

GRAMA Notice of Appeal to State Records Committee

Note: Utah Code § 63G-2-403 (GRAMA) provides that any person may further appeal the chief administrative officer's denial of an appeal by filing a notice of appeal with the State Records Committee. This notice must be filed within 30 days of the response from a governmental entity's chief administrative officer or 45 days if the chief administrative officer failed to make a determination.

RECEIVED
FEB 03 2015

Requester's information

Name: Scott Logan Gollzher s.o. 187428 Date: 01-24-2015

Address: 3415 South 900 West

City/State/Zip: South Salt Lake City, Utah 84119

Daytime telephone number: N/A Email

Make request to

Nova Dubovik
346 South Rio Grande Street
Salt Lake City, Utah 84101
ndubovik@utah.gov

Explanation of Relief Sought

Note: Relief can relate to conflicts over denial of access to records (Utah Code § 63G-2-402) as well as disputes over fees (Utah Code § 63G-2-203(6)) or extraordinary circumstances (Utah Code § 63G-2-402).

The State Records Committee can also use the weighing provision to order the release of records that are properly restricted if it determines that the interests favoring access are greater than or equal to the interests favoring restriction (Utah Code § 63G-2-203(11)).

On November 3, 2014 I submitted to Department of Child and Family Services (DCFS) a GRAMA referenced as GRAMA #6 for the complete record referenced under case #1887537, along with the names of DCFS personnel who had contact with said parties on specific days. (EXHIBIT A)

On December 3, 2014 Linda Bright Northern Region GRAMA Specialist denied my request on grounds as noted. (EXHIBIT B)

On December 20, 2014 I appealed to DCFS Chief Administrative Officer, Ms. Sweeney. (EXHIBIT C)

- over -

Inclusions for notice of appeal

The State Records Committee requires documentation and has specific appeals procedures which are outlined in Administrative Rule: Title R35. Administrative Services, Records Committee, and should be reviewed by a petitioner.

This petition to appeal to the State Records Committee requires the following attachments or inclusions:

- Statement of facts, reasons, and legal authority in support of this appeal
(see Utah Code § 63G-2-403(3)(b)). *Please reference previously*
- Original GRAMA request *EXHIBIT A* *Submit letter to the SRC on*
- Notice of denial from the governmental agency's records officer *DCFS appeal 2, 3, 4 and 5*
- Notice of appeal to the governmental entity's chief administrative officer *EXHIBIT B*
- Notice of denial from the governmental entity's chief administrative officer *EXHIBIT C*
EXHIBIT D

This notice of appeal must, **on the same day**, also be forwarded to the governmental entity to which the records request was made (Utah Code § 63G-2-403(3)).

- Notice of appeal sent to agency

Request assistance

A petitioner may request assistance from the government records ombudsman. The ombudsman's responsibility is to serve as a resource for a person who is filing an appeal relating to a records request. The ombudsman may also attempt to mediate disputes between requesters and responders (Utah Code § 63A-12-111(2)).

Rosemary Cundiff
346 South Rio Grande Street
Salt Lake City, Utah 84101
rcundiff@utah.gov
(801) 531-3858

On January 13, 2015, Ms Sonia Sweeney, Chief Administrative Officer for the Department of Human Services denied my request. In doing so she denied said request under reasoning applied before to my GRAMA's to DCFS entitled 2, 3, 4 and 5 currently before you for consideration. It would seem reasonable that this SRC appeal could be joined with the previous SRC appeal. And although the merits for each GRAMA to be considered are varied and an exception may apply — *nonetheless it is offered for*

GRAMA Notice of Appeal to State Records Committee Page 2 of 2

**Additional information may be needed to process the legal side of appeal*



State of Utah

GARY R. HERBERT
Governor

GREGORY S. BELL
Lieutenant Governor

Department of Human Services

PALMER DePAULIS
Executive Director

Division of Child and Family Services

BRENT PLATT
Director

December 3, 2014

Scott Gollaher
S.O. #187728
3415 South 900 West
South Salt Lake City, UT 84119

Dear Requester:

Your request for records from the Division of Child and Family Services has been reviewed and completed. I have denied in whole or in part, your request for these records. Please see remarks below for explanation regarding your specific records request.

FULL DENIAL

- Pursuant to Utah Code Ann. § 62A-4a-412, the following information has been redacted (blocked out):
 - The names, addresses, telephone numbers, and specific information that could identify or lead to the discovery of the identity of the person(s) making the initial report (referent). (UCA §62A-4a-412(3)).
 - Information received from the Bureau of Criminal Identification
 - The names, addresses, telephone numbers, and specific information that could identify or lead to the discovery of the identity of person(s) involved in the investigation of the report. (UCA §62A-4a-412(3)).
 - Information that could impede a criminal investigation. (UCA §62A-4a-412(3)).
 - Information that could endanger a person's safety. (UCA §62A-4a-412(3)).
- Pursuant to Utah Code Ann. §63G-2-202, a record contained in the DCFS Management Information System that is found to be unsubstantiated, unsupported, or without merit may not be disclosed to any person except the person who is alleged in the report to be a perpetrator of abuse, neglect, or dependency.
- Pursuant to Utah Code Ann. § 63G-2-304, information classified as controlled has been withheld; this includes records containing medical, psychiatric or psychological data about an individual and the party who has created the record has identified it as being confidential.
- Pursuant to Utah Code Ann. § 63G-2-201(8), the agency is not required to fulfill duplicative requests. (iv)
- Pursuant to Utah Code Ann. § 63G-2-302, information classified as private has been withheld. Such as persons information.
- Pursuant to Utah Code Ann. § 63G-2-305, information classified as protected has been withheld.
- Pursuant to Utah Code Ann. § 42 C.F.R., Part 2, you do not qualify to receive the records.
- Attorney Worker privilege 63G-2-305-(17).

You have the right to appeal the denial of any withheld information. If you choose to do so you will need to send a written statement, within 30 days of receipt of this letter to:

Chief Administrative Officer

Department of Human Services
195 North 1950 West
Salt Lake City, Utah 84116

Your appeal must contain your name, your mailing address, your daytime telephone number and a statement of the relief you seek.

If you have any questions, please contact me at 801-629-5831.

If your records have not been denied in whole, you may pick up your records Monday -Thursday between the hours of 7:00 a.m. and 6:00 p.m. at 950 E. 25th St. Ogden, UT 84401.
At that time you will need to bring a picture ID so that your identity can be verified. A copy of your picture ID will be placed in the file.

If you feel that you are unable to pick your records up in person, please contact me at the number listed above, and your situation will be assessed to determine if the records will be released by mail.

Please be aware that if you received records with your request, these records have been copied from the Division of Child and Family Services original records. Federal and State laws protect the confidentiality of these records. These copies are intended exclusively for the requested purposes and should not be copied or redistributed for other purposes without the written informed consent of the person(s) to whom it pertains. Re-disclosure of these records may subject you to criminal penalties.

Sincerely,

Linda Bright
Northern Region GRAMA Specialist

EXHIBIT D



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lt. Governor

DEPARTMENT OF HUMAN SERVICES

ANN SILVERBERG WILLIAMSON
Executive Director

SONIA SWEENEY
Chief Administrative Officer

January 13, 2015

Scott L. Gollaher, S.O. # 187728
Salt Lake County Metro Jail
3415 South 900 West
South Salt Lake City, Utah 84119

RE: GRAMA record appeal dated December 20, 2014, case number 1887537

Dear Mr. Gollaher:

On January 6, 2015, I received your letter dated December 20, 2014, regarding "GRAMA Appeal referenced as #6 for records not provided in case 1887537" ("January 6, 2015 appeal"). In your January 6, 2015 appeal, you appeal the full denial from the Division of Child and Family Services ("DCFS") of a records request you submitted that was dated November 3, 2014, in which you sought records related to case number 1887537. DCFS denied your records request on the basis that your request was duplicative and that releasing the records could impede a criminal investigation. In your January 6, 2015 appeal, you dispute the factual accuracy underlying the basis for DCFS's full denial.

In response to your current appeal, I have reviewed the denial of your requests and the applicable law. In so doing, I am upholding the agency decision denying your records request on the following basis.

Under the Government Records Access and Management Act ("GRAMA"), Utah Code section 63G-2-201(6)(a) (2014), if a court rule, or another state statute or federal statute or regulation governs or limits the disclosure of a record, that is the legal authority that dictates access to the record. DCFS relied on Rule 14 of the Utah Rules of Criminal Procedure to deny your records request. Rule 14 of the Utah Rules of Criminal Procedure states that "[n]o subpoena or court order compelling the production of medical, mental health, school, or other non-public records pertaining to a victim shall be issued by or at the request of a defendant unless the court finds after a hearing that the defendant is entitled to production of the records sought under applicable state and federal law." Rule 14 of the Utah Rules of Criminal Procedure adopts the definition of "victim" found in Utah Code section 77-38-2, which dictates that a victim includes not only the "person against whom the charged crime or conduct is alleged to have been perpetrated," but it may also include a person "against whom a related...act is alleged to have been perpetrated."

You are presently a defendant in criminal matters, in which you are charged with crimes against children. Further, the records that you are seeking from DCFS are non-public records pertaining to a victim as described in URCP Rule 14. Here, the records relate not only to the Supported finding by DCFS, but also to some of the criminal charges pending against you, as both the finding made by DCFS for Sexual Abuse and the charges of Aggravated Sexual Abuse of a Child, appear to arise, in part, from the same incidents. Based on the foregoing, I find that in order to obtain the victim's records, while there are criminal charges pending, you must first obtain a court order pursuant to Rule 14 of the Utah Rules of Criminal Procedure.

If you disagree with this decision, you have 30 days to appeal to either:

State Records Committee or District Court
Attention: Susan Mumford
346 South Rio Grande
Salt Lake City, UT 84101

If you decide to appeal this decision, you need to include the following information:

Your name
Mailing address
Daytime telephone number
A copy of any denial of the record request
The relief sought

Sincerely,



Sonia Sweeney
Chief Administrative Officer

Cc: Linda, Bright GRAMA specialist
Carol Verdoia, Assistant Attorney General