



AMERICAN CIVIL LIBERTIES UNION OF UTAH FOUNDATION, INC  
355 NORTH 300 WEST, SALT LAKE CITY, UT 84103  
(801) 521-9862 PHONE • (801) 532-2850 FAX  
ACLU@ACLUUTAH.ORG • WWW.ACLUUTAH.ORG

July 21, 2004

Chief Chad Smith  
c/o Lehi Police Department  
580 West State  
Lehi, UT 84043

Dear Chief Smith,

We recently received a complaint that your office failed to follow the statutory guidelines outlined for release of public records, also known as the Government Records Access and Management Act (GRAMA). Utah Code Ann. § 63-2-101 *et seq.* Specifically, our office was contacted by Ronnie Sorensen who alleges that your office failed to respond to her GRAMA request in person or provide a paper copy of the denial; failed to reference the appropriate statutory provisions, court order or federal regulations protecting the records from disclosure; and failed to provide the information necessary for filing an appeal. All of these procedural steps are required under GRAMA.

Section 63-2-201(1) of the Utah Code states that every person has a right to inspect public records. Furthermore, in enacting this law the Legislature recognized two important rights: the public's right of access to information concerning the public's business and the right of privacy in relation to personal data gathered by the government. *See* § 63-2-102(1)(a) & (b). Mrs. Sorensen requested a police report describing an incident between her son and her neighbor. The records Mrs. Sorensen requested are likely classified as an initial contact report, defined 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 the law, which report may describe (i) the date, time, location, and nature of the complaint, the incident, or offense; (ii) names of victims.

Furthermore, as per section 63-2-301(2)(g), initial contact reports are usually classified as public, but access may be restricted by court order, state or federal statute, federal regulation, or, if classified as private, controlled or protected.

We understand that police departments may classify initial contact reports on a case-by-case basis and that not all such records will be classified as public records. However, if a record contains both information the requester is entitled to inspect and information the requester is not entitled to inspect, this does not preclude the release of the records. Rather, the government must grant access to the information the requester is entitled to, and deny access to, or redact, the exempted information. *See* § 63-2-307.

Moreover, in denying a GRAMA request, the notice of denial must be made in person or as a written form sent to the requester's address and must contain the following information: a description of the record to which access was denied; citations to the statutory provisions, court

order, federal statute or regulation that exempt the requested record from disclosure; a statement notifying the requester of the right to appeal to the chief administrative officer of the governmental entity; and the time limits for filing an appeal. *See* § 63-2-205. However, it is our understanding that in the present case, notice of the denial was given over the phone and there was no citation to the relevant statute, court order or federal regulation preventing the release of these records. More troubling is the allegation that your office denied a request to appeal the decision. *See* § 63-2-205.

While it is a delicate balance to preserve public access to records while protecting sensitive private information, we hope that you recognize the importance of our concerns and work to insure that your officers and staff are familiar with the requirements of GRAMA. In light of the above, we request that you release the records requested by Ronnie Sorensen. Furthermore, we ask that you update your records release policy in accordance with GRAMA. As assurance, we respectfully request a written acknowledgement of our concerns. If you have a different understanding of the GRAMA requirements as they apply to your facility, we would welcome your response detailing your perspective.

Sincerely,

Cobin Soelberg  
ACLU of Utah  
Law Clerk

Cc. Ronnie Sorensen  
660 West 2350 North  
Lehi, UT 84043

Ed Collins  
Chief Administrative Officer  
City of Lehi  
153 North 100 East  
Lehi, UT 84043