

STATE RECORDS COMMITTEE

NOTICE OF PUBLIC MEETING

Thursday, December 10, 2015, at 9 a.m. to 4 p.m.

Utah State Archives Building  
346 S. Rio Grande St.  
Salt Lake City, UT 84101

**NOTE: The Chair may recess at 12 noon and may reconvene at 12:30 p.m. for lunch when there are two or more hearings scheduled.**

AGENDA

HEARINGS:

**Patrick Sullivan vs. Insurance Department, Fraud Division:** Mr. Sullivan is appealing the Utah Insurance Department, Fraud Division, partial denial of records responsive to case number 121402082 and/or 141402082 between January 1, 2012, and March 30, 2015. Telephonic.

**Tammy Halvorson, Diamond Parking Services, LLC vs. Utah State Tax Commission:** Ms. Halvorson, Diamond Parking Services, LLC, represented by Stoel Rives LLP, is appealing the State Tax Commission's access denial for Motor Vehicle Information Account record.

**Robert Gehrke, Salt Lake Tribune vs. Attorney General's Office:** Mr. Gehrke is appealing access denial to "copies of the file of any closed investigation conducted into San Juan County Commissioner Phil Lyman within the last five years."

WITHDRAWN/POSTPONED HEARINGS:

**Ronald Smith, Smith Hartvigsen, PLLC vs. Department of Human Services, Office of Licensing:** Mr. Smith, on behalf of his clients, is appealing access denial to two incident reports relative to Discovery Ranch. (Appeal Withdrawn, November 30, 2015)

**Denny Niumatalolo vs. Utah Transit Authority (UTA) Board of Trustees:** Mr. Niumatalolo is appealing partial access denial to a video of an incident that occurred March 31, 2015. UTA Board of Trustees permitted the inspection of the video and denied the request for a copy. (Appeal Withdrawn, December 2, 2015)

**Chris McDaniel, BuzzFeed Inc., vs. Department of Corrections:** BuzzFeed is appealing partial access denial for public interest records referring to the UDC Execution Policy and the execution protocol that law enforcement followed for Ronnie Lee Gardner's execution. (Continuance)

**Patrick Sullivan vs. Department of Corrections:** Mr. Sullivan is appealing denial of fee waiver and access to emails on server where he is the subject created by multiple UDC staff members. Telephonic. (Continuance)

## **BUSINESS**

**Approval of November 12, 2015, SRC Minutes, action item**

**Retention Schedules, action item**

**SRC appeals received**

**Cases in District Court**

**Other Business**

**Next meeting scheduled for January 14, 2016, @ 9 a.m. to 4 p.m.  
Review 2016 State Records Committee meeting dates**

**ADA:** In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify Nova Dubovik at the Utah State Archives and Records Service, 346 S. Rio Grande, Salt Lake City, Utah 84101, or call (801)531-3834, at least three days prior to the meeting.

**Electronic Participation:** One or more members of the State Records Committee may participate electronically or telephonically pursuant to Utah Code 52-4-207(2) and Administrative Rule 35-1-2. Please direct any questions or comments to: State Records Committee, Utah State Archives, 346 S. Rio Grande, Salt Lake City, Utah 84101 (801) 531-3834.

## APPEALS TO THE STATE RECORD COMMITTEE: As of December 2015

Archives Case No.	Case Title/ Participants	Records Sought	Notes	Status
<b>Withdrawn, Denied, Incomplete, Pending Review</b>				
<b>2015-82</b>	<b>Ramon A. Somoza vs. Utah County Attorney's Office (Appealed 2 November)</b>			<b>Hearing denied.</b>
<p>Mr. Somoza is requesting a 30-day extension from the Utah Commissioners or State Records Committee so he can appeal his decision. He is claiming the decision was not sent in a timely manner allowing him time to appeal to the next appropriate authority. The notice of appeal was received on Nov. 2, 2015. He is appealing the partial access denial of full disclosure of the communication between the Utah County Prosecution, Ron T. Edwards (crime scene invest.), and the Utah county Public Defenders Association. The appeal is untimely by 8 days. The Committee members discussed the notice of appeal and the decision remained to decline a hearing for untimely filing, pursuant to Subsection 63G-2-403(1)(a). On November 23, 2015, Mr. Somoza filed a Motion to Reconsider. A courtesy response was sent on November 24, 2015, to notify him in the statute there is no method to appeal the Records Committee order or decision for reconsideration. The only method of appeal is to the District Court. Utah Code § 63G-2-404.</p>				
<b>2015-91</b>	<b>Barbara Anderson vs. Salt Lake County Aging &amp; Adult Services (Appealed 30 November)</b>			<b>Incomplete Appeal</b>
<p>Ms. Anderson is appealing access denial to records relating to incident occurring at Golden Living Assisted Living, between the period of 3/23/2012-4/9/2015. Contacted Salt Lake County representative and referred Ms. Anderson to the chief administrative officer. The appeal options have not been exhausted with Salt Lake County.</p>				
<b>2015-92</b>	<b>Ramon Somoza vs. West Valley City (Appealed 2 December)</b>			<b>Incomplete Appeal</b>
<p>Mr. Somoza courtesy copied the Committee on a Motion to Reinstiate a 30 day filing date to West Valley City. The requester claims West Valley City denial letter was dated September 30, 2015, postmarked October 5, 2015, and not received until November 27, 2015. This resulted in Mr. Somoza missing the filing deadline to appeal the denial to the Committee.</p>				
<b>2015-93</b>	<b>Cory Vonberg vs. Iron County Attorney's Office (Appealed 2 December)</b>			<b>Hearing denied.</b>
<p>Mr. Vonberg is appealing access denial to an investigative report written on or about November 30, 2003. The County insists the report does not exist and have provided Mr. Vonberg with all public records in the case file. In addition, the attorney's officer suggested Mr. Vonberg submits a GRAMA request to Iron County Sheriff's Office. The Chair and Mr. Misner reviewed and declined a hearing pursuant to R35-2-2(2). The petitioner's statement did not provide sufficient facts, reasons, and legal authority in support of the appeal, that the record was maintained by the governmental entity at one time, or that the governmental entity has concealed, or not sufficiently or improperly searched for the record.</p>				

<b>2015-59</b>	<b>William Sherratt vs. Board of Pardons and Parole (Appealed 10 Aug)</b>		<b>Pending Review</b>
<p>Mr. Sherratt is appealing the access denial of dissenting opinions of board members; who filed court documents in his file; answer and memo for case #060907262; identity of person in hearing; and the investigative reports from Iron County. Missing three to four initial GRAMA requests. On August 12, 2015, Mr. Sherratt was notified the notice of appeal was incomplete and to send required material within two weeks. On December 7, 2015, Mr. Sherratt finally sent additional paperwork for the original appeal received August 10, 2015. It is outside the appeals timeline to process, pursuant to Utah Code 63G-2-403(1)(a).</p>			
<b>2015-94</b>	<b>Azlen Marchet vs. Crime Lab (Unknown Governmental Entity) (Appealed 7 December)</b>	<b>Telephonic Draper</b>	<b>Incomplete appeal</b>
<p>Mr. Marchet is appealing access denial to his serology toxicology DNA results. The notice of appeal does not include original GRAMA request, governmental denial letter or appeal to chief administrative officer. At this time it is unclear which governmental entity denied access to his request. The petitioner was notified of the incomplete appeal notification to the Committee.</p>			
<b>2015-103</b>	<b>Leslie Chessman, Hepworth Murray &amp; Associates vs. Utah Department of Human Services, Division of Child and Family Services (Appealed 9 December)</b>		<b>Incomplete appeal</b>
<p>Ms. Chessman, represented by Hepworth Murray &amp; Associates, is appealing access denial to an investigation file. The law office was notified of the incomplete appeal to the Committee and asked to provide required documentation to complete it.</p>			
<b>SCHEDULED HEARINGS</b>			
<b>2015-39</b>	<b>Patrick Sullivan vs. Insurance Department, Fraud Division (Appealed 7 June)</b>	<b>Telephonic Draper</b>	<b>Hearing Rescheduled December 10, 2015</b>
<p>Mr. Sullivan is appealing the Utah Insurance Department, Fraud Division, partial denial of records responsive to case number # 121402082 and/or 141402082 between January 1, 2012 and March 30, 2015. Petitioner postponed, both parties working towards a resolution through mediation.</p>			
<b>2015-50</b>	<b>Tammy Halvorson, Diamond Parking Services, LLC vs. Utah State Tax Commission (Appealed 30 July)</b>		<b>Hearing Rescheduled February 11, 2016</b>
<p>Ms. Halvorson, Diamond Parking Services, LLC, represented by Stoel Rives LLP, is appealing the State Tax Commission's denial for Motor Vehicle Information Account record. The Petitioner has requested multiple postponements of scheduled hearings, latest being Dec. 10<sup>th</sup>, parties are in mediation.</p>			

<b>2015-74</b>	<b>Denny Niumatalolo vs. Utah Transit Authority (UTA) Board of Trustees (Appealed 2 October)</b>		<b>Appeal Withdrawn</b>
Mr. Niumatalolo is appealing partial access denial to a video of an incident that occurred March 31, 2015. UTA Board of Trustees permitted the inspection of the video and denied the request for a copy. Dispute resolved through mediation.			
<b>2015-76</b>	<b>Steven Rossi vs. Park City Police Department (Appealed 9 October)</b>		<b>Appeal Withdrawn</b>
Mr. Rossi is appealing partial access denial to all information related to the “number, date, and outcome of complaints” made against a Park City Police Officer. Dispute resolved through mediation.			
<b>2015-81</b>	<b>Robert Gehrke, Salt Lake Tribune vs. Attorney General’s Office (Appealed 26 Oct)</b>		<b>Hearing Scheduled December 10, 2015</b>
Mr. Gehrke is appealing access denial to “copies of the file of any closed investigation conducted into San Juan County Commissioner Phil Lyman within the last five years.” Motion to Intervene submitted by STIRBA, P.C.			
<b>2015-84</b>	<b>Ronald Smith, Smith Hartvigsen, PLLC vs. Department of Human Services, Office of Licensing</b>		<b>Appeal Withdrawn</b>
Mr. Smith, on behalf of his clients, is appealing access denial to two incident reports relative to the Discovery Ranch. Dispute resolved between parties.			
<b>2015-60</b>	<b>Chris McDaniel, BuzzFeed Inc., vs. Department of Corrections (Appealed 10 Aug)</b>		<b>Hearing Rescheduled January 14, 2016</b>
BuzzFeed is appealing partial denial request for public interest records referring to the UDC Execution Policy and the execution protocol that law enforcement followed for Ronnie Lee Gardner’s execution. December 10, 2015, hearing postponed, both parties in mediation.			
<b>2015-85</b>	<b>Patrick Sullivan vs. Utah Department of Corrections (Appealed 9 November)</b>	<b>Telephonic Draper</b>	<b>Hearing Scheduled January 14, 2016</b>
Mr. Sullivan is appealing a fee waiver denial for multiple UDC staff member emails in which he is the subject.			
<b>2015-86</b>	<b>Patrick Sullivan vs. Utah Department of Human Resource Management (Appealed 9 November)</b>	<b>Telephonic Draper</b>	<b>Hearing Scheduled January 14, 2016</b>
Mr. Sullivan is appealing access to denial to multiple UDC staff member disciplinary records/reports, and performance evaluations classified protected under Subsections 63G-2-305(11) & (13).			

<b>2015-87</b>	<b>Jordanelle Special Service District vs. Utah State Auditor (Appealed 12 November)</b>		<b>Hearing Scheduled January 14, 2016</b>
	Ballard Spahr LLP, on behalf of Jordanelle Special Service District is appealing access denial to records responsive to paragraphs 1-19 of exhibit 1, two boxes of records obtained from the complainant, and redacted records.		
<b>2015-83</b>	<b>Roger Bryner vs. Utah Department of Health, Utah Public Health Laboratory, Forensic Toxicology Program (Appealed 29 Oct)</b>		<b>Hearing Scheduled January 14, 2016</b>
	Mr. Bryner is appealing access denial to copyrighted material. The appeal is missing original GRAMA request and governmental entity response. Notified has 2 weeks to provide material-deadline Nov. 16. Mr. Bryner provided the missing material on Nov. 16 <sup>th</sup> .		
<b>2015-78</b>	<b>Chad Lambourne vs. Provo City Police Department (Appealed 16 October)</b>		<b>Hearing Rescheduled January 14, 2016</b>
	Mr. Lambourne is appealing partial access denial to his GRAMA request: video and/or audio, DUI report form, incident report, and search warrant. Parties are in mediation and requested to postpone Dec. 10, 2015 hearing.		
<b>2015-88</b>	<b>Patrick Sullivan vs. Attorney General's Office (Appealed 18 November)</b>	<b>Telephonic Draper</b>	<b>Hearing Scheduled January 14, 2016</b>
	Mr. Sullivan is appealing AGO's claim of extraordinary circumstances for two GRAMA requests #15-89 & 15-98, requesting email communications from multiple government employees with his name in the subject line or body.		
<b>2015-75</b>	<b>Edgar Frye vs. Dept. of Human Services (Division of Aging and Adult Services) (Appealed 5 October)</b>		<b>Hearing Rescheduled January 14, 2016</b>
	Mr. Frye is appealing access denial to "All records of interviews, phone calls, ect, in the abuse case # 2144836." Parties are in mediation.		
<b>2015-89</b>	<b>Lee Davidson, Salt Lake Tribune vs. Utah Governor's Office of Economic Development (GOED) (Appealed 24 November)</b>		<b>Hearing Scheduled January 14, 2016</b>
	Mr. Davidson is appealing partial access denial to Memos and Documents from the GOED regarding a trip this past to Stadler Rail facilities in Europe and the trip details.		
<b>2015-90</b>	<b>Lee Davidson, Salt Lake Tribune vs. Utah Office of the Governor (Appealed 24 November)</b>		<b>Hearing Scheduled January 14, 2016</b>
	Mr. Davidson is appealing partial access denial to Memos and Documents from the GOED regarding a trip this past to Stadler Rail facilities in Europe and the trip details.		

<b>2015-48</b>	<b>Patrick Sullivan vs. Department of Corrections (Appealed 28 July)</b>	<b>Telephonic Draper</b>	<b>Hearing Rescheduled February 11, 2016</b>
Mr. Sullivan is appealing denial of fee waiver and access to emails on server where he is the subject created by multiple UDC staff members. Request # 23804, 23809, 23422, and 23287. The Petitioner has requested multiple postponements of scheduled hearings, latest being Dec. 10 <sup>th</sup> , parties are in mediation.			
<b>2015-95</b>	<b>Annie Knox, Salt Lake Tribune vs. Utah State University (Appealed 7 December)</b>		<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.			
<b>2015-96</b>	<b>Annie Knox, Salt Lake Tribune vs. University of Utah (Appealed 7 December)</b>		<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.			
<b>2015-97</b>	<b>Annie Knox, Salt Lake Tribune vs. Weber State University (Appealed 7 December)</b>		<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.			
<b>2015-98</b>	<b>Annie Knox, Salt Lake Tribune vs. Southern Utah University (Appealed 7 December)</b>		<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.			
<b>2015-99</b>	<b>Annie Knox, Salt Lake Tribune vs. Salt Lake Community College (Appealed 7 December)</b>		<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.			

<b>2015-100</b>	<b>Annie Knox, Salt Lake Tribune vs. Snow College (Appealed 7 December)</b>	<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.		
<b>2015-101</b>	<b>Annie Knox, Salt Lake Tribune vs. Utah Valley University (Appealed 7 December)</b>	<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.		
<b>2015-102</b>	<b>Annie Knox, Salt Lake Tribune vs. Dixie State University (Appealed 7 December)</b>	<b>Hearing Scheduled February 11, 2016</b>
Salt Lake Tribune is appealing denials by Utah's eight separate public universities and colleges for a list of the names of students found responsible by their institutions for sexual or violent misconduct over the past 5 years (2010-2015), along with corresponding details about disciplinary action.		

## December 2015 State Records Committee Case Updates

### District Court Cases

**Paul Amann v. Utah Dept. of Human Resources**, 3<sup>rd</sup> District, Salt Lake County, Case No. 150904275, filed June 24, 2015.

**Current Disposition:** Answer filed on behalf of the Committee. Potential that case may be combined with other GRAMA appeal.

**Utah Attorney General v. Salt Lake Tribune**, 3<sup>rd</sup> District, Salt Lake County, Case No. 150904266, Filed June 24, 2015.

**Current Disposition:** Answers have been filed. Motion to Intervene filed unopposed by Sherriff Cameron Noel on September 4, 2015.

**Utah Dept. of Human Resources v. Paul Amann**, 3<sup>rd</sup> District, Salt Lake County, Case No. 150901160, filed February 19, 2015.

**Current Disposition:** Motion to consolidate the case with Case No. 150904275 filed on September 22, 2015.

**Salt Lake City v. Jordan River Restoration Network**, 3<sup>rd</sup> Judicial District, Salt Lake County, Case No. 100910873, Judge Stone, filed June 18, 2010.

**Current Disposition:** Trial held on December 3<sup>rd</sup> and 4<sup>th</sup>. Court issued ruling on December 8<sup>th</sup>, finding that the denial by Salt Lake City of a fee waiver to Jordan River Restoration Network was not unreasonable. JRRN put on evidence of the public interest in the soccer complex project, and Salt Lake City put on evidence concerning why they denied the fee waiver. Salt Lake City is to prepare an entry consistent with the court's decision.

DATE	TIME	Place of Scheduled Meetings
January 14, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
February 11, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
March 17, 2016 (Legislature)	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
April 14, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
May 12, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
June 9, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
July 14, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
August 11, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
September 8, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
October 13, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
November 10, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT
December 8, 2016	9:00 a.m.	Courtyard Meeting Room, State Archives Bldg, 346 S. Rio Grande Str., SLC, UT