

**State Records Committee Meeting**

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

Date: December 8, 2016

Time: 9:00 a.m. -3:30p.m.

**Committee Members Present:**

Patricia Smith-Mansfield, Chair, Governor's Designee

Chad Lambourne, Citizen Representative

Tom Haraldsen, Media Representative

Cindi Mansell, Political Subdivision Representative

Doug Misner, History Designee

Holly Richardson, Citizen Representative

David Fleming, *Chair Pro Tem*, Private Sector Records Manager

**Legal Counsel:**

Paul Tonks, Attorney General's Office

David Jones, Attorney General's Office

**Executive Secretary:** Nova Dubovik, Utah State Archives

**Others Present:**

David McKnight, Utah Dept. of Health, Assistant Attorney General

J. Mark Smedley, Heber City Attorney

Dave Booth, Heber City Chief of Police

Scott Darrington, Pleasant Grove City

Kathy Kresser, Pleasant Grove City

Dave Larsen, Heber City

Nate Carlisle, *Salt Lake Tribune*

Cort Griffin, Utah County Attorney

Tom Hudachko, Utah Dept. of Health

Dr. Erik Christensen, M.D., Chief Medical Examiner

Eric Peterson, Petitioner

Mariah Noble, *Salt Lake Tribune*

Tamara Hampton, Utah Dept. of Health

Karl Kuhn, Pleasant Grove City

Robert Williams, Pleasant Grove City

Chris Williams, Pleasant Grove City

Stan Williams, Pleasant Grove City

Rosemary Cundiff, Utah State Archives

Rebekkah Shaw, Utah State Archives

Kendra Yates, Utah State Archives

Rae Gifford, Utah State Archives

**Agenda:**

- Four Hearings Scheduled
- Retention Schedules, action item
- Approval of November 10, 2016, Minutes
- Report on Appeals Received
- Report on Cases in District Court
- Other Business
  - Next meeting scheduled for January 12, 2017, 9 a.m. to 4 p.m.

**1. Call to Order:**

The Chair, Ms. Patricia Smith-Mansfield, called the meeting to order at 9:05 a.m. Mr. David Fleming and Ms. Holly Richardson arrived at 9:05 and 9:10 respectively.

**2. Nate Carlisle, Salt Lake Tribune vs. Utah County Sheriff's Office:**

The Chair introduced the parties for the hearing: Mr. Nate Carlisle, Petitioner, and Mr. Cort Griffin, attorney representing Utah County Sheriff's Office. The Chair explained procedures and asked Committee, the Petitioner, and Respondent to introduce themselves for the record.

**Petitioner's Opening Statement**

Mr. Carlisle explained that Utah County Sheriff's Office provided some records of allegations that were sustained, but he is seeking records on the allegations that were not sustained after an Internal Affairs (IA) investigation. The request relates to a now-dismissed charge of third-degree felony retaliation against a witness, victim, or informant filed against a Deputy in February 2016. The Deputy was working as a guard at the Utah County Jail when an acquaintance of his was charged with a rape of a student at Brigham Young University. The interest is in the role of the officer in that case and what he may have shared with a private university and what role that had in the criminal case of the sexual assault. Mr. Carlisle referred to three components that he intends to discuss during the testimony portion of the hearing: 1) *Garrity v. New Jersey*, 385 U.S. 493 (1967); 2) *Lawrence v Utah Dept. of Public Safety*, Case No. 120907748; and 3) that there might still be an investigation that is ongoing;

therefore, the records would be classified protected.

**Respondent's Opening Statement**

Mr. Griffin stated that the request is for the IA investigation records concerning the off-duty conduct of an officer. The redactions in the report, provided to Mr. Carlisle, are related to the conduct that was not sustained. Mr. Griffin listed three issues: 1) the personnel file is a private record; 2) releasing the record will interfere with an ongoing investigation; and 3) there is sensitive information about the victim that should be redacted under Utah Code § 63G-2-302(2)(d). Mr. Griffin stated that the *Lawrence v. DPS* ruling is not relevant to the hearing and that the interest against disclosure outweighs nondisclosure. In addition, he noted that *Garrity v. New Jersey* was not raised by Utah County as a reason not to provide the records. He also pointed out that there is an ongoing investigation through the Utah Department of Public Safety, Utah Peace Officer Standards and Training (POST), and releasing the records could pose a problem with the integrity of the investigation.

**Testimony Petitioner**

Mr. Carlisle asked the Committee to disregard the *Garrity* ruling because it is no longer part of his argument for disclosure of the records. However, he elaborated that sustained versus unsustain, off-duty versus on-duty, for an officer is not articulated in the Government Records Access and Management Act (GRAMA). Mr. Carlisle argued that although it states sustained is public it does not mean the opposite is not public. He also noted that if sensitive information regarding the rape

victim is in the requested records he was fine with redactions.

Ms. Erin Alberty was sworn in to speak directly to the issue of privacy of the investigation. She explained it was originated by Provo City Police Department due to witness tampering and intimidation of the victim. The case has been followed and reported extensively by media. The question being asked is what is so invasive, and why the charges against the officer were dropped.

The Respondent posed no questions to the witness.

#### **Testimony Respondent**

Mr. Griffin stated that under GRAMA all public employee records are private unless made public. The statute expressly provides that these employee records are private under Utah Code § 63G-2-302(2)(a), Utah Code § 63G-2-301(2)(b), and Utah Code § 63G-2-301(3)(o). He further explained that the Lawrence decision is not relevant to the current case and that District Court rulings are not precedents. Mr. Griffin went on to point out that different circuit courts can make different rulings on the same issues. Nevertheless, off-duty conduct is not part of the equation for releasing the records, and the ruling in Lawrence does not address that issue. The incident in question did not occur on duty and this was not part of the officer's official duties.

The Chair addressed the Lawrence case and explained that the IA investigation is not part of the personnel file. Mr. Griffin argued that the IA report is part of the officer's personnel file. Mr. Griffin continued that the POST investigation is ongoing and if the Committee determines to release the records, they should consider the fact it could influence the investigation if released before the investigation is closed.

#### **Petitioner's Closing Remarks**

Mr. Carlisle argued it is in the public interest to release the records. He argued that in the Lawrence case the records released included

allegations that were not sustained. The *Salt Lake Tribune* wants to know why the case was dropped against the deputy. At this time, there are not enough facts, the County has redacted so much information there is an issue with public trust, and it goes back to the Lawrence case.

#### **Respondents Closing Remarks**

Mr. Griffin explained that exculpatory evidence under *Brady v. Maryland* is whether the evidence relates to your client. The evidence in the IA report for the deputy did not relate to the other suspect and, therefore, was not provided. Charges were dismissed and the investigation focused on the County employee not the co-defendant. The County believed the records sought are private records and that the Lawrence case does address or govern in this case because it is an unsustained personnel action. He requested the Committee allow POST to continue the investigation and find the records classified private. If, however, the Committee finds the records are private, but the public interest outweighs to nondisclosure, the County requests that the Committee protect the integrity of the investigation and not release the records until the investigation is over. If the Committee's decision is to order the release of the records the County asks that the sensitive information under Subsection 63G-2-302(2) (d) is redacted.

**Deliberation:** The Committee agreed that district court decisions do have precedents and that the Lawrence case is applicable to this appeal. The Chair is not persuaded that the IA investigation would be part of the personnel files and the Committee should use the weighing provision and find the records of public interest. Other members weighed in and expressed agreement that the records are in the public interest and that a police officer is on duty 24/7; and there is a public trust factor.

**Motion** Mr. Fleming made a motion to go *in camera*, seconded by Ms. Mansell. The motion passed, 7-0. Mr. Misner, Ms. Smith-Mansfield, Ms. Mansell, Ms. Richardson, Mr.

Fleming, Mr. Lambourne, and Mr. Haraldsen voted yea.

**Motion:** Mr. Misner made a motion to go back in session, seconded by Mr. Haraldsen. The motion passed, 7-0. Mr. Misner, Ms. Smith-Mansfield, Ms. Mansell, Ms. Richardson, Mr. Fleming, Mr. Lambourne, and Mr. Haraldsen voted yea.

**Motion:** Ms. Richardson made a motion that upon review of the records *in camera* it is determined that the record is public with the exception of individuals not otherwise known outside of government and identifying information that would constitute a clearly unwarranted invasion of personal privacy pursuant to Utah Code § 63G-2-302(2)(d). The motion was seconded by Mr. Fleming, and passed, 7-0. Mr. Misner, Ms. Smith-Mansfield, Ms. Mansell, Ms. Richardson, Mr. Fleming, Mr. Lambourne, and Mr. Haraldsen voted yea.

#### **5-Minute Break**

#### **3. Lori Williams vs. Pleasant Grove City:**

The Chair introduced the parties for the next hearing: Ms. Lori Williams, Petitioner, and Mr. Scott Darrington, City Manager for Pleasant Grove City. The Chair explained procedures and asked the Committee, Petitioner, and Respondent to introduce themselves for the record.

Ms. Richardson recused herself from the case because she is a resident of Pleasant Grove City and knows the parties.

#### **Petitioner's Opening Statement**

Ms. Williams explained that since raising the issue of the mismanagement of money thousands of dollars have been given back to the citizens of Pleasant Grove City. She continued that the Strawberry Days Association (SDA) is intertwined with the City, and goes to the City for direction and instruction. In 2013, a City Ordinance was passed that legally formed Strawberry Days and established it as a "Permanent Administrative Board, Commission (or)

District." At the time, the Mayor stated it was to end and era of Strawberry Days Celebration being a "separate entity" from the City. In September 2016, the Pleasant Grove City Council rescinded and reversed the ordinance, with no comments by the citizens. Ms. Williams seeks a favorable ruling to get the financial records from the SDA. It is in the interest of the public. Ms. Williams stated that since 2004 SDA has not legally been registered until recently when it did so on December 5, 2016. She requested that the Committee grant an order to release records.

#### **Respondent's Opening Statement**

Scott Darrington stated the City has tried to comply with records requests and have turned over any records the City maintained; however, the financial books are kept by SDA. The SDA has its own financial association and is run by volunteers. The City does not dictate how the money is used. The City's responsibility for the SDA is to provide public safety and donate time as part of its contribution. Mr. Darrington mentioned that there is reconciliation between the SDA and the City expenses at the end of the festival. The SDA was established in 1962 and not part of the City ordinance. The City does not control or operate the SDA.

#### **Testimony Petitioner**

Ms. Williams directed the Committee's attention to the handouts that provide a detailed history and timeline about the SDA. (See the attached documents on the Utah Public Notice Website, [SRC Meeting Handouts December 8, 2016.pdf](#)). Ms. Williams explained that currently everything that SDA does is under the City's liability to include the tax ID and insurance. She provided third-party conversations as evidence that showed SDA was not a legal entity until December 5, 2016. Pleasant Grove City, with the approval of the City Council, acknowledges and contributes \$22,000 to \$24,00 in cash to SDA, which has no insurance, no protections, no active entity status, no tax ID number, no 501(c)(3) status, no history of tax compliance, and membership chosen by the City.

Mr. Lambourne asserts that the SDA is part of the City because it uses City finances and City land with no contract in place.

**Testimony Respondent**

Mr. Darrington explained that the Association is its own entity and that there was a time in 2013 when the SDA approached the City for assistance. The Association puts on the event and the City contributes. He emphasized that the two entities are separate although, at one time, the City Council did create the Strawberry Days Committee with the intent to combine the two. The Committee eventually was dissolved in 2016. The SDA does fall under the City's liability and when he began as the City Manager, he was under the impression that SDA was using the City's tax ID number. Since then he has been told the organization does not use the City's tax ID.

The Chair stated that the SDA is incorporated as of December 2016 and has a tax ID, but asked how it was conducting business from 2013-2016. If SDA is using the City property, it is required to contract with the City to use the property. In that instance, it would need to establish the license.

Mr. Fleming expanded the argument stating that in 2003 SDA ceased to be a corporation and then, in 2016, it became incorporated, and when it ceased being a corporation the City absorbed the entity. Ms. Mansell also brought up the issue of annual budgets and auditing.

**Petitioner's Closing Remarks**

Ms. Williams restated that the City runs the SDA and even provides administration for the SDA website. There is no separation of the City from SDA. The citizens are concerned that its taxes have not been filed or paid and it will become the City's problem. She asked the Committee to order Pleasant Grove City to provide the records requested.

**Respondents Closing Remarks**

Mr. Darrington restated that the financial matters have not been combined and it is unknown whether the Association has filed

tax returns. The SDA is not part of the City audit.

**Deliberation:** The Chair argued that to enter into a contract with the City the entity has be a legal entity, and the SDA was not. Which makes it look like the City absorbed it for a time and that the SDA was acting on its behalf. The Committee reviewed the definition of governmental entity under Utah Code § 63G-2-103(11).

**Motion:** Mr. Fleming made a motion that Pleasant Grove City produce the financial records of the Strawberry Days Association pursuant to Utah Code § 63G-2-103(11)(b)(i). This is based on the fact that Strawberry Days Association did not maintain its own legal entity status and that the City funded it to carry out the public's business. Ms. Mansell seconded the motion. The motion passed, 5-1. Ms. Smith-Mansfield, Ms. Mansell, Ms. Haraldsen, and Mr. Fleming Mr. Lambourne voted yea. Mr. Misner voted nay.

**25-Minute Lunch Break**

**4. *Eric Peterson vs. Utah Department of Health***

The Chair introduced the parties for the next hearing: Mr. Eric Peterson, Petitioner, and Mr. David McKnight, Assistant Attorney General for the Utah Department of Health. The Chair explained procedures and asked the Committee, Petitioner, and Respondent to introduce themselves for the record.

**Petitioner's Opening Statement**

Mr. Peterson is representing a nonprofit called the Utah Investigative Journalism Project. His GRAMA request stems from a project he found out about that was done in 2010 by some reporters in California. They had researched a project, which encompassed prescription overdose deaths, by gathering many records and calculating how many people had died specific to a particular doctor. Mr. Peterson wants to recreate that project given the problem with prescription drug overdoses in the state of Utah. The Utah

Department of Health had some concern about him making a request and invoked a researcher provision argument. The dispute as to why he cannot obtain the records is from the language in Utah Code § 26-4-17. Mr. Peterson argued that the balancing test and the weighing the public interest should trump nondisclosure.

**Respondent's Opening Statement**

Mr. McKnight stated that the Department is not releasing the records because of the provision in GRAMA that provides a more specific statute and that the health code has its own confidentiality provisions, which govern over GRAMA (Utah Code § 26-4-17). The statute provides to whom the medical examiner can release records and investigative journalism does not fall within the parameters. Based on the language of the statute the Department is not authorized to release the records.

**Testimony Petitioner**

Mr. Peterson stated that the main issue stems from Utah Code § 26-4-17. Mr. Peterson summarized the statute and offered his interpretation and intent of the law. In his opinion, the record it is referring to is the complete record and in its complete form that may be confidential. He argued that he is not seeking a complete form only the aggregate record. The type of prescriptions found on body, cause of death, and the name of the doctor who prescribed the drugs.

Mr. Peterson emphasized that the drug problem in Utah is huge and it is important to identify doctors who are a danger to the public.

**Testimony Respondent**

Mr. McKnight stated that the only reason the Department is denying the request is that it has no authority to release the record. He summarized the applicability of Utah Code § 63G-2-201(6) to his argument that the disclosure of a record, to which access is governed or limited pursuant to another state statute, cannot be released under GRAMA. The statute that applies to the request and

supersedes GRAMA is Utah Code § 26-1-17.5. He explained the Code and noted that records can be released only to specific individuals as outlined in the law. There is no redaction clause in the medical examiner statute concerning the question about granting the petitioner a research provision, there is a certain process for researchers to be granted access to information and it follows more along the lines of academic research versus media under Utah Code § 26-3-1. The Department is not authorized to release medical examiner's data due to it being confidential and the restrictions outlined in the statute.

Dr. Eric Christensen, M.D., Chief Medical Examiner, was sworn in and explained the office procedures for reporting information to state and federal agencies. He also clarified the reason that the records are confidential and mentioned that every state has different laws, and, in the case of California, the medical examiner records are public.

The Petitioner did not question the witness.

**Petitioner's Closing Remarks**

Mr. Peterson argued that the information hinges on the interpretation of the Code and in his opinion the Code does not state confidentiality applies to all the records. He believed the general data should be made public.

**Respondent's Closing Remarks**

Mr. McKnight summarized the statute restating why the Department is not authorized to release the records, and recommended that Mr. Peterson request the information from the Utah Division of Occupational and Professional Licensing (DOPL).

**Deliberation:** The Committee discussed the statutes at length and agreed that the information should be available for research whether it is a medical researcher or a media member; however, the statute restricts the release of the requested records.

**Motion:** Mr. Fleming made a motion that the request should be denied based on Utah Code § 26-4-17 and as nonpublic records as defined under Utah Code § 63G-2-201(3)(b) and (6). Ms. Mansell seconded the motion and it passed, 5-2. Mr. Misner, Ms. Smith-Mansfield, Ms. Mansell, and Mr. Fleming. Mr. Lambourne voted yea. Mr. Haraldsen and Ms. Richardson voted nay.

**5. *David Larsen vs. Heber City Police Department***

The Chair introduced the parties for the next hearing: Mr. David Larsen, Petitioner, and Mr. Mark Smedley, Attorney for Heber City Police Department. The Chair explained procedures and asked the Committee, Petitioner, and Respondent to introduce themselves for the record.

**Petitioner's Opening Statement**

Mr. Larsen stated that he was arrested in Heber City, and that the charge eventually was dismissed with prejudice. He filed a written complaint against the officer who arrested him. From that moment events started to snowball which has led to being in front of the Committee. Mr. Larsen continued that he and the public deserve to know how and when public servants are disciplined and how their command goes about disciplinary actions on the officers.

**Respondent's Opening Statement**

Mr. Smedley stated that Heber City has approved all of Mr. Larsen's requests for records that are in the possession of Heber City or the Police Department. Mr. Smedley summarized the Committee's previous ruling concerning any investigative documents with regard to disciplinary action, as in the Lawrence case, should be open, and that all those types of records have been provided to Mr. Larsen. What is at issue today is whether any person in the public be able to review an officer's personnel file simply because they are upset about how the officer handled the arrest. He surmised that the public does not have the right to do so under Utah Code § 63G-2-302(2)(a), but, if there has been an investigation and discipline has been

sustained, the records would be public under Utah Code § 63G-2-301(3)(o).

Mr. Lambourne disclosed that Mr. Larsen's counsel was in the same law firm that Mr. Lambourne worked in. The counsel had referred Mr. Larsen to Mr. Lambourne to answer a question regarding GRAMA. That was the only contact he had with the Petitioner. The Respondent did not object to Mr. Lambourne presiding over the hearing.

**Testimony Petitioner**

Mr. Larsen requested any documentation relevant to the officer's duties that required disciplinary or corrective action taken by the Heber City Chief of Police. He seeks records that include any lawsuits and/or complaints. In his opinion, the public has the right to know what kind of disciplinary action was taken on the officer for Mr. Larsen's unfounded arrest.

**Testimony Respondent**

Mr. Smedley stated that he is unaware of any written or formal complaints by the public on the officer who arrested Mr. Larsen. The question before the Committee is whether Mr. Larsen be allowed to look at an officer's personnel records which are private under Utah Code § 63G-2-302(2)(a). It is not a question of transparency; it is a question of whether the Petitioner should be allowed to review the records that do not pertain to the Petitioner's arrest. If the information were released it would be a clearly unwarranted invasion of personal privacy.

The Chair clarified that the Police Department has searched and that there are no complaints and no investigative records for the officer that are responsive to the request. Mr. Smedley stated that there are no complaints by the public. He explained that there is an internally documented corrective action that is in the officer's personnel file that goes directly to performance evaluation and is private under Utah Code § 63G-2-302(2)(a), and protected under Utah Code § 63G-2-305(25). It does not meet the definition of

“sustained” or “investigative” under Utah Code § 63G-2-301(3)(o).

Mr. Lambourne asked the Respondent whether the police department practices the progressive discipline model of a written verbal warning, written reprimand, administrative time off, and termination. Mr. Smedley answered, yes.

Ms. Richardson left the meeting at 2:55 p.m.

#### **Petitioner’s Closing Remarks**

Mr. Larsen closed with the statement that what is in an officer’s personnel file is based on the officer’s performance and that it should be a public record and disclosed.

#### **Respondent’s Closing Remarks**

Mr. Smedley restated that all written formal complaints by the public or internally are kept and filed and held. Mr. Larsen has made many GRAMA requests and all have been granted except for the letter of reprimand.

**Deliberation:** The Chair explained that the issue before the Committee is the complaint files, personnel files, and any letters of disciplinary action in the files. Personnel files are private pursuant to Utah Code § 63G-2-302(2)(a), except for disciplinary records that are under Utah Code § 63G -2-301(3)(o). The letter of reprimand is a disciplinary action.

Mr. Fleming noted that in the earlier case, *Carlisle v. Utah County Sheriff’s Office*, there was a distinction between the IA investigation and personnel records. In his opinion, the request in this case is a personnel record. The Chair asked the Respondent if there is an IA investigative record on the officer that was not provided. The Respondent’s response was, no.

Mr. Fleming argued that the record sought is a corrective action at the personnel level, and it does not apply to the Lawrence case because there was no investigation. The Chair responded that the personnel file is private under Utah Code § 63G -2-302(2)(a), except for the disciplinary record which is public.

She stated that by Human Resource standards a letter of reprimand is considered a disciplinary action.

**Motion:** Mr. Misner made a motion that the personnel files are appropriately classified as private under Utah Code § 63G-2-302(2)(a), except for the letter of reprimand which is a disciplinary action under Utah Code § 63G-2-301(3)(o), and therefore is public. Mr. Fleming seconded the motion. The motion passed, 6-0. Mr. Misner, Ms. Smith-Mansfield, Ms. Mansell, Mr. Haraldsen, Mr. Fleming, and Mr. Lambourne voted yea.

#### **6. Approval of November 10, 2016, Minutes:**

A motion was made by Mr. Lambourne to approve the November 10, 2016, minutes. Ms. Mansell seconded the motion. The motion passed 5-0. (See the attached documents on the Utah Public Notice Website, [SRC Minutes November 10, 2016.pdf](#)). Ms. Smith-Mansfield, Mr. Misner, Mr. Lambourne, Mr. Haraldsen, and Ms. Mansell voted yea. Mr. Fleming abstained.

#### **7. Retention Schedules: Utah State Agencies Retention Schedule:**

Ms. Rae Gifford presented one retention schedule.

Department of Environmental Quality, Waste Management Radiation Control. 16837 Uranium mill tailings licensee records. Retain 20 years.

**Motion:** A motion was made by Mr. Fleming, and seconded by Mr. Haraldsen, to approve the proposed retention schedule. The motion passed, 6-0. Ms. Smith-Mansfield, Mr. Misner, Mr. Lambourne, Mr. Fleming, Haraldsen, and Ms. Mansell voted yea.

#### **General Schedules:**

Ms. Rebekkah Shaw presented nine retention schedules.

**General Accounting Records Schedule 5:** Local Government Accounts Payable Records (Item 5-35)



Local Government Accounts Receivable Records (Item 5-34)

**Motion:** Mr. Fleming made a motion to recommend combining Item 5-34 and Item 5-35. Mr. Haraldsen seconded the motion and it passed, 6-0. Ms. Smith-Mansfield, Mr. Misner, Mr. Lambourne, Mr. Fleming, Mr. Haraldsen, and Ms. Mansell voted yea.

**Financial Records Schedule 7:**

Audited financial statement (Item 7-68)  
Budget Records (Item 7-67)  
Grant Records (Item 7-70)

State Government Accounts Payable Records (Item 7-66)

State Government Accounts Receivable Records (Item 7-65)

Trust Financial Records (Item 7-69)

**Motion:** Mr. Fleming made a motion to recommend combining Item 7-65 and Item 7-66. Mr. Misner seconded the motion. The motion passed, 6-0. Ms. Smith-Mansfield, Mr. Misner, Mr. Lambourne, Mr. Fleming, Mr. Haraldsen, and Ms. Mansell voted yea.

**Motion:** Mr. Fleming made a motion to approve the remaining retention schedules. Mr. Lambourne seconded the motion. The motion passed, 6-0. Ms. Smith-Mansfield, Mr. Misner, Mr. Lambourne, Mr. Fleming, Mr. Haraldsen, and Ms. Mansell voted yea.

**Intrinsically Historical Schedule 19:**

Artifacts (Item 19-1)

Mr. Misner asked the Committee whether the Department of Heritage and Arts could further review Item 19-1 before final approval.

**Motion:** Mr. Haraldsen made a motion to table Item 19-1. Mr. Fleming seconded the motion. The motion was amended.

**Motion:** Mr. Fleming made a motion to approve if no additional comments are received in the next 30 days. Mr. Haraldsen seconded the motion and it passed, 6-0. Ms.

Smith-Mansfield, Mr. Misner, Mr. Lambourne, Mr. Fleming, Mr. Haraldsen, and Ms. Mansell voted yea.

**8. Report on November and December Appeals:**

The executive secretary briefed the Committee on the following declined hearings.

*In Steven Young vs. Utah Department of Corrections:* On November 17, 2016, Mr. Young appealed access denial to his Housing Location History from 1999 to present. The Committee reviewed the appeal and determined the appeal subject had been found by the Committee in a previous hearing involving the same governmental entity and was properly classified as protected (*Jesse Fruhwirth vs. UDC*, Case No. 11-02).

*In Patrick Sullivan vs. Utah Department of Corrections (UDC):* Mr. Sullivan appealed the decision by UDC that the record sought does not exist. The Committee reviewed the appeal and determined that the Petitioner did not provide sufficient evidence that the record was maintained by the governmental entity or that the governmental entity has concealed or insufficiently or improperly searched for the record pursuant to Administrative Rule R35-2-2(2).

The executive secretary mentioned that four potential hearings are scheduled for January (See the attached documents on the Utah Public Notice Website, [SRC Meeting Handouts December 8, 2016.pdf](#)).

**9. Report on Cases in District Court:**

Mr. Tonks briefed Committee members on the district court cases.

*In Roger Bryner v. State Records Committee,* Case No. 20160870, the Court dismissed the Committee's motion to dismiss the appeal. Mr. Tonks summarized the Court's decision.

(See the attached documents on the Utah Public Notice Website, [SRC Meeting Handouts December 8, 2016.pdf](#)).

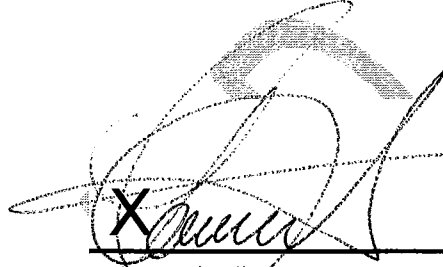
**10. Other Business:**

-January 12, 2017, is the date of the next scheduled meeting. The Chair queried whether a quorum will be present for the next meeting; all members intend to be present.

- The executive secretary announced the 2017 Committee schedule will be posted on Google Docs for the members to review.

**11.** The December 8, 2016, State Records Committee meeting adjourned at 3:30 p.m.

**This is a true and correct copy of the December 8, 2016, SRC meeting minutes, which were approved on January 12, 2017. An audio recording of this meeting is available on the Utah Public Notice Website at <http://www.archives.state.ut.us/public-notice.html>.**



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Nova Dubovik  
Executive Secretary

APPROVED