

July 31, 2019

Via Fax

Nancy Ransburgh
Records Retention Manager
City of Montgomery
Office of the City Clerk
Records Management Service
Fax: (334) 625-2056

**Re: Request for Public Records to the Montgomery Police Department and the
Montgomery Fire/Rescue Department**

Dear Ms. Ransburgh:

The Southern Poverty Law Center (SPLC), for itself and Montgomery Pride United (MPU), the American Civil Liberties Union (ACLU) of Alabama, and Hometown Action—Alabama organizations that represent the interests and civil rights of Alabama’s LGBTQ community—makes this request for public records under the Alabama Open Records Act, Ala. Code § 36-12-40, to the Montgomery Police Department (MPD) and the Montgomery Fire/Rescue Department.

Fifty years and one day after LGBTQ patrons of the Stonewall Inn in New York City famously rose up against the police officers who repeatedly raided their otherwise-safe spaces because of their identities, MPD and Montgomery Fire/Rescue shut down an LGBTQ Pride event at A Touch of Soul Cafe in downtown Montgomery just minutes before it was scheduled to start.¹ Club Reset and Club Ciroc, where LGBTQ patrons were celebrating Pride, were also shut down that evening.² These raids were reminiscent of the MPD’s own discriminatory raids of LGBTQ spaces in the 1980s.³

¹ Shannon Heupel et al., *‘This Is Our Weekend’: LGBTQ Community Questions Closure of Montgomery Pride Drag Show*, MONTGOMERY ADVERTISER (June 30, 2019), <https://www.montgomeryadvertiser.com/story/news/2019/06/30/why-did-montgomerys-touch-soul-cafe-drag-show-get-shut-down-pride/1611950001/>.

² Nico Lang, *An Alabama Drag Show Was Shut Down on the 50th Anniversary of Stonewall*, NBC NEWS (July 3, 2019 2:00PM CT), <https://www.nbcnews.com/feature/nbc-out/alabama-drag-show-was-shut-down-50th-anniversary-stonewall-n1026151>.

³ *Id.*

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MPD, Montgomery Fire/Rescue, and the Alabama Alcoholic Beverage Control (ABC) Board have since confirmed that raids on city clubs and bars “had been planned for weeks in advance.”⁴

Pursuant to the Alabama Open Records Act, the SPLC—for itself and MPU, ACLU of Alabama, and Hometown Action—requests copies of the following public records⁵ within the possession, custody, and control of MPD and/or Montgomery Fire/Rescue:⁶

All public records, created at any time, that concern the MPD, Montgomery Fire/Rescue, and/or Alabama ABC Board inspections of Montgomery clubs and bars on June 29, 2019, including but not limited to all records that concern the inspections of A Touch of Soul Cafe, Club Reset, and/or Club Ciroc on June 29, 2019.

Please send all records in Portable Document Format (PDF) to diego.soto@splcenter.org. Any record that cannot be emailed can be collected in person.

Because the SPLC is a nonprofit, tax-exempt organization, we request that you waive any processing fees. If there are any fees for searching or copying these records, please inform us if the cost will exceed \$100.

If this request is denied in whole or in part, please advise in writing of that decision within 10 business days of receipt of this letter and identify the records withheld in whole or in part, the specific exemption authorizing withholding, and an explanation of how the exemption applies to the records withheld in whole or in part. Records withheld in part should include all reasonably segregable portions.

We anxiously await full transparency.

⁴ Heupel, *supra* note 1.

⁵ We use this term to have the broadest possible meaning under the Alabama Open Records Act. *See, e.g., Stone v. Consol. Publ'g Co.*, 404 So.2d 678, 681 (Ala. 1981) (“[T]he ‘public writing’ spoken of in Code 1975, s 36-12-40, is such a record as is reasonably necessary to record the business and activities required to be done or carried on by a public officer so that the status and condition of such business and activities can be known by our citizens.”); *id.* at 680 (noting that “public writing” is indistinct from “public records” as defined by Alabama Code § 41-13-1); Ala. Code § 41-13-1 (defining “public records” as “all written, typed or printed books, papers, letters, documents and maps made or received in pursuance of law by the public officers of the state, counties, municipalities and other subdivisions of government in the transactions of public business and shall also include any record authorized to be made by any law of this state belonging or pertaining to any court of record or any other public record authorized by law or any paper, pleading, exhibit or other writing filed with, in or by any such court, office or officer”); *Chambers v. Birmingham News Co.*, 552 So.2d 854, 856 (Ala. 1989) (holding that the Act must “be liberally construed . . . in favor of the public”).

⁶ Enclosed is a signed Request for Public Records form as required by the Montgomery City Clerk’s office.

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Sincerely,


Diego A. Soto
Staff Attorney

Enclosure

Request for Public Records

Records Management Service

office: 334-625-3098 | fax: 334-625-2056

nransburgh@montgomeryal.gov

Pursuant to the Code of Alabama 1975, Article 3, Inspection and Copying of Records, section 36-12-40,

"Every citizen has a right to inspect and take a copy of any public writing of this state, except as otherwise expressly provided by statute."

The fee schedule to obtain copies of records and/or to inspect records is specified on the reverse of this form. Please read carefully before submitting your records requests or making inquiries.

NOTE FOR 911 CALL REQUESTS

A separate sworn affidavit must be submitted establishing the following:

Identity of the requestor, the legitimate relationship/interest of the requestor to the call or to the individual that the call was made by or on behalf of and requestor's right of access to such records for purposes of an investigation/ legal matter arising from the call.

Contact this office for the proper legal affidavit form. Current government picture ID will be required along with a second form of identification as well. Should a requestor be unable to submit such an affidavit, a court order will be required before the 911 call information can be released by the Records Custodian. Ala. Leg. Act No. 201-502 § 1(a).

This form may be submitted in person, by facsimile, email, courier service or via USPS mail to the above address. If additional information is required, a records representative will contact you after receipt to secure additional information or advise you of the cost for prepayment or for a 50% deposit.

Do not remit payment until you have been advised of the fee amount.

Allow for a sufficient and reasonable time period for records to be made available for inspection or copying. The time will include making available staff that may be limited due to performance of critical day-to-day work assignments. In some cases, approved identification may be required when requesting records in order to determine legitimate inspection privileges and to safeguard privacy rights of citizens.

Name of Person Requesting Record

Your Name Diego Soto Date 07/31/2019

Full Address 400 Washington Avenue

City Montgomery State AL Zip Code 36104

Phone Number 334-956-8427

E-mail diego.soto@splcenter.org

Purpose of Request:

Description of records requested.

Description of records requested. Please be as specific as possible, using names, record title, function of record, record date, and any other information that you feel will expedite your request. Only one request item per request form. If needed, use additional pages for description. (It may be necessary to redact sensitive information from the completed records request that is returned to you.):

All public records, created at any time, that concern the MPD, Montgomery Fire/Rescue, and/or Alabama ABC Board inspections of Montgomery clubs and bars on June 29, 2019, including but not limited to all records that concern the inspections of A Touch of Soul Cafe, Club Reset, and/or Club Ciroc on June 29, 2019.

Records Duplication and Access Fee Schedule

This records request form does not apply to the Montgomery Municipal Court. Contact them directly.

Read Before Submitting Your Request

This fee schedule covers duplicating paper copies of records when the original record is paper, microfilm or electronic. Charges for reproduction of records for the Police Department are not covered by the charges below. Contact the Police Departments for their statement of charges or visit their service counter at their location on Ripley Street. Please note, all request for Assessment Letters or Lien Verification Letters must complete a Request for Public Record form, there is a fee of \$50.00 for the procedure.

Duplicating Fees for Routine/Standard Records Requests

The following fees shall apply to all standard business documents of not more than 8 ½ by 14 inches which are contained within filing systems that are used in the normal business process of City departments. These records would require nominal clerical time to locate, duplicate or provide access to:

(a) \$5.00 Minimum/ base production fee.

(b) 25 cents per one-sided document (page) for duplicated copies of not more than 8 ½ inches by 14 inches. For two sided documents (pages) of up to 8 ½ inches by 14 inches, the charge to duplicate both sides shall be 50 cents.

(c) The City reserves the right to require a 50% deposit of the total costs for any requests. The balance will be due before delivery.

(d) There is no charge to inspect records that are routine in nature and require nominal clerical time to locate or provide minimal supervised inspection. Extended supervision cost and time scheduling will be based on an individual basis.

- (e) Do not pre-pay. We will advise you of the total fee amount for your request, once it is prepared.
- (f) Checks or Money Orders are accepted for payment. Sorry, no credit cards.
- (g) Allow a sufficient and reasonable time period for records to be made available for reproduction or inspection.
- (h) Any CD's or recordings for any Police recording and or city meetings will be \$20.00 for each copy, including recordings of 911 tapes.
- (i) All fees are subject to change due to labor and or volume of request.
- (j) There will be a \$50-dollar fee for an official Zoning Verification Letter for properties located within the city limits and police jurisdiction of the City of Montgomery.

Duplicating and Access/Research Fees for Non-Routine Records Requests or Use of Information Technology Resources

The term non-routine is defined as reproducing records which are not typically researched or reproduced in the normal course of business operations. If the nature or volume of public records requested to be inspected or copied requires extensive use of information technology resources or extensive clerical or supervisory assistance, then the City may charge a special service charge in addition to the actual cost of duplication. This charge shall be reasonable and based on the cost incurred for such extensive use of information technology resources and labor cost, including inspection supervision, of the personnel providing the service that is actually incurred by the City. This also includes using computing resources for generating records when records have been archived off-line and are not readily accessible.

The City reserves the right to refuse requests to produce or provide records or reports not already being produced in the normal course of business or to provide them in a different format.

- (a) Any record production that meets the foregoing definition will be subject to the actual cost, as described above, to reproduce.
- (b) If there is an additional cost for delivery of the documents, the charge shall be based on the actual delivery cost.
- (c) The City reserves the right to require a 50% deposit of the total costs on all requests of this nature. The balance will be due before delivery.
- (d) \$5.00 minimum/ base production fee.
- (e) 25 cents per one-sided document (page) for duplicated copies of not more than 8 ½ inches by 14 inches. For two sided documents (pages) of up to 8 ½ inches by 14 inches, the charge to duplicate both sides shall be 50 cents.
- (f) There is no charge to visually inspect records that are routine in nature and require nominal clerical time to locate or provide minimal supervised inspection. Extended supervision cost and time scheduling will be based on an individual basis.

(g) Checks or Money Orders are accepted. Sorry, no credit cards.

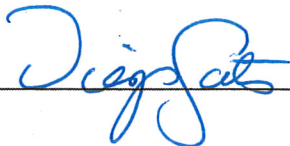
(h) Do not pre-pay. We will advise you of the total fee amount for your request, once it is prepared.

(i) Allow a sufficient and reasonable time period for records to be made available for reproduction and inspection.

(j) Assessment Letters or Lien Verification Letters must complete a request for Public Records form, there is a fee of \$50.00 for the procedure.

(k) All fee's are subject to change due to labor and or volume of request.

Your signature is required for processing as an acknowledgement and agreement of the conditions stated:

Sign Here:  _____