

## Lawsuit filed against the city of Rio Rancho for records denials

Written by By Shannon Kunkel Executive Director, NM Foundation for Open Government  
Friday, 25 March 2022 05:37

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### AG: Minors names can't be withheld from police reports

Law enforcement records involving the shooting death of a Santa Fe police officer's two-year-old son held secret by the city for months

The New Mexico Foundation for Open Government (FOG) and The Santa Fe New Mexican filed a complaint against the city of Rio Rancho Monday in the New Mexico Thirteenth Judicial District Court.

[The complaint filed to enforce the New Mexico Inspection of Public Records Act \(IPRA\)](#) alleges that the city of Rio Rancho has wrongfully shielded from public view police reports and 911 audio and transcripts stemming from the shooting death of two-year-old Lincoln Harmon, son of Santa Fe police officer Jonathan Harmon, in his Rio Rancho home last December.

In response to requests made by The Santa Fe New Mexican and FOG, Rio Rancho City Attorney Greg Lauer issued what constitutes a blanket denial of the records citing the Children's Code, a section of law designed to hold confidential certain information held by the Children, Youth and Families Department.

Last week, an IPRA determination letter issued by the Office of the Attorney General stated the records were improperly denied and should be released. Lauer, in an email, refused to consider

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making public the records and insisted a new request be filed in the matter. A spokesperson for Rio Rancho later suggested records may potentially be made available.

After submitting a second request, FOG received a response from the city that extra time would be required to respond to the request. The Santa Fe New Mexican had originally requested records on December 13, 2021, and FOG submitted a mirror IPRA on January 14, 2022.

“FOG appreciates Attorney General Balderas taking decisive action in this matter, and we’re glad he contends, as does FOG, that the records never should have been kept secret in this case,” said Kathi Bearden, president of the New Mexico Foundation for Open Government board of directors.

“Rio Rancho should have handed over records immediately after receiving the letter,” Bearden said. “The time to provide the records was months ago.”

The legal complaint FOG filed today states, “The asserted justification for wholesale denial of the records requests at issue here was plainly erroneous as a matter of law. Should it go uncorrected by a court in this widely publicized case, it threatens to curtain from public view vast swaths of previously public information at the intersection of public safety and child welfare.”

In fact, in many other high-profile tragic child death cases, records were routinely released.

The complaint notes, “... the shocking deaths of Omaree Varela, Victoria Martens, Jeremiah Valencia, and other children at the hands of their parents or their parents’ associates have shone a spotlight on the ways in which police departments and child welfare agencies have failed to protect New Mexico’s most precious resource. We know about them because law-enforcement officials have responsibly released investigative reports, lapel-camera video, and other information...”

The complaint asserts that while the city argues it is acting to protect the privacy rights of children involved in the case, it could be perceived that the real motivation is to “protect a public-safety officer from public scrutiny.”

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“The only circumstance that seems to distinguish this case from the scores of cases in which police departments (including Rio Rancho’s) unquestioningly honor IPRA requests for information about suspected crimes involving child victims or perpetrators is that a police officer is one of the parties under suspicion,” reads the complaint.

“While the shooting death of the officer’s child in the officer’s home is an unspeakable personal tragedy for the officer and his family, the suggestion that the death resulted from the officer’s failure to keep his own firearms out of his own children’s reach is also a matter of understandable public interest and concern.”

FOG’s executive director, Shannon Kunkel, said it is disappointing that the city will not voluntarily comply with the law.

“In instances like these, where government agencies dig in their heels and refuse to obey the law, filing in court is the best recourse,” she said.

“Citizens seeking public information often need the help of an attorney to gain access,” Kunkel continued. “FOG is currently fundraising to hire a staff attorney who would be available to help in such instances. We are closing in on reaching our \$300,000 goal.”

FOG elected to file suit in this matter upon the unanimous consent of its 27-member board of directors, following the recommendation of its legal panel, comprised of pro-bono attorneys, and its executive committee.

Co-plaintiffs The New Mexico Foundation for Open Government and The Santa Fe New Mexican are represented by Charles “Kip” Purcell of Rodey, Dickason, Sloan, Akin & Robb, P. A., an Albuquerque-based law firm. Purcell also serves on the FOG board of directors as a member of its executive committee.

By Shannon Kunkel

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