

# The Salt Lake Tribune

*Utah's Independent Voice Since 1871*

Jan 3, 2019

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

To Whom it May Concern:

I am writing to appeal a denial of a records that I requested from the Department of Public Safety on Oct. 30, 2018. The request was as follows:

- All investigative records created or reviewed in connection to an inquiry that began May 26, 2016 regarding how Brigham Young University police access and share their own reports and the records of Utah County police agencies.

I received notice of a denial of my request on Nov 19. In the email response, UPD officials cite a statutory exemption to the Government Records Access Management Act under Utah Code Ann. 63G-2-305(10)(a):

- The following records are protected if properly classified by a governmental entity:
  - (10) records created or maintained for civil, criminal or administrative enforcement purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if release of the records:
  - (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification or registration purposes.

After I appealed this decision, the department responded with a denial on Dec. 5 and cited Utah Code 63G-2-201(3)(b), arguing it could not say why it was again denying the request because revealing that information would “disclose private, controlled or protected information” that is exempt from disclosure under that subsection.

## ARGUMENT

### **I. The Department of Public Safety does not show that releasing the records reasonably could be expected to disclose investigative techniques per Utah Code Ann. 63G-2-305(10)(e).**

1. 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 disclose investigative or audit techniques.

With no explanation for how releasing these records could disclose investigative techniques, it is difficult to make a more detailed argument challenging this assertion. All law enforcement reports reveal, to some degree, what investigative techniques were used. The law clearly states, however, that such reports should remain public.

If there is a legitimate concern that releasing the documents could interfere with enforcement or audit efforts, the proper remedy would be limited redactions — not a blanket denial of all records.

### **II. The Department of Public Safety should be required to provide a citation and more complete explanation as to why the records must remain secret.**

1. Because this portion of the denial is shrouded in secrecy, it is difficult to make an informed argument about why it is not in the public's interest to keep these records secret. But GRAMA requires the government to point to a citation to prove a record is not public, and that has not been done in this case.

How a private university's police officers access and share other police agency's records is of great public interest. Additionally, what actions state investigators took when reviewing the BYU police department's procedures — and what, if anything, was done as a result — is also of great public interest. To simply say these records will never be released with no further explanation is not in the public's interest, and goes against the spirit of open government. Investigators spent a year looking into this situation, and the public has the right to know what was found. Thank you for considering my appeal.

Sincerely,

Jessica Miller  
Reporter  
The Salt Lake Tribune  
(801) 257-8785  
jmiller@sltrib.com