

Ethan Dodge
PO Box 231192
Las Vegas, NV 89105



Brigham Young University Police
2120 JKB
Provo, UT 84602

To whom it may concern:

My name is Ethan Dodge, Technical Director of the Truth and Transparency Foundation. I write submitting a GRAMA request for all files, videos, audio recordings, or any other kind of documentation related to Joseph L. Bishop. Specifically, I seek the investigative file concerning the case described in Incident Report 17BY05023. Given the recent allegations against Mr. Bishop and that the investigation is now closed, we believe this information could potentially be useful to the media.

If possible, I prefer to receive the requested documentation via email to ethan@truthandtransparency.org. However, I do authorize up to \$50 of charges for fees, printing, and mailing of the documentation to the address above if necessary. If it will exceed that amount, please notify me directly.

Thank you,

Ethan Dodge
Technical Directory, Co-Founder
The Truth and Transparency Foundation



Ethan Dodge <ethan@truthandtransparency.org>

GRAMA Request

Steven Messick <steven_messick@byu.edu>
To: "ethan@truthandtransparency.org" <ethan@truthandtransparency.org>

Wed, Apr 11, 2018 at 10:10 AM

Per your request,
Please see attached file

Best regards

Lt. Steven Don Messick

BYU Police

steven_messick@byu.edu

From: Debra Harmon
Sent: Tuesday, April 10, 2018 10:23 AM
To: Steven Messick <steven_messick@byu.edu>
Subject: FW: GRAMA Request

Steve,

I put the attachments on your desk.

Thanks

Deb

From: Ethan Dodge [<mailto:ethan@truthandtransparency.org>]
Sent: Tuesday, April 10, 2018 10:10 AM
To: Debra Harmon <debra_harmon@byu.edu>
Subject: Re: GRAMA Request

[Quoted text hidden]

4/23/2018

Truth and Transparency Foundation Mail - GRAMA Request



17BY05023 Dodge.pdf

589K

Ethan Dodge
PO Box 231192
Las Vegas, NV 89105
[REDACTED]

Chief Larry A. Stott
University Police
2120 JKB
Brigham Young University
Provo, Utah 84602

Chief Stott:

I appreciate the quick response from Lt. Messick to my original GRAMA request. However, I now write in appeal to his answer.

Lt. Messick provided me with the a copy of Incident Report 17BY05023 which I cited as my basis for my request. I am already in possession of several versions of this report, all of which were obtained legally. There is one particular copy in my possession which explicitly says the interview conducted by Detectives Long and Nelson with Mr. Joseph L. Bishop on December 5, 2017 was "recorded and attached to the report". The copy provided to me in response to my GRAMA request has this entire sentence, found on page seven, completely redacted.

I believe this redaction is an improper implementation of GRAMA and that I have a right to the possession of the recording.

In my email, I have attached a copy of Incident Report 17BY05023 which references the recording on page seven. I explicitly ask for a copy of this audio, along with any other documentation that was also attached to the original report.

If possible, I prefer to receive the requested documentation via email to ethan@truthandtransparency.org. However, I do authorize up to \$50 of charges for fees, printing, and mailing of the documentation to the address above if necessary. If it will exceed that amount, please notify me directly.

As a member of the media, I believe the files requested could have pertinent information to an important public matter and I am requesting an expedited response to this appeal. If this appeal is denied, I am prepared to appeal further to the Records Committee.

Thank you,
Ethan Dodge
Technical Director, Co-Founder
The Truth and Transparency Foundation



Ethan Dodge <ethan@truthandtransparency.org>

GRAMA Request

Larry Stott <larry_stott@byu.edu>
To: Ethan Dodge <ethan@truthandtransparency.org>
Cc: Steven Messick <steven_messick@byu.edu>

Fri, Apr 13, 2018 at 10:44 AM

Ethan Dodge

Brigham Young University and its University Police are not subject to GRAMA. However, as a matter of internal practice, upon proper request, University Police releases law enforcement records that would not be classified under GRAMA as private (Utah Code 63G-2-303), controlled (Utah Code 63G-2-304), or protected (Utah Code 63G-2-305), or that would not otherwise be protected from disclosure under GRAMA. University Police also does not disclose FERPA-protected records, or any records protected from disclosure under any other federal or state laws or privileges.

In this case, the requested recording is a private record under Utah Code 63G-2-302, because disclosure of the recording would constitute a clearly unwarranted invasion of personal privacy of individuals involved in the case.

Chief Stott

From: Ethan Dodge [mailto:ethan@truthandtransparency.org]
Sent: Friday, April 13, 2018 8:05 AM
To: Larry Stott <larry_stott@byu.edu>
Subject: Re: GRAMA Request

[Quoted text hidden]

Ethan Gregory Dodge
PO Box 231192
Las Vegas, NV 89105

ethan@truthandtransparency.org

Dylan Mace
346 South Rio Grande Street
Salt Lake City, Utah 84101
dylanmace@utah.gov

April 24, 2018

Mr Mace:

I, as a representative of the Truth and Transparency Foundation, filed a GRAMA request to the BYU Police Department (BYUPD) on April 10, 2018 requesting the "investigative file concerning the case described in Incident Report 17BY05023". In return I received, from Lt. Steve Messick, a redacted copy of Incident Report 17BY05023. I then appealed asking specifically for an audio recording referenced in the report, which reference is redacted from the copy I received from Lt. Messick. The recording is an interview conducted by Detectives Long and Nelson of BYU Police Department and Joseph L. Bishop, an accused sexual predator who was President of the Mormon Provo Missionary Training Center in the early 1980s. Mr. Bishop and the accusations leveled against him have contributed to valuable public discourse and reporting and we believe the content of the recording could further do so.

Chief Larry Stott of BYUPD denied my appeal claiming the department is not a government entity and is therefore not subject to GRAMA requests. However the department clearly fits the definition of "Governmental entity" as an "agency" that "is funded or established by the government to carry out the public's business" as outlined in GRAMA in 63G-2-103 subsection 11b. In fact, as recently as January 2017 BYUPD filed a motion to dismiss a case filed against them using this same logic and Judge Laura Scott of Utah's Third District Court rejected said motion.

Further, Chief Stott argues that the release of the requested audio would "constitute a clearly unwarranted invasion of personal privacy of individuals involved in the case". This defense contradicts the outcome of *Deseret News Publishing Company v. Salt Lake County* on March 28, 2008. In said case, Judge Ronald Nehring of the State Supreme Court applied this reasoning to GRAMA requests that the United States Supreme Court applied to FOIA requests in 1991 (*U.S. Dep't of State v. Ray*, 502 U.S. 164, 177, 112 S.Ct. 541, 116 L.Ed.2d 526):

"Although the interest in protecting the privacy of the redacted information is substantial, we must still consider the importance of the public interest in its disclosure. For unless

the invasion of privacy is clearly unwarranted, the public interest in disclosure must prevail.”

It is our belief that the same principle applies to the audio recording between BYUPD detectives and Mr. Bishop.

I have attached all necessary requests and appeals sent to the BYUPD as well as their initial reply to the request and the denial of appeal. I have also sent Chief Stott a copy of this appeal.

Thank you,

Ethan Gregory Dodge
Technical Director, Co-Founder
The Truth and Transparency Foundation



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Department of Administrative Services

TANI PACK DOWNING
Executive Director

Division of Archives and Records Service

KENNETH WILLIAMS
Director

Appeal Req. # 2018-29

May 7, 2018

Ethan Dodge
PO Box 231192
Las Vegas, NV, 89105

Dear Mr. Dodge:

Subject: State Records Committee Appeals Hearing for the denial of records request.

The State Records Committee has received your Notice of Appeal in regards to BYU Police records request denial.

This is to inform you that a hearing has been scheduled on **June 14, 2018**. Due to the possibility of multiple hearings the schedule is subject to change so be available from **9:00 a.m. to 4:00 p.m.** For updates, please check the agenda which is available on the Utah Public Notice Website. The hearing will be held at the following address:

Utah State Archives
346 S. Rio Grande St.
Salt Lake City, UT 84101-1106

As the **Petitioner**, pursuant to Utah Code 63G-2-403(3)(a), **you should have already served a copy of this appeal on the governmental entity to which the appeal relates.** If you have not already done so, please provide a copy to them now. During the hearing, you or your representative will be allowed to testify and present evidence to develop your case.

If you have any additional supporting documentation for your appeal, please send it to me and to the governmental entity **no later than five business days before the hearing.**

Page 2
May 11, 2018

If you have any questions please contact me, and if you are interested in mediation contact the state government records ombudsman, Rosemary Cundiff, at 346 S. Rio Grande, SLC, UT 84101, (801) 531-3858 or rcundiff@utah.gov

Sincerely,

Dylan Mace
Interim Executive Secretary
State Records Committee
346 S. Rio Grande
Salt Lake City, UT 84101-1106
(801) 531-3853
dylanmace@utah.gov

cc: Larry Stott, Chief, University Police
Members of the State Records Committee and Legal Counsel