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**OPINION OF THE PUBLIC ACCESS COUNSELOR**

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KEVIN GREENLEE

*Complainant,*

v.

INDIANA STATE POLICE,

*Respondent.*

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Formal Complaint No.

21-FC-86

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Luke H. Britt

Public Access Counselor

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BRITT, opinion of the counselor:

This advisory opinion is in response to a formal complaint alleging the Indiana State Police violated the Access to Public Records Act.<sup>1</sup> Legal Counsel Cynthia Forbes filed an answer on behalf of ISP. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on June 29, 2021.

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<sup>1</sup> Ind. Code § 5-14-3-1-10.

## **BACKGROUND**

This case involves a dispute over the Indiana State Police's (ISP) denial of a records request on the grounds of reasonable particularity.

On June 2, 2021, Kevin Greenlee (Complainant) filed a public records request with ISP seeking the following:

- All emails from First Sergeant Bill Dalton to Ashley Flowers that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Ashley Flowers to Bill Dalton that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Bill Dalton to Luke Britt that contain the words "podcast", "Burger Chef," "Ashley," "Red Ball," "Crime Junkie," "Ashley Flowers," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Bill Dalton to Cynthia Forbes that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Cynthia Forbes to Bill Dalton that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris

Davis." from November 1, 2018, to April 30, 2019

- All emails from Bill Dalton to Douglas Carter that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Douglas Carter to Bill Dalton that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Bill Dalton to Kim Riley that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Kim Riley to Bill Dalton that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Bill Dalton to Brent Gulinson that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Brent Gulinson to Bill Dalton that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019

- All emails from Bill Dalton to Jeffrey Payne that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019
- All emails from Jeffrey Payne to Bill Dalton that contain the words "podcast", "Burger Chef," "Ashley," "Crime Junkie," "Ashley Flowers," "Red Ball," "Kevin Greenlee," or "Chris Davis." from November 1, 2018, to April 30, 2019

On the same day, before ISP received Greenlee's submission, Áine Caine, who works alongside Greenlee on the podcast MurderSheet, submitted a nearly identical request for records. Caine requested the same records for the six-month period prior to the timeframe in Greenlee's request. ISP dismissed Greenlee's request, arguing that since Cain and Greenlee are work partners they represent the same entity, thus their requests - when evaluated together - were seeking records for a one-year period, which is outside the guidelines established by the reasonable particularity requirement as interpreted by this office.

Greenlee takes exception to ISP's rationale. He asserts that ISP is using the reasonable particularity requirement as a fig leaf to justify slow walking requests that may show the ISP in a bad light and to discourage Greenlee from obtaining such records. Greenlee filed a formal complaint on June 29, 2021.

For its part, ISP argues that Greenlee's request, by itself, does meet the established requirements for reasonable particularity. At the same time, ISP argues by filing a request

seeking the same records as his partner for a different timeframe Greenlee is frustrating the purpose of a specificity requirement.

## ANALYSIS

### 1. The Access to Public Records Act

The Access to Public Records Act (APRA) states that “(p)roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Ind. Code § 5-14-3-1. The Indiana State Police (ISP) is a public agency for purposes of APRA; and therefore, subject to its requirements. *See* Ind. Code § 5-14-3-2(q). As a result, unless an exception applies, any person has the right to inspect and copy the ISP’s public records during regular business hours. Ind. Code § 5-14-3-3(a).

Indeed, APRA contains exceptions—both mandatory and discretionary—to the general rule of disclosure. In particular, APRA prohibits a public agency from disclosing certain records unless access is specifically required by state or federal statute or is ordered by a court under the rules of discovery. *See* Ind. Code § 5-14-3-4(a). In addition, APRA lists other types of public records that may be excepted from disclosure at the discretion of the public agency. *See* Ind. Code § 5-14-3-4(b).

### 2. Greenlee’s requests

The crux of this dispute revolves around who may request public records and when among like-minded associates. It is

a matter of first impression although has implications in other current events applications as well.

This office has long grappled with the difficulties surrounding requests for emails. Arguably, it has been the signature issue of public access during the past decade. The term “reasonable particularity” as used in Indiana Code section 5-14-3-3(a)(1) is not defined by statute as it relates to email requests but remains a predicate for a narrowly tailored ask.

Toward that end, the courts – as well as this office – have defined the parameters of reasonable particularity for requests seeking emails and have honed it to a somewhat consistent science.

For the purposes of this situation, one of those parameters involves a reasonable time frame. This office observes a six-month time frame (or less) as appropriate for a request for emails.

Here, the request in question does indeed taper its time frame to six months or less. The issue, however, is that a preceding request was submitted by a cohort, which is substantively similar but with a separate time frame.

This begs the question of whether allies can stack requests to obviate the reasonable particularity standards as a collective.

Under Indiana Code section 5-14-3-3(a), any person may inspect and copy the public records of any public agency. Notably, “person” means:

an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

Ind. Code § 5-14-3-4(m). In the context of these requests, Greenlee feigns awareness of any other request and asks this office to treat him as an individual.

Cain and Greenlee, the two requesters, are co-hosts of the Murder Sheet podcast, which in turn is a production of Mystery Sheet LLC.<sup>2</sup> The substantive subject matter of both requests is identical. Only the timeframes are different.

Notably, both Cain and Greenlee are listed on the Indiana Secretary of State's Business Division website as members of Mystery Sheet LLC.<sup>3</sup>

With these requests, they are undoubtedly working as a team under the monolithic pretext of their limited liability company. To that degree, their requests are not disparate but rather in accord.

One cannot circumvent the reasonable particularity requirements by simply recruiting proxies to monopolize the public records process concurrently. Requests of this type should be submitted consecutively. ISP has recognized this, and rightfully so. Once the first request is satisfied, then members of the same organization can file a subsequent request with altered parameters.

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<sup>2</sup> <https://art19.com/shows/murder-sheet>

<sup>3</sup> <https://bsd.sos.in.gov/PublicBusinessSearch/BusinessInformation-FromIndex>

## CONCLUSION

Based on the foregoing, it is the opinion of this office that the Indiana State Police did not violate the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', is positioned above the printed name.

Luke H. Britt  
Public Access Counselor