

The Salt Lake Tribune

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Gina Proctor
Utah State Records Committee Executive Secretary
346 Rio Grande
Salt Lake City, UT 84101

To Whom it May Concern:

I am writing to appeal the denial of a records request submitted to Brigham Young University's Police Department on May 14, 2019. The request was as follows:

- All emails between BYU police and the following email addresses sent or received from 2011-2017:
 - hco@byu.edu
 - sarah_westerberg@byu.edu
 - melba_latu@byu.edu
 - vernon_heperi@byu.edu
 - spencer_hawkins@byu.edu
 - linda_rowley@byu.edu
 - jennifer_langi@byu.edu
 - john_kwarm@byu.edu

- All email correspondence between BYUPD employee Aaron Rhoades and anyone employed at the Honor Code Office between 2011-2018.

I received notice of a denial of my request on May 29, and a subsequent upholding of that denial on June 14 from Chief Chris Autry. In the appeal denial, Chief Autry does not outline any new arguments for why the records should not be released, so my argument below is identical to that which I initially made to the chief.

ARGUMENT

I. The requested documents are public because Brigham Young University Police Department has received or retained the emails in question, per Utah Code 63G-2-103(22)(a).

The department argues that because the emails requested were not created by employees of a “governmental entity,” this makes the documents private. That is not a correct interpretation of the law. GRAMA clearly states that any record that has been *received* or *retained* by a governmental entity is considered a public record.

Documents that were not created by government employees are frequently classified as public documents and are released, including emails and other correspondence like notices of claim. GRAMA does not limit itself in its definition to include only records created by government employees.

II. Brigham Young University police does not show how releasing the requested records would be an unwarranted invasion of personal privacy per Utah Code 63G-2-302(2)(d).

GRAMA puts the burden on government agencies to prove a record is not public: Utah Code Ann. 63G-2-103(21). But the department offers no explanation for how releasing these records could lead to an unwarranted invasion of personal privacy.

It is difficult to make an argument to this point, because BYUPD makes no claim as to whose privacy would be violated and why that would be considered “unwarranted.” But generally, the proper remedy for personal privacy concerns should be limited redactions, not a blanket denial.

Police officers in Utah wield significant power over citizens, and because of that, the public has a heightened interest to know how police use that power. The inherent public interest in these documents outweighs privacy concerns.

III. This request is not unreasonably duplicative.

I acknowledge a previous request covering some of these records was sent to this department by Salt Lake Tribune reporter Matthew Piper on April 18, 2016. The Salt Lake Tribune contends BYU was subject to GRAMA at that time. However, as of May 14, 2019, Brigham Young University Police Department is explicitly classified as a law enforcement agency as defined in GRAMA, making it subject to compliance with records management requirements as defined therein [Utah Code 63G-2-103(11)(b)(vi)].

This request asks for more records than was initially requested by Piper in 2016. The clarification made during the last legislative session also constitutes a change in

circumstances that would make it reasonable for another records request to be made, even if it is similar.

In conclusion, I would ask that you find that these documents are public and order that they be released.

Thank you for considering my appeal.

Sincerely,

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