

Patrick Sullivan
Petitioner, Pro Se



BEFORE THE STATE RECORDS COMMITTEE
STATE OF UTAH

PATRICK SULLIVAN,
Petitioner,

vs.

UTAH DEPARTMENT OF CORRECTIONS,
Respondent.

NOTICE OF APPEAL TO THE STATE RECORDS
COMMITTEE

REQUEST NO

On November 5, 2019, I submitted two separate GRAMA requests for records related to myself, (see Exhibit A). UDC failed to respond to the request and on November 21, 2019, I appealed the denial to Director James Hudspeth, (see Exhibit B). On November 21, 2019, Director Hudspeth responded and denied the GRAMA requests on the basis that my request for a fee waiver had been denied. He also stated that each request would require a prepayment of exactly \$50 each before UDC would begin to process the requests, (see Exhibit C). I now wish to file an appeal with the State Records Committee and request that a hearing be scheduled to address the denial of my request and request for fee waiver.

UDC states that in respect to both requests they're denying my request for a fee waiver because I have not "shown" that I am impecunious. It should be noted that GRAMA puts forth no requirement that an individual prove to an entity they are impecunious, and it sets forth no conditions as to which qualify one as being impecunious. The definition of "impecunious" is: "having very little or no money

usually habitually.” (<https://www.merriam-webster.com/dictionary/impecunious>) I don’t think one could argue that I do not fall into that category. I was recently released from prison; I have significant financial obligations and have less than \$100 in my checking account. I think that should qualify me as being impecunious.

Further, UDC fails to notice that I haven’t only asked for a fee waiver because I’m impecunious and my legal rights are directly affected by the records I’m requesting. But I’m also asking for a fee waiver on the basis that I’m the subject of the records. GRAMA provides for a fee waiver in three separate and independent instances. First, if releasing the records primarily benefits the public rather than a person. Second, if the individual requesting the record is the subject of the record. Third and finally, if the individual requesting a record is impecunious and his legal rights are directly affected by the record. The statute uses the word “or” as a connecting term between the three subparagraphs. Therefore, only one requirement must be meant to qualify for a fee waiver. Utah Code Ann. § 63G-2-203(4). Even if I didn’t qualify for a fee waiver based on being impecunious UDC has failed to explain why they’re denying my fee waiver on the basis that I’m the subject of the records. Which I clearly am.

Further, UDC claims that in each request it will take significant time to produce and redact the records. They don’t explain how many responsive pages there are/will be. Nor does it appear they even know. UDC says I’ll have to pay a 25 cent per page fee even though I’ve requested records to be provided electronically. UDC’s own fee schedule (see Exhibit D) says they charge 25 cents per page to *print* documents. I haven’t asked for (nor do I want) printed copies. I asked for the records to be emailed to me, which will cost UDC nothing to do so other than staff time. I am not refusing to pay anything for the records, but I think any associated fees should be reasonable. The fees UDC is trying to charge are not reasonable, especially given my lack of financial resources and the fact I’m the subject of these records. UDC says it’ll take significant time to retrieve the emails from Google Vault, but this is also inaccurate. Google Vault is a repository that is very user-friendly. Staff can search all email accounts I’ve

requested all at the same time. While the search itself could take some time, it does not require the employee to sit there and wait for it to complete. Vault will run the search and when it's done it'll notify the user that the files are ready to be exported. The export process is also quick and easy. I can't see the *actual* staff time to search and retrieve emails from Vault exceeding 30 minutes, see Exhibit E.

Further, the redaction process is also quick and straight forward. Staff can redact the documents directly in Adobe Acrobat and then save the files as PDF's and email them to me. Redaction is not as time-consuming as UDC is trying to make it seem. I would highly doubt many of the records would need redactions of any kind at all. Often UDC redacts portions of records which honestly don't need to be redacted. Should UDC choose to redact portions which don't need to be redacted why should I have to pay for their extra time in them doing unnecessary work? For instance, UDC will redact the housing unit and cell where I myself was housed several years ago. Why? I don't know. I know what section I lived in and approximately when I lived there. And it was some time ago. So, what is the justification to redact that information? It makes no sense to me yet UDC does that on a routine basis. Further GRAMA specifically says an entity cannot charge for time spent reviewing a record to determine whether that record is subject to disclosure, Utah Code Ann. § 63G-2-203(5)(a). That means if it takes UDC 20 minutes to read an email, understand the context of the email, correspond with the sender/recipient and legal counsel that time cannot be charged to the requester. They can only charge for the actual time spent in physically redacting records which are protected. It is not time consuming to drag a black redaction box/square over content to be redacted.

I'd like the Committee to know that I've been more than willing to work with UDC to try and reach a compromise. But unfortunately, they refuse to work with me. It's unfortunate that they feel the need to deny my request claiming that they are trying to save the State money, but are actually spending more money by wasting the time of the State Records Committee and Assistant Attorney

General assigned to UDC to fight the appeal before the Committee. So far, UDC has been unwilling to work together to find a reasonable compromise, see Exhibit F.

For these reasons I respectfully request that the Committee reverse the denial of my request and fee waiver and order that the records be provided to me as soon as reasonably possible.

SUBMITTED this 11th day of December, 2019.

By: /s/ Patrick M. Sullivan
Patrick Sullivan, Petitioner.