

Office of New Mexico Attorney General Gary King  
Civil Division  
PO Box 1508  
Santa Fe, NM 87504-1508

12/2/2013

RE: IPRA Complaint against New Mexico  
Department of Homeland Security and Emergency Management

Dear Sirs:

On November 5, 2013 I hand delivered the attached (ATTACHMENT 1) IPRA request to Mr. Estevan Lujan, Records Custodian of the Department of Homeland Security and Emergency Management.

On November 13, 2013, eight days after my request, I received an email from Mr. Lujan advising the department was requesting additional time to respond (ATTACHMENT 2). On November 20, 2013, I received notice (ATTACHMENT 3) from the department advising they were non-responsive to two documents requested and were denying the third document.

I am asserting the letter from the Village of Ruidoso to Greg Myers regarding a personnel investigation conducted by Maria Ortiz, former HR Director does indeed exist and the department is withholding this letter in order to obstruct a Human Rights Bureau complaint against the department.

Ray Alborn, Mayor of Ruidoso has advised me he is willing to swear an affidavit the letter was sent to the department.

The third document, the investigation file, the department has denied on the grounds the material is exempt under IPRA on the grounds the material is "opinion."

In its response to a HRB Complaint Charge # 13-08-27-0299 (ATTACHMENT 4), Mr. George Heidke, General Counsel of the Department of Homeland Security and Emergency Management, elected, on his own volition, to assert the material contained in the investigation was factual not opinion "the department determined the complainant did indeed make inappropriate comments." I contend the department's unwillingness to provide this material is an attempt to withhold material that reveals Mr. Heidke may be misrepresenting the facts and failing to provide exculpatory information. Because Mr. Heidke asserted the material as factual it is therefore no longer exempt under IPRA.

I respectfully request the Office of the Attorney General direct the department to provide the requested investigation file and letter and sanction the department for failing to respond to an IPRA request in a timely fashion.

Respectfully,



Brian Williams  
2491 Sawmill Rd. #107  
Santa Fe, NM 87505  
[Brian\\_Williams4@hotmail.com](mailto:Brian_Williams4@hotmail.com)  
505-989-9389



## Attorney General Of New Mexico

HECTOR H. BALDERAS  
Attorney General

ELIZABETH A. GLENN  
Chief Deputy Attorney General

November 16, 2015

Brian Williams  
2491 Sawmill Rd. #107  
Santa Fe, NM 87505

**Re: Inspection of Public Records Complaint**

Dear Mr. Williams:

We have completed our review of your complaint alleging that the New Mexico Department of Homeland Security and Emergency Management (the "Department") failed to properly respond to your requests under the Inspection of Public Records Act ("IPRA"), NMSA 1978, Sections 14-2-1 to -12. We have reviewed your complaint, the Department's September 4, 2015 response, and the IPRA. As explained below, we have concluded that the Department did not violate the IPRA.

In your complaint, you explained that on November 5, 2013 you submitted an IPRA request to the Department. You stated that on November 13, 2013 you received a response from the Department requesting additional time, and on November 20, 2013 you received a denial letter for two of your requests stating the Department had no responsive records and the third request was being denied based on being matters of opinion in a personnel file.

Under NMSA 1978, Section 14-2-11(B), when a public body denies a request, it must provide a person requesting documents with a written explanation of the denial, to include the records sought, the names and titles/positions of the persons responsible for the denial, and be mailed or delivered within fifteen days. Though failing to send a letter within the first three days as required by the IPRA, by sending a proper denial letter, the Department has complied with your inspection request. The Department complied by providing you with a proper denial letter. The letter was sent within fifteen days. For purposes of IPRA deadlines, the day the written request is received is not included, *see* N.M. Att'y Gen. Inspection of Public Records Compliance Guide at 33 (8th ed. 2015) (available on our website, [www.nmag.gov](http://www.nmag.gov), and included for your reference), so fifteen days from when the Department received the letter fell on November 20, 2013, the date

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you stated you received the denial letter. The letter adequately described the reasons the documents were not provided, that is, there were no responsive documents to two of your requests, and the personnel file exception under Section 14-2-1(A)(3) applied to the third request. Finally, the denial letter included the names and titles of the persons responsible for the denial.

Your request for documents was properly handled by the Department as they had no documents responsive to two of your requests, and the responsive documents for the third request were protected by an exception to the IPRA. Although we did not find a violation of the IPRA in this instance, we appreciate you bringing this matter to our attention. If you have any questions about our conclusions or about the IPRA in general, do not hesitate to contact us.

Sincerely,

A handwritten signature in cursive script, appearing to read "Caroline Manierre". The signature is written in black ink and is positioned above the printed name and title.

Caroline Manierre  
Assistant Attorney General

cc: Karen Takai