

STATE RECORDS COMMITTEE MEETING

Location: Courtyard Meeting Room, 346 S. Rio Grande Str., SLC, UT 84101

Date: March 19, 2015

Time: 9:00 a.m. to 3:17 p.m.

Committee Members Present:

Patricia Smith-Mansfield, Chair, Governor's Designee

Marie Cornwall, Citizen Representative

Tom Haraldsen, Media Representative

Blaine Breshears, Elected Official Representative

Doug Misner, History Designee

Holly Richardson, Citizen Representative

(Absent) David Fleming, Private Sector Records Manager

Legal Counsel:

Paul Tonks, Attorney General's Office

Nicole Alder, Paralegal, Attorney General's Office

Executive Secretary: Nova Dubovik, Utah State Archives

Telephonic Attendance:

Scott Gollaher, Petitioner

Holly Richardson, Citizen Representative

Others Present:

Rosemary Cundiff, Ombudsman

Helen Frolich, Attorney General's Office

Dee Greenhalgh, Weber Co. Sheriff's Office

Brett Haycock, Weber Co. Sheriff's Office

Craig Ballow, Attorney General's Office

Blaine Ferguson, Attorney General's Office

Kaye Rhoades, Morgan Co. Sheriff's Office

Jann Farris, Morgan County Attorney

Mark E. Burns, Attorney, Dept. of Human Resource Management

Keith Woodwell, Dept. of Commerce

Francine Giani, Dept. of Commerce

Tom Brady, Dept. of Commerce

Greg Soderberg, Attorney, Dept. of Commerce

Steve Walkenhorst, Attorney, Dept. of Commerce

Bob Thompson, Dept. of Human Resource Management

Debbie Cragun, Dept. of Human Resource Management

Etta Adkin, Dept of Human Resource Management

Gale Francis, Attorney General's Office

Paul Amann, Petitioner

Agenda:

- Four Hearings Scheduled
- Report on Appeals Received
- Report on Cases in District Court
- Other Business
 - Legislature updates
- Approval of Minutes

I. Call to Order:

The meeting was called to order at 9:05 a.m. by the Chair, Ms. Patricia Smith-Mansfield.

II. Hearing: Scott Gollaher vs. Utah Attorney General's Office (AGO), Criminal Division

Mr. Scott Gollaher is telephoned and connected to the committee. Ms. Smith-Mansfield asked each committee member introduce and identify themselves. She introduced the parties for the first hearing: Mr. Scott Gollaher, Petitioner; Mr. Blaine Ferguson, representing the Utah Attorney General's Office. The Chair explained the hearing procedures to the parties.

Mr. Ferguson brought up a procedural matter concerning Mr. Blaine Breshears being the Morgan County Sheriff and whether he is recusing himself from the involvement with the decision making on the appeal. Mr. Gollaher objected to Mr. Breshears involvement with his appeal because he is the Morgan County Sheriff. Mr. Breshears recused himself from the hearing. The Chair stopped the hearing and notified the parties that other business, that does not require a quorum, will be brought forward until the committee has a quorum. She notifies Mr. Gollaher he will be called back in five to 10 minutes to resume the hearing.

III. Report on February and March Appeals:

The executive secretary reports on the following appeals for the months of February and March.

Robert Augason vs. the University of Utah, Mr. Augason canceled his February 12, 2015, hearing because the university agreed to provide the records sought. The university has yet to provide those records and he is requesting to reopen the appeal and schedule a hearing. The committee agrees to hear the appeal.

Mr. Robert Baker vs. UDC, Mr. Baker requested a third reconsideration for a hearing on the matter that UDC's interpretation of Utah Code 63G-2-201(8)(a)(v)(A) was never appealed or legally challenged before the State Records Committee. The original hearing was denied January 5, 2015, by chair and a second committee member because the subject of the appeal had been found by the committee in a previous hearing involving the same governmental entity (Case No. 14-12 & 12-23). The Committee unanimously supported to uphold the January 5, 2015, decision to deny a hearing. R35-2-2(6) and (7).

John Montour vs. UDC, the hearing was denied by the Chair and Ms. Marie Cornwall because the appeal subject has been found to be appropriately classified as private, controlled, or protected by the committee in a previous hearing involving the same government entity. Utah Code 63G-2-404(4)(b)(i). (Case No. 99-02).

Isaac Lemus vs. Department of Human Services and Thomas Dudley vs. Bluff Water Works Special Service District are scheduled for April 9, 2015. Scott Gollaher vs DCFS and Harshad Desai vs. Panquitch City were both postponed by petitioner and rescheduled for April 9, 2015.

At this time there four potential hearings are scheduled for April 9, 2015 (see the attached documents on the Utah Public Notice Website, SRC Meeting Handouts March 19, 2015.pdf).

IV. Report on Cases in District Court:

Mr. Tonks briefed committee members on the latest updates on the cases in District Court. A recent filing is Utah Dept. of Human Resources vs. Paul Amann, 3rd District, filed February 19, 2015, (see the attached documents on the Utah Public Notice Website, SRC Meeting Handouts March 19, 2015.pdf).

The Records Committee resumed Scott Gollaher vs. Attorney General's Office, Criminal Division at 9:20 a.m.

Mr. Scott Gollaher and Ms. Richardson were called and connected telephonically with the committee. There is an established quorum of five members, Mr. Breshears was recused.

The Chair has each committee member introduce and identify themselves to Mr. Gollaher. She introduced the parties for the first hearing: Mr. Scott Gollaher, Petitioner, and Mr. Blaine Ferguson, representing Utah Attorney General's Office. The Chair explained the hearing procedures to the parties.

V. Hearing: Scott Gollaher vs. Utah Attorney General's Office, Criminal Division Opening-Petitioner

Mr. Gollaher provided background on the circumstances of the appeal. In April 2014, a GRAMA request was made to the Salt Lake City Police Department (SLCPD) for certain evidence seized, produced or created through a search warrant on July 13, 2012, at his Salt Lake City (SLC) residence. Salt Lake City Police Dept., assisted the Morgan County Sheriff's Office which executed a search warrant for the residence. The following SLCPD officers were present during the search warrant: Detectives Gary Trost, Suzanne Williams, and Cade Martin. Mr. Gollaher received an undated and unsigned letter from the SLCPD records officer stating that SLCPD was not the originator or investigating agency in charge of the case. The case was initiated by the Attorney General's Office and that agency maintains control of the documents, Case No. 12-979. The records officer referred Mr. Gollaher to the AGO and provided contact information. Mr. Gollaher appealed to the city administrative officer and provided evidence that SLCPD was the holder of the records sought. The city administrator's officer was not responsive.

Subsequently, Mr. Gollaher filed a notice of appeal with the State Records Committee for failure to respond under the rules and was denied a hearing because SLCPD referred Mr. Gollaher to the AGO for the records he sought. Mr. Gollaher stated he will finish his statement during the 20-minute testimony. He continued to summarize the situation and explain the records do exist contrary to the affidavits provided by the AGO, that are virtually false and a lie.

Opening-Respondent

Mr. Ferguson, Assistant Attorney General, representing the AGO, addressed the committee and stated the matter involves a GRAMA request in which Mr. Gollaher is seeking records that he claims were given to the AGO by the SLCPD. The AGO does not have any responsive records. He continued to explain that Mr. Gollaher's entire argument is based on the assumption that there are responsive records but no evidence is provided for that assumption, only speculation and conjecture and unsupported accusation of a conspiracy.

Mr. Ferguson notes that AGO will show, during the presentation portion, the office has affirmative evidence that it took reasonable steps to search for responsive records and found none. In addition, and corroboration, to reach that determination the attorney prosecuting the case would have had custody of the records, had they ever existed, and does not remember ever having such records. Furthermore, the office has provided affidavits from SLCPD officers that demonstrate that they never created records, Mr. Gollaher claims were given to the AGO. And lastly, if the office had the records it would have supplied them as part of its duty to provide discovery in his criminal case, and he would have been given them again in response to the GRAMA request. There is no reason for the office not to provide Mr. Gollaher the records he wants if they existed.

Ms. Richardson arrives at the meeting and the hearing resumes at 9:29 a.m.

Testimony-Petitioner

Mr. Gollaher states this case should have been before the SLCPD which is the originator, creator, and owner of the records sought. With clear objection, and guidance of the government records ombudsman, he submitted a GRAMA request to the AGO. The GRAMA request response took close to six months to get the current appeal before the records committee.

Mr. Gollaher is not in complete disagreement with Mr. Ferguson, that Mr. Ferguson's claim that the AGO does not possess the records that he seeks. In Det. Suzanne William's affidavit she stated, a few weeks after Special Agent (SA) Jeff Ross, of the FBI, came by she provided him the interview she did on July 13, 2012, at the Children's Justice Center. Mr. Gollaher emphasizes this is a problem because Morgan Co. is the originator of the investigation not the FBI, and it further shows that Det. Williams obstructed justice by handing the interview to the FBI agent who is able to hide the evidence behind the Administrative Procedures Act, which prevents him, Mr. Gollaher, from obtaining the evidence.

Ms. Smith-Mansfield asks whether he believes there the AGO still has that he should have access to and, if so, what they are? Mr. Gollaher explains, in the recently obtained seven black and white photographs one of them shows the hand of a SLC police officer, Det. Williams, holding a camera at the Salt Lake City residence. This demonstrates that SLCPD did take photographs and created records while assisting Morgan Co. execute the search warrant. He remembers seeing her with the camera during the search warrant and this proves photographs were taken by SLCPD. Mr. Gollaher stated the seven photographs were received from the AGO through Det. Tatton. The photos have been provided without metadata and this limits the ability to retrieve the source of the photograph. For example, the camera model and date and time. Metadata is the information he seeks and believes SLCPD possesses the original memory discs for the photographs. This is the evidence that proves those photographs could have been produces by SLCPD.

The Chair asked questions pertaining to the records he seeks. Mr. Gollaher stated the photographs are missing metadata. The Chair asked if he received them in digital format and he stated no, the seven black and white photographs were provided in printed copy. He continues that in the last week or so, another 136 photographs were provided and it is assumed there are another 230 more that law enforcement has not provided.

Ms. Smith-Mansfield inquiries from which agency did he receive the 136 photographs? He answered, on March 11, 2015, from the Morgan County Sheriff's Office, none of which are the same as the seven provided by the AGO. No metadata was provided with the 136 photographs. They were sent via email.

The Chair inquires about the GRAMA request for a video recording. Mr. Gollaher explains that Det. Williams was holding a high speed video recorder during the search warrant at the Salt Lake City residence. Mr. Gollaher states the SLCPD referred him to the AGO but he believes SLCPD maintains the records. He restates the record that he cannot obtain is the metadata which is responsive and created by the SLCPD in relationship to the seven black and white photographs. That is the only record that he believes came from the SLCPD cameras.

Testimony-Respondent

Mr. Ferguson refers to the exhibits the office provided in its support of its position on the appeal and that they provide relevant information to the appeal. It is critical the committee understands that just because the AGO provides some records to Mr. Gollaher, in connection to his criminal case, it does not mean the office received those records from SLCPD. The office has provided him with records in connection with his case but the office has not received any records from the SLCPD, which means they came from other sources.

Mr. Ferguson introduced Mr. Craig Barlow, prosecutor on the criminal case against Mr. Gollaher for the AGO. Mr. Barlow is sworn in by the Chair.

Mr. Barlow told the committee that he was made aware of the GRAMA request for certain photographs and the associated metadata by Mr. Ferguson. He was asked to go through the entire case file to specifically identify photographs taken by SLCPD or any other photographs that might be related to the GRAMA request. Mr. Barlow went through the entire file, both the printed and numerous memory discs, which contained discovery and other related pieces of information. There were no photographs and metadata responsive to the GRAMA request or alluded to by Mr. Gollaher.

Mr. Ferguson asks Mr. Barlow if he also looked for videos responsive to the GRAMA request. Mr. Barlow responded he did look for anything that might be responsive to the request. Mr. Barlow continued, he was asked to check and reaffirm with SLCPD that they did not produce any photographs or videos. There are affidavits on the exhibits to confirm that information. He also checked with SA Ross on the process of the execution of the warrant in July 2012. SA Ross confirmed the search warrant was initiated by Weber/Morgan Co. The FBI was asked to assist in the execution of the search warrant as a matter of common law enforcement protocol, because these were agents from outside of Salt Lake County, SLCPD was contacted to eliminate any jurisdictional confusion or authority. SLC provided two agents, two investigators, and two detectives which were at the scene when the warrant was executed. The officers were listed on the warrant registry. According to affidavits and SA Ross, no photographs and video were taken by SLCPD. Mr. Barlow assured the committee he would have been aware if related metadata to the photographs was present because he would have assessed whether the metadata or photographs would have had any value as evidence in the preliminary hearing or eventually in the trial.

Mr. Ferguson asked Mr. Barlow if he had records responsive to the request Mr. Gollaher made, and is there any reason why he would not have provided them to him through criminal discovery. Mr. Barlow replied no, that in the office it is not the practice to have a Perry Mason gotcha moment. The entire file is available to the defense attorney except for attorney work product and possibly very limited confidential information about victims and witnesses.

The Chair directs a question to Mr. Barlow if the photos on the DVD were JPEG or TIFF images or were they copies. Mr. Barlow stated he is almost certain they were copies of other copies. They were not the originals and there was no metadata associated with any of the photos. Mr. Ferguson calls attention to the three affidavits provided by the SLCPD officers who corroborate the testimony that Mr. Barlow has told. Each officer was under oath when they stated they did not take photographs or video at the search warrant.

A follow-up question was asked by Ms. Smith-Mansfield, as to when Mr. Barlow received the DVD of images related to the search warrant. Is there anyway Mr. Gollaher can get a copy of the original that would contain the metadata requested? Limited information leads Mr. Barlow to believe they were from the Weber County Sheriff's Office, but there was no information about which individual may have taken them. The photos on the DVD are secondary or tertiary to the primary evidence of the case against

Mr. Gollaher. Mr. Barlow believe the original probably is with Weber/Morgan Co. law enforcement group, but he does not know that for a fact.

Closing-Petitioner

Mr. Gollaher stated Mr. Barlow is the prosecuting attorney for his criminal case, and that Mr. Barlow has the power to seek evidence from law enforcement personnel and make them step forward and produce originals. Mr. Barlow knows who has the originals and if he does not he has investigators within the office that can find out. They did not deny they came from SLCPD, Weber Co. is referenced but he does not know because there is no metadata. Mr. Gollaher went on to restate Mr. Barlow's testimony that the photographs in question are not relevant because they are secondary to the case. Mr. Gollaher adamantly disagrees with this statement, he feels they are very relevant because it goes to the impeachment and integrity of every officer and those that testified in court and testified falsely.

The Chair interrupts Mr. Gollaher and clarifies this is a hearing about a GRAMA request not discovery, this is not the court case, and to keep specific to the GRAMA request. Mr. Gollaher restates it is the original metadata he seeks. All photographs, videos and records should have been turned over to Morgan Co. and subsequently to the AGO, and they were not. The AGO has acknowledged he has the photographs but did not possess the metadata on the photos. The AGO cannot say they did not come from SLCPD because it does not know the equipment and the information contained in the metadata for those photographs. That information needs to be turned over so further investigation can be done to confirm that SLCPD did have cameras and did take photographs, and therefore their affidavits would be disingenuous and lies. He pleads to the records committee to force the AGO to seek out the SLCPD to locate all metadata on those photographs that have mysteriously appeared in the last week.

Closing-Respondent

Mr. Ferguson restated it is important to remember what this GRAMA request asked for video and photographs taken by SLCPD, and were provided to the AGO. The committee has received clear evidence that SLCPD officers did not create such records. Although Mr. Gollaher stated he was there during the search and saw one of the officers with a camera, the committee will have to decide how to weigh that portion of the argument. As Mr. Barlow has testified the AGO did not receive any records from SLCPD. This is a multi-jurisdictional law enforcement matter and the office has received records from county officials and so forth, but not from SLCPD. The fact the AGO has photographs does not prove they fall under the GRAMA request. Mr. Gollaher has failed to meet his burden of proof and has made all sorts of accusations about rampant lying in law enforcement and conspiracies. He has produced no evidence to support his appeal. The AGO did a reasonable search, there never were any records provided by SLCPD, therefore the committee should deny the appeal and affirm the determination made by the AGO.

Deliberation

The committee questioned and discussed the information provided by the petitioner and respondent. One member questioned why the committee is hearing the appeal and the chair explained that there was a procedural issue because the chief administrative officer did not respond to the petitioner's appeal. Mr. Gollaher appealed to the State Records Committee on the pretense of not receiving an answer from the chief administrative officer, which is considered a denial.

Motion- A motion was made by Ms. Cornwall that the appeal is denied based on the failure to show that the governmental entity held any of the records that have been requested. The governmental entity did a thorough search of the records therefore it did take action on Mr. Gollaher's request. The testimony has been persuasive to that fact. The motion was seconded by Mr. Doug Misner. The motion passed 5-0. Mr. Breshears was recused.

The Chair introduced the parties for the second hearing, Mr. Scott Gollaher, Petitioner, and Jann Farris, Morgan County Attorney. After a brief verbal interruption by Mr. Gollaher, the Chair continued to explain the hearing procedures to the parties.

VI. Hearing: Scott Gollaher vs. Morgan County Sheriff's Office and Morgan County Attorney

Opening-Petitioner

Mr. Gollaher addressed the committee stating that on a procedural basis he believes the order of hearings should start with Weber County Sheriff's Office which is the originator of the record he seeks. Weber County Sheriff's Office, in a GRAMA request to them, referred him to Morgan County. Morgan Co. was the originating investigating agency in this case. It is the one which sought the search warrant and sought the assistance of multiple agencies across the Wasatch Front. As the chief investigating agency it is responsible for gathering and retaining evidence obtained during investigations.

During the opening Mr. Gollaher explained Weber Co. referred him to Morgan Co., because it did not maintain the records. Morgan Co. provided seven black and white photographs without metadata. Additionally, 136 photographs appeared before the hearing and in Mr. Barlow's testimony he stated they came from SA Ross, who may have obtained them from Weber County Sheriff's Office. The 136 photographs also do not have metadata attached and he has been referred by Morgan Co. back to the Attorney General's Office.

For approximately the past 2-3 years the governmental entities have stated they do not have the records. Now photographs appear, but none of the governmental agencies involved know where they came from, who took them, what kind of camera, nor is there metadata attached. The agencies have a responsibility to maintain and keep records and he is asking the agency, Morgan Co., to go get that information and provide it to him.

Opening-Respondent

Mr. Jann Farris, Morgan County Attorney, explained that Ms. Kaye Rhoades was appointed the GRAMA officer to work the numerous GRAMA requests that come in from Mr. Gollaher. Mr. Farris refers to Mr. Gollaher's statement, that for nearly three years Morgan Co. and other agencies have not had responsive records he sought. This statement is absolutely correct, Morgan Co. did not have the photographs. A memory disc was delivered to the Morgan County Sheriff's Office on March 9, 2015, and listed on the disc cover: Scott Gollaher photos, SLC search warrant, and Detective Stephanie Tatton. Det. Tatton is a Morgan County Sheriff's deputy, who assisted on one of the search warrants that occurred three years ago. Ms. Rhoades received the disc, she brought a copy to the county attorney's office on March 11, 2015. Within five hours of taking possession of the disc, the secretary copied the photographs off the disc and emailed them to Mr. Gollaher. They were emailed per his request because the jail mail system is slow.

Within two days of Morgan County Sheriff's Office finding the existence of the photos, which Mr. Farris stated he had not seen before and were not part of his case file, they were emailed to Mr. Gollaher with an explanation provided they were just received from another governmental entity. Unfortunately, Mr. Gollaher takes that as a conspiracy and the agencies working amongst themselves to hide records from him, and that is not the case. This case happened in SLC and is being prosecuted by Mr. Barlow at the AGO. The SLC case file is not maintained in the Morgan County Attorney's Office. In addition, the prosecution cannot use evidence unless it has been provided to the defendant because it would be unethical to ever hide evidence. A prosecuting office has a duty to turn all its cards over to the defense attorney and state. Morgan Co.'s position is that within five hours of the discs arrival to the office copies were made and sent to Mr. Gollaher.

Testimony-Petitioner

Mr. Gollaher refutes Morgan Co.'s claim it does not have the photos. The records he is seeking are from Case No. 12150028, charged on July 16, 2012, by Mr. Farris. He acknowledges that it is unethical for prosecutors to withhold evidence, however if the prosecutor does not have the evidence because another governmental entity is holding it, then the governmental entity can honestly say to the judge it does not possess the evidence. The records he is seeking are those that Morgan Co. was responsible for because the Sheriff's office was the lead investigating agency and should have obtained and been turned over to the defendant years ago. Mr. Gollaher does acknowledge that it is convenient to receive records through email, but Mr. Farris should have also sent a copy of the disc. The disc in question should contain metadata and would identify which officer took the photos and circumstances around that incident.

He continued that Morgan Co. provided seven black and white photos and have never identified from where they got those photo, or any metadata. Ms. Smith-Mansfield interrupts and clarifies the information provided by Morgan Co. were JPEG images, and asked if the metadata is imbedded within those images? Mr. Gollaher answers yes, the metadata is imbedded. She counters as to what metadata is missing on the photos that were provided.

He clarifies that he has printed photo copies without any metadata. He continues that Mr. Barlow testified that the photographs he received on a disc do not have any metadata. If there is no metadata it is because it was removed. All photographs with digital imaging comes with metadata. Who removed that metadata and for what purpose? He is asking for Mr. Farris to inquire who created those photographs because it was the Morgan County Attorney's case and investigation.

The Chair stated the metadata he is seeking is not necessarily imbedded in a JPEG image. Mr. Gollaher rejects the idea and stated each picture has 2 ½ pages of information, it identified camera model and serial number, owner (if entered), GPS information, and lastly time and date it was taken. And by piecing those photographs together one can create a virtual testimony of what occurred and when it occurred. He continues the argument that all photographs, including the seven black and white photographs should have metadata and Morgan Co. was the chief investigator.

Ms. Richardson interjects and asks, if there is a way to get images on a disc that would not involve the metadata? Mr. Gollaher states no, and explains that each digital picture one takes with a cellphone the metadata actually is imbedded in the photograph. Ms. Richardson interrupts and states, she does not agree that it is 2 ½ pages long. A quick Google search showed the codes that are included in a digital photograph. She restated her position and question, if there is a way to transfer pictures onto a disc and not include the metadata. She believes the answer is yes, if someone scanned and copied the photos the metadata will not be included. Mr. Gollaher restated that it can be excluded because there are programs that can strip the metadata from the photographs, but it is not automatically done because someone actually has to manipulate the photograph. If one takes an image off one disc and transfers to another the metadata will transfer with the images.

Ms. Richardson continues, if a photo is printed and the print is then scanned in the metadata will not transfer. Only when it is digitally transferred from one disc to another should the metadata remain with the photograph. Once the photograph is emailed the metadata could have been stripped at that time. The Chair asked a question concerning how many JPEG images Mr. Gollaher received from the governmental entities. Mr. Gollaher acknowledges 136 images were received through email. He then stated they were simply attachments to an email subsequently printed out and the metadata was removed.

Testimony-Respondent

Mr. Farris restated the photos were on a disc, a copy of the disc was made and brought for the records committee to view. To speed up the process the photos were emailed to Mr. Gollaher versus sending a disc in the mail. He continues that his understanding is that R in GRAMA is for Records. In all of his training it was never understood that even if he had the authority or ability to go find a record somewhere else that he had a duty to do so. He has a duty to turn over any record that is maintained in the normal course of business that does not have some other exemption. As for the metadata, there may need to be forensic professions to prove the metadata was removed or tampered with. It is

referenced again that the minute the office received the disc it was copied, photographs were sent via email to through Mr. Gallaher's wife in response to the GRAMA request.

Ms. Smith-Mansfield asks a few questions pertaining to Morgan Co. providing records. Mr. Farris speaks on the seven photos provided and that they have nothing to do with the ongoing case against Mr. Gollaher in Morgan Co. The photographs were found when Ms. Rhoades came to his office to show him a GRAMA request, and immediately they were turned over to Mr. Gollaher. Morgan Co. was the source of the seven photographs.

A question was asked by the Chair if there is a record sharing agreement between Weber and Morgan Co. Mr. Farris stated the two counties do not have a record sharing agreement. Morgan Co. is a small rural county and because there is not enough officers to perform two simultaneous search warrants were available Morgan Co. requested assistance from Weber County Sheriff's Office, FBI, and SCLPD.

Ms. Kaye Rhoades is sworn in.

The committee asks her about the metadata on the disc. Ms. Rhoades did not check specifically for metadata in the photos. Ms. Richardson added that there is metadata on the disc and it contains date and time and pixel size but no GPS coordinates. The GPS function can be turned off prior to taking pictures. Ms. Rhoades adds that two copies of the disc were received-one is in Morgan County Sheriff's Office case file and the other was handed over to the Morgan County Attorney's Office. The seven black and white photos were only paper copies, no digital copy was available. The seven photographs were provided to her by Det. Wentland since retired from Morgan County Sheriff's office. Mr. Farris offered that he may have seen color versions of the seven black and white photos. He was unaware those were responsive to the GRAMA request because they were not thinking about metadata and did not think it was an issue.

Closing-Petitioner

Mr. Gollaher thanks the committee for the questioning because now he knows there are color version copies of the seven black and white photos received. He explained if one clicks left on a photograph it shows the property, and the property will show some information about the creation of the photo but that is different from metadata. He asked if the disc Morgan Co. brought could be reviewed on a laptop computer to see if any metadata is attached to the photos. It is the metadata that he seeks and all of the photos that were taken at the search warrant in SLC that he is requesting. Morgan Co. had the responsibility, because it was the investigating and charging agency in that case, to gather and maintain all those records. The GRAMA request is for all the records that pertain to the SLC search warrant that were in the possession of Morgan Co. at one time or should have been in the possession of Morgan Co. He seeks all of the photographs and metadata. If the photos do not have metadata, then who has it? He pleads with the Committee to hold Morgan Co. responsible to respond to the records request.

Closing-Respondent

Mr. Farris restated the seven photos were not hidden from Mr. Gollaher. Mr. Gollaher was provided the disc of 136 photos five hours after his office receiving it--none of the photos were hidden. He restates that the R in GRAMA stands for records. There is nothing in GRAMA that specifies his office has to make phone calls or do an investigation to placate Mr. Gollaher. Morgan Co. has fully complied with GRAMA and he hopes the committee will find in its favor.

Deliberation

The committee utilizes a computer and views the disc brought by Morgan Co. to determine if there is metadata attached to the photos. The Chair mentions to the rest of the members that photo properties is considered metadata. The committee determines there is metadata on the emailed photographs sent to Mr. Gollaher. There is some question as to whether the photos were printed and delivered to him by Corrections or if he indeed received them through email. Members discuss that the amount of metadata attached is based on the equipment that takes the picture and whether the petitioner requests raw data versus a JPEG image. Depending on the request very different metadata will be received.

Ms. Richardson reads the definition of metadata from an attorney's website on intellectual property and, as the chair mentioned previously, properties and metadata is the same. The committee is able to determine the type of camera that took the photos but not the ownership number or serial number.

Motion- A motion was made by Ms. Cornwall that the governmental entity was responsive and provided the records including the metadata through Mr. Gollaher's wife and to the petitioner. The motion was seconded by Ms. Richardson. The motion passed 5-0. Mr. Breshears was recused.

5-Minute Break

The Chair introduced the parties for the hearing: Mr. Scott Gollaher, petitioner, and Captain Brett Haycock, representing Weber County Sheriff's Office. The Chair explained the hearing procedures to the parties.

VII. Hearing: Scott Gollaher vs. Weber County Sheriff's Office

Opening-Petitioner

Mr. Gollaher explained that GRAMA requests #4 and #8 are similar. This case is a perfect example of why the Committee should step forward and hold Weber County Sheriff's Office responsible for failure to provide a record which they clearly produced. This has gone on for a year and if the Committee reads the report Weber Co. denied him the record, although it had the record, but responded it did not maintain it and referred him to Morgan Co.

Mr. Gollaher reads from transcripts of communication between his defense attorney and prosecution outlining how Weber Co. did not have to respond to GRAMA requests. Mr.

Gollaher stated there was a hearing and the issue was dealt with because the lawyers intentionally did not respond, nor did Weber County Sheriff's Office. In this case the record will show he wrote repeatedly to Weber Co. for a response and Weber Co. denied by stating "it did not maintain the record." It is apparent Weber Co. did maintain the record because one of Weber Co. employee's, Det. Tatton, brought the disc to Ms. Rhoades in Morgan Co. These records were created by Weber Co. employees. Testimony has been provided and given to the State Records Committee demonstrating that agents working on behalf of Morgan County Sheriff's Office, but were part Weber County Sheriff's personnel, created and therefore owned the records. Mr. Gollaher asked the State Records Committee to rule that Weber County Sheriff's Office produce the original disc of all photographs taken by the Weber Co. personnel, and should provide a mirror image of that disc not an email. Weber Co. clearly shows that it had those photographs by the testimony of Ms. Rhoades and Mr. Farris.

Opening-Respondent

Captain Brett Haycock, Weber County Sheriff's Office over Professional Standards and Training, addressed the committee. Capt. Haycock explained he came to speak about GRAMA requests # 4 and # 8 and it is Weber Co.'s position that it has fulfilled its obligation. It has been responsive. This case is particular to the Morgan Co. supplemental Case No. 12-2863, which Mr. Gollaher was provided a copy of in his appeals packet showing that Weber Co. had supplied the record requested. Weber County's position is that Morgan Co. was the lead investigating agency and Mr. Gollaher was referred to them for the record and that Morgan Co. provided the record.

Capt. Haycock explained the role of the Weber Metro Crime Scene Investigation Unit (CSI). CSI is in Weber Co. but it is a metro unit, paid for by multiple agencies. The chiefs in Weber and Morgan Counties, in August 2014, decided GRAMA, as it pertained to CSI, in that if CSI went out to an entity to provide photos and support for forensic evidence, that the lead agency would be the contact point for that record. Therefore, it would put Weber Co. in the position where it would not release some other agency's information. As for the photos, to Capt. Haycock's knowledge, they have been provided to Mr. Gollaher, and Mr. Gollaher's appeals packet shows that he was provided the record he so seeks from Weber Co.

Testimony-Petitioner

Mr. Gollaher addressed the committee and stated the 136 photographs, from the SLC search, were not taken by the CSI in Weber Co. CSI jointly assisted Morgan County Sheriff's Office in the search at his Woods Creek Ranch property in Morgan Co., and has been responsive in providing those photos and metadata.

Weber County Sheriff's Office referred him to Morgan Co., and Morgan Co. has acknowledged it never received any photographs. The Committee has heard testimony from Ms. Rhoades that she received those records from Det. Tatton, Weber County Sheriff's Dept. The photos came from Weber Co. according to Mr. Farris's testimony. Mr. Gollaher is asking for the copies of the original photographs taken by cameras that

were owned by personnel at the Weber County Sheriff's Dept. He requests that the committee hold Weber Co. responsible to turn over any and all records it possesses.

Testimony-Respondent

Capt. Haycock restated his previous opening statement that Weber Co. acted appropriately, it has provided the record that Mr. Gollaher currently possesses. As for the photographs appearing within recent weeks he is unable to address that aspect of the questioning.

The Chair surmises that Weber Co. referred Mr. Gollaher to Morgan Co. and Morgan Co. gave him the records sought. A question arose as to how the records provided by Weber Co. to Morgan Co. were created. Capt. Haycock explained that the record on the database system is a supplemental record to the Morgan Co. case, it does have an OJ (other jurisdiction) assist case number from Weber Co. It is the only record Weber Co. possessed, everything else was submitted in the shared database system under Morgan Co.'s case numbers and it was provided to Mr. Gollaher through Morgan Co. by GRAMA or discovery.

Further questioning by Committee members pertained directly to CSI and its role in the investigation. Capt. Haycock explained the crime scene unit is housed at Weber Co. but Weber Co. police officers do not have full access to the work area. CSI is paid for by the multi-jurisdictional agencies within Weber/Morgan Co. As it pertains to GRAMA, the chiefs decided at a meeting on August 2014, that all GRAMA requests would go through the lead investigating agency. If CSI was assisting Morgan Co. and someone wanted the photographs from that particular case the petitioner would submit the GRAMA request through Morgan Co. because it would be the lead investigating agency.

The Chair inquired if the meeting was an open public meeting or an internal meeting? Capt. Haycock answered it was the monthly Chief's Meeting, open to the public, and moves from various locations every month depending on who is the host. Another question asked, if there is a record sharing policy within the agencies. Capt. Haycock answered the chiefs agreed the lead agency, which is the lead investigator, would provide contact for GRAMA requests. There is no written policy or rule only the minutes from the August 2014 Chief's Meeting. The Chair explains that GRAMA provides latitude to political subdivisions in the issue of access, but it does need to be by rule or ordinance policy. Capt. Haycock does add that Weber/Morgan Co. use the same database system but can only access case numbers by the owning governmental entity. Counties cannot access each other's case files. A question came up about the disc and how Det. Tatton was able to provide Morgan Co. with the photographs. Capt. Haycock was unsure where the disc came from because it was not in Weber Co.'s database system.

Closing-Petitioner

Mr. Gollaher summarized the role Weber Co. played in the SLCPD search, the lack of interagency shared records agreement, and the lack of ability for counties to access each other's case numbers in the database system. However there is a disconnect, in relationship to the supplemental photo system that Capt. Haycock referred to earlier in his

testimony, the supplemental system referred to a case number in Morgan County. The problem arises because Weber Co. also had its own case number. Mr. Gollaher questions why Weber Co. did not produce the record if it created, owned, and had it? Weber Co. has had the photos the whole time; in addition to the original copies. He asked the records committee to order Weber Co. to produce all copies of SLC search warrant photos to include metadata.

Closing-Respondent

The Chair requests the governmental entity to address in the closing about the photographs that Det. Tatton delivered to Morgan Co. which were not part of the database system. How is it that Weber Co. did not have knowledge of the records and were not responsive regarding the photographs the detective did indeed possess? Does the detective or the entity still have a copy of those photographs from her camera?

Capt. Haycock responds that he is only aware that the detective delivered the disc to Morgan Co., under the direction of Morgan Co. to produce it. He is unaware of who took the photographs, where they were stored or if they were on a personal file of one of the detectives in the unit. The department did a search of the database and discovered no photos. There was one document that Weber Co. possessed with a Morgan Co. case number and it was turned over to Morgan Co. and that is why Mr. Gollaher was referred to Morgan Co.

Deliberation

The committee discussed the flaw within the system of maintaining records and the lack of record sharing agreements. The current agreement has not established a credible response process as required by GRAMA. If the lead agency may maintain the records but the other agencies cannot defer the responsibility if they actually have the record. It appears, Weber Co. had the photographs, but it did not search and simply referred the requester to another governmental entity.

Other members of the committee added there is a flaw somewhere in the system because the photos were not entered and no document of the record was made. The lack of no documentation that the photos existed is a flaw. It is debatable whether the agency has been responsive because it simply referred the petitioner to Morgan Co. without an extensive search. Weber Co. should have checked with the detectives who were assisting the SLC search. With a flawed system it is difficult to track the documents from CSI, SLCPD, Morgan Co. and Weber Co., and difficult to sort to which agency the GRAMA request should go. There should be a record sharing provision.

The Committee believes there is a procedural flaw but it does not have the authority to order anyone to change the policy. However the committee determines it can ask the governmental entity to do a responsive search for the records to include JPEG and metadata that is responsive to the GRAMA request. Weber Co. is the entity that should be held accountable for locating the metadata for the photographs Mr. Gollaher received.

Motion- A motion was made by Ms. Cornwall that the Weber County Sheriff's Office review its files and request its employees to search for any records that would be responsive to Mr. Gollaher's GRAMA requests. The motion was seconded by Mr. Haraldson. The motion passed 5-0. Mr. Breshears was recused.

15-Minute Break

Mr. Breshears left at 12:30 p.m. for another appointment and was not in attendance for the Amann vs. DHRM hearing.

The Chair introduced the parties for the hearing: Mr. Paul Amann, Petitioner, and representing the Department of Human Resource Management, Attorney Mark E. Burns. In addition the following are representing persons whose legal interests may substantially be affected by the proceeding: Greg Soderberg, Attorney for the Dept. of Commerce, and Gale Francis, Attorney General's Office.

VIII. Hearing: Paul Amann vs. Dept. of Human Resource Management

Mr. Burns announced that he was the State Records Committee counsel from 2000-2005. He asked whether Mr. Amann had any objection or issue with prior representation. Mr. Amann was not aware of the tenure and asked if Ms. Smith-Mansfield could be objective or whether she would be influenced by Mr. Burns' representation of DHRM. Ms. Smith-Mansfield states she can be objective with Mr. Burns.

The attorneys representing persons of legal interest to the proceeding introduce themselves and provide a short explanation to their business in front of the committee.

Intervention Explanation by Attorney General's Office: Mr. Gale Francis, Attorney General's office, representing on behalf of the AGO's concerns and the right to have input on documents which the office considers as originating with or are AGO's records.

Intervention Explanation by Dept. of Commerce: Mr. Greg Soderberg, Attorney for the Dept. of Commerce, summarized that there is within the statute a provision for interested parties to be able to speak on behalf of an appeal.

Mr. Paul Tonks provided clarification on the statute and section reference: Utah Code 63G-2-403(8) and Utah Code 63G-2-403(6)(b). As for Utah Code 63G-2-404, it allows interested parties who participated an opportunity to appeal the Committee's decision to District Court. These are legal rights that interested parties preserve by being at the hearing. There is also Administrative Rule, R35-1-2.

Mr. Amann objected to the presence of the AGO and the Dept. of Commerce because they do not have standing at the appeal. The issue of standing focuses on the question whether the litigants are the proper party to the fight. The request made is of DHRM and the records are in the agency's possession. Mr. Amann explains he has not asked for documents that originated with the AGO only those now held by DHRM.

Opening-Petitioner

Mr. Amann provided a brief background on his previous employment, performance, and awards earned to enlighten the State Records Committee members understanding as to why he is appealing. He discussed his predecessor, who represented the Division of Securities, and also endured the same type of complaint by Ms. Ann Skaggs (complainant) that resulted in a transfer in the same manner as Mr. Amann.

On May 1, 2013, Mr. Amann was reassigned by Attorney General John Swallow from Internet Crimes Against Children Task Force (ICAC) to the Division of Securities. During that time he worked with the complainant for about five months and that is when the trouble began between them. Although complainant was an attorney, she was not a practicing attorney in the state of Utah and therefore did not represent the Division of Securities.

Mr. Amann explained the circumstances leading up to Ms. Skaggs filing a workplace harassment allegations and now he is asking for the records created by DHRM, as a result of the agency's obligation to look into the allegations of workplace harassment. He feels it is appropriate since he was exonerated of any wrongdoing and that he be provided the investigative report, emails, and notes.

Opening-Respondent

Mr. Burns explained that the committee's issue is to focus on three significant policy issues that are at stake. First, is it important to protect the confidentiality of a witness statement and identity as those documents and information are found both in the report and the hand written and typed notes of investigators. Second, the investigator wants to encourage witnesses to participate in an open and candid way. Third, something that has developed in more recent years, is that agencies work together. In this case the AGO, which is not under the supervision of DHRM, but there is a complaint about an AGO employee from an employee who is under DHRM, and DHRM therefore does have responsibility to thoroughly investigate and report. The fact is that the information Ms. Atkins gathered relied on employees from the Department of Commerce and they are still expected to participate in any future efforts that Commerce might undertake. Mr. Burns emphasized the focus is on the records that are in DHRM possession and the information is contended to be a non-record. The status of notes will be discussed in the testimony and how they are used and when they achieve a record status under GRAMA. Finally the report and the records that appear among the agencies will also be discussed.

In conclusion, the four issues of the key points: whether a disclosure to Mr. Amann can be other than public; whether a closed status of an investigation means that everything in the investigative file must be disclosed; whether DHRM has the authority to reclassify records that have provided to it in its statutory duties and responsibilities; and finally, whether there is such a thing as a personal note in a work setting. Mr. Burns concludes his opening remarks.

Testimony-Petitioner

Mr. Amann provides further background and explanation that led up to the complaint and the specifics to the case. Within a year Mr. Amann and Ms. Skaggs had no personal contact because of the belligerent attitude received on his end. All communications had to go between himself and other people on the email chains, he did not talk to her on the phone, and did not communicate one on one. He summarized a case he worked that required her assistance with gathering documents for the opposing counsel which led to the accusation he had people spying on her.

The chair interrupts and asks what records specifically he is requesting, what has been denied, and why it should be provided.

Mr. Amann continues that Ms. Skaggs filed a complaint that he had people spying on her during work hours. She made the complaint to Mr. Woodwell and he reported the complaint to DHRM. DHRM conducted an investigation and asked the colleagues who witnessed Ms. Skaggs at the hearing if they were there to spy on Ms. Skaggs. Mr. Amann does not know what they said because he has not been provided the notes. Mr. James Soper, Assistant Attorney General, was appointed to conduct the investigation with DHRM. The interviews were done together and four of the gentlemen who were interviewed agreed that their interviews can be released to Mr. Amann (see pp. 50-53 of attached documents on the Utah Public Notice Website, SRC Meeting Handouts March 19, 2015.pdf).

It is Mr. Amann's position that the notes from the witnesses should be released, and the four witnesses have agreed the notes can be released. Mr. Amann reads and dissects a portion of the statute (Utah Code 63G-2-103(2)(b)(i)(A)(B)) of what a record does not mean. The notes that Mr. Amann is asking for were prepared not in an other than governmental capacity, they were prepared in the governmental capacity. It is part of a test because there is an "or" in the sentence. The other part of the test is unrelated to the conduct of the public's business. Ms. Atkins' and Mr. Soper's interviews were conducted as part of the public business. The notes are a record. To say they are personal is unfounded as far as the GRAMA statute is concerned. The investigative report should be provided as well. Part of the reasoning for the report not to be provided is based on an argument that it is attorney work product or it is under attorney-client privilege. Mr. Amann summarizes the Southern Utah Wilderness Alliance (SUWA) v. the Automated Geographic Reference Center, Case No. 20060813, Dec. 23, 2008. The case essentially rules that litigation has to be litigation immanent, parties have to be on the brink of litigation in order for the documents that were prepared to be considered work product (see pp. 27-43 of attached documents on the Utah Public Notice Website, SRC Meeting Handouts March 19, 2015.pdf).

In Mr. Amann's conclusion, he refers to case numbers the respondent cited in the statement of facts and surmises each of them involves circumstances that are different from his appeal. In all cases the documents were released to the requestor. Another similar case that DHRM cites is *Carlisle v. Salt Lake City Police Dept.*, Case No. 11-03. The records committee ruled that Mr. Carlisle could get the records and he asked for the

narrative report, and he was provided that as well. Mr. Amann exclaimed he is not the *Deseret News* or the *Salt Lake Tribune*, and is not looking to defame anyone and broadcast this to the world. He was falsely accused and a report was generated and he wants a copy of the investigative report, relevant emails, and the notes that were generated; they are not private and not personal; they were generated in respect to this case.

Testimony-Respondent

Mr. Burns restated the main issues before the committee. The first part mentioned is whether the disclosure to Mr. Amann can be other than public. On one hand Mr. Amann states he is not the *Deseret News*, but during the course of his description of consent, which he received from four of the witnesses, there was a statement that it could be made available. He would like the report to be released to him and "don't worry I won't release it further because I'm not the *Deseret News*." GRAMA doesn't recognize that structure the committee has heard enough cases now where there has been one or the other, either public, protected, private, controlled or exempt classifications. There are circumstances where there is mixed classification within a record. There will be records that contain private information within a protected investigation file.

There was a challenge by the state Supreme Court trying to figure out the status of the investigation files are after the investigation closes. Mr. Burns counters Mr. Amann's summary of the cases. The Danysh case and the case involving Mr. Carlisle both were situations where privacy interests were discussed and the records committee made determinations with limited disclosure. No one investigation is necessarily like the next one. It depends on the information that is gathered, what people say in response, the conclusions that are derived or deduced that are made from statements that are made from witnesses. Within the testimony Mr. Burns announces he brought four binders for *in camera* review by the committee. The binders contain the records DHRM would like the committee to review.

Mr. Burns responded to a committee question about privacy in that people who spoke to investigators did so in confidence because they were told it would be kept confidential. It is possible that had the witnesses known it would be given to Mr. Amann they might have said things a bit differently or not participated in the investigation. There is nothing slanderous or shocking in the report, but the witnesses provided the information under the impression it would be confidential. It is the personal privacy of the witnesses who participated in the investigation that is being protected.

Ms. Smith-Mansfield asked a question about the notes because DHRM does ask people to take notes and then submit them over to the files. Were the notes made as part of the DHRM file or are they personal notes that people had that were gathered for the hearing? It is stated by Mr. Burns that it is a combination of both, but primarily they are talking about DHRM that made them contemporaneous with interview. During the interview the investigator or the supervisor makes note on what is said. The Chair asked a follow up question, do the investigators use these notes for a final report and then throw the notes away or were these notes to be kept in the files as part of the investigation?

Mr. Burns offers that there was a final report and the investigators offered these notes for the final report. There was no judgment or determination that now the report is done the notes would be thrown away. The respondent continues to outline the Supreme Court ruling that recognized witnesses in an investigation do have privacy interests that are worth protecting. Mr. Burns distributed a handout *Godfrey v. State of Utah*, Case No. 20020382-CA, June 12, 2003 (see pp. 47-49 of attached documents on the Utah Public Notice Website, [SRC Meeting Handouts March 19, 2015.pdf](#)).

Mr. Burns distributes another handout (see pp. 45-46 of attached documents on the Utah Public Notice Website, [SRC Meeting Handouts March 19, 2015.pdf](#)), and discussed the definition of record in Utah Code 63G-2-103(22)(a) and definition of what a record does not mean. Utah Code 63G-2-103(22)(b)(i). He then directs the committee's attention to Subsection -103(22)(b)(ii) and other provisions in GRAMA arguing the difference between personal notes and prepared notes. The remainder of the Mr. Burns' brief and argument pertain to Utah Code 63G-2-305.

The Chair asks if there is a record sharing policy between the agencies. Mr. Burns does not know if there is a written agreement. However there were multiple statements through the process and the statement was made that this would be a protected record.

Closing-Petitioner

Mr. Amann states with respect to the question about whether or not there is a privilege between an investigator and witness, there is not one between investigator and witness. It does not exist. He compliments Ms. Atkins for a great job, very professional, however if she has been advised by someone to tell witnesses she is interviewing it will be confidential, it is inappropriate. The information can come out through litigation. If he had committed some crime and charges were placed against him then there would not be confidentiality on the part of the person who made the report about that and gave evidence. It is not confidential.

Mr. Amann contests Mr. Burns interpretation of the statute provision on notes is not applicable. The notes were not created for Ms. Atkins private use, they were created because she is a governmental employee working on a governmental issue and they were related to the conduct of that business. That makes them records, they are not personal, and they should be provided.

Mr. Amann clarifies that the SUWA case has been affected by the change in the statute but the language in the case is still applicable, if it were not there would be a little red flag in the corner. The little red flag means it has been overturned by virtue of the change in the statute. The case has not been over turned, the logic of the case still applies to the attorney work product and attorney client privilege. The report was created by DHRM. The AGO did a draft and provided it to DHRM. He asks the committee to look through the records provided by DHRM carefully and provide him with the notes, the report, and the information that is justified under GRAMA.

Closing-Respondent

Mr. Burns clarifies the argument about notes and the attorney client privileges. He acknowledge he did not spend a lot of time exploring that argument, but there is some guidance, although there is a little red flag at the top in the Godfrey case, the case says an investigator doing business work can take personal notes that can become non-records. It comes from the Court of Appeals, not the Supreme Court, and it is an unpublished opinion, but it really is the only guidance he has for the note portion of the investigation. In conclusion he felt the statute was quite clear and did not need a lot of time spent on that portion of the testimony.

Intervention Motion by Attorney General's Office

Mr. Francis, representing the Attorney General's Office, makes a comment that Mr. Burns has effectively raised many of the same issues, but with regards to legal standing of a party to a litigation is they have a stake in the outcome. He believes the Dept. of Commerce and the AGO do indeed have a stake in the outcome the committee's decision. It will be very important to allow when the agency issues overlap with certain documents that have been shared with or shared by and would like the opportunity of the AGO to make its independent evaluation and input on the nature of the documents any of the exceptions of public records.

The Chair asks if the AGO or individual employees provided any records to part of this investigation. The response from Mr. Francis is, when the correspondence is done on official letter head it is difficult to delineate that, but there were individual assistant attorneys who gave input to other agencies some in the form of a formal report others in advice and counsel. In both cases the office did and there was assistant from individual attorneys. Another committee member asked if he has seen what is in the binders and Mr. Francis stated yes, and the AGO has provided input as to what they would consider if given the opportunity to do so.

Intervention Motion by Department of Commerce

Mr. Greg Soderberg, representing the Dept. of Commerce, he introduced members in the audience who were from the Dept. of Commerce (see list of attendees). He discussed the investigation report and referred to Mr. Amann's argument that the report and the findings were unfounded or without merit and/or defamatory. The outcome of that investigation is the claims were not substantiated. Ms. Skaggs came forward with her complaint and in support provided a number of documents and exchanges between her and Mr. Amann. The investigation proceeded to interview witnesses and examine documents; in addition many of the witnesses are Commerce employees.

He continues the argument, if the government interest is contrasted with the notion that the reason Commerce intervened in the case is because those witness statements that were made to the investigators and statements made by the complaint are private and protected under GRAMA. Commerce's concern is, with this case in particular and future cases, if the witnesses know the statements will be made public it may hinder future investigation where witnesses will not provide statements or they will be less candid with the investigators. That is the government interest at stake here and that is justified under

the statute in GRAMA by some of the specific statutes as Mr. Burns referred to in his testimony.

Motion- A motion was made by Ms. Cornwall to go *in camera*. The motion was seconded by Mr. Misner. The motion passed 5-0. Mr. Breshears was absent.

The Committee discussed in length whether to go *in camera* or to schedule for individual members to come in and review the documents provided by Mr. Burns. Mr. Tonks suggested to go *in camera* and during that time come up with a potential time frame for the committee to meet.

The committee continued to discuss redacting and exposing who the witnesses are in the report. Eventually the committee decided to make a substitute motion.

Motion-A motion was made by Ms. Smith-Mansfield to have a continuance to allow documents that were provided by Respondent to the Executive Secretary for the Committee, to be securely reviewed at the State Archives Building *in camera* by individual committee members prior to the continued hearing on this matter. The motion was seconded by Mr. Haraldson. The motion passed (Ms. Richardson, Ms. Cornwall, Ms. Smith-Mansfield, Mr. Haraldson, and Mr. Misner) 5-0. Mr. Breshears was absent.

Discussion proceeded with concerns and questions of redaction, public interest, recourse for employees who have been wrongly accused, and protecting the complainant's identity. At the end of the discussions the chair inquired if all parties were agreeable to extend the date. All parties responded yes.

IX. Other Business:

Legislative Updated and Administrative Rules discussion

Ms. Smith-Mansfield refers the committee members to the handouts and discussed and explained the significant changes to **S.B. 157** and the other bills that also affect **S.B. 157** (see attached documents on the Utah Public Notice Website, [SRC Meeting Handouts March 19, 2015.pdf](#))

X. Approval of February 12, 2015, Minutes:

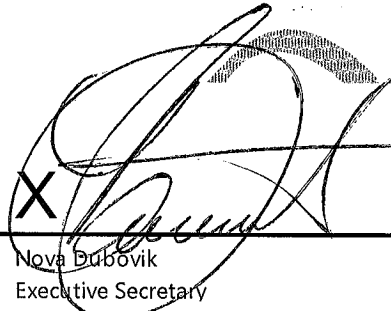
Ms. Smith-Mansfield submitted changes that were corrected prior to the meeting. A motion was made by Ms. Cornwall to approve the February 12, 2015, Minutes with the corrections, and seconded by Ms. Richardson. The motion passed 5-0. Mr. Breshears was absent (see the attached documents on the Utah Public Notice Website, [SRC Minutes February 12, 2015.pdf](#)).

XI. Other Business:

The next meeting is scheduled for April 9, 2015. The executive secretary queried if there will be a quorum present for the next meeting, Ms. Smith-Mansfield will be absent.

The March 19, 2015 State Records Committee meeting adjourned at 3:17 p.m.

This is a true and correct copy of the March 19, 2015, SRC meeting minutes, which were approved on May 14, 2015. An audio recording of this meeting is available on the Utah Public Notice Website at <http://www.archives.state.ut.us/public-notice.html>.


X
Nova Dubovik
Executive Secretary

APPROVED