

## NEWS RELEASE

FOR IMMEDIATE RELEASE

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### **RELEASE OF RIO RANCHO RECORDS – UNNECESSARY LEGAL FIGHT**

The release of public records by the city of Rio Rancho Wednesday concerning the death of a two-year-old in December in Rio Rancho ended a legal fight “that didn’t need to happen,” said Kathi Bearden, president of the New Mexico Foundation for Open Government.

The Santa Fe New Mexican, NMFOG and other media outlets filed an Inspection of Public Records request to the city of Rio Rancho for public records pertaining to the 2021 December incident. The request asked for initial incident reports and 911 calls regarding the incident.

The city of Rio Rancho refused to produce the requested records citing state Children’s Code protections usually used to prevent the release of information by the New Mexico Children, Youth and Families Department in abuse, neglect and delinquency cases.

NMFOG and The New Mexican jointly filed a lawsuit in March after the city continued to refuse to produce the records despite an Attorney General’s Office opinion — issued in response to a complaint filed by KOAT-TV — stating the records were public and the city had violated the law by not producing them.

Upon Rio Rancho’s refusal to disclose the records, NMFOG and The New Mexican filed a lawsuit against Rio Rancho. District Judge James A. Noel found in favor of NMFOG and The New Mexican.

District Noel wrote in his ruling that, “Neither of the two Children’s Code provisions that [the city] cited as their sole grounds for denying the ... requests under IPRA authorizes a law enforcement agency to withhold its investigative reports or 911 recordings from public inspection.”

“It is unfortunate when public officials don’t fulfill their obligation under the law concerning the release of records,” Melanie J. Majors, NMFOG interim director, said. She pointed out that initial incident reports and 911 calls routinely are released as public records in cases that involve the public and law enforcement officers. “Not only did these public officials unnecessarily delay the disclosure of a public record,” she added, “they also imposed a substantial financial burden on the City of Rio Rancho. Rio Rancho is now legally obligated to pay the attorney’s fees .”

In addition to ordering the city to produce the records, the judge ordered Rio Rancho to pay “reasonable attorney’s fees and costs” associated with the lawsuit, estimated by plaintiffs’ attorney to be approximately \$40,000.

Following receipt of the records, Charles “Kip” Purcell, attorney and a member of the NMFOG Board of Directors, said, “It’s an important decision, because it makes clear that the confidentiality required by the Children’s Code applies only to the Children, Youth & Families Department’s file. Documents generated by law enforcement agencies are subject to public inspection in the files of those agencies, even if CYFD has obtained copies of them.”

The New Mexico Foundation for Open Government was established in 1989 as New Mexico’s only nonprofit, nonpartisan, member-supported organization serving the open government interests of the general public, the business community, elected officials, journalists and lawyers. FOG works on behalf of New Mexicans from the Roundhouse to the School House. If you have any questions or concerns regarding IPRA or the OMA, you can contact the Hotline at 1-505-764-3750. Open government is the best government.

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