

Poplar Grove Neighborhood Alliance
Barrio Álamo Arboleda Alianza



7 August 2019

DELIVERED VIA ELECTRONIC MAIL

Ms. Gina Proctor, Executive Secretary
% State Records Committee
346 S. Rio Grande St.
Salt Lake City, Utah 84101-1106

Re: Notice of Appeal to State Records Committee

Dear Ms. Proctor,

Pursuant to Utah Government Records Management Act (GRAMA), I am submitting this NOTICE OF APPEAL to the State Record's Committee for review.¹

PROCEDURAL HISTORY

On June 28, 2019, I went with my neighbor Yassin to the Unified Police Department (UPD) station and helped him submit a GRAMA request for records incidental to a call where UPD went to his mother's home on 04/01/19, forcibly removed his sister and in the process injured other family members.²

On July 05, 2019, Yassin received the written portion response to his GRAMA request, however, did not receive the video portion of the record.

On July 19, 2019, I went with my neighbor Yassin to the office of the Records Clerk at the UPD station and hand delivered his GRAMA Notice of Appeal to the Chief Administrative Officer (see attached).

On August 7, 2019, we are filing this Notice of Appeal to the State Records Committee because the

“governmental entity fails to provide the requested records or issue a denial within the specified time period, that failure is considered the equivalent of a determination denying access to the record.”³

¹ See Utah Code §63G-2-401 Also See enclosures: GRAMA NOTICE OF APPEAL to the State Records form, Original GRAMA Request, Notice of Appel to the Chief Administrative Officer

² See UPD Case No.19-46716

³ See §63G-6-204(9)

POLICE VIDEO IS A PUBLIC RECORD

U.C.A. § 63G-2-103(14)(a) defines an initial contact report as “an initial written or recorded report, however titled, prepared by peace officers engaged in public patrol or response duties describing official actions initially taken in response to either a public complaint about or the discovery of an apparent violation of law...” Subsection 301(3)(g) ⁴ states that initial contact reports are public records. The Utah State Records Committee has addressed this issue several times. Each time the Committee has ruled that police video is a public record and must be released. ⁵ Utah Courts have upheld the committee's decisions. ⁶

CONCLUSION

The foundation of GRAMA is the presumption of public access to government records. “A record is public unless otherwise expressly provided by statute.” Utah Code § 63G-2-201(2). In enacting GRAMA, the Legislature declared its intent to “promote the public's right of easy and reasonable access to unrestricted public records;” to “specify those conditions under which the public interest in allowing restrictions on access to records may outweigh the public's interest in access;” and to “prevent abuse of confidentiality by governmental entities by permitting confidential treatment of records only as provided in this chapter. ...” Utah Code § 63G-2-102(3); see also *Deseret News Publ'g Co. v. Salt Lake Cnty.*, 2008 UT 26,, r 13, 182 P.3d 372,376. The Utah Supreme Court has long “recognized that it is the policy of this state that public records be kept open for public inspection in order to prevent secrecy in public affairs.” *KUTV Inc. v. Utah State Bd. of Educ.*, 689 P.2d 1357, 1361 (Utah 1984).

The public interest in open government and accountability for public officials is perhaps nowhere more urgent than in the conduct, and potential misconduct, of the public's peace officers. “Law enforcement officers carry upon their shoulders the cloak of authority to enforce the laws of the state. In order to maintain trust in its police department, the public must be kept fully informed of the activities of its peace officers.” *Commission on Peace Officer Standards and Training v. Superior Court*, 64 Cal. Rprt. 3d 661, 674 (Cal. 2007). Those goals are ill-served by withholding of records based on simply ignoring a GRAMA request which is contrary to both the letter and spirit of GRAMA.

Shalom,

Michael Clara

Michael Clara
Community Organizer

cc: Sheriff Rosie Rivera, Unified Police Department

Enclosures

⁴ See Utah Code §63G-2-301(4): The list of public records in this section is not exhaustive and should not be used to limit access to records.

⁵ See *Chris Vanocur/ABC 4 News v. Utah Department of Public Safety*, 2010-05 (State Record Committee of the State of Utah, Jan. 12, 2010); *Jessica Phillips v. West Jordan Police Department*, 14-04 (State Records Committee of the State of Utah, Mar. 28, 2014); *American Civil Liberties Union v. Salt Lake County District Attorney and the Salt Lake City Police Department*, 2017-02 (State Records Committee of the State of Utah, Jan. 24, 2017);

⁶ See *Utah Department of Public Safety v. State Records Committee, et al.*, 100904439, Utah 3rd Dist. Jun. 17, 2010 (upholding the Utah State Records Committee's decision in *Vanocur*)