

**STATE OF NEW MEXICO  
COUNTY OF RIO ARRIBA  
FIRST JUDICIAL DISTRICT COURT**

**CHARLES ARASIM,**

Petitioner,

No.: D-117-CV-2018-00006

v.

Case assigned to Attrep, Jennifer L.

**CITY OF ESPANOLA and  
ANNA SQUIRES,**

Respondents.

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**VERIFIED PETITION FOR WRIT OF MANDAMUS**

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PETITIONER CHARLES ARASIM (“Mr. Arasim”), by and through undersigned counsel of record, hereby files this petition for writ of mandamus pursuant to NMSA 1978, § 44-2-1 *et seq.* and NMSA 1978, § 14-2-12(B). As alleged more particularly below, Respondents have violated the Inspection of Public Records Act, NMSA 1978, § 14-2-1 *et seq.* (“IPRA” or the “Act”) by failing to produce requested public records, failing to provide a written explanation why records were denied, failing to identify who was responsible for the denial of the production of public records, and failing to comply with the timelines set forth by the Act. By their actions, Respondents have violated the Act.

**JURISDICTION AND VENUE**

1. This Court has jurisdiction to issue writs of mandamus pursuant to Article VI, Section 13 of the New Mexico Constitution.
2. The unlawful acts alleged herein were committed in the County of Rio Arriba, State of New Mexico.
3. Venue of the Court is proper pursuant to NMSA 1978, § 38-3-1.

## **PARTIES**

4. Mr. Arasim as the Petitioner in this matter is a beneficially interested person in the issues of this case as required by NMSA 1978, § 44-2-5.

5. Mr. Arasim is entitled to enforce IPRA as a person whose written request has been refused and denied pursuant to NMSA 1978, §§ 14-2-11(C) and 14-2-12(A)(2).

6. Respondent City of Espanola (“Respondent City”) is a political subdivision division of the State of New Mexico and conducts business in the County of Rio Arriba.

7. Respondent Anna Squires (“Respondent Squires”) is, or at all times relevant was, the City of Espanola’s City Clerk and records custodian, was employed by Respondent City, and has held herself out as the custodian of records for Respondent City.

8. Respondent Squires, at all material times relevant to this matter, worked at and had her office at Respondent City’s offices located at 405 N. Paseo de Oate, Espanola, NM 87532.

## **FACTUAL BACKGROUND**

9. “asquires@espanolanm.gov” is an email address used by Respondent Squires to receive IPRA requests submitted via email by requestors.

10. On October 6, 2017, through counsel, Mr. Arasim submitted a written IPRA request via email, for the following public records:

1. Video recording of Espanola Police Department (“EPD”) officers while in EPD “training” room on August 17, 2017, covering the time period of 1700-1900 hours.

2. All records relating to, and including, the investigation of the actions, conduct, and behavior, of EPD officers as documented in the video recordings identified in No. 1 above.

3. All emails, writings, or records relating to the processing of this request.

*See* October 6, 2017, IPRA request emailed to Respondent Squires, attached and incorporated herein as Exhibit #1.

11. The public records which were the subject of Mr. Arasim's IPRA request involved records relating to an incident involving on-duty Espanola Police Department personnel and a subsequent investigation of those personnel.

12. On October 10, 2017, four (4) days after receiving Mr. Arasim's IPRA request, Ms. Melissa Velasquez responded on behalf of Respondent Squires and acknowledged Mr. Arasim's IPRA Request. *See* October 10, 2017 email attached and incorporated herein as Exhibit #2.

13. In the October 10, 2017, email, Ms. Velasquez asserted, "The Clerks Department will work with the Department of Public Safety to obtain these files as soon as possible." *Id.*

14. On October 25, 2017, nineteen (19) days after submission of Mr. Arasim's IPRA request, Ms. Velasquez sent another email in follow up to her October 10, 2017, email and asserted that "[w]e believe that your request is excessively burdensome, as additional time is needed to respond." *See* Section "A" of the October 25, 2017, email attached and incorporated herein as Exhibit #3. Ms. Velasquez also asserted in the email that the records custodian would respond to the request "on or before November 3, 2017." *Id.*

15. On October 26, 2017, through counsel, Mr. Arasim responded to Ms. Velasquez's email and requested an explanation with respect to Respondents' claims that Mr. Arasim's IPRA request was "excessively burdensome" and that Respondents were untimely in their response to Mr. Arasim's request. *See* Section "B" of Exhibit #3.

16. On November 3, 2017, no records were produced by Respondents.

17. On November 16, 2017, Ms. Velazquez sent another email and did not respond to the questions raised in the October 26, 2017, email. Nonetheless, Ms. Velasquez asserted that the records would be available on Monday, November 20, 2017. *See* Section "C" of Exhibit #3.

18. On November 21, 2017, Mr. Arasim drove up to Espanola and inspected the records they

produced in response to his IPRA request. While Respondents partially produced records in response to other and separate IPRA requests Mr. Arasim had submitted, Respondents produced no records in response to the IPRA request that is the subject of this action.

19. Upon information and belief, Espanola Chief of Police, Ray Romero, asserted that the records would not be released.

20. No explanation was conveyed as to why the video and investigation filed regarding the August 17, 2017, incident were withheld or not produced.

21. As of the filing of this petitioner, the records have not been produced by Respondents.

#### **LEGAL BASIS FOR PETITIONER'S ENTITLEMENT TO RELIEF**

22. Mr. Arasim hereby incorporates by reference each preceding paragraph as though fully contained herein.

23. Pursuant to IPRA, the term "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of any public body and relate to public business, whether or not the records are required by law to be created or maintained. NMSA 1978, § 14-2-6.

24. The records requested by Mr. Arasim are the type included within the meaning of public records. Specifically, the video recordings and the police investigation files are recognized as public records and there exists no statutory or legal basis permitting Respondents to exempt the records from being produced in response to an IPRA request.

25. Respondent Squires's October 10, 2017, acknowledgement of Mr. Arasim's IPRA request was untimely and in contravention to NMSA 1978, § 14-2-8(D) which requires inspection of the records, or a response, within three (3) days of receiving the IPRA request.

26. Respondent Squires' October 25, 2017, email regarding Mr. Arasim's IPRA request was in contravention to NMSA 1978, § 14-2-11(D) which requires Respondents to permit inspection of the records within fifteen (15) days of receiving Mr. Arasim's IPRA request.

27. Respondents have wholly denied Mr. Arasim's IPRA request concerning video recordings and investigation reports concerning the August 17, 2017, incident by not producing the records and failing to assert any exception supporting the denial of the production of the records to Mr. Arasim.

28. "Custodian" means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control. NMSA 1978, § 14-2-6. Respondent Squires is, or at all times relevant was, the records custodian for Espanola and has held herself out as such.

29. The records custodian has a statutory duty and obligation to permit inspection of records in response to a written request to do so. NMSA 1978, § 14-2-8(D)

30. Respondents' duties under IPRA are mandatory and non-discretionary. Crucially, "[a] records custodian receiving a written request shall permit the inspection immediately or as soon as is practicable under the circumstances, but not later than fifteen days after receiving a written request" NMSA 1978, § 14-2-8(D).

31. Mr. Arasim requested copies of documents and Respondents have failed to produce responsive records, have been purposefully dilatory in their response to Mr. Arasim's IPRA request, and have wrongfully withheld the production of the records sought by Mr. Arasim.

32. In omitting production of all responsive records as requested by Mr. Arasim, Respondents have wrongfully denied him access of his right to inspect these public records.

33. IPRA is the expression of the intent of the legislature, and the public policy of the State of New Mexico, that citizens be “entitled to the greatest possible information regarding the affairs of government and the official acts of public officers and employees.” NMSA 1978, § 14-2-5. Providing access to public records—by the records custodian—is not just a duty, but an “essential function of a representative government and an integral part of the routine duties of public officers and employees.” *Id.*

34. Respondents breached a clear and indisputable duty by their failure to completely respond to Mr. Arasim’s request for public records.

35. Pursuant to NMSA 1978, § 14-2-10, a “requester may deem the request denied and may pursue the remedies available pursuant to the Inspection of Public Records Act if the custodian does not permit the records to be inspected in a reasonable period of time.”

36. IPRA explicitly provides that a person whose request has been denied may enforce his right to access through the issuance of a writ of mandamus. NMSA 1978, § 14-2-12(B).

37. Mandamus is the appropriate vehicle for relief in this case. First, IPRA specifically provides that a person whose written request has been denied may bring an enforcement action under the statute, NMSA 1978, § 14-2-12(A)(2), and that the Court “may issue a writ of mandamus” to enforce IPRA pursuant to NMSA 1978, § 14-2-12(B). In addition, mandamus generally lies “to compel the performance of an act which the law specially enjoins as a duty resulting from an office, trust or state. NMSA 1978, § 44-2-4.

38. IPRA provides that the court shall award damages, costs, and reasonable attorney’s fees to any person whose written request has been denied and is successful in a court action to enforce provisions of IPRA. NMSA 1978, §§ 14-2-11 and 14-2-12(D).

39. The Court may award damages of up to \$100.00 per day for failure to provide a timely

explanation of a denial. NMSA 1978, § 14-2-11(C).

40. In this enforcement action, Mr. Arasim has incurred damages, costs, expenses, and is entitled to an award of reasonable attorney's fees.

WHEREFORE, Mr. Arasim requests this Court to:

A. Issue an Alternative Writ of Mandamus ordering Respondents to comply with their mandatory, non-discretionary duty and obligation to follow the statutory requirements of IPRA, specifically including:

1. That Respondents have violated IPRA and are to produce to Mr. Arasim copies of all records relating to his October 6, 2017, IPRA request in their original and complete format as requested including the following as related to the August 17, 2017, incident:

- a. Video recording of Espanola Police Department ("EPD") officers while in EPD "training" room on August 17, 2017, covering the time period of 1700-1900 hours.
- b. All records relating to, and including, the investigation of the actions, conduct, and behavior, of EPD officers as documented in the video recordings identified in No. 1 above.
- c. All emails, writings, or records relating to the processing of this request.

2. That Respondents carry out the Court's order immediately or as soon as practicable under the circumstances, but not later than fifteen days after service of the requested Writ.

Or in the alternative:

Show cause why such records should not be produced to Mr. Arasim;

B. Award damages, costs, and reasonable attorney's fees to Petitioner; and

C. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,


/s/ Thomas R. Grover  
Thomas R. Grover  
**GROVER LAW, LLC**  
9400 Holly NE, Bldg. 4  
Albuquerque, NM 87122  
Office: (505) 695-2050  
Fax: (505) 944-1073  
thomas@grover-law.com  
*Attorney for Petitioner*



**Verification**


State of New Mexico     )  
  )ss.  
County of Bernalillo     )

The undersigned affiant, being first duly sworn, upon oath, deposes and says: My name is Charles Arasim. I am familiar with the claims at issue in this matter. I have read over, know, and understand the contents of the foregoing Petition and the statements therein made are true of my own knowledge, except those that are made upon information and belief, and to those I believe them to be true.

  
Charles Arasim

Subscribed and sworn to me this 28 day of Dec, 2017.

 OFFICIAL SEAL  
MITZI ZERI  
NOTARY PUBLIC-State of New Mexico  
My Commission Expires 1-18-21

MITZI ZERI  


# GROVER LAW, LLC

9400 HOLLY AVENUE NE BUILDING 4  
ALBUQUERQUE NEW MEXICO 87122  
OFFICE: 1-505-695-2050 FACSIMILE: 1-505-944-1073 WEB: WWW.GROVER-LAW.COM

October 6, 2017

Ms. Anna Squires, City Clerk  
City of Espanola  
405 N. Paseo de Onate  
Espanola, NM 87532

Dear Ms. Squires:

This correspondence is submitted pursuant to NMSA 1978, 14-2-1 *et seq.*, the Inspection of Public Records Act. For inspection, please provide this office with the below listed records:

1. Video recording of Espanola Police Department (“EPD”) officers while in EPD “training” room on August 17, 2017, covering the time period of 1700-1900 hours.
2. All records relating to, and including, the investigation of the actions, conduct, and behavior, of EPD officers as documented in the video recordings identified in No. 1 above.
3. All emails, writings, or records relating to the processing of this request

Where those records exist in electronic/digital form, it is requested that the record be provided in that format. Where an exception under the attorney-client privilege doctrine is asserted, please produce all records with the asserted contents subject to exemption redacted.

Thank you for your assistance in this matter and please contact me as needed at (505) 463-9336 or via email at [thomas@grover-law.com](mailto:thomas@grover-law.com) if you have any questions.

Sincerely,



Thomas R. Grover

CC: File

**Classification:**  FOUO  Privileged & Confidential  
**Sent by:**  USPS  Hand Delivery  
 Fax: \_\_\_\_\_  
 E-Mail: [asquires@espanolanm.gov](mailto:asquires@espanolanm.gov)

**EXHIBIT  
#2**

Melissa Velasquez <mvelasquez@espanolanm.gov>

10/10/2017 11:56 AM

## RE: October 6, 2017, IPRA request concerning investigation records

To thomas@grover-law.com <thomas@grover-law.com> Copy Anna Squires <asquires@espanolanm.gov> •  
Sylvia R. Varela <svarela@espanolanm.gov> • Francisco F. Galvan <fgalvan@espanolanm.gov> •  
Francisco F. Galvan <ffgalvan@coepd-nm.us>

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10.10.2017

Thomas Grover, MPA  
Grover Law, LLC  
9400 Holly NE, Bldg. 4, Albuquerque, NM 87122  
505.463.9336

Hello Mr. Grover,

We, the City of Española Clerks Department are in receipt of your Inspection of Public Records received October 6, 2017.

1. Video recording of Espanola Police Department (“EPD”) officers while in EPD “training” room on August 17, 2017, covering the time period of 1700-1900 hours.
2. All records relating to, and including, the investigation of the actions, conduct, and behavior, of EPD officers as documented in the video recordings identified in No. 1 above.
3. All emails, writings, or records relating to the processing of this request

The Clerks Department will work with the Department of Public Safety to obtain these files as soon as possible.

Best,

*Melissa R. Velasquez*  
Deputy Clerk, City Clerk Department  
CITY OF ESPAÑOLA  
405 North Paseo de Oñate  
Española, NM 87532  
Office: 505.747.6039  
Cellular: 505.692.3885  
[mvelasquez@espanolanm.gov](mailto:mvelasquez@espanolanm.gov)

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**From:** Anna Squires  
**Sent:** Monday, October 09, 2017 5:22 PM  
**To:** Melissa Velasquez <[MVelasquez@espanolanm.gov](mailto:MVelasquez@espanolanm.gov)>  
**Subject:** FW: October 6, 2017, IPRA request concerning investigation records

Melissa can you send a three day response on this IPRA, Thank you #2  
-Anna

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**From:** Thomas Grover [[thomas@grover-law.com](mailto:thomas@grover-law.com)]  
**Sent:** Friday, October 06, 2017 4:27 PM  
**To:** Anna Squires <[ASquires@espanolanm.gov](mailto:ASquires@espanolanm.gov)>  
**Cc:** Thomas Grover <[thomas@grover-law.com](mailto:thomas@grover-law.com)>  
**Subject:** October 6, 2017, IPRA request concerning investigation records

Dear Ms. Squires:

Please find attached an IPRA request regarding the above referenced matter.

Regards,

Thomas Grover

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Thomas Grover, MPA  
Grover Law, LLC  
9400 Holly NE, Bldg. 4, Albuquerque, NM 87122  
505.463.9336

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**EXHIBIT  
#3**

Melissa Velasquez &lt;mvelasquez@espanolanm.gov&gt;

11/16/2017 2:46 PM

**RE: October 6, 2017, IPRA request(s) concerning EPD personnel records, EPD chief of police records and investigation records**

To Thomas Grover <thomas@grover-law.com> Copy Anna Squires <asquires@espanolanm.gov> • Frank Coppler <fcoppler@coppler.com> • Mark Trujillo <mtrujillo@espanolanm.gov> • Raymond P. Romero <rpromero@coepd-nm.us> • Sally Baxter <sbaxter@espanolanm.gov> • Francisco F. Galvan <fgalvan@espanolanm.gov>

11.16.17

Thomas Grover, MPA  
Grover Law, LLC  
9400 Holly NE, Bldg. 4  
Albuquerque, NM 87122  
505.463.9336

**SECTION "C"**

Hello Mr. Grover,

Within this email thread, three (3) IPRA responses per your original IPRA request have been condensed. The City of Española has requested that we be allowed an extension, as the requests were excessively burdensome. We appreciate the time and courtesy you have allotted, and the request will be available and ready no later than Monday, November 20, 2017 by the close of business hours.

Best,

*Melissa R. Velasquez*  
Deputy Clerk, City Clerk Department  
CITY OF ESPAÑOLA  
405 North Paseo de Oñate  
Española, NM 87532  
Office: 505.747.6039  
Cellular: 505.692.3885  
[mvelasquez@espanolanm.gov](mailto:mvelasquez@espanolanm.gov)

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**From:** Thomas Grover [mailto:[thomas@grover-law.com](mailto:thomas@grover-law.com)]**Sent:** Thursday, October 26, 2017 9:01 AM**To:** Melissa Velasquez <[MVelasquez@espanolanm.gov](mailto:MVelasquez@espanolanm.gov)>**Cc:** Anna Squires <[ASquires@espanolanm.gov](mailto:ASquires@espanolanm.gov)>; Francisco F. Galvan <[FFGalvan@coepd-nm.us](mailto:FFGalvan@coepd-nm.us)>; Francisco F. Galvan <[FGalvan@espanolanm.gov](mailto:FGalvan@espanolanm.gov)>; Sally Baxter <[SBaxter@espanolanm.gov](mailto:SBaxter@espanolanm.gov)>; Sylvia R. Varela <[SVarela@espanolanm.gov](mailto:SVarela@espanolanm.gov)>; Thomas Grover <[thomas@grover-law.com](mailto:thomas@grover-law.com)>**Subject:** Re: October 6, 2017, IPRA request(s) concerning EPD personnel records, EPD chief of police records

and investigation records

## SECTION "B"

Dear Ms. Velasquez:

I am in receipt of your email regarding this office's October 6, 2017, IPRA requests. Pursuant to the IPRA, such a claim for the request being excessively burdensome is untimely as it was due on October 23, 2017, and in contravention with law. Furthermore, as the records sought were specifically identified and are maintained in the regular course of City of Espanola business, I see no basis in your naked assertion that the request is as you claim. Lastly, this office submitted three separate IPRA requests, not one request.

Accordingly, please produce the records for inspection immediately.

Regards,

Thomas Grover

On October 25, 2017 at 6:12 PM Melissa Velasquez <[MVelasquez@espanolanm.gov](mailto:MVelasquez@espanolanm.gov)> wrote:

October 25, 2017

Thomas Grover, MPA  
Grover Law, LLC  
9400 Holly NE, Bldg. 4  
Albuquerque, NM 87122  
505.463.9336

Hello Mr. Grover,

The City of Española is in receipt of your Inspection of Public Records Act request received October 6, 2017 , which are as follows:

A) EPD personnel records

1. All notices of investigations, including target or witness letters, concerning the following employees of the Espanola Police Department:

- a. Anthony Armijo;
- b. Eric Gallant;
- c. Corey Atencio;
- d. Jason Gallegos;
- e. Richard Trujillo;
- f. Daniel Espinoza;
- g. Ray Romero.

2. All final predetermination discipline records and final discipline records concerning the following employees of the Espanola Police Department:

- a. Anthony Armijo;
- b. Eric Gallant;
- c. Corey Atencio;
- d. Jason Gallegos;
- e. Richard Trujillo;
- f. Daniel Espinoza;
- g. Ray Romero.

3. City and Espanola Police Department (“EPD”) personnel file, including background investigation, for EPD officer Daniel Espinoza.

4. City and EPD personnel file, including background investigation, for EPD officer Jason Gallegos.

5. City and EPD personnel file, including background investigation, for EPD officer Ray Romero.

6. City and EPD personnel file, including background investigation, for EPD officer Anthony Trujillo.

7. City and EPD personnel file, including background investigation, for EPD officer Corey Atencio.

8. All emails, writings, or records relating to the processing of this request.

#### B) Investigation records

1. Video recording of Espanola Police Department (“EPD”) officers while in EPD “training” room on August 17, 2017, covering the time period of 1700-1900 hours.

2. All records relating to, and including, the investigation of the actions, conduct, and behavior, of EPD officers as documented in the video recordings identified in No. 1 above.

3. All emails, writings, or records relating to the processing of this request

C) EPD chief of police records

1. All notices of investigations, including target or witness letters, concerning the following employees of the Espanola Police Department:

a. Ray Romero.

2. All final predetermination discipline records and final discipline records concerning the following employees of the Espanola Police Department:

a. Ray Romero.

3. All letters and/or emails of interest concerning the position of Chief of Police of the Espanola Police Department as received from January 1, 2015, through the date of this letter.

4. All emails received or sent from City of Espanola Mayor Alice Lucero concerning chief of police applicants from January 1, 2015, through the date of this letter.

5. City and Espanola Police Department ("EPD") personnel file for EPD chief of police Ray Romero.

6. City and EPD panel interview and hiring records concerning chief of police Ray Romero.

7. All emails, writings, or records relating to the processing of this request.

**SECTION "A"**

We believe that your request is excessively burdensome, as additional time is needed to respond. Therefore, the records custodian will respond to your request on or before November 3, 2017.

Thank you for your time Mr. Grover, it is much appreciated.

Best,

*Melissa R. Velasquez*



Deputy Clerk, City Clerk Department

CITY OF ESPAÑOLA

405 North Paseo de Oñate

Española, NM 87532

Office: 505.747.6039

Cellular: 505.692.3885

[mvelasquez@espanolanm.gov](mailto:mvelasquez@espanolanm.gov)

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Thomas Grover, MPA

Grover Law, LLC

9400 Holly NE, Bldg. 4, Albuquerque, NM 87122

505.463.9336

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