

SRC APPROVED

Date May 10, 2012
SLM

State Records Committee Meeting

Division of Archives, Courtyard Meeting Room

April 12, 2012

Salt Lake City, Utah

Members Present: Lex Hemphill, Media Representative
Scott Daniels, Citizen Representative
Betsy Ross, Auditor's Office Representative
Ernest Rowley, Elected Public Official
Patricia Smith-Mansfield, Governor's Designee
Scott Whittaker, Private Records Manager

Legal Counsel: Paul Tonks, Attorney General's Office
Amanda Jex, Attorney General's Office
Ed Lombard, Attorney Generals Office

Executive Secretary: Susan Mumford, Utah State Archives

Participating via Telephone: Gordon Thomas, petitioner

Others Attending: Joshua Bullough, Archives staff
Rosemary Cundiff, Archives staff
Jacob Dunn, Public Safety, BCI
Susan Eisenman, Human Services, AG
Glen Fairclough, Archives staff
Liz Knight, Human Services, OAH
Debbie Kurzban, Attorney General's Office
Alice Moffat, Public Safety, BCI
Jennifer Rust, Archives volunteer
Mindy Spring, Archives staff
Lana Taylor, Attorney General's Office, DPS
Paul D. Van Komen, Canyons School District
Alma T. Wilson, Petitioner
Nancy Wilson, Petitioner
Scott Young, Snow, Christensen & Martineau,
Petitioner

Ms. Betsy Ross called the meeting to order at 9:30 a.m. She contacted Mr. Thomas by phone. Ms. Ross welcomed the parties for the first hearing and explained the procedures.

Approval of Minutes

Mr. Hemphill said the vote recorded on page four had him voting both for and against a motion. He made a motion that the minutes for February 15, 2012 be approved after that correction. Ms. Smith-Mansfield seconded the motion. A vote was taken. Mr. Daniels, Mr. Hemphill, Mr. Rowley, Ms. Smith-Mansfield, Ms. Ross, and Mr. Whittaker voted in favor of the motion. The motion passed unanimously.

Approval of Retention Schedules

Joshua Bullough introduced the retention schedules

1. Series 27843, Bed checks. The agency asked to retain the records for one year. Administrative need determine this retention.
2. Series 14441 and series 14444, Home program provider files, had a permanent retention. The agency wants to revise 14441 and 14444 to be retained for ten years. These series were previously approved by the SRC in 1998.
3. A general retention schedule was created for files like 27751, background files. The general schedule: Volunteer files, is set to be retained for five years after separation and then destroyed.

Ms. Smith-Mansfield made a motion to approve the retention schedules as presented. Mr. Hemphill seconded the motion. A vote was taken. Mr. Daniels, Mr. Hemphill, Mr. Rowley, Ms. Smith-Mansfield, Ms. Ross, and Mr. Whittaker voted in favor of the motion. The motion passed unanimously.

Legislative changes and the roll of the State Records Committee Ombudsman, SB 177

Rosemary Cundiff was appointed to the position of ombudsman. The bill will take effect May 8, 2012. Ms. Cundiff had written a proposal reflecting changes in SRC procedures and how the ombudsman would interact with the State Records Committee. Ms. Smith-Mansfield handed out a copy of a blog on the changes introduced by SB 177. The bill required the Archives to provide online training and yearly certification of all records officers. The weighing provision throughout the law was amended. Ms. Smith-Mansfield said the rule governing pre-hearing conferences was based on rules for administrative hearings which did not apply to the State Records Committee. Therefore the rule should be changed. The Committee discussed the role of the ombudsman. See attached copies of document with a proposal for the duties of the ombudsman.

Annual Report

Ms. Mumford gave Committee members a copy of the Annual Report for 2011.

Appeals to the Committee

There were thirteen appeals to the Committee for the two month period since the last meeting. See attached report.

Appeals in District Court

Mr. Tonks said there was only one case pending in district court and that was Maxfield vs. Lieutenant Governor.

First Hearing – Gordon Thomas vs. Department of Public Safety

The prison was contacted by phone to connect with Mr. Gordon Thomas. Ms. Ross explained the procedures for the hearing to the parties.

Opening statement – petitioner

Mr. Thomas said he had received the Assistant Attorney General's response to his request. He conceded that the records he had requested were governed by a statute other than GRAMA. He said that if he had access to fifteen dollars and to his fingerprints he would be able to receive a copy of his BCI report. Without that he had no way of knowing if the information kept in the records was correct. Verify.com was a website where anyone could find his criminal information, yet he himself could not. He had suggested to the AAG that changes in policy could be made to allow indigent inmates to have a summary of their criminal record. She had responded that such a change would require the approval of the legislature. If the prison records bureau was willing to provide identification and fingerprints and forward them to the BCI, then he could perhaps borrow fifteen dollars. As he was indigent and \$900.00 in debt, he doubted he could borrow any amount of money.

Opening statement – respondent

Ms. Taylor said that the legislature had clearly classified the records and who could have them in UCA § 53-10-108. An individual can have access to their own records by following the policies set by the commissioners of the Department of Public Safety. The legislature has specifically required an individual to pay fifteen dollars in order to gain access. An application, fingerprints, a photo ID, and the fee are all required in order to make sure the integrity of the records is maintained. Alice Moffat, the Bureau Director of BCI, was present. Release of criminal history information had to be verified by fingerprints. The individual criminal history record was not available to the public. BCI is not in a position to waive the requirements set by the legislature for the release to an individual of their own criminal history. Fingerprints and the fee would be required as well as a photo ID to get the records. Ms. Taylor asked that the Committee deny Mr. Thomas' appeal. Officer Tucker, Mr. Thomas' case manager, was sworn in as a witness. Mr. Rowley asked if the prisoner could get a fingerprint card and a photo ID from the prison. Officer Tucker said that any request to BCI would have to be arranged through the warden.

Closing – petitioner

The website mentioned was for people to check the identity and criminal background of people they would like to hire. It was advertised in a commercial he had seen on television. Mr. Thomas said he had a 2011 version of UCA § 53-10-108. Nothing in it said his attorney could get the information for him. Paying the fee, providing the ID, and the fingerprints were the only requirements listed in the law.

Closing – respondent

Until Mr. Thomas has complied with the current requirements to obtain his criminal history, Ms. Taylor asked the Committee to deny the appeal and not order the requested records released in contravention of statute.

Deliberation

Mr. Rowley asked that Alice Moffat be sworn as a witness. Ms. Ross did that. Mr. Rowley asked her if the BCI had a connection with correctional facilities to provide and exchange information. Ms. Moffat said communication existed between BCI and the correctional facilities but the information requested by Mr. Thomas had not been exchanged. BCI had not facilitated any requests for criminal histories for inmates in the past. Mr. Daniels said it was a question of jurisdiction and not a GRAMA question. It was outrageous that the code prevented an inmate from obtaining his own criminal history. Mr. Hemphill made a motion that pursuant to UCA 63G-2-201(3)(d) the request be denied as it was restricted by another state statute. Ms. Smith-Mansfield seconded the motion. A vote was taken. Mr. Daniels, Mr. Hemphill, Mr. Rowley, Ms. Smith-Mansfield, Ms. Ross, and Mr. Whittaker voted in favor of the motion. The motion passed unanimously.

Decision and order

Ms Ross said an order would be sent to the parties within 5 business days. She thanked the parties for their participation.

Second Hearing – Andrew Morse vs. Canyons School District

The parties introduced themselves. Scott Young represented the petitioner, Andrew Morse. Paul Van Komen represented Canyons School District. Mr. Daniels said he had been contacted by an attorney at Snow Christensen & Martineau who was considering a settlement for an issue at Alta High School. Mr. Daniels was a board member of the Salt Lake Chapter of the NAACP. He said when such cases had come up; assistance had sometimes come from the Southern Poverty Law Center. That was a contact he wanted to disclose, but it would not affect how he viewed this case unless the parties objected to his participation. Neither party had an objection.

Opening – petitioner

Mr. Young said the first consideration of the Committee should be UCA 63G -2-102(3); public access should be favored when countervailing interests were of equal weight. Two of the three defenses the district used to deny the records are not included in GRAMA. The documents requested are from a grievance procedure by Mark Montague against Canyons School District when he was demoted from assistant principal at Alta High School to an assistant principal at Butler Junior High. The demotion was the result of a racist incident occurring at Alta High in March of 2011. When Mr. Montague filed a grievance against the district, it resulted in a \$55,000 payment to him from the district. The reasons used by the district to deny the records requested are the following:

1. The records requested were from a disciplinary action under UCA 63G-2-301(3)(o). The petitioner insists records requested were related to a grievance procedure not a disciplinary procedure.
2. Release of the records was claimed to be an unwarranted invasion of personal privacy. On the contrary, there is high public interest in preventing the exposure of children to racist taunts, and records of actions correcting or limiting such exposure should be public.
3. Attorney-client privilege and attorney work product was also claimed as a reason to withhold the records pursuant to UCA 63G-2-305 (9)(16)(17) and (18). Not every document was prepared for litigation or was communication with an attorney. A privilege log was not provided, but a careful review was necessary to make sure the category is not overly broad.

He cited SUWA for limiting the release of records classified as protected by attorney-client privilege. He said that Anthony Armstrong was the client, but the law firm had made the GRAMA request.

Opening – respondent

Mr. Van Komen said the request to the school district had been for all documents related to Mark Montague's grievance procedure against the district. There was a mention of racial discrimination in the briefing and the public interest in that topic is recognized. A separate four page GRAMA request was submitted that did not deal with the grievance procedure. The district relied on UCA 63G-2-301(3)(o) to determine that disciplinary records were available when they were complete and when the disciplinary action had been sustained. When the district became aware of the allegations, there was a heightened sense of awareness that litigation could result. Specifically, Anthony Armstrong's mother said she was ready to bring an action. In addition, the district faced possible litigation from the employee who had been disciplined. Initially, the district took disciplinary action. Pursuant to the policy of the district, Mr. Montague appealed the disciplinary action. He did that by filing a grievance. The grievance was the administrative appeal process for the disciplinary action. These actions were confidential pending resolution of the grievance or final decision of the board. There was pending litigation from parents and students.

Testimony – petitioner

Mr. Young said that the GRAMA specified that records are public if disciplinary actions have been completed and the charges sustained. The position of the district is that this was not a disciplinary action; it was a grievance procedure. A review of the Canyons policy shows that not to be the case. If these records were part of the appeal of the disciplinary action, they were part of the disciplinary action. Citing the district's administrative regulation GCQFA-R-1.2, "Disciplinary Actions: The district may elect to proceed with a disciplinary action to warn the employee that his/her conduct places the employee in danger of termination during the contract term." The grievance policy for the district says "The Board of Education recognizes the need to establish a grievance procedure for licensed employees." The grievance policy does not mention disciplinary action. Mr. Young did not agree that it was an unwarranted invasion of privacy to release the records of a completed and sustained

disciplinary action. In the current instance, Mr. Montague was performing a public duty involving a protected class of citizens. The documents requested pertained to how he carried out his duties as assistant principal. After an investigation, Mr. Montague was clearly disciplined for his handling of the racist incidents at Alta High School. The third argument of the district is that some of the documents were withheld because of attorney client privilege. The documents should be reviewed because not every communication with an attorney is privileged. In the SUWA case it was determined that attorney work product and documents prepared in anticipation of litigation are reasonably withheld when they have been prepared primarily for use in pending or imminent litigation. The requested records were prepared for a grievance of the disciplinary action rather than for any imminent litigation.

Testimony – respondent

Mr. Van Komen said that in 302(2) The following records are private if properly classified (a) records concerning a current or former employee or applicant for employment with a governmental entity including performance evaluations and personal status information such as race, religion or disabilities, but not including records that are public under subsection 63G-2-301(2)(b) or 63G-2-302 (3)(o). The last section was at issue because it specifies that a record qualifies to be public pursuant to 63G-2-302(3)(o). By meeting the qualifications specified: the disciplinary action had been completed and all time periods for administrative appeal had expired, the records then became public. But the records did not satisfy the requirement in section two: that the charges on which the disciplinary action was based be sustained. The charges were not sustained and the grievance was finalized in a settlement agreement. The district had provided the settlement agreement to the petitioner. As a public document it says that there was a settlement paid and the letter of reprimand was withdrawn from Mr. Montague's file. The charges upon which the disciplinary action was taken were not sustained. Mr. Montague clearly disagreed with the Armstrong family about what had taken place. He had the right to bring his side of the picture to the grievance process. Charges made against him did not become public because they were not substantiated. There were documents withheld because they were attorney work product and mental impression of the counsel for the Canyons. The grievance process is generally protected from public scrutiny. All the documents relating to Mr. Montague's grievance process are private because the conditions to make them public were not met.

Closing – petitioner

Mr. Young said it was difficult to argue that the charges were not sustained in some way, when even in the settlement agreement Mr. Montague was required to resign and had already been demoted to another school. It would be wrong to create a category so broad that when you stamped "settlement" on it, it became not sustained and therefore private. The district cited a clearly unwarranted invasion of privacy as a reason to not release the records. The broader issue was intense media coverage of racial issues at Alta High School over a two year period. As an assistant principal, Mr. Montague was involved in this. He was at the assembly when the incident

occurred. There was a pattern of problems and he was in a position to influence events.

Closing – respondent

Mr. Van Komen said that the amount of the settlement was substantial and not what would be offered if the charges had been sustained. Mr. Montague was able to present his side of the issue. Under GRAMA, it is important that the records related to the grievance process be private. The requirements of GRAMA must be met for a document to be public. The district could not waive the confidentiality agreements on its own. Mr. Montague would be able to bring action against the district if they did release the records. The records, he said, were clearly private, not public.

Deliberation

Ms. Smith-Mansfield made a motion to uphold the classification of the grievance records as part of the disciplinary action and appeals process. They were classified as private pursuant to UCA 63G-2-302(2)(a) and under 63G-2-301(3)(o) were not public because the charges upon which the disciplinary actions were made were not sustained. The motion was seconded by Mr. Whittaker. Mr. Daniels disagreed with the motion and said UCA 63G-2-302(2)(a) was ambiguous based on the word “including.” Including all the documents would mean any document concerning employees or former employees would be private. Ms. Ross and Ms. Smith-Mansfield disagreed with that interpretation. There was more discussion. Mr. Rowley made a motion that the Committee go into closed session. Mr. Whittaker seconded the motion. Ms. Smith-Mansfield withdrew the motion. A vote was taken. Mr. Daniels, Mr. Hemphill, Mr. Rowley, Ms. Ross, and Mr. Whittaker voted in favor of the motion. Ms. Smith-Mansfield voted against the motion. It was decided to incorporate a break of thirty minutes for attendees. The Committee went into closed session.

Closed session 11:39 – 12:12

Deliberation

Mr. Daniels made a motion to return to open session. Ms. Smith-Mansfield seconded the motion. A vote was taken. Mr. Daniels, Mr. Hemphill, Mr. Rowley, Ms. Smith-Mansfield, Ms. Ross, and Mr. Whittaker voted in favor of the motion. The motion passed unanimously. The Committee returned to open session. Ms. Smith-Mansfield made a motion that the records were properly classified as private pursuant to UCA 63G-2-302(2)(a) and were not public pursuant to 63G-2-301(3)(o) as the charges were not sustained. Mr. Rowley seconded the motion. A vote was taken. Mr. Rowley, Ms. Smith-Mansfield, Ms. Ross, and Mr. Whittaker voted in favor of the motion. Mr. Hemphill and Mr. Daniels voted against the motion. The motion passed.

Decision and order

Ms. Ross told the parties that a decision and order would be sent out within five days.

Third Hearing – Alma Wilson vs. Human Services, Office of Administrative Hearings

Ms. Ross explained the procedure for the hearing. The parties introduced themselves. Alma Wilson was the petitioner. Susan Eisenman, Assistant Attorney General represented the Department of Human Services, Office of Administrative Hearings. (OAH) Judge Elizabeth Knight, Administrative Law Judge for the Office of Administrative Hearings, was also a respondent. Ms. Ross explained the procedures for the hearing.

Opening statement – petitioner

Mr. Wilson said he had requested records from the Department of Human Services (DHS) and also the Office of Administrative Hearings. He was not sure where the records he wanted were kept. He found out that DHS was the party that held the records. He said judgments, final orders, adjudications were required to be released but to the extent they contained restricted information could be redacted. Human Services' position was that all of the judgments were inaccessible and the only review was in district court where the decision was de novo and so the reasoning of the OHS judges could not be reviewed. He had asked for the judgments with private information redacted. He said neighbors had reported him. He and his wife had a large home-schooled family. Both parents and kids were fairly opinionated. Any neighbor who did not like the family could cause fear in his family. He said he valued the right of free speech above all other values except his family.

Opening statement – respondent

Ms. Eisenman said three separate requests had been sent to the Office of Administrative Hearings, a sub agency of the Department of Human Services. The first was for a group of records the department did not possess. The second was a group of records the department does not compile tailor or summarize in the manner requested by the petitioner. The third request was for the final adjudicative opinions. The opinions were the result of informal administrative appeals of child abuse and neglect investigations. The Department of Child and Family Services conducts investigations into reports of child abuse and neglect. After the investigation, a finding is entered whether or not the charges are supported or unsupported. A person whose case has been supported for abuse or neglect has the right to appeal to the Office of Administrative Hearings. The findings can be overturned at a hearing or supported. If the findings are supported, the claimant has a right of appeal de novo to the juvenile court and there is a new hearing on the merits of the case. Formal adjudicative opinions are designated as private. The office submits that the designation is appropriate.

1. In UCA 63G-2-301(2)(c) they are expressly designated as private.
2. In 63G-2-202(10) unsupported findings and any record of them can only be released to the person named as the alleged perpetrator.
3. Under UCA 63G-2-102, the legislative intent of the law balances the right of public access with the right of privacy in relation to personal data. The

informal agency review of child abuse investigations is the most personal data an agency can accrue.

There is no way to separate the judicial analysis from specific facts of each individual case. The state is not required to format the records in a way to separate the information in order to make them accessible. The records have been properly designated as private and that classification should be upheld.

Testimony – petitioner

Mr. Wilson said his request had been to both DHS and OAH. Only OAH had responded. He had requested data base titles or schemata and not the database itself. Mr. Wilson said when he was given his own records from his own proceedings; he was told they were not to be made public. When names were deleted from a record, privacy interests were gone. He felt his right to publish the results of the hearing was denied him. But, if the proceedings were not properly closed, then the records of the hearings would all be public. He could find no mention in 497-104 of the closure of hearings, only of their informality. Even though all judicial proceedings are public, quasi-judicial hearings and administrative judges are immune. There was a wide range of infractions investigated by DCFS ranging from grievous wrongs to minor violations. If violations were reported by a third party, and were unknown to the person reported on, there would be no way to prove one's innocence. The intake system of reports should be centralized so that the different regions of the state do not report differently. Wrongful decisions about removal of children stress families and could destroy them. Adopted children have twice the likelihood of committing suicide later in life. Foster care cannot be a particularly safe intervention. There may be safeguards in place but they are not uniform throughout the state. Some children who would be served best by in home treatment have been placed in foster care for lack of funding. Open records of the hearings could allay public fears about the system. He said his wife and he had been reported for non-supervision, but still did not know what was intended by the term. He felt if the records were redacted, they could be released. The Committee questioned the petitioner about the exact records that would satisfy his request.

Testimony – respondent

Ms. Eisenman said a discussion of the policies of child welfare was an interesting and lively debate. She said the Committee's responsibility was to focus on the appeal for a records request. The original appeal was directed to the Office of Administrative hearings. That was the appeal before the Committee. The department did not keep or aggregate the information. Information is kept in the individual case files. The management information system (MIS) data base is completely separate from the data base for the Office of Administrative Hearings. There was no appeal for what is in the MIS database. The request for information from the OAH database was the appeal before the Committee. The database contains the names and addresses of the parties, various dates, and other data. DCFS data is governed by other statutes and is private, controlled, or protected. If a case is appealed to the juvenile court, there is a statutory requirement that the hearing be closed and the records protected from disclosure. The designation of private, protected, and controlled is appropriate for the records Mr.

Wilson requested. Any investigation by Child Protective Services is shared with the Office of Administrative Hearings in order for that body to review agency actions. Shared records have the same classification as they are given in the originating agency. In a hearing, other information may be submitted. Records of unsupported allegations may be given only to the alleged perpetrator. If a finding is supported by the administrative law judge, pursuant to R497-100-7(1)(i), the records of the finding are returned to the originating agency. The OAH hearings are only open to the parties. Ms. Elizabeth Knight, Director of the Office of Administrative Hearings, was sworn as a witness by Ms. Ross. Ms. Knight said the data in the OAH database was used only by that office. Tables could be provided that show the type of data that is kept in order to track cases. The current reports produced by the system did not aggregate the decisions of all the hearings. Even if identifying information were to be redacted from decisions, the situations could be indicative of the people involved in the case. The data base contained sensitive data beyond the names and ages of the individuals involved. The parties to a hearing have the expectation that their records are private.

Closing – petitioner

Mr. Wilson said that his request had been for his own purposes. He said the hearing had been a horrible experience for him. He thought other families around the state with a similar experience would be glad to have the records open. Fourteen states have these records open to the public. Parents should be able to protect their children from the error of wrongful removal. He said the Committee had the authority to release the records.

Closing – respondent

Ms. Eisenman said she felt Mr. Wilson's fundamental interest was adequately dealt with by the appellate structure that existed. A person upset by a supported finding upheld by the Office of Administrative Hearings had a route for a de novo review by juvenile court and then could appeal to the courts. Looking at the cases in aggregate would compromise the privacy interests of children and families who were investigated by DCFS and were the subjects of the reviews. For the many good reasons already set forth, these privacy interests are protected by statute. Regardless of the policies of other states, Utah is very particular about access to findings of child abuse and neglect. The Office of Administrative Hearings submits that the classification of the records as private is appropriate in the case. The records should not be released.

Deliberation

Ms. Smith-Mansfield said the petitioner wanted information in order to research a subject. He might have been referred to DCFS for the case files, but those would be private as well. A query and report from the OAH database was not required to be made by the agency. The adjudicative orders were possibly something the Committee could discuss. If there was information in the database of OAH, the petitioner did not have appropriate access rights to it. Ms. Ross said that in the pre-hearing it was clear that the records requested were not well defined. Mr. Daniels said that the petitioner

did not know what records would provide the information he wanted. Most of the records laws were created for paper records and currently had to be applied to computer records. While it was true that an agency did not have to create a record, records should not be denied just because they existed in a computer. Maybe a petitioner would have to pay for the agency to format a record from a query. The case files probably contained highly confidential information. Ms. Smith-Mansfield made a motion that the Committee go in camera to view the adjudicative decisions. Mr. Daniels seconded the motion. A vote was taken. Mr. Hemphill, Mr. Daniels, Ms. Ross, Mr. Rowley, Mr. Whittaker, and Ms. Smith-Mansfield voted for the motion. The Committee went in camera.

Closed session 2:15 p.m. – 2:27 p.m.

Deliberation

Mr. Hemphill made a motion to return to open session. Mr. Whittaker seconded the motion. A vote was taken. Mr. Hemphill, Mr. Daniels, Ms. Ross, Mr. Rowley, Mr. Whittaker, and Ms. Smith-Mansfield voted for the motion. The Committee returned to open session. Ms. Smith-Mansfield made a motion that pursuant to UCA 63G-2-206, shared records retained the classification determined by the creator of the record. The case files and the investigative records maintained by DCFS were not appropriately before the Committee. The originating agency was not present. Mr. Daniels seconded the motion. A vote was taken. Mr. Daniels, Mr. Rowley, Ms. Smith-Mansfield, and Mr. Whittaker voted in favor of the motion. Ms. Ross and Mr. Hemphill voted against the motion. The motion passed. Mr. Daniels made a motion that the adjudicative decisions for cases that were found to be supported were records that must be disclosed pursuant to UCA 63G-2-301(2)(c) with the exception of private, protected or controlled information that should be redacted. The cases should be limited to one year's worth of cases. Ms. Ross seconded the motion. A vote was taken. Mr. Daniels voted for the motion. Mr. Hemphill, Ms. Ross, Mr. Rowley, Ms. Smith-Mansfield and Mr. Whittaker voted against the motion. The motion was amended to exclude the reference to limiting the time period to one year. Ms. Ross seconded the motion. A vote was taken. Mr. Daniels, Mr. Rowley, Ms. Smith-Mansfield, and Mr. Whittaker voted for the motion. Mr. Hemphill and Ms. Ross voted against the motion. The motion passed. Mr. Daniels made a motion that the fields on the OAH database table be disclosed. Mr. Whittaker seconded the motion. A vote was taken. Mr. Daniels, Mr. Rowley, Mr. Whittaker, Ms. Ross voted for the motion. Mr. Hemphill and Ms. Smith-Mansfield voted against the motion. The motion passed.

Decision and Order

Ms. Ross said the parties would receive a decision and order within five days. Any remaining business was put off until the next meeting. The next meeting of the Committee was scheduled for May 10, 2012 at 9:30 a.m. The meeting was adjourned by acclamation at 3:02 p.m.

STATE RECORDS COMMITTEE
April 12, 2012
State Archives Building, Courtyard Meeting Room
346 S. Rio Grande (450 West)
Salt Lake City

AGENDA
Call to Order 9:00 a.m.

1. **Approval of February 15, 2012 SRC Minutes, action item**
2. **Approval of Retention Schedules, action item**
3. **Legislative changes and the role of SRC Ombudsman, discussion and action item**
4. **Enforcement of settlement agreements, action item**
5. **Log of denied records, action item**
6. **SRC appeals received**
7. **Cases in District Court**
8. **Other Business**

9. **Gordon Thomas vs. Department of Public Safety.** Mr. Thomas is appealing a denial of his criminal history from BCI.
10. **Andrew Morse vs. Canyons School District.** Mr. Morse is appealing a denial of records pertaining to a grievance filed by Mark Montague against the school district.
11. **Alma Teao Wilson vs. Human Services, Offices of Administrative Hearings.** Mr. Wilson is appealing a partial denial of records pertaining to administrative trial judges.

ADJOURNMENT

Next meeting scheduled for May 10, 2012, at 9:30 a.m.

Utah State Archives

Parent Agency: Community and Culture
Community Development Division

Agency: Department of Community and Culture, Division of Housing and
Community Development
324 South State, Suite 500
Salt Lake City, UT 84111
538-8699

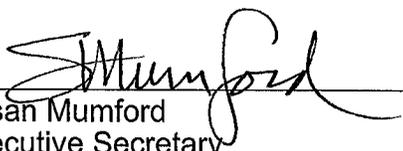
Records Officer Sanobi Johnson

14440 Home Program provider case files

Destroying records in accordance with this agency Retention Schedule is in compliance with the Archives and Records Service and Government Records Access and Management Act (UCA 63-2-101 et seq.).

The Agency classifies its records under provisions of the Government Records Access and Management Act (UCA 63-2-101 et seq.). Classifications have not been approved by the State Records Committee.

This agency retention schedule was approved by the State Records Committee in April 2012.



Susan Mumford
Executive Secretary
State Records Committee

Utah State Archives

AGENCY: Department of Community and Culture. Division of Housing and Community Development

SERIES: 14440

TITLE: Home Program provider case files

DATES: 1992-

ARRANGEMENT: Chronological, thereunder alphabetical by name of service provider

ANNUAL ACCUMULATION: 1.00 cubic foot.

DESCRIPTION:

This series is composed of contracts, contract amendments, applications, monitoring reports, correspondence, and related documents. The series is maintained in order to document the provision of services to rehabilitate existing rental units. Funds for this program are provided through the U.S. Department of Housing and Urban Development and are made available to recipients as loans. Information includes descriptions of services provided, location of services, providers' names, loan amounts, evaluations of compliance with program rules, and related information.

RETENTION:

Retain 10 years after repayment of loan.

DISPOSITION:

Destroy.

FORMAT MANAGEMENT:

Records in electronic format are also covered by this schedule. If a separate retention for electronic formats is not provided, follow the length of retention for the paper copy.

Paper: Retain in Office for 10 years after repayment of loan and then destroy.

PRIMARY CLASSIFICATION:

Public

Utah State Archives

Parent Agency: Human Services
Social Services
Handicapped, Services to the

Agency: Department of Human Services. Office of Social Services.
Developmental Center
State Developmental Center
American Fork, UT 84003

Records Officer Kristy Bate

27843 Bed checks

Destroying records in accordance with this agency Retention Schedule is in compliance with the Archives and Records Service and Government Records Access and Management Act (UCA 63-2-101 et seq.).

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Susan Mumford
Executive Secretary
State Records Committee

Utah State Archives

AGENCY: Department of Human Services. Office of Social Services.
Developmental Center

SERIES: 27843

TITLE: Bed checks

DATES: 1980-

ARRANGEMENT: alphabetical by name of building/living area thereunder by date

DESCRIPTION:

This record of sleep patterns of developmental center residents is created each night. Information in the record includes date, resident and staff members names, and details about nighttime activities, including amount of time individuals slept, health concerns, and staff activities. Bed checks provide census verification. Information about individual sleep patterns assists physicians assess health and behavioral needs and is essential for documenting injuries and staff activities and responses. Information is input into electronic charts (E charts) and may be used in investigations of charges of abuse or neglect and Patient Error Rate Measurements (PERM) audits.

RETENTION:

Retain 1 year

DISPOSITION:

Destroy.

FORMAT MANAGEMENT:

Records in electronic format are also covered by this schedule. If a separate retention for electronic formats is not provided, follow the length of retention for the paper copy.

Paper: Retain in Office for 1 year and then destroy.

APPRAISAL:

Administrative

Utah State Archives

Parent Agency:

Error - Agency Does Not Exist
Error - Agency Does Not Exist

Agency:

Records Officer

27849 VOLUNTEER FILES

Destroying records in accordance with this agency Retention Schedule is in compliance with the Archives and Records Service and Government Records Access and Management Act (UCA 63-2-101 et seq.).

The Agency classifies its records under provisions of the Government Records Access and Management Act (UCA 63-2-101 et seq.). Classifications have not been approved by the State Records Committee.

This agency retention schedule was approved by the State Records Committee in April 2012.



Susan Mumford
Executive Secretary
State Records Committee

Utah State Archives

AGENCY: ??????????????????????

SERIES: 27849

TITLE: VOLUNTEER FILES

DATES:

ARRANGEMENT:

DESCRIPTION:

These records are used to verify background information on volunteers prior to and during employment. These files often contain volunteer applications, letters of commendation, photos of the volunteer, background investigations, and other information relating to volunteer service activities.

RETENTION:

Retain for 5 years after seperation and then destroy.

FORMAT MANAGEMENT:

Records in electronic format are also covered by this schedule. If a separate retention for electronic formats is not provided, follow the length of retention for the paper copy.

PRIMARY CLASSIFICATION:

Private

**SRC Appeals Received
March and April, 2012**

1. **Edward Owens vs. State Crime Laboratory.** Mr. Owens appealed the denial of a copy of a report with a case number and all lab notes and pictures of items submitted for testing. He also requested a fee waiver based on impecuniosity. Appeal incomplete.
2. **Lani Ete vs. Human services/DCFS.** Pursuant to UCA 63G-22-403(4)(b). Based on previous decision 2010-16 Shawn & Barbara Lewis vs. Human Services. Betsy and Scott Whittaker approved. Hearing denied.
3. **Rodney Ham vs. Human Services.** Mr. Ham requested records that had been lost. He was denied based on UC63G-2-201(7)(iv): "a governmental entity is not required to fulfill a duplicative request..." . This issue resolved. Hearing was scheduled for March. Hearing canceled. HS sent requested records to Mr. Ham.
4. **Gordon Thomas vs. Public Safety.** Mr. Thomas requested copies of his complete criminal history from BCI. He filled out the application but said he is indigent. He can't afford the required \$15.00 fee or provide required fingerprints. Hearing scheduled for April 12, 2012.
5. **Bonnie Bourgeois vs. Davis School District.** Ms. Bourgeois requested and received some records regarding her reassignment. She believes more are available and have been withheld. Hearing scheduled prematurely for April 12, 2012. No appeal to CAO. Hearing canceled until appeal is complete.
6. **Michael Petullo vs. Cedar Mountain Fire Protection District**
Hearing scheduled for April 12, 2012. Resolved between parties and hearing canceled.
7. **Nate Carlisle, Salt Lake Tribune vs. Department of Public Safety.** Mr. Carlisle requested disciplinary records for an officer and a waiver of fees. **Hearing scheduled for April 12, 2012.** Resolved at pre-hearing conference, Wednesday, April 4, 2012.
8. **Kurt M. Danysh, S.A.V.E. (Stop Antidepressant Violence from Escalating) Project, vs. Unified Police Department SLC.** Mr. Danysh requested and received the complete incident report of Leonard Preston Gall's murder of his mother. Not released were crime scene photographs and certain documents mentioned in the report. Hearing scheduled for April 12, 2012. Hearing postponed until May 10, 2012.

9. **Mynor Aguirre vs. Corrections.** Pursuant to UCA 63G-22-403(4)(b). Based on previous decision 2005-08, Schwaar vs. Department of Corrections Betsy and Lex approved. Hearing denied.