

SRC APPROVED

Date February 13, 2014
SLC

State Records Committee Meeting

Division of Archives
Courtyard Meeting Room
January 9, 2014
Salt Lake City, Utah

Members Present: Marie Cornwall, Citizen Representative
David Fleming, Private Sector Records Manager
Lex Hemphill, Media Representative
Doug Misner, History Designee
Holly Richardson, Citizen Representative
Ernest Rowley, Elected Official Representative
Patricia Smith-Mansfield, Governor's Designee

Legal Counsel: Paul Tonks, Attorney General's Office
Chiarina Bautista, Attorney General's Office

Executive Secretary: Susan Mumford, Utah State Archives

Others Attending: Matt Anderson, AAG, Utah Department of Corrections
Michelle Buswell, Utah Department of Corrections
Brice DeJulio, Utah Department of Corrections
Lorianne Ouderkirk, Archives staff
Greg Peaz, Utah Department of Corrections
Gina Proctor, Utah Department of Corrections
Rebekkah Shaw, Archives staff
Renee Wilson, Archives staff
Suzanne Young, Utah Department of Corrections

Hearing – William Hill vs. Utah Department of Corrections

The meeting was called to order at 9:00 a.m. by Lex Hemphill, chair of the committee. Mr. Hill was contacted at the prison by phone. Mr. Hemphill outlined the procedures of a hearing to the parties.

Opening statement – petitioner

Mr. Hill said he disagreed with the policy of denying a copy of the PSI or Pre-Sentencing Investigation Report to a prisoner. He said he knew of prisoners who had been given their report. He thought they had gotten the report through a GRAMA request. His own attorney had given him a copy of his PSI report. He understood that sensitive information such as victims' names and addresses would have to be redacted from a report if it were released. In his case, as a sex offender, the victims were members of his own family and he was in touch with them.

Opening – respondent

Mr. Matthew Anderson of the Attorney General's Office represented the Utah Department of Corrections (UDC) as the respondent. Mr. Anderson said that the Pre-Sentencing Investigation Report (PSI) was protected by express order of the court under Utah Code 63G-2-303 and 304. Notwithstanding those sections, the SRC does not have the authority or jurisdiction to order the release of the record. The PSI, pursuant to Utah Code 63-13-20, is protected by express order of the court. It is also classified as protected pursuant to Utah Code 63G-2-305(11) and (13). Release of the record could jeopardize the safety and security of the prison facility. The PSI report is prepared prior to a Board of Pardons hearing. There is sensitive information in the PSI that limits disclosure of the record. Mr. Anderson asked that the committee uphold the Department of Correction's denial of the record as protected.

Testimony – petitioner

Mr. Hill said he had received a copy of his PSI report from his lawyer through regular mail. It had not come as legal mail, so he assumed it was inspected and could be released to him through a GRAMA request as well as from his attorney. He questioned the prison's policy of denying a copy of his report to him.

Testimony -- respondent

Mr. Anderson said that the PSI is defined in statutory citations as a report that is required at the time of sentencing. Adult Probation and Parole (AP& P) provides the report to the court so that the court may take into consideration the factors necessary to decide appropriate sentencing. The report contains victim impact statements, the facts of the crime, details of a psycho-sexual evaluation, and other sensitive information. The Department of Corrections has an interest in not having the report released within the context of the prison. The report could be disseminated to other inmates. Bullying occurs within the prison and inmates could request information to vet other inmates and see why they are in prison. Denying the report served to turn the flood of information about inmates down to a trickle. An inmate can specifically request a copy of the report from his attorney. The legislature has given UDC the discretion to restrict the release of the report and to not release it to institutionalized inmates.

Closing -- petitioner

Mr. Hill said he understood the safety concerns of the prison. He said he thought several inmates had previously received a copy of their report through a GRAMA request. He knew one prisoner who got it through a GRAMA request. If an inmate were in a therapy program, the report could be used as information. He said the names of victims and their addresses could be sensitive information but he already knew his victims and was in touch with them because they were family members.

Closing -- respondent

Mr. Anderson said that an inmate may have received a PSI by mistake but it is not done regularly through a GRAMA request. This has been the rule since Mr. Anderson has

represented the Department of Corrections. Ms. Gina Proctor was sworn as a witness. She serves as the records manager at UDC. Among her duties she trains records officers, responds to GRAMA requests, and handles Mr. Haddon's responses in the appeal process. Mr. Haddon is the deputy director of the prison. Ms. Proctor said she has been the records manager for five years. An original GRAMA request for a PSI would be sent to Adult Probation and Parole (AP & P). Ms. Proctor and her staff would receive the request. Any denials of a record could be appealed to Mr. Haddon. In the last five years, she knew of no PSI reports that had been released to an inmate through a GRAMA request.

Deliberation

Ms. Smith-Mansfield made a motion that the records were protected pursuant to Utah Code 77-18-1-(14). They were governed by another state statute as specified in Utah Code 63G-2-201(3)(b). The State Records Committee has no jurisdiction over the records. Ms. Richardson seconded the motion. The vote was unanimous in favor of the motion. Mr. Hemphill said an order would be mailed to the parties within seven business days.

Approval of Minutes

Mr. Fleming made a motion to approve the minutes of the December 12, 2013, meeting of the State Records Committee. Ms. Smith-Mansfield seconded the motion. A vote was unanimous in favor of the motion.

Retention schedules

Ms. Rebekkah Shaw presented the following retention schedules to the committee:

80729 Investigation case files, Department of Commerce, Division of Securities. Retain 50 years after investigation closes and then destroy. The retention is based on the life span of an offender of the uniform securities act.

28396 Discipline files, Judicial Conduct Commission. Retain 30 years and then destroy. The internal investigations files have value only to the JCC. No other entity may access the records except as provided in Utah Code 78A-11-112.

Ms. Smith-Mansfield made a motion to approve the two retention schedules as presented for the two series. Mr. Fleming seconded the motion. The motion was approved by a unanimous vote of the committee.

Review of Administrative Rules

There is a five-year review scheduled for Administrative Rule R35. Ms. Mumford distributed a copy of the current rule. It would be part of the committee's future business to discuss and recommend changes. Any suggestions may be sent to Mr. Tonks or to Ms. Mumford.

Cases in District Court

Mr. Tonks reported on cases in district court. He said an appeal had been filed in Utah County to appeal the decision to uphold the denial of the Request for Proposal by the City of Orem. It was the subject of an SRC hearing in December of 2013 and the topic of the committee's Decision and Order 13-14. In appellate court, the SRC was being represented by Jeff Hunt in the Schroeder case. Mr. Tonks reported that there were bills that would affect GRAMA coming before the legislative session this year. One bill was about fees and would change the "may" in the statement about issuing fee waivers to "shall" in certain cases. The other bill would make a voter's birthdate on the voter registration rolls private.

Adjournment

Ernest Rowley made a motion to adjourn the meeting. The meeting was adjourned by acclamation.

Utah State Archives

Parent Agency: Commerce Department
Securities Division

Agency: Department of Commerce. Division of Securities
160 East 300 South
P.O. Box 146760
Salt Lake City, UT 84114-6760
530-6600

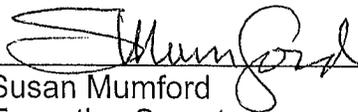
Records Officer Nadene Adams

80729 Investigation 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 January 2014.



Susan Mumford
Executive Secretary
State Records Committee



Chair, State Records Committee

Utah State Archives

AGENCY: Department of Commerce. Division of Securities

SERIES: 80729

TITLE: Investigation case files

DATES: 1967-

ARRANGEMENT: Alphabetical by surname

ANNUAL ACCUMULATION: 10.00 cubic feet.

DESCRIPTION:

RETENTION:

Retain 50 years after investigation closes.

DISPOSITION:

Destroy.

FORMAT MANAGEMENT:

The retention and disposition information on this schedule applies to the record copy which can be in any format. The record copy can include different formats. Format management information provided here is for the purpose of managing records that are being either stored by or transferred to Utah State Archives.

Paper: Retain in Office for 2 years after the investigation is closed and then transfer to State Records Center. Retain in State Records Center for 48 years and then destroy.

APPRAISAL:

Administrative

Retention of these records will allow the state to maintain background information on subsequent investigations as well as allow for additional information to turn up in cases where insufficient evidence exists.

PRIMARY CLASSIFICATION:

Protected Utah Code 63G-2-305(2013)

Utah State Archives

Parent Agency:

Agency: Judicial Conduct Commission (Utah)
2540 Washington Boulevard
Suite 703
Ogden, UT 84401
801-626-3369

Records Officer Collin Winchester

28396 Discipline 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.).

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Susan Mumford
Executive Secretary
State Records Committee



Chair, State Records Committee

Utah State Archives

AGENCY: Judicial Conduct Commission (Utah)

SERIES: 28396

TITLE: Discipline Files

DATES: 1981 -

ARRANGEMENT: chronological

DESCRIPTION:

RETENTION:

Retain 30 years

DISPOSITION:

Destroy.

FORMAT MANAGEMENT:

The retention and disposition information on this schedule applies to the record copy which can be in any format. The record copy can include different formats. Format management information provided here is for the purpose of managing records that are being either stored by or transferred to Utah State Archives.

Paper: Retain in Office for 30 years and then destroy.

APPRAISAL:

Administrative

The internal investigation records are of value only to the JCC. None else may access the records except as provided in Utah Code 78A-11-112 (2009).

PRIMARY CLASSIFICATION:

Public

SECONDARY CLASSIFICATION(S):

Exempt. Utah Code 78A-11-112 (2009)

STATE RECORDS COMMITTEE MEETING
January 9, 2014
9:00 a.m.

AGENDA

HEARING

1. **William Hill vs. Department of Corrections.** Mr. Hill is appealing the denial of his PSI report.

BUSINESS

Approval of December 12, 2014 SRC Minutes, action item

Approval of retention schedules, action item

Annual Report 2013

Administrative Rules 5 year Review

SRC appeals received

Cases in District Court

Other Business

ADJOURNMENT

**SRC Appeals Received
January 2014**

1. **13-32 Salt Lake School District vs. Utah State Auditor's Office.** The District is appealing the denial of copies of complaints against the school district received by the Auditor's Office. Hearing postponed until February 2014 at the request of the petitioner.
2. **13-40 Nate Carlisle, Salt Lake Tribune vs. Roy City.** Mr. Carlisle is appealing the denial of records pertaining to an investigation by the Layton City Attorney's Office. Hearing cancelled.
3. **13-47 Lee Davidson, Tribune vs. Utah State Tax Commission.** Mr. Davidson is appealing the denial of records related to policy decisions in same sex marriage filings. Scheduled for February 2014.
4. **14-02 Mark Kimball vs. Utah Department of Corrections.** Mr. Kimball is appealing the denial of a record of inmate co-payment charges. Hearing postponed until February 2014.
5. **14-03 Robert B. Sykes vs. Career Service Review Office.** Mr. Sykes is appealing the denial of a transcript of the Step 4 hearing regarding the termination of former trooper Lisa Steed. Hearing cancelled.
6. **14-04 Deborah Reithmuller vs. Bd. Of Pardons & Parole.** Ms. Reithmuller is appealing the denial of a fee waiver for records requested from the board. Resolved.
7. **14-05 Lynn Packer vs. Attorney General's Office.** Mr. Packer is appealing the partial denial of records of the use of state vehicles. Hearing scheduled for February.
8. **14-06 Lynn Packer vs. Department of Administrative Services.** Mr. Packer is appealing the partial denial of information about fleet services and vehicles. Hearing scheduled for February.
9. **14-07 Greg Wareham vs. Department of Workforce Services.** Mr. Wareham is requesting billing statements for Medicaid since 2005. Appeal incomplete.
10. **14-07 David Williams vs. Santa Clara, Ivins Public Safety Department.** Mr. Williams is appealing the fee for a copy of a video and audio record from a DUI arrest. Received 12/06/2014

January 2014 Records Committee Case Updates

District Court Cases

Firstwest Benefit Solutions LLC v. Orem City, 4th Judicial District, Utah County, Case No. 140400007, Judge McVey, filed January 2, 2014.

Current Disposition: Complaint filed by Firstwest, answer to be filed by the Committee shortly.

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

Current Disposition: Motion to dismiss second counterclaim denied by trial court. Case moving forward on merits and other non-GRAMA issues.

Appellate Court Cases

Attorney General Office. v. Schroeder, Court of Appeals Case No. 20121057.

Current Disposition: Briefs have been filed by parties, waiting for oral argument date.

Salt Lake City Corp. v. Mark Haik, Court of Appeals Case No. 20130383.

Current Disposition: New briefs filed by Appellant based upon failure to follow Court of Appeals rules. Waiting to receive an oral argument date.