

# STATE OF UTAH STATE RECORDS COMMITTEE FY 2020

Report compiled by the executive secretary for  
the State Records Committee



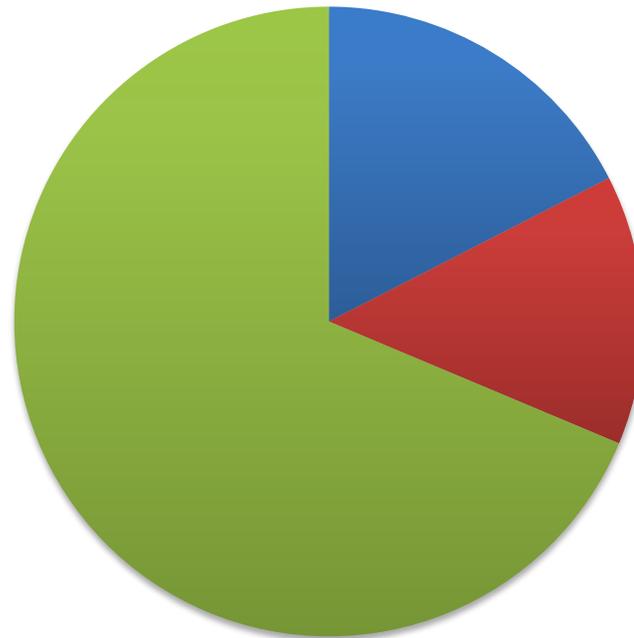
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# Introduction

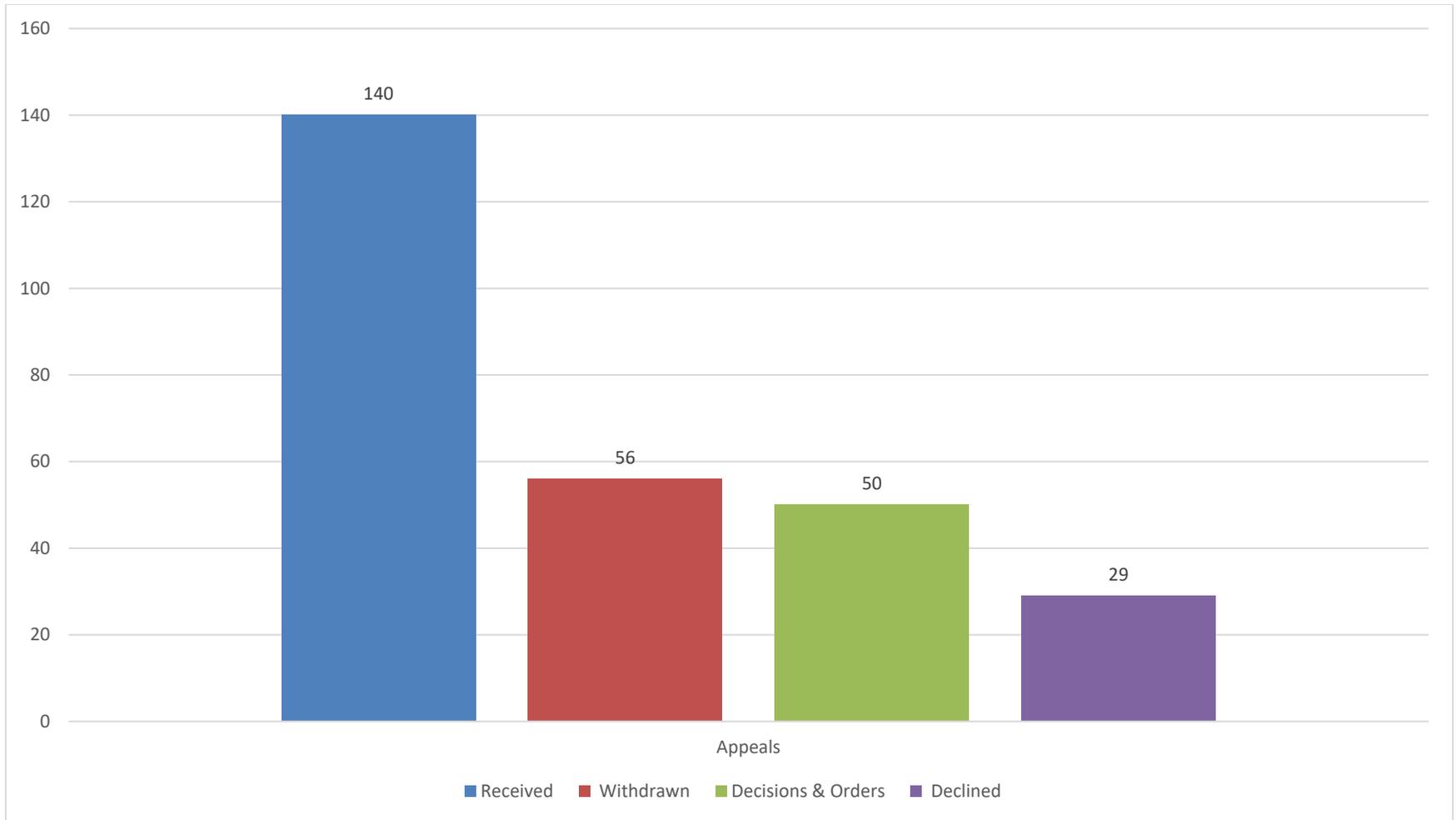
This report contains a synopsis of the litigation cases resulting from the Committee's decisions and orders. It also includes a summary of the appeals filed this fiscal year. The State Records Committee was established in 1992 by the Utah Legislature under the Government Records Access and Management Act (GRAMA), Utah Code §63G-2-101. The seven-member committee is comprised of the state archivist or his designee, a person representing political subdivisions, as recommended by the Utah League of Cities and Towns, an electronic records representative, two citizen representatives, a media representative and a private sector records manager. The Committee's legal counsel is from the Attorney General's Office.

The Governor with the consent of the Senate appoints all members of the Committee. The Committee develops rules to govern its own proceedings as outlined in Title 63G, Chapter 3, and Utah Administrative Rulemaking Act. Orders are issued after each hearing reflecting the deliberation and vote of a majority of the Committee members. The Committee may also reassign classification and designation for any record or record series by a governmental entity if the governmental entity's classification or designation is inconsistent with the law. In order to proceed with business transactions, there must be a quorum of five members present or available via telephonic means. Generally, the Committee holds its meetings on the second Thursday of each month.

# Breakdown of Appeals



■ Inmate (29) ■ Media (23) ■ Public (114)



# Committee Members



The following individuals served on the Committee in 2019. From left to right: Patricia Smith-Mansfield, Citizen Representative and Chair; David Fleming, Private Sector Records Manager Representative; Tom Haraldsen, Media Representative and Chair; Holly Richardson, Citizen Representative; Cindi Mansell, Political Subdivision Representative; Kenneth Williams, State Archivist Nancy Dean, Political Subdivision Representative. To find out more about the board members, the appointments, and vacancies go to the [Utah.gov](http://Utah.gov) website.



# Litigation

In addition to hearing appeals, the State Records Committee is actively involved in appellate litigation surrounding GRAMA. Any party who disputes the committee's order may petition for judicial review to the District Court. In FY 2019, eight new requests for judicial reviews were petitioned, and there are numerous appeals still active from 2015-2018. The committee's legal counsel has been the voice for the committee by filing briefs, conducting oral arguments, and attending appeal hearings.

<b>Resolved Cases by District Court Number</b>		<b>Issue</b>
160905336	Utah Legal Clinic v. Salt Lake City	August 2016 appeal filed by Utah Legal Clinic of Committee decision denying request for records classified as attorney-client privileged records by Salt Lake City. Trial held on February 3, 2017 where Judge Gardner upheld the Committee's decision. On April 11, 2019, the Utah Court of Appeals upheld the trial court's decision in Case No. 20170362-CA (2019 UT App 58).
170901815	Utah State University v. Alex Stuckey	March 2017 appeal filed by Utah State University of Committee decision granting request by Alex Stuckey, reporter for the Salt Lake Tribune, for records regarding sexual assaults at USU. The case was dismissed on September 11, 2018 after a stipulated dismissal was filed after a settlement agreement by the parties.
170903373	Edward Berkovich v. Millard County	May 2017 appeal filed by Edward Berkovich of Committee decision regarding the non-release of closed meeting minutes of the Utah Prosecution Council held by Millard County. Case dismissed by court

		on November 26, 2019 after parties filed a Stipulated Motion to Close the Case.
180401367	Brigham Young University v. KUTV 2 News	August 2018 appeal filed by BYU of Committee Decision ordering release of records regarding a closed investigation by the BYUPD. On April 16, 2020, Judge Powell signed an order granting stipulated motion to dismiss the case submitted by the parties.
180401368	Brigham Young University v. Truth & Transparency Found	August 2018 appeal filed by BYU of Committee Decision ordering release of records regarding a closed investigation by the BYUPD. On September 24, 2018, Judge Low granted a stipulated motion to consolidate the case with the BYU v. KUTV 2 News Case, (Case No. 180401367), which was dismissed pursuant to a stipulated motion to dismiss by the parties on April 16, 2020.
180401369	Brigham Young University v. Corbin Volluz	August 2018 appeal filed by BYU of Committee Decision ordering release of records regarding a closed investigation by the BYUPD. On September 20 2018, Judge Powell granted a stipulated motion to consolidate the case with the BYU v. KUTV 2 News Case (Case No. 180401367), which was dismissed pursuant to a stipulated motion to dismiss by the parties on April 16, 2020.
180500177	Lynn David v. Wasatch County	December 2018 appeal filed by Lynn David of Committee Decision denying request for fee waiver and release of records related to transient room tax. Stipulated Order to Dismiss case signed by Judge Howell on March 26, 2020 dismissing the case.
190400262	Highland City v. Janae Wahnschaffe	February 2019 appeal filed by Highland City regarding Committee Decision finding that Highland City's denial of a request for a fee

		waiver was an unreasonable denial. Judge Johnson signed a stipulated order dismissing the case on February 10, 2020.
190902358	Michael Clara v. State Records Committee	March 2019 appeal filed by Michael Clara regarding Committee Decision denying request for a hearing regarding GRAMA request made of the Committee for records allegedly held from a previous hearing involving Mr. Clara and the Utah Transit Authority. Case dismissed on October 18, 2019 by court due to inactivity and lack of prosecution.
190902861	Michael Clara v. Salt Lake City Mayor's Office	April 2019 appeal filed by Michael Clara regarding Committee Decision directing Salt Lake City to review records to see if any records responsive to his request could be found. Stipulated Motion to Dismiss signed by Judge Faust on September 13, 2019.
190902866	Edward Berkovich v. Utah AG's Office	April 2019 appeal filed by Edward Berkovich regarding the Committee Decision denying his request for records from the AG's Office regarding closed meeting minutes. March 13, 2020, case dismissed by court after stipulated motion to dismiss filed by the parties.
150701062	Roger Bryner v. City of Clearfield	October 2015 appeal filed by Roger Bryner regarding Committee Decision denying fee waiver request. After remand from district court, Committee found in June 2016 that Mr. Bryner's records request should be denied. The Court sua sponte issued an Order to Show Cause concerning whether Mr. Bryner is a vexatious litigant pursuant to Utah Court Rules. Mr. Bryner's appeal was denied and found to be a vexatious litigant. The trial court's decisions were affirmed by the Utah Court of Appeals in Case No. 20170477-CA, and

		Mr. Bryner's request for a Writ of Certiorari was denied by the Utah Supreme Court on November 25, 2019.
<u>Active Cases by District Court Number</u>		<u>Issue</u>
160904365	Salt Lake Tribune v. State Records Committee	July 2016 appeal filed by the Salt Lake Tribune of Committee decision denying request for a hearing regarding records held by the Brigham Young University Police Department. The Court denied the Committee's Motion to Dismiss based upon BYUPD not being a governmental entity on January 20, 2017. The court ruled on cross motions for summary judgment on July 17, 2018 that BYUPD is a governmental entity pursuant to GRAMA when it is acting as a law enforcement agency. The Utah Supreme Court remanded the case back to the trial court finding that the issue of whether the BYUPD was a governmental entity was made moot by the Utah Legislature's 2019 change in GRAMA making BYUPD statutorily a governmental entity. Currently there is a stay in effect on the proceedings as the parties attempt a settlement agreement.
170500006	Heber City v. David Larsen	January 2017 appeal filed by Heber City of Committee decision granting request for release of records concerning formal charges or disciplinary actions of a police officer. The court affirmed the Committee's decision in an order dated October 1, 2018. Mr. Larsen filed a motion for an amended judgment regarding costs and fees. Case currently still pending regarding costs, fees, and a request for an order to show cause.
170903997	Paul Amann v. Utah Ag's Office	June 2017 appeal filed by Paul Amann of Committee decision denying Mr. Amann's records request based upon extraordinary

		circumstances and whether requests were considered 56 separate records requests to which 49 required additional time. Evidentiary hearing scheduled for July 2, 2020.
170905372	Lance Rolph v. Dept. of Human Service	August 2017 appeal filed by Lance Rolph of Committee decision finding that the Dept. of Human Services does not have any records responsive to Mr. Rolph's records request.
180700511	ACLU of Utah v. Davis County	April 2018 appeal filed by the ACLU of Utah Foundation regarding Committee Decision that the standards and final audit reports are not considered records of Davis County. Telephone conference set for May 11, 2020 with Judge Connors regarding resetting bench trial on remaining issues.
180901915	John Tilleman v. Ogden City	March 2018 appeal filed by John Tilleman regarding Committee Decision that certain records related to an Ogden City police investigation should remain non-public records.
180906128	Leonard Platt v. Utah Attorney General's Office	August 2018 appeal filed by Leonard Platt regarding Committee Decision that some of Mr. Platt's requests should be construed as new records requests. Summary Judgment was granted in favor of the AG's Office at a hearing held on March 3, 2020. Mr. Platt filed a motion to reconsider/set aside the granting of Summary Judgment on March 15, 2020, resulting in a court order delaying entry of summary judgment until Mr. Platt's motion is resolved. Telephone oral argument hearing scheduled by the court for May 27, 2020.
180909188	Scott Gollaher v. Morgan County	December 2018 appeal filed by Scott Gollaher regarding Committee Decision denying Mr. Gollaher's request for a fee waiver. Order to

		Show Cause hearing scheduled by Judge Stone based upon motion filed by Mr. Gollaher. Show Cause hearing cancelled and continued by court order on March 4, 2020.
180909564	University of Utah v. PETA	December 2018 appeal filed by the University of Utah regarding Committee Decision finding that denial of fee waiver request by PETA was an unreasonable denial. Court signed stipulated order to stay scheduling order on December 30, 2019 allowing parties to participate in mediation.
190903142	Sarine Allred v. State Records Committee	April 2019 appeal filed by Sarine Allred regarding Committee Decision denying request for hearing based upon failure to timely file an appeal with the Committee.
190301021	Tooele City v. Doug Sagers	June 2019 appeal filed by Tooele County regarding the Committee Decision requiring disclosure of county records regarding the Utah Motorsports Campus. Order to Show Cause scheduled originally for April 20, 2020 was cancelled to be rescheduled at a later time.
190401673	Brigham Young University v. Salt Lake Tribune	October 2019 appeal filed by Brigham Young University regarding the Committee Decision ordering a log of records being considered on appeal. Case stayed pending resolution of BYUPD case remanded by Utah Supreme Court to Judge Scott.
190909752	Steve Onysko v. State Records Committee	December 2019 appeal filed by Steve Onysko regarding Committee Decision to deny his request for non-AG counsel to represent the Committee. On May 7, 2020, Judge Faust granted the Committee's

		Motion to Dismiss the case pursuant to failure to state a claim upon which relief could be granted.
160903793	Roger Bryner v. State Records Committee	June 2016 appeal filed by Roger Bryner regarding Committee Decision on remand from 2nd District Court. Judge Faust granted Committee's Motion for Summary Judgment based upon <i>res judicata</i> . Appeal filed with Utah Court of Appeals (Case No. 20191033-CA). Mr. Bryner's response to court's sua sponte motion for summary disposition due on May 30, 2020.
160907299	Roger Bryner v. City of Clearfield	November 2016 appeal filed by Roger Bryner regarding Committee Decision denying request for records allegedly held by the City of Clearfield. Stay in effect based upon vexatious litigant order from 2nd District.
160903244	Roger Bryner v. Utah Dept of Health	May 2016 appeal filed by Roger Bryner regarding Committee Decision denying his request for a fee waiver. Stay of District Court case lifted on August 22, 2019.