

## State Records Committee Meeting

Date: September 19, 2024

Time: 9:00 a.m. – 4:00 p.m.

### Committee Members Present:

Marie Cornwall, Chair pro tem, Citizen Representative  
Ed Biehler, Electronic Records Representative  
Linda Petersen, Media Representative  
Heidi Stringham, State Archivist designee  
Nova Dubovik, Citizen Representative  
Mark Buchanan, Private Sector Records Manager

### Legal Counsel:

Brian Swan, Assistant Attorney General  
Michelle Adams, paralegal

### Executive Secretary:

Rebekkah Shaw

### Others Present:

Luis Sanchez  
Betsy Haws, counsel for Salt Lake City Police  
Lt. Steve Wooldridge  
Lynn David  
Dustin Grabau, Wasatch County  
Shelby Thurgood, Wasatch County  
Luis Sanchez, My Defense Guide  
\_\_\_ Haws, Salt Lake City Police  
Miki Mullor  
Cameron Platt, counsel for Hideout  
Alicia Fairbourne, Hideout  
Annie Knox, KSL  
Lonny Pehrson, Attorney General Office  
Tammy (?) Brisbee, counsel for KSL  
David Qualey, counsel for Salt Lake City  
Paul Dodd, counsel for West Jordan  
Adam Herbets, FOX 13 News  
Ashley Biehl, counsel for Board of Education  
Marcus Yockey, counsel for Department of Public Safety  
Mike Kendall, counsel for Davis County  
\_\_\_ Anderson, counsel for Department of Corrections  
Catherine Brabson, counsel for Park City  
\_\_\_ Robinson, counsel for Sandy City

## **Agenda:**

- Luis Sanchez (My Defense Guide) v. Salt Lake City Police (2024-46)
- Lynn David v. Wasatch County Sheriff Office (2024-57)
- Miki Mullor (Hideout Comment) v. Hideout Town (2024-61)
- Courtney Tanner (The Salt Lake Tribune) v. Utah High School Athletic Association (2024-74, 2024-75, 2024-102)
- Annie Knox (KSL) v. Attorney General Office (2024-105)
- Consolidated Appeals:
  - Adam Herbets v. Vanguard Academy (2024-63)
  - Adam Herbets v. Utah County (2024-64)
  - Adam Herbets v. Heber City (2024-66)
  - Adam Herbets v. Centerville City (2024-67)
  - Adam Herbets v. Salt Lake City (2024-68)
  - Adam Herbets v. South Salt Lake City (2024-69)
  - Adam Herbets v. Cottonwood Heights (2024-72)
  - Adam Herbets v. West Valley City (2024-91)
  - Adam Herbets v. West Jordan City (2024-95)
- Adam Herbets v. Board of Education (2024-62)
- Adam Herbets v. Attorney General Office (2024-65, 2024-90)
- Adam Herbets v. Davis County (2024-73)
- Adam Herbets v. Department of Public Safety (2024-88)
- Adam Herbets v. Department of Corrections (2024-89)
- Adam Herbets v. Park City (2024-96)
- Adam Herbets v. Sandy City (2024-97)

## **Business:**

- FY 2024 Annual Report, report
- Administrative Rule changes, action item
- SRC appeals received and declined, notices of compliance, and related action items
- Committee members' attendance polled for next meeting, format, and quorum verification

### **1. Lynn David v. Wasatch County Sheriff Office (2024-57)**

#### **Petitioner Statement:**

Mr. David reviewed the situation leading to why he submitted the request. He stated he was directed by the attorney general's office to request these records from the county. He stated the attorney general's office stated the records were public, but the county states they are private and protected. He asked the Committee to order the records be provided so he can see the results of the investigation.

#### **Respondent Statement:**

Ms. Thurgood summarized the incident from 2017. She stated the dismissal was not related to the incident. She stated the records are not subject to GRAMA, but Utah Code 17-30-19, which prohibits the record from being disclosed. She stated if the record is subject to GRAMA it would

fall under Utah Code 63G-2-305(10)(a) and (b). He stated the records concern a current or former employee so it would also fall under Utah Code 63G-2-302(2)(a). She stated the public interest does not outweigh the classification because the deputy's reputation could unnecessarily suffer as a result of the disclosure. She asked the Committee to deny the appeal.

**Questions from the Committee:**

The Committee asked about the conclusion of the investigation. Ms. Thurgood stated the conclusion was the complaint was not founded and there was no disciplinary decision.

The Committee asked about the classification from the Attorney General's Office. Ms. Thurgood stated they classified their own records and it does not impact the county's record. The Committee asked why the investigation went to the Attorney General's Office. Ms. Thurgood said she could not answer that without violating attorney-client privilege.

**Petitioner Closing:**

Mr. David stated in what he was provided, the Sheriff forwarded the investigation to the Attorney General's Office. He stated the arguments from the respondent are superfluous. He stated conditions in Utah Code 17-30-19 are not met. He reviewed the citations the respondent included in their statement of facts and stated they are not relevant.

**Respondent Closing:**

Ms. Thurgood stated the records are not subject to GRAMA, and even if they are, they are employee records.

**Questions from the Committee:**

The Committee asked for clarification if Utah Code 17-30-19 applied to the Sheriff office. Ms. Thurgood stated the process goes up the line.

**Deliberation:**

**Motion** by Ms. Petersen to go in camera to review the records in the Skull Valley room.  
Seconded by Mr. Buchanan.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

Ms. Petersen stated this case does not fall under Utah Code 17-30-19 because the records are related to a member of the public filing a complaint rather than internal disciplinary actions. Mr. Biehler stated the case never went to the Commission.

Dr. Cornwall stated the officer was not charged with anything, so the records are employee records under Utah Code 63G-2-302(2)(a) and (d). She stated under the weighing analysis the committee looked at the interests of the county and the public interest. Mr. Biehler stated there were allegations, but they proved to be unfounded.

**Motion** by Mr. Biehler to deny the appeal per Utah Code 63G-2-302(2)(a) and (d). Utah Code 17-30-19 does not apply in this case because the investigation did not go to the Commission. In weighing the public interest, the interest of the employee and county outweighs the public interest. Seconded by Ms. Dubovik.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

## **2. Luis Sanchez (My Defense Guide) v. Salt Lake City Police (2024-46)**

### **Petitioner Statement:**

Mr. Sanchez stated the public already has video of the officers involved in the riot, and the withheld record is only video from a different perspective of all the other body camera videos provided. He stated the public interest should outweigh the city's interest in withholding the record.

Mr. Sanchez stated he paid \$350 for 2 hours and 40 minutes of footage which was excessive and unreasonable. He asked the Committee to order a refund of the fee and the full record be provided.

### **Respondent Statement:**

Mr. Haws requested the Committee deny the appeal. He stated the videos withheld were properly protected under Utah Code 63G-2-605(10)(e). He stated the video would reveal investigative techniques to document criminal activity not known outside of government. He stated releasing the video would compromise the safety of officers and the public.

Mr. Haws stated the city weighed the public interest. There were eleven videos responsive to the request from three officers who were at a protest that became a civil disturbance in July 2020. He stated video for all three of these officers were provided. What was withheld was a specific handheld video which in and of itself is the technique they are protecting. He stated the officer was gathering evidence with that video which were later used for training purposes and internal affairs purposes. The body camera video for the officer holding the handheld camera was released.

### **Questions from the Committee:**

The Committee asked for clarity regarding the difference between the evidence camera and the other videos. Lieutenant Wooldridge explained the difference between the evidence camera and body cameras. Mr. Haws stated there were limited redactions in the provided video. He stated there is a 15-second audio redaction in the first video where an officer describes criminal conduct he sees.

The Committee asked how much time was spent evaluating the handheld camera video. Mr. Haws stated it was significant, but stated the fee was not properly appealed to the Committee so the Committee does not have jurisdiction over the fee. He stated the fee was appropriate and checked almost frame by frame.

The Committee asked if the video could be provided with redactions. Mr. Haws stated the video is a protected activity and the public interest is met by what was already released.

The Committee asked if the fee included the time to go through the four videos that were not released. Mr. Haws stated it does.

**Petitioner Closing:**

Mr. Sanchez stated all body-worn cameras are used for evidence gathering purposes. He stated redactions can be made and the withheld video released. He stated he would have appealed the fee on time if he was informed the full video was withheld but his right to appeal the fee was not timely provided.

**Question from the Committee:**

The Committee asked for clarification about how the city violated GRAMA. Mr. Sanchez stated the city is required to respond within ten business days. On the tenth business day he was informed of the fee. He stated he was under the impression everything was provided, but was not told four videos were withheld.

**Respondent Closing:**

Mr. Haws stated the appeal is regarding the fee which was paid in January for \$350. He stated the videos were provided that day.

**Deliberation:**

**Motion** by Mr. Biehler to go in camera to review the records. Seconded by Ms. Petersen.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

Dr. Cornwall stated it is clear the handheld video should not be released. She asked the respondent how they felt about releasing with redactions the bodyguard body camera video (labeled Q20). Mr. Biehler stated there are differences between what you see on the body camera of the person holding the camera versus the bodyguard who is potentially seeing the same thing. Mr. Haws stated they could attempt to redact it.

**Motion** by Mr. Biehler to deny the appeal for three of the four videos (N53). Grant the appeal for the first deployment Q20 video with redactions under Utah Code 63G-2-305(10)(e). Deny the appeal for the fee waiver because it is improperly before the Committee. Seconded by Ms. Dubovik.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

### **3. Miki Mullor (Hideout Comment) v. Hideout Town (2024-61)**

#### **Petitioner Statement:**

Mr. Mullor shared his screen. He stated the fee is for \$3,000. He explained this appeal is related to a previous appeal where the Committee ordered him to submit a narrower request. He stated he narrowed the request by asking the respondent to exclude anything that is not public or anything that requires redaction.

Mr. Mullor reviewed the Graham precedent, stating the entity cannot charge for assembling records and the system should allow for easy downloads of emails.

#### **Respondent Statement:**

Mr. Platt reviewed four reasons the appeal should be denied. First, the appeal was not properly submitted to the Chief Administrative Officer. Second, it is a duplicative request. Third, he explained the fee is based on the cost of using an I.T. contractor to fulfill the request. He stated the reason for the fee is the same as previously heard. Lastly, the records would still need to be reviewed by the city recorder for segregation.

#### **Questions from the Committee:**

The Committee asked how many records are responsive to the request. Mr. Platt stated about 550 emails, which the recorder would have to review. He stated the fee is for the contractor's time.

The Committee asked if they could use Outlook instead of a contractor. Mr. Platt stated they don't know if that would capture all the records.

#### **Petitioner Closing Statement:**

Mr. Mullor stated the appeal was sent to the correct person who did not respond. He stated if anything needs to be redacted, then that record does not need to be provided. He stated email addresses are not private because they're used over the internet daily.

#### **Questions from the Committee:**

The Committee clarified who the Chief Administrative Officer is. Mr. Platt stated the request included their email, so they told him to appeal to the Mayor. The Committee asked Mr. Mullor who he intended to be searching the emails. Mr. Mullor stated the subject of the record should not be doing the search, but it can be anyone.

#### **Respondent Closing Statement:**

Mr. Platt stated the concerns the entity has about disclosing personal email addresses which could be misused by third parties.

#### **Deliberation:**

**Motion** by Ms. Dubovik that the appeal is not properly before the State Records Committee. Seconded by Mr. Biehler.

Mr. Biehler stated Utah Code 63G-2-401(9) allows the Chief Administrative Officer to designate someone to respond to the appeal. Ms. Dubovik stated the fee waiver appeal is not properly

before the Committee, and there is a communication issue. Dr. Cornwall suggested remanding it to the entity.

**Motion** by Ms. Dubovik that the appeal is not properly before the Committee. Mr. Mullor was supposed to appeal to the Mayor. The appeal is remanded to the Chief Administrative Officer. Seconded by Mr. Biehler.

**Vote:** 3 Aye. 2 Nay. Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion. Ms. Petersen, Mr. Buchanan voted against the motion.

Mr. Platt asked for clarification.

**Motion** by Mr. Buchanan to substitute the previous motion. Remand it to the city and include they can assess a fee in accordance with Utah Code 63G-2-203 and Graham. The Committee encourages the requester and respondent to work together to clarify the search parameters. Seconded by Ms. Petersen.

**Vote:** 4 Aye. 1 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik voted in favor of the motion. Dr. Cornwall voted against the motion.

Dr. Cornwall stated the earlier motion was sufficient.

Mr. Mullor asked if he needed to send the appeal to the Mayor. Mr. Swan stated it is a remand, so the city will take it from here.

#### **Business part 1 of 2**

**Motion** by Ms. Dubovik to approve the minutes. Seconded by Ms. Petersen.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

Ms. Shaw reviewed the fiscal year 2024 report draft.

#### **4. Annix Knox (KSL) v. Attorney General Office (2024-105)**

##### **Petitioner Statement:**

Ms. Brisbee stated the Committee had already granted the appeal and it was upheld in district court. He stated the shared calendar is not a personal calendar. She explained that SB240 is not retroactive, which was a deliberate choice by the legislature. She stated at the time of the request, the calendar would have been a record and nothing in SB240 changed that status. She stated the respondent has not provided any statutory language to justify withholding the calendar under the new law. Ms. Brisbee stated the appeal should be granted under the law as it was at the time of the request.

##### **Respondent Statement:**

Mr. Pehrson stated the original request was for less than four months of records, and the current request covers nearly five years. He stated the request was submitted hours before SB240 was signed into law. He emphasized the intent of SB240 was to reaffirm calendars were never public records. Mr. Pehrson provided an analogy he titled 'the cookie parable'.

**Questions from the Committee:**

The Committee asked about the difference between substantive and procedural amendments and why SB240 did not specify it was retroactive. Mr. Pehrson stated the intent was not to substantively change the law but clarify and define what constitutes a record. Mr. Pehrson encouraged the committee to follow the legislative decision to clarify calendars are not records.

**Petitioner Closing Statement:**

Ms. Brisbee stated the Supreme Court has made it clear that the best evidence of intent is the plain language. She said there is no clarifying language in the code. She stated the records were public at the time of the request. She stated the requester is not a child asking for a cookie, but a reporter working the public interest.

**Respondent Closing Statement:**

Mr. Pehrson stated he did not refer to the requester as a child. He stated the legislature has the ultimate authority to determine what is and is not a record, and made this determination. He stated the Committee cannot use the weighing analysis because calendars are not records. He stated it is time to close the cookie jar.

**Deliberation:**

**Motion** by Ms. Peterson to table the discussion until after the other appeals were heard.  
Seconded by Ms. Dubovik.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

**5. Consolidated Appeal**

**Petitioner Statement:**

Mr. Herbets stated the Committee has already heard the arguments the respondents will make. He stated Judge Corum in the Third District Court upheld the Committee's decision. He stated the public has a right to know what public officials are doing. He reviewed SB240. He stated he called Senator Bramble, who said the statute change was not intended to address a court case, but to clarify going forward what the standard should be. He stated the entities admit the statute is not retroactive. He asked the Committee to uphold their previous decision.

**Respondent Statement:**

Mr. Quealy stated he objected to the Committee deliberating all of the appeals regarding calendars together.

Mr. Quealy urged the Committee to not rely on their previous decisions because this case is different. He stated the request was submitted on February 28th, but the first day to count the 10 or 5 business days to respond starts on February 29th. On the 29th, the new law was in effect. He reviewed the precedent for excluding that first day.

Mr. Quealy stated SB240 only added punctuation, which was not substantive. He stated the intent of the bill was to clarify the existing statute, not create a new law. He reviewed what was said on the floor of the House and Senate regarding the bill.

**Petitioner Closing:**

Mr. Herbets stated it is not reasonable to disregard the date the request was filed. He reviewed Utah Code 63G-2-204(4). He emphasized that the request was made before the law was signed, and that dates should not be disregarded to benefit the government's position.

Mr. Herbets stated GRAMA requires fair and reasonable access to records. He agreed SB240 included only two key strokes regarding calendars: a semicolon and hard return. He stated the bill was not retroactive.

**Respondent Closing:**

Mr. Quealy agreed GRAMA requires fair and reasonable access to records, but these are not records. He stated this is not a GRAMA issue, but a legal issue for the court about when a law applies.

**Questions from the Committee:**

The Committee asked when the bill became law. Mr. Quealy stated the governor signed the bill around 8 pm on February 28th. He stated the requests were made between 1 and 6 pm that day. The Committee asked when the law applied to the request. Mr. Quealy stated it applies when the denial happens.

**Deliberation:**

**Motion** by Mr. Biehler to table the discussion. Seconded by Ms. Petersen.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

**6. Adam Herbets (FOX 13 News) v. Board of Education (2024-62)**

**Petitioner Statement:**

Mr. Herbets stated the request was filed before the law changed. He stated Utah Code 63G-2-307(2) said classifications must be made when the request was made. He emphasized the request should be answered based on the laws in effect when it was submitted.

**Respondent Statement:**

Ms. Biehl stated GRAMA allows entities to classify a record at any time. She stated the interpretation that calendars are not records has long been understood and upheld. She stated their request was not reasonably specific. The request was for six years and ten people covering time when several of the people were not employees or on the Board. She called the request a fishing expedition. She reviewed the lack of public interest in the six years.

Ms. Biehl stated the balancing test is not required in this case because the calendars are not records, rather than records classified as non-public. She stated even under the old law, these were excluded. She stated the calendar case addressed by the court was not a calendar for personal use because it was shared with staff. She stated these calendars are not shared with anyone else, and are not for agency use. She stated this is different from the previous cases the Committee has issued orders for.

**Questions from the Committee:**

The Committee asked who had an assistant or chief of staff who would have access to their calendar. Ms. Biehl stated that would only be the Superintendent. The Committee asked for clarification who is elected versus appointed.

**Petitioner Closing:**

Mr. Herbets stated the request was reasonably specific, but the question is whether the calendars are shared. He stated appointed officials are still public officials and there is still public interest in their work because they make significant decisions in public meetings. He cited Utah Code 63G-2-204(1)(a)(ii) and stated the request may be voluminous, but still reasonably specific. He stated emails are still public records even though no one else has access to them. He stated a mayor's text messages would still be recorded even though they are on a personal phone. He clarified his request is not for personal appointments, but work-related calendar entries.

**Respondent Closing:**

Ms. Biehl stated weighing public interest is not required in this case because the calendars are not records. She stated this request was a fishing expedition, knowing SB240 would go into effect.

**Questions from the Committee:**

The Committee asked why the request included future appointments. Mr. Herbets stated he expected future appointments already scheduled would be public records. The Committee invited Mr. Herbets to respond to the statement his request is a fishing expedition. He stated the request was focused mainly on the State Charter School Board and specific employees who were involved in ongoing investigations.

**Motion** by Ms. Petersen to table the discussion. Seconded by Mr. Biehler.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

**7. Adam Herbets (FOX 13 News) v. Department of Public Safety****Respondent Statement:**

Mr. Yockey adopted the arguments already made and asked this appeal not be tabled, but considered on its own.

Mr. Yockey stated the court decision does not impact this case. He stated the request was filed at 5:18 pm, which is after business hours. He stated they did not receive it until the next day and the law had changed by then. He stated there is never a retroactive statement when the definition section of statute is changed.

**Petitioner Statement:**

Mr. Herbets stated the law bases the timeline on the date of the request, not hours. He stated he often talks to people at the entity outside of business hours, so it is unfair to choose which business can be done outside of business hours.

**Respondent Closing:**

Mr. Yockey stated business closes at 5 pm. While in the business of public safety, people work after hours, that does not mean the public can inspect a record after hours under Utah Code 63G-2-201. He preserved all retroactivity arguments.

**Petitioner Closing:**

Mr. Herbets stated the records should be classified at the time of the request per Utah Code 63G-2-307(2).

**Motion** by Mr. Biehler to table the discussion. Seconded by Ms. Petersen.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Buchanan, Mr. Biehler, Ms. Dubovik, Dr. Cornwall voted in favor of the motion.

**8. Adam Herbets v. Attorney General Office (2024-65, 2024-90)**

**Petitioner Statement:**

Mr. Herbets requested the Committee agree with their previous decision in the Miller v. Attorney General case.

**Respondent Statement:**

Mr. Pehrson stated the issue here is whether the change from SB240 is procedural or substantive. He stated the request has a broad date range, and the respondent would be justified in asking for fees. He called the request a fishing expedition, as the request is for Mr. Reyes' whole tenure.

**Question from the Committee:**

The Committee asked him to elaborate on Utah Code 68-3-7 and how it relates to the request. Mr. Pehrson stated he had not looked at that.

**Petitioner Closing:**

Mr. Herbets stated he is looking for records reflecting calendars and appointments. He stated the statute does not define a calendar. He stated he spoke with the sponsor of SB240 who said appointments were still records, a calendar was like asking for an inbox, whereas asking for an appointment was similar to asking for a specific email.

**Questions from the Committee:**

The Committee asked the respondent if there was a search for appointments in emails where an invite was accepted or declined. Mr. Pehrson stated the invitation is a function of the calendar. He stated if the appointment is included, then the request is not reasonably specific.

**Respondent Closing:**

Mr. Pehrson stated the request was made at 5:18 pm, covering 7 individuals over 7 years. He stated the office has an Administrative Rule that R105-2-2 that states a request received after business hours is considered received the next business day.

**Motion** by Mrs. Petersen to table the discussion. Seconded by Mr. Biehler

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Biehler, Ms. Dubovik, Ms. Stringham, Dr. Cornwall voted in favor of the motion.

## **9. Adam Herbets v. Davis County (2024-73)**

### **Respondent Statement:**

Mr. Kendall stated he also objects to the appeals being tabled and consolidated this way. He stated he would incorporate the arguments already made.

Mr. Kendall stated the request is for five elected officials. He stated the request is voluminous if invites in the inbox are records separate from the calendar. He stated Google Calendar allows tasks which also could make it voluminous to review and unreasonable. He stated there would be fees associated with it. He stated many items would have work product and be subject to attorney-client privilege.

### **Petitioner Statement:**

Mr. Herbets stated he is not asking for doctor appointments or attorney-client privilege material. He stated he is concerned about a fee being mentioned because no estimate was provided in the response to his request. He stated he doesn't know if the respondent has identified and withheld records. He reviewed Utah Code 63G-2-204(1)(a)(ii). He stated the entity had not previously made an argument that the request was not reasonably specific. He reiterated comments from previous appeals.

### **Respondent Closing:**

Mr. Kendall stated it is important to consider the fee and specificity. He stated there would be 9,420 tasks to review if this is not just about the calendar and it is not reasonably specific and it is unduly burdensome.

### **Questions from the Committee:**

The Committee asked if Mr. Herbets would narrow his search if they went through emails and appointments. He stated he would but wants to preserve his right of the records, which is why he requested them before the law changed. He stated the request is reasonably specific because the record officer understood what he was asking for. He shared an example of what he was looking for.

Mr. Kendall stated the request covers 6 years and five people. He stated they did not know what he was asking for because his request included "records reflecting" calendars without any subject matter.

The Committee asked how he got the 9,420 tasks. Mr. Kendall stated the request covers 1,884 days and he multiplied that by five for the five business days, and 5 again for 5 times a day to review.

**Deliberation:**

**Motion** by Mrs. Petersen to table the discussion. Seconded by Ms. Stringham.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Biehler, Ms. Dubovik, Ms. Stringham, Dr. Cornwall voted in favor of the motion.

**10. Adam Herbets v. Department of Corrections (2024-89)**

**Petitioner Statement:**

Mr. Herbets expressed appreciation that the respondent did release some records in the interest of transparency. He stated he received six months, but his request went back to 2019.

**Respondent Statement:**

Mr. Anderson incorporated all previous arguments on the issue. He stated six months for each person was provided. He stated they do not consider the calendars to be records, but information. He stated they have the discretion to provide it. He stated to provide more, the request would need to be more specific. He stated they asked the petitioner to narrow the request and received no response. He stated it took 48 hours to provide those six months and no story was written. He stated it was disingenuous to argue the request is in the public interest.

**Petitioner Closing:**

Mr. Herbets stated the law states the media works in the public interest. He stated he received PDFs and are records. He stated they became records when they were sent to him.

**Respondent Closing:**

Mr. Anderson stated Judge Corum was incorrect and the decision could be overturned in appellate court. He stated there is no remedy for entities' time spent on these requests if the court of appeals finds the calendars were never records.

**Deliberation:**

**Motion** by Mrs. Petersen to table the discussion. Seconded by Mr. Biehler.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Biehler, Ms. Dubovik, Ms. Stringham, Dr. Cornwall voted in favor of the motion.

**11. Adam Herbets v. Park City (2024-96)**

**Petitioner Statement:**

Mr. Herbets stated the quoted fee is \$352.85 which is contrary to GRAMA because there are no redactions needed. He stated it is unfair to charge requesters because an elected official decided to use their calendar for both personal and public use. He stated a reasonable records management practice is to separate the calendars. He stated many entities responded to this request by providing calendars without fees.

**Respondent Statement:**

Ms. Brabson asked the Committee to deny the appeal because it was not timely to the Chief Administrative Officer. She stated the request did not provide any reason for the public interest, just a general assertion. She stated it would require 28 hours of work, not including any redaction time. She stated the mayor and chief of police have a lot of appointments outside of business hours so there are a lot of things on the calendar not related to work, but to make sure he is not overscheduled.

**Petitioner Closing Statement:**

Mr. Herbets stated the request was filed three hours before the deadline. He stated the denial was on March 6th at 9:07 am and he filed the appeal April 6 at 5:52 am. He stated the Committee and Judge Corum have already decided the issue. He stated he is not required to inform entities what story he is working on.

**Respondent Closing:**

Ms. Brabson stated the city is not arguing whether it is a record or not. She stated they encouraged the requester to request what he's really after and narrow the request because the six-year time frame is a burden to produce.

**Deliberation:**

**Motion** by Ms. Petersen to table the discussion. Seconded by Ms. Stringham.

Mr. Biehler asked to discuss it because if it is untimely, it does not need to be discussed with the others.

**Vote:** 0 Aye. 5 Nay. Ms. Petersen, Mr. Biehler, Ms. Dubovik, Ms. Stringham, Dr. Cornwall voted against the motion.

The Committee reviewed the timeliness of the request.

**Motion** by Mr. Biehler to deny the appeal. It was untimely to the Chief Administrative Officer per Utah Code 63G--2-401(1)(a). The appeal was 31 days instead of 30. Seconded by Ms. Dubovik.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Biehler, Ms. Dubovik, Ms. Stringham, Dr. Cornwall voted in favor of the motion.

**12. Adam Herbets v. Sandy City (2024-97)**

**Petitioner Statement:**

Mr. Herbets stated it is not proper for employees to put work and personal events on the same calendar. He stated the city did not make a reasonable effort to identify the records, but just denied the request. He stated the respondent appears to have a blanket policy to deny fee waivers. He stated the fee was not calculated using the lowest paid person capable of doing the work, but rather the mayor and police chief themselves. He stated the record officer is capable of segregating personal and work information.

**Respondent Statement:**

Mr. Robinson stated he objects to this appeal being consolidated with the others. He stated the city is not taking a position on whether calendars are records. He stated they followed the Graham precedent. He stated they chose not to process the request, but notify the requester there would be a fee with an estimate. He stated the request seems to be fishing, and not serving the public interest. He stated the owner of the calendar is the only one who can go through it because not every personal event is marked that way.

**Petitioner Closing Statement:**

Mr. Herbets stated the entity has not made a good-faith effort to review the records before estimating the fee.

**Respondent Closing Statement:**

Mr. Robinson stated GRAMA allows entities to choose not to process a request and notify the requester of a fee. He stated they did a preliminary look at there are over 30,000 calendar entries. He stated he invited the requester to narrow the request but received no response.

**Deliberation:**

**Motion** by Ms. Dubovik to deny the appeal per Utah Code 63G-2-203(1), (2)(a) and (8). The entity may charge a reasonable fee for providing the record. Seconded by Ms. Stringham.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Biehler, Ms. Dubovik, Ms. Stringham, Dr. Cornwall voted in favor of the motion.

**Business part 2 of 2**

**Motion** by Dr. Cornwall to continue the rest of the meeting until Wednesday at 1 pm. Seconded by Ms. Petersen.

**Vote:** 5 Aye. 0 Nay. Ms. Petersen, Mr. Biehler, Ms. Dubovik, Ms. Stringham, Dr. Cornwall voted in favor of the motion.

APPROVED