January 22, 2021

John W. Caldwell
County Attorney
Lea County
100 N. Main Suite 4
Lovington, NM 88260

sent by email: jcaldwell@leacounty.net

Dear Mr. Caldwell,

The New Mexico Foundation for Open Government (FOG) is dedicated to ensuring access to public information in New Mexico, which includes assisting both records requestors and public entities regarding compliance with the New Mexico Inspection of Public Records Act (IPRA).

I am writing because NMFOG received a hotline complaint that Lea County has failed to comply with IPRA and allow for inspection of 911 records. By law, 911 calls are public records and under IPRA subject to inspection. Also, IPRA is very clear, if a record exists in electronic form at the time of the request, the record must be provided in electronics form. There is no cost for electronic records.

Mr. Redfern asked for records of 911 calls showing date, time, what the call was for, what the response was and by which agency -- specific records from a specific timeframe. Also, it does not appear that there is information in the records requested that falls under the provision of protected personal identifier information that needs to be redacted.

In early December 2020, the U.S. Ninth Circuit Court of Appeals issued a new ruling that records considered database records must be provided to requesters just as paper documents. (No. 18-17356 D.C. No. 3:17-cv-06557-JSC). That same opinion stressed that there may be numerous records searches to comply with the request and an agency that stores information in a database creates “a multitude of different arrangements each of which is in the agency’s possession or control and the public presumably has the same rights of access.” Therefore, if Lea County keeps the records in a database, it is still required under law to provide them to a requester.

IPRA was designed to allow the public access to “the greatest possible information regarding the affairs of government and the official acts of public officers and employees.” NMSA 1978, Sections 14-2-5(1947, as amended through 2018). For your reference, a copy of the IPRA Guide is available on the website of the Office of the Attorney General at www.nmag.gov and IPRA training is provided by several organization, including NMFOG.

Sincerely,

Melanie J. Majors
Executive Director

CC:
John Kreienkamp, assistant attorney general, Office of Attorney General, jkreienkamp@nmag.gov
Jerry Redfern, reporter, jerry.redfern@gmail.com