

## Attorney General Of New Mexico

**HECTOR H. BALDERAS**  
Attorney General

**ELIZABETH A. GLENN**  
Chief Deputy Attorney General

November 12, 2015

Harry Gordon  
7251 Milan Hills Road NE  
Rio Rancho, NM 87144

Re: Inspection of Public Records Complaint

Dear Mr. Gordon:

The Open Government Division ("OGD") of the Attorney General's Office is in receipt of your letter dated October 13, 2015, alleging that Sandoval County violated the Inspection of Public Records Act ("IPRA"). The OGD jurisdiction is limited to a review of the Open Meetings Act ("OMA") and Inspection of Public Records Act.

OGD received correspondence from the Sandoval County regarding this matter. We have enclosed it for your review. Although Sandoval County may have failed to comply with the IPRA, based on the information provided in Sandoval County's correspondence, they have allowed for inspection of the records requested. Therefore, the OGD will decline to open an Inspection of Public Records inquiry into this matter.

Thank you for affording our office this opportunity to be of assistance.

Sincerely,

A handwritten signature in blue ink that reads "Dylan K. Lange".

Dylan K. Lange  
Assistant Attorney General

RECEIVED OCT 19 2015  
BM

HARRY GORDON



October 13, 2015  
The Honorable Hector Balderas  
Attorney General  
State of New Mexico  
P. O. Drawer 1508  
Santa Fe, New Mexico 87504

Re: Inspection of Public Records Act Complaint – Sandoval County - Treasurer's Office

Dear Mr. Attorney General:

I am requesting that your office investigate a potential violation of the Inspection of Public Records Act (IPRA) by Sandoval County. If it is found the County did violate the Act, that the individuals responsible be appropriately sanctioned by your office, as defined by the provisions of NMSA 1978, Section 10-15-1 or 10-15-2, as this is not the first time Sandoval County has disregarded sections of this Act.

The IPRA clearly states, in pertinent part:

A custodian receiving a written request shall permit the inspection immediately or as soon as is practical under the circumstances, but not later than fifteen days after receiving a written request. If the inspection is not permitted within three business days, the custodian shall explain in writing when the records will be available for inspection or when the body will respond to the request. The three-day period shall not begin until the written request is delivered to the office of the custodian.

Clearly in this matter Sandoval County is in violation of both the three-day and fifteen-day rule.

On September 15, 2015 I mailed a request to the Public Records Custodian, Sandoval County Administrative Offices, County Managers Office, P.O. Box 40, Bernalillo, NM 87144, for inspection of public records, pursuant to the Inspection of Public Records Act, NMSA. Ann. (sections 14-2-1 to 14-2-12). As of the date of this letter I have yet to receive a response. On October 2, 2015 I received an e-mail from Sidney Hill, Public Information Officer for Sandoval County. There was no content in that e-mail, only an attachment. The attachment

accompanying this e-mail was the September 15, 2015 letter I mailed to the Public Records Custodian, Sandoval County Administrative Offices, County Managers Office, requesting inspection of public records listed below.

My IPRA request was as follows:

1. All of the invoices and receipts related to the purchase and distribution of items, such as pens, mailer postcards, pamphlets, brochures and any other promotional incentive hand-out items with Sandoval County Treasurer Laura M. Montoya's name and/or picture printed on the various items.
2. All of the purchase orders related to the purchase and distribution of items, such as pens, mailer postcards, pamphlets, brochures and any other promotional incentive hand-out items with Sandoval County Treasurer Laura M. Montoya's name and/or picture printed on the various items.
3. All other public records related to the purchase and distribution of items, such as pens, mailer postcards, pamphlets, brochures and any other promotional incentive hand-out items with Sandoval County Treasurer Laura M. Montoya's name and/or picture printed on the various items.
4. All public records showing the cost for mailing or distributing all pens, mailer postcards, pamphlets, brochures and any other promotional incentive hand-out items with Sandoval County Treasurer Laura M. Montoya's name and/or picture printed on the various items.
5. Any and all public records showing approvals from the County Commission, County Manager or other approval authority within Sandoval County regarding the purchase and distribution of items, such as pens, mailer postcards, pamphlets, brochures and any other promotional incentive hand-out items with Sandoval County Treasurer Laura M. Montoya's name and/or picture printed on the various items.

**Please Note:** In making this request, I am seeking all materials deemed "public records" under the Public Records Act including: all documents, correspondence, papers, letters, book maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by (Sandoval County) irrespective of whether such records "are required by law to be created or maintained," NMSA, Ann. Section 14-2-6 (1993). **If any of the above materials exist or are available in electronic format, I specifically request that those materials be provided to me in electronic format.** See NMSA, Section 14-2-9(B).

If your Office does not maintain these public records, please forward this request to Sandoval County's appropriate designated Public Records Custodian, or let me know that custodian's name and email address. Under New Mexico's Inspection of Public Records Act (Section 14-2-6 -D), Sandoval County is classified as a Public Body as it was created under State law and receives public funding, hence it is subject to the Act and must comply with the law.

As provided by the Act, I will expect your response within the timeframe specified within the Act that this request was received by your records custodian, if you are not the records custodian. If you choose to deny this request, please provide a written explanation for the denial including a reference to the specific statutory exemption(s) upon which you rely.

Please do not hesitate to contact me with any questions or comments. I will be happy to provide whatever assistance I can in fulfilling this request. Please advise me in writing or by e-mail of

any charges for copies, prior to them being made, and why this information cannot be sent to me electronically.

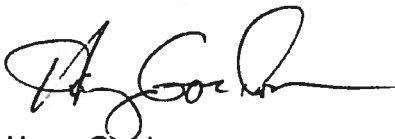
This is not the first time that I have sent an IPRA Request to Sandoval County (Records Custodian) and the County failed to respond in the timeframe set forth in the Act. In a letter dated August 7, 2009 from Albert J. Lama, then Chief Deputy Attorney General, he wrote, "By providing the county (Sandoval) with a copy of this and my previous letter to you, the county was placed on notice that we believe it needs to take steps to ensure that future requests are not misfiled and of their responsibility to comply with all provisions of the IPRA. Be assured that we do monitor complaints to determine where a pattern of violations and/or disregard for the IPRA's requirements may exist, including but not limited to, instances where requests to inspect records are repeatedly misfiled. In instances where we are able to detect a pattern and practice of disregard for the IPRA and where we have sufficient evidence to bring a case against a public body for violating the IPRA, we will not hesitate to do so." Obviously Sandoval County did not heed the cautionary warning from the Attorney General's Office in that matter, as they continue to disregard the provisions of IPRA."

In 2004 the State Attorney General's Office determined Sandoval County violated the State's Inspection of Public Records Act. In that matter the County violated the Act by not responding in writing for over a month to a request for tax information by Placitas, New Mexico resident Dr. Charles Mellon, and for not citing who was responsible for denying his request once the county responded.

It is apparent that Sandoval County officials feel they are not bound by the Inspection of Public Records Act, based on their past and current practices.

Your office's prompt attention to this matter will be greatly appreciated.

Sincerely,



Harry Gordon

Attachment:

1. Letter to the Sandoval County Records Custodian dated September 15, 2015.
2. July 13, 2004 Article from ABQ Journal titled: "Sandoval Violated Records Act."
3. E-mail received October 2, 2015 from Sidney Hill, Public Information Officer for Sandoval County.