

Honors Thesis Proposal

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09/26/2023

Working Title:

Utah's sentiments towards GRAMA requests

Project Purpose:

I would like to explore how friendly Utah courts are towards plaintiffs in lawsuits that involve GRAMA requests (Government Records Access and Management Act; Utah's equivalent of the Freedom of Information Act).

As a writer, a generally curious person, and someone who values transparency, I am interested in this topic because of what it means for what information is accessible in Utah, and whether Utah is upholding a healthy level of transparency. While there are legitimate reasons companies choose to be less transparent, there are also less legitimate reasons which companies and other entities should be held accountable for.

I have also recently been considering pursuing law school, and because of this I wanted to pick a topic that had some legal aspects while still addressing the communications/journalism side. Journalists in particular rely on freedom of information laws as this is often the only way they will get access to information in Utah.

Project Importance:

Freedom of information is crucial for functioning democracy and a healthy marketplace of ideas.

Where the law in Utah currently stands on this issue determines how accountable entities think they are. If Utah consistently fails to support journalists or others requesting information, companies are likely to continue to deny GRAMA requests whether their denial is legitimate or not, because they know Utah will rule in favor of the company. This result comes at a heavy cost to journalists, who are sometimes forced to fight and pay for the costs of these cases.

Alternatively, if companies know that Utah will hold them accountable they are less likely to deny requests in the first place. Consolidating cases that have been appealed in Utah allows us to see this and combine years of information in one place.

This is valuable especially for journalists to be aware of but also to continue to inform the public on. The legal field especially seems to lack significant coverage due to its complexity and general lack of public interest. But it's also an area of massive importance.

Project Overview:

This project would consist of a literature review, a case analysis, and a proposed solution if applicable.

The literature review would mostly be looking for and at what policy analysis has already been done on similar topics. Law is complicated in part by the difference between exactly what it says and how it is practiced, which is why policy analysis is crucial to include. Looking at the laws and statutes alone isn't enough information.

Because GRAMA was only passed in 1991, I will be looking at all the cases that have reached appeals since then. There are 40 of these, and I plan to read as many of the 40 cases I've identified as possible (attached summaries at the end of this document). All 40 may not be applicable, but I plan to sort through those and use as many as possible to get an accurate sample of what's going on.

Another important piece of this issue is the State Records Committee, which is generally the step before going to court. The State Records Committee also has records of their decisions, and I hope to include some of those as part of the examination as well.

I also want to work towards a proposed solution to address a discrepancy in either direction. If Utah is ruling wildly in favor of journalists I'll look at how to address that, and if Utah is ruling consistently against journalists I'll also look at that. I think this section is important and valuable both as an exercise and an acknowledgement of complexity. This requires research into legal processes and background so that a proposed solution is actually useful and not just wishful thinking.

Project approach details:

Search terms to start with: GRAMA, FOIA, appeals, court cases, courts, 10th circuit, tenth circuit, policy, freedom of information, transparency, state records committee.

Smaller research questions:

1. What issues are frequently brought up during these cases?
 - a. Are these issues that *should* be brought up in this context?
2. What is the pattern with which Utah appeals courts handle these cases?
3. Are plaintiffs able to take advantage of the best arguments on their side?
 - a. Are their lawyers competitive compared to company lawyers?
4. Are arguments for freedom of information too idealistic and vague to influence a judge?
5. What kinds of companies are most frequently brought to court?
6. How many cases, of the selected, fall in favor of or against the plaintiff?
7. What are the most upheld arguments against freedom of information? Not including flat out exemptions.

Thesis Committee:



Dr. Ed Carter

Education background:

Master of Studies in International Human Rights Law
LL.M. from the University of Edinburgh School of Law
J.D. at J. Reuben Clark Law School at BYU
Master's from Medill School of Journalism at Northwestern University
Bachelor's in communications from BYU

Relevant Research:

Current trends in mass communication law, including online aspects of
defamation and privacy invasion



Joel Campbell

Education background:

Master's in journalism from Ohio State University

Relevant Research:

Research interest is media and religion, First Amendment and Freedom of Information

Dr. Carter and Professor Campbell's interest in this topic:

Dr. Carter and Professor Campbell are both professors that I have taken classes from. Dr. Carter has practical as well as academic experience with law. Professor Campbell has experience researching FOIA and GRAMA topics and teaches the research methods class in the Communications department. Professor Campbell and Dr. Carter also have experience as journalists, and Dr. Carter has represented journalists in cases similar to the ones I will be looking at. Both share a passion for these issues and a passion for supporting students.

Project Timeline:

Date	Description
October 7, 2023	Sort through cases
October 14, 2023	3-5 cases read
October 21, 2023	3-5 cases read
October 28, 2023	3-5 cases read
November 4, 2023	3-5 cases read
November 11, 2023	3-5 cases read
November 18, 2023	3-5 cases read
November 25, 2023	3-5 cases read
December 2, 2023	3-5 cases read
December 9, 2023	3-5 cases read
December 16, 2023	3-5 cases read
December 30, 2023	<i>Rough Draft</i>
January 6, 2024	Editing
January 13, 2024	Editing/further research
January 20, 2024	Editing/further research
January 27, 2024	Editing/further research
February 3, 2024	<i>2nd Draft</i>
February 10, 2024	Editing/further research
February 17, 2024	Editing/further research
February 24, 2024	Editing/further research
March 15, 2024	<i>Final Thesis PDF</i>

Funding:

I may need a subscription to a legal database like Westlaw, but I may be able to access this at the library. The cases I will need to read are about 400 pages, and I would like physical copies so that I can write on them. I believe if it's sent over to BYU Print and Mail it will cost around \$30 at most. Additionally a cheap binder would cost around \$10 at most. I might later request some books. Other than that I have no funding requests.

Conclusion:

Understanding the current climate towards freedom of information is super valuable to journalists but also to the public. While this is a thesis, this is also a kind of investigation into whether the public's best interest is being taken into consideration and whether there is adequate access to information which should be public.

This would give the public a better idea of if they know everything that's going on or if there's some information missing. Most importantly this allows the public to be informed and able to form their own judgments and make their own decisions based on as complete information as possible.

Funding Request

Description	Amount
Binder (x2)	\$25
Printed copies of case files	\$40
TOTAL	\$65