o public body shall adopt procedures which will authorize the public body to produce or deny production of a public record later than seven (7) working days from the date of the receipt of the request for the production of the record." Section 25-61-5(1)(b) allows up to fourteen working days for production of public records when the public body provides a specific, written explanation why the records cannot be produced within seven days. Section 25-61-5(1)(b) allows production of public records beyond fourteen (14) working days from the receipt by the public body of the original request upon "mutual agreement of the parties." The Public Records Act is clear that a public body has a duty to either provide records or a written denial after receiving a valid public records request.

2.2 In this case, on December 23, 2024, DPS timely notified Ms. Williams that it would need additional time to respond to her public records requests. On the seventh working day after receiving her December 12, 2024 request and the fourth working day after receiving her December 17, 2024 request, DPS acknowledged receipt of both requests in writing, and clearly stated that it would provide an estimate of cost for production by Friday, January 10, 2025, which was outside the fourteen working day window. While the complainant argues that she did not provide “mutual agreement” to receive documents past the fourteenth working day, she also did not respond to the December 23, 2024 email until January 5, 2025, and did not raise the issue of timing until January 10, 2025.

2.3 Both requestors and public bodies have an obligation to communicate in good faith. See Rule 4 and Comments, Mississippi Model Public Records Rules. The communications which occurred between Ms. Williams and DPS reflect a failure by the complainant to clearly and effectively communicate. While not done in bad faith, when a requestor submits a broad public records request for records spanning multiple years and multiple topics, there should be some understanding on the part of the requestor that the public body may struggle to fully grasp the breadth and complexity of the request and struggle to comply with the time limitations imposed by the Act due to staffing issues. Additionally, with these broad public records requests where multiple departments of a public body will be involved in responding to a public records request, requestors should be willing to mutually agree to allow a public body a reasonable amount of additional time to respond, beyond the statutorily allowed fourteen (14) working day period. This would assist public bodies to fully respond with fewer errors and mistakes.

2.4 “Requestors should keep in mind that all agencies have essential functions in addition to providing public records. Agencies also have greatly differing resources. Public records procedures should prevent excessive interference with the other essential functions of the public body. Therefore, while providing public records is a duty of a public body, it is not required to abandon its other, non-public-records functions. The proper level of staffing for public records requests will vary among agencies, considering the complexity and number of requests to that public body, public body resources, and the public body's other functions.” Comment 4.1, Mississippi Model Public Records Rules. Accordingly, DPS did not violate the Public Records Act when it provided a response and an estimate of the cost of production on January 10, 2025, since it timely notified Ms. Williams of its intention to do so within seven working days of receiving her public records requests and because Ms. Williams failed to timely follow-up with DPS to notify them that she expected a response within the statutory fourteen working day time period.

2.5 There was also no violation of the Public Records Act when DPS denied both Requests 1 and 3 on the basis that Ms. Williams failed to request identifiable records. Instead of communicating with DPS to clarify the records she sought in response to Request 1 (as those that were produced to MuckRock), Ms. Williams simply filed a public records complaint with the Ethics Commission. DPS in good faith understood Ms. Williams’ request not to be a request for identifiable records, but a fishing expedition, based upon the plain language of her request. She could have easily simplified the matter by providing DPS an example of the MuckRock documents to clarify her request at the outset, or when she received the response.

2.6 Additionally, as described by DPS, records responsive to Ms. Williams's Request 3 are neither "reasonably locatable" or "reasonably translatable." The information sought by Ms. Williams' Request 3 can only be made available through a tedious process of manually searching through different modules of the state government accounting system, known by the acronym MAGIC, to find the responsive information, and then to record that information in a spreadsheet or other document. Accordingly, DPS's denial of the information sought by Ms. Williams in this case does not violate the Public Records Act. See, Stasher v. Mississippi State Personnel Board, R-22-027. DPS "has no obligation under the statute to provide documents that do not exist or to create documents to satisfy a public records request." Scruggs v. Caldwell, 970 So. 2d 1298, 1299 (Miss. App. 2007).

2.7 Additionally, DPS's estimate of \$142.30 in response to Request 2 is clearly a scrivener's error and does not violate the Public Records Act. Again, Ms. Williams could have simply pointed out to DPS upon receiving the estimate that the charge appeared to be for one hour of searching, as opposed to one half-hour.

2.8 Finally, while members of the public have the right to access certain public records pursuant to the Public Records Act, they should not try to conduct discovery through public records requests. The Public Records Act is not the proper venue for discovery.

WHEREFORE, the complaint is hereby dismissed this the 3rd day of October 2025.

MISSISSIPPI ETHICS COMMISSION

BY: _____
TOM HOOD, Executive Director