
BEFORE THE GOVERNMENT RECORDS OFFICE OF THE
STATE OF UTAH

JOSH RANDALL,

Petitioner,

v.

WEST VALLEY CITY,

Respondent.

DECISION AND ORDER

Appeal No. 2025-037

In this appeal, Petitioner, Josh Randall, seeks access to records allegedly held by Respondent, West Valley City.

BACKGROUND

On February 24, 2025, Mr. Randall submitted a records request under the Government Records Access and Management Act (“GRAMA”) to West Valley City (“City”). Mr. Randall described the records requested as follows:

I am seeking all video surveillance footage from inside and outside of the West Valley Family Fitness Center (5415 W 3100 S, WVC, UT 84120) from the night of Tuesday, November 5, 2024. I specifically need the footage from 5:55 PM until 7:05 PM that night. I am also requesting: 1) All records and communications related to case 24170294, including any relating to the dismissal of this case. 2) Internal memos or prosecutorial notes on the handling and dismissal of case 24170294. 3) Any reports or documentation explaining why I was not notified of the dismissal of case 24170294.

Mr. Randall stated that he was the alleged victim in the criminal case identified in the request and that he was not notified prior to the dismissal of the case. On March 5, 2025, J. Eric Bunderson, City Attorney, provided records to Mr. Randall, consisting of a digital recording of part of the incident, parks notes, the police report, and the victim impact statement. The City denied access to “Prosecution Notes in eProsecutor,” citing the attorney client privilege and attorney work product provisions found in Utah Code §§ 63G-2-305(17) & (18).

In an email dated March 8, 2025, Mr. Randall filed an appeal with City Manager Ifo Pili. Mr. Randall asserted that the provided surveillance video cut off during the incident and requested “[a] full, unedited copy of the surveillance footage, including hallway video, to verify that all evidence has been properly disclosed.” Mr. Randall also challenged the protected classification of the eProsecutor notes, asserting that there was no justification for withholding them since the criminal case had been dismissed. In a letter dated March 24, 2025, Mr. Pili affirmed the determination of Mr. Bunderson, stating that “there is no missing video” and “[a]ll video the City has in its possession has been provided.” Mr. Pili also affirmed the protected classification of the eProsecutor notes, stating that the classification was justified because the criminal case was dismissed without prejudice and could be refiled within the two-year statute of limitations.

On March 19, 2025, Mr. Randall filed an appeal to the State Records Committee. Pursuant to Utah Code § 63A-12-203(7), effective May 7, 2025, the appeal was transferred to the Government Records Office (“Office”). On November 20, 2025, the Director of the Office (“Director”) held a public hearing at which the parties were allowed to present evidence and arguments. After carefully considering the parties’ presentations and reviewing the disputed records *in camera*, the Director issues the following Decision and Order.

STATEMENT OF REASONS FOR DECISION

1. GRAMA specifies that a “record is public unless otherwise expressly provided by statute.” Utah Code § 63G-2-201(2). Records that are designated as “private,” “protected,” or “controlled,” are not public. *See* Utah Code §§ 63G-2-201(3)(a), -302, -303, -304 and -305. A record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, is not a public record under GRAMA. Utah Code § 63G-2-201(3)(b).
2. Records that are subject to the attorney client privilege are protected records if properly classified by a governmental entity. Utah Code § 63G-2-305(17). Additionally, records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding, are protected records if properly classified by a governmental entity. Utah Code § 63G-2-305(18).
3. Based on the evidence and testimony presented, the Director finds that there is sufficient evidence to support the conclusion that the City failed to conduct a reasonable search for responsive video surveillance footage as required under Utah Code § 63G-2-201(7)(b), or that the City has concealed or has improperly disposed of video surveillance footage. The surveillance footage produced to Mr. Randall is apparently and inexplicably cut off during the incident that led to criminal charges being filed against the alleged perpetrator and later dismissed. Mr. Randall testified that the incident continued to escalate after the video provided cuts off and that the incident moved into the hallway and reception areas where there were additional surveillance cameras. Legal Counsel for the City, Mr. Brandon T. Crowther, did not dispute Mr. Randall’s testimony or provide a reasonable explanation for

the lack of additional video. Nor did Mr. Crowther provide specific details regarding the video creation, storage or destruction processes or the search methods employed for retrieving responsive video or investigating the apparently missing video.

Therefore, the City shall conduct a reasonable search for relevant video records. If it is determined that no additional records exist, the City shall provide a description of the reasonable search conducted and an explanation, if any, as to why no additional records could be located (i.e. whether they were never created due to a technical malfunction or were somehow destroyed).

4. Regarding the following written records withheld from Petitioner but provided for *in camera* review, the Director finds that:
 - a. The Bureau of Criminal Identification (“BCI”) records (Bates nos. WVC0002-5) are properly classified as non-public records pursuant to Utah Code § 63G-2-201(3)(b) and relevant state statutes and were appropriately withheld.
 - b. The Investigation Report (Bates nos. WVC0006-24) is properly within the scope of Mr. Randall’s request and should be produced with appropriate redactions of non-public information, including information that may identify any potential witnesses.¹

5. Regarding the eProsecutor notes provided for *in camera* review in the form of a screenshot

¹ This document appears to be the same record already provided to Mr. Randall as the “police report,” however, based on a comparison of the “police report” with the Investigation Report provided for *in camera* review, it appears that the “police report” contains extensive redactions in white (white overlay), making it difficult to identify what was redacted. Thus, when producing the Investigation Report, the City shall make all redactions in black (black overlay) so that the redactions are apparent. The City should perform the redactions in a manner that discloses all public information, while denying access only to information that is exempt from disclosure, as required under Utah Code § 63G-2-308. To the extent practicable, the redactions should be performed in a manner that reveals the nature of the information being redacted, unless doing so would reveal non-public information. See Utah Code § 63G-2-205(2)(a).

(Bates no. WVC0001), the Director finds that this record is properly classified as protected work product under Utah Code § 63G-2-305(18). However, after consideration and weighing of the various interests and public policies pertinent to the classification and disclosure or nondisclosure of these records, the Director finds that Mr. Randall has established by a preponderance of the evidence that the public interests favoring access to the eProsecutor notes is equal to or greater than the interests favoring restriction of access. *See* Utah Code §§ 63G-2-403(11)(b) & -406(1). Specifically, the relevance of the records to understanding the purported violation of Mr. Randall's rights as a victim outweighs the interests in maintaining attorney work product protection in this instance. Accordingly, the eProsecutor notes shall be reclassified as public and provided to Mr. Randall in an appropriate format after redaction of any information properly classified as private regarding third parties under Utah Code § 63G-2-302(2)(d).

ORDER

THEREFORE, IT IS ORDERED THAT the appeal of Petitioner, Josh Randall, is **GRANTED in PART**, and **DENIED in PART**.

RIGHT TO APPEAL

A party to this proceeding may seek review of the Director's order or decision by filing a petition for judicial review in District Court as provided in Utah Code § 63G-2-404. Utah Code § 63G-2-403(14). A petition for judicial review "shall be filed no later than 30 days" after the date of the order or decision pursuant to Utah Code § 63G-2-404(1)(a), except as provided in Utah Code § 63G-2-404(1)(b). The petition is a complaint governed by the Utah Rules of Civil Procedure and shall contain the required information listed in Subsection -404(2). Utah Code § 63G-2-404(2). The court shall make its decision *de novo* but shall allow introduction of evidence

presented to the Director, determine all questions of fact and law without a jury, and decide the issue at the earliest practical opportunity. Utah Code § 63G-2-404(6). In order to protect its rights on appeal, a party may wish to seek advice from an attorney.

PENALTY NOTICE

Pursuant to Utah Code § 63G-2-403(15)(c), if the Director orders the governmental entity to produce a record and no appeal is filed, the government entity herein shall comply with the order of the Director and shall: (1) Produce the record; and (2) File a notice of compliance with the Government Records Office. If the governmental entity ordered to produce a record fails to file a notice of compliance or a notice of intent to appeal, the Director may do either or both of the following: (1) Impose a civil penalty of up to \$500 for each day of continuing noncompliance; or (2) Send written notice of the entity's noncompliance to the Governor. Utah Code § 63G-2-403(15)(d)(i)(B). In imposing a civil penalty, the Director shall consider the gravity and circumstances of the violation, including whether the failure to comply was due to neglect or was willful or intentional. Utah Code § 63G-2-403(15)(d)(ii).

Entered this 2nd day of December 2025.

BY THE GOVERNMENT RECORDS OFFICE



LONNY J. PEHRSON, Director

CERTIFICATE OF SERVICE

I hereby certify that I mailed a true and correct copy of the foregoing **Decision and Order**, U.S. mail postage prepaid and electronic mail, this 2nd day of December 2025 to the following:

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Rebekkah Shaw
Executive Secretary
Government Records Office