

[DATE]

DEFENSE COUNSEL
DEFENSE FIRM
ADDRESS
ADDRESS

RE: Potentially Exculpatory Evidence in Protected/Private/Controlled Record
CITY v. DEFENDANT, JUSTICE COURT Case No. 123456789

Dear COUNSEL,

Our review of records in the City's possession has revealed some information which may be potentially exculpatory. However, the documents are classified as protected, private, or controlled pursuant to the Government Records Access and Management Act. Thus, they are privileged from discovery. *See* Utah Code Ann. § 63G-2-207(2)(a)(ii). As such, a court order must be obtained for the City to produce those records.

We are happy to stipulate to the entry of an order of the Court requiring production of the documents to the Court for *in camera* review, for a determination of whether the records are material to this case. If the records are to be produced for your review, then we anticipate requesting a protective order preventing reproduction or dissemination of the records, and limiting access to the records. A stipulated motion and order accompany this letter for your review.

Best Regards,

Your Friendly Neighborhood Prosecutor
CITY

CC: COURT

CITY ATTORNEY
City Attorney
PROSECUTOR
Assistant City Prosecutor
Attorneys for CITY
ADDRESS
ADDRESS
TELEPHONE

IN THE JUSTICE COURT OF _____
_____ COUNTY, STATE OF UTAH

<p>CITY,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>DEFENDANT,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">STIPULATED MOTION TO ORDER DISCLOSURE FOR <i>IN CAMERA</i> REVIEW</p> <p style="text-align: center;">CASE NO. 123456789</p> <p style="text-align: center;">JUDGE:</p>
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The Plaintiff respectfully requests that the Court grant the stipulated motion of the parties to order disclosure of records designated as protected, private or controlled under the Utah Governmental Records Access and Management Act (“GRAMA”). Specifically, it is requested that the Court order disclosure of the following documents:

- LIST DOCUMENTS

Upon examining the documents, the prosecution has determined that the records may contain potentially exculpatory, material evidence, to which the defendant would be entitled. However, the records are classified as protected, private or controlled, and are therefore privileged from discovery absent a specific court order. See Utah Code Ann. §63G-2-207(2)(a)(ii).

The parties agree that: (1) the records deal with the matter in controversy in this case; (2) the records will be subject to *in camera* review prior to disclosure, and subject to an appropriate

protective order after disclosure to the defendant; (3) in the event the record contains material, exculpatory evidence, the interests favoring access outweigh or are equal to the interests favoring restriction of access; and (4) this court has authority to order disclosure of this record.

The Plaintiff therefore respectfully requests that the Court enter an order pursuant to Utah Code Ann. § 63G-2-202(7), requiring disclosure of the record(s) described above, for *in camera* review for materiality.

Respectfully submitted this ____ day of _____, 2014.

PROSECUTOR
Assistant City Prosecutor

I stipulate this motion and the proposed order which accompanies it.

DEFENSE COUNSEL
Attorney for Defendant

CERTIFICATE OF DELIVERY

I certify that on the ____ day of _____, 20____, I mailed a copy of this motion to the following, postage prepaid:

DEFENSE COUNSEL
DEFENSE FIRM
ADDRESS
ADDRESS

DATED this ____ day of _____, 20____.

CITY ATTORNEY
City Attorney
PROSECUTOR
Assistant City Prosecutor
Attorneys for CITY
ADDRESS
ADDRESS
TELEPHONE

IN THE JUSTICE COURT OF _____
_____ COUNTY, STATE OF UTAH

<p>CITY,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>DEFENDANT,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">ORDER</p> <p style="text-align: center;">CASE NO. 123456789</p> <p style="text-align: center;">JUDGE:</p>
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The Court, having considered the stipulated motion of the parties, and for good cause appearing, enters the following order pursuant to Utah Code Ann. § 63G-2-202(7):

1. The records deal with a matter in controversy in this case, over which this Court has jurisdiction;
2. The Court has considered the merits of the request for access to the record;
3. The Court has considered and limited the defendant's use and further disclosure of the record in order to protect the privacy interests and public interests which formed the basis of the record designation;
4. Considering the Defendant's right to a fair trial, the interests favoring access, considering limitations thereon, are greater than or equal to the interests favoring restriction of access; and
5. This Court has the authority to order disclosure of the record.

The Court therefore ORDERS that the following records be provided to the Court for *in camera* review by the Court for materiality:

[LIST DOCUMENTS]

If the records are material to this matter, then the Court shall order disclosure of the records to Defendant, subject to a protective order preventing their dissemination or use outside of this case, in accordance with Utah Code Ann. § 63G-2-207(2)(b) & (c).

Entered by the court this _____ day of _____, 20____.

Judge

CITY ATTORNEY
City Attorney
PROSECUTOR
Assistant City Prosecutor
Attorneys for CITY
ADDRESS
ADDRESS
TELEPHONE

IN THE JUSTICE COURT OF _____
_____ COUNTY, STATE OF UTAH

<p>CITY,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">vs.</p> <p>DEFENDANT,</p> <p style="text-align: center;">Defendant.</p>	<p style="text-align: center;">PROTECTIVE ORDER</p> <p style="text-align: center;">CASE NO. 123456789</p> <p style="text-align: center;">JUDGE:</p>
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The Court, having received and reviewed certain records in response to the parties' stipulated motion to order disclosure, and having found that the records are material to this case, enters the following protective order:

1. The records produced by [AGENCY] are designated as private, controlled or protected pursuant to the Utah Government Records Access Management Act ("GRAMA").
2. The interests favoring disclosure outweigh or are equal to the interests favoring restriction of access, only if the following protective order is met with compliance.
3. GRAMA provides that the Court "may limit the requestor's further use and disclosure of the record" in order to protect privacy interests. Utah Code Ann. § 63G-2-207(2)(b).

The Court therefore ORDERS:

1. That the following records be disclosed to the Defendant:

[LIST RECORDS]

2. That the Defendant shall comply with the following provisions:
 - a. No copies of the record may be made, either in paper or digital form, including scanning or photographing of the record.
 - b. The document shall be marked “Attorney’s eyes only” and may only be reviewed or viewed by counsel for the Defendant.
 - c. The information contained in the record may only be used in this case, and may not be divulged in any other case or context.
 - d. Upon either sentencing or dismissal of this case, the record shall be returned to the City by the Defendant.

[OTHER APPROPRIATE RESTRICTIONS - For instance, you could request that Defense Counsel review the document at your office so that a physical copy does not leave the City’s custody.]

Entered by the court this _____ day of _____, 20____.

Judge