

# GOVERNMENT RECORDS OMBUDSMAN 2019 report

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Presented to the Government Operations Interim Committee

compiled by the Utah State Archives

8/12/2019



This report is required by Utah Code 63A-12-111,  
Public Records Management Act, Government  
Records Ombudsman.

## **Government Records Ombudsman**

**Department of Administrative Services**

**Utah State Archives**

August 12, 2019

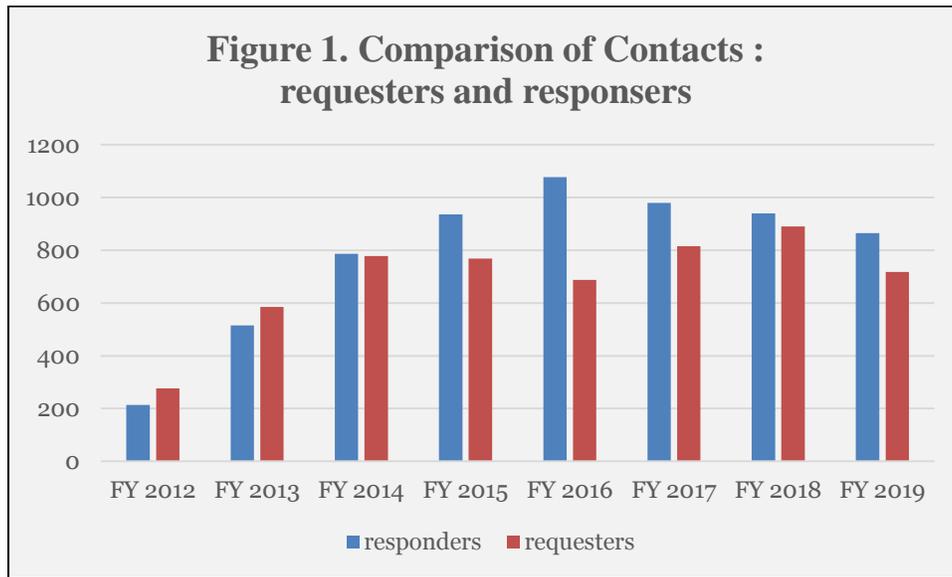
This is a report of the work of the Government Records Ombudsman for fiscal year 2018-2019. The Government Records Ombudsman is a resource for people who are making records requests under the Government Records Access and Management Act (GRAMA) and for people who are appealing denial of access to records. The ombudsman is also a resource for government employees who are responding to records requests. The ombudsman has authority to mediate disputes about records access issues. These responsibilities are defined in [Utah Code 63A-12-111](#).

Rosemary Cundiff has served as Utah's government records ombudsman since the position was created in 2012. In previous years the ombudsman has worked closely with the State Records Committee executive secretary, however for the past year the Archives administration has separated those roles in order to prevent any conflict of interest in the records appeals process. The ombudsman provides training about GRAMA and records issues. The ombudsman also serves as a member of the Utah Transparency Advisory Board which provides oversight to Utah's transparency websites.

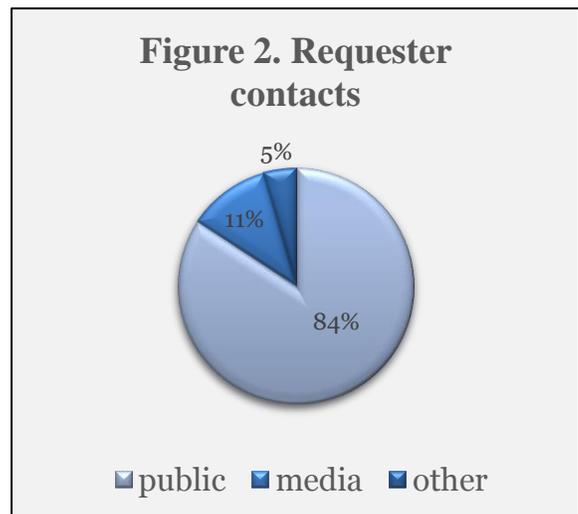
## Summary of Contacts

During FY 2018-2019 the Government Records Ombudsman provided 1,583 consultations about issues related to records access or mediation. Of these consultations, 718 involved requesters (the public, the media, and other non-government entities) and 865 involved responders who are employees of Utah governmental entities.

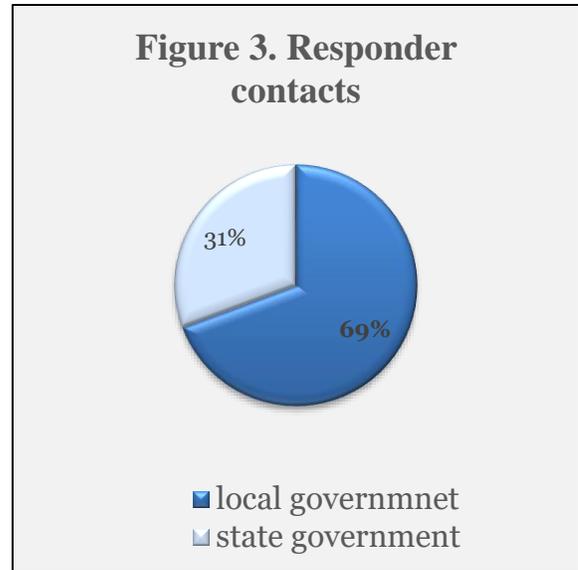
**Figure 1** shows trends in Ombudsman contacts over the years of the Ombudsman’s appointment.



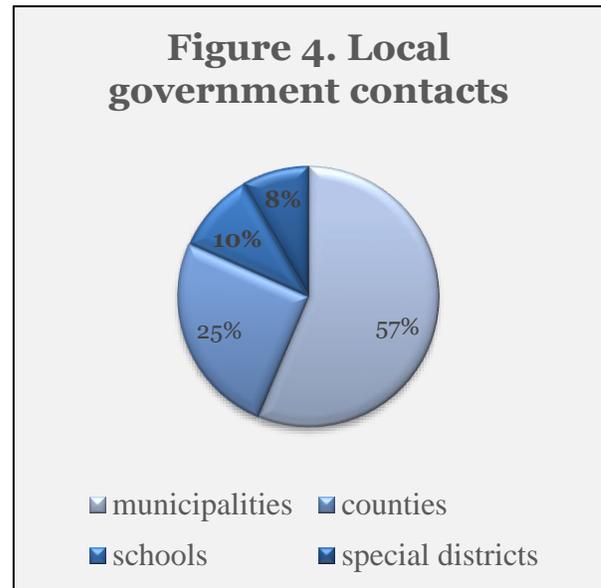
**REQUESTERS (Figure 2):** During FY 2018-2019, the Government Records Ombudsman provided 718 consultations with records requesters. Of these, 604 were members of the general public, 81 were members of the media, and 32 were entities such as non-profit organizations or out of state governments.



**RESPONDERS (Figure 3):** During FY 2018-2019 the Government Records Ombudsman provided 865 consultations with government employees. Of these 265 represented state government (31 percent) and 600 represented local governments (69 percent).



**LOCAL GOVERNMENT RESPONDERS (Figure 4):** Of 600 consultations with local governments, 338 were with municipalities (57 percent), 152 were with counties (25 percent), 50 were with special districts (8 percent), and 60 were with schools or school districts (10 percent).



**STATE GOVERNMENT RESPONDERS (Figure 5):** The 265 consultations with state government included 28 different state agencies. Of these the most frequent consultations were with Universities (16 percent), the Department of Human Services (14 percent), the Governor’s Office (13 percent), and the Department of Corrections (7 percent).

## Mediation

During FY 2018-2019 the Government Records Ombudsman mediated 50 disputes over records access issues. Of these 38 were resolved, 10 moved on to hearings before the State Records Committee, and the outcome of 2 remains pending.

**Table 1** displays mediation by type of entity and type of record or issue in dispute.

**Table 1. Mediation Types and Outcomes**

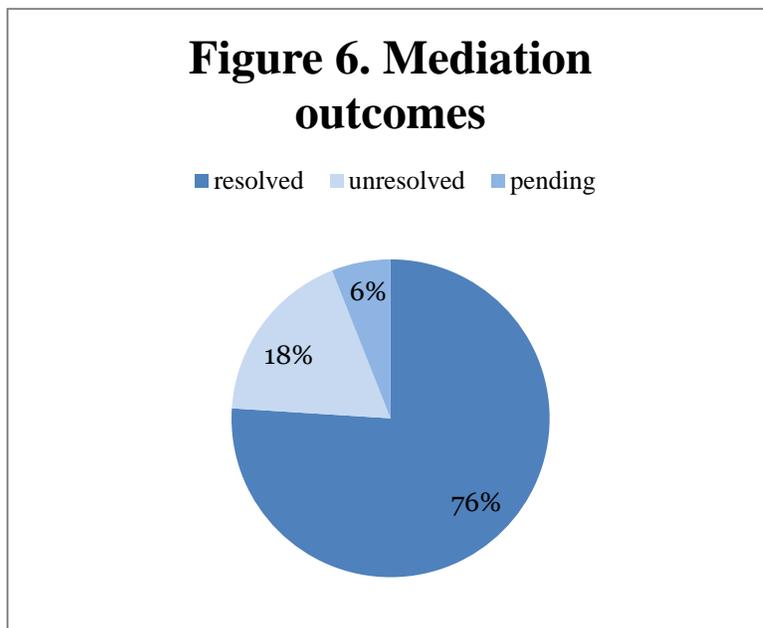
	Entities	Topic	Outcome
1	Public/AG	Financial records	Moved to SRC
2	Public/Governor	Financial records	Resolved in mediation
3	Public/Lt. Governor	Financial records	Resolved in mediation
4	Public/UDC	Inmate records	Resolved in mediation
5	Nonprofit/Special District	email	Moved to SRC
6	Public/DPS	Investigation records	Resolved in mediation
7	Public/University	Internal investigation records	Resolved in mediation
8	Media/Special District	Police investigation records	Resolved in mediation
9	Public/Municipality	Fee waiver	Resolved in mediation
10	County/County	Record sharing issue	Resolved in mediation
11	Media/Governor	Draft proposal	Resolved in mediation
12	Public/School District	Internal investigation	Moved to SRC
13	Media/Municipality	Police investigation	Resolved in mediation
14	Public/Municipality	Email/personnel records	Moved to SRC
15	Public/DPS	Internal investigation records	Resolved in mediation
16	Non profit/ University	Medical research records	Moved to SRC
17	Public/County	Police records	Resolved in mediation
18	Public/School District	Personnel records	Resolved in mediation
19	Public/Quasi-government	Administrative records-	Resolved in mediation
20	Media/DAF	Research records	Resolved in mediation
21	Public/Special District	Police records	Resolved in mediation
22	Public/County	Oaths of Office	Resolved in mediation
23	Public/Municipality	Oaths of Office	Resolved in mediation
24	Public/Municipality	Oaths of Office	Resolved in mediation
25	Public/UDC	Inmate records	Resolved in mediation
26	Public/Municipal	Investigation records	Resolved in mediation
27	Nonprofit/Governor	email	Resolved in mediation
28	Public/School District	Student records	Resolved in mediation
29	Nonprofit/Municipality	Investigation records	Resolved in mediation
30	public/UDC	Inmate records	Resolved in mediation
31	Public/Human Services	Investigation records	Resolved in mediation

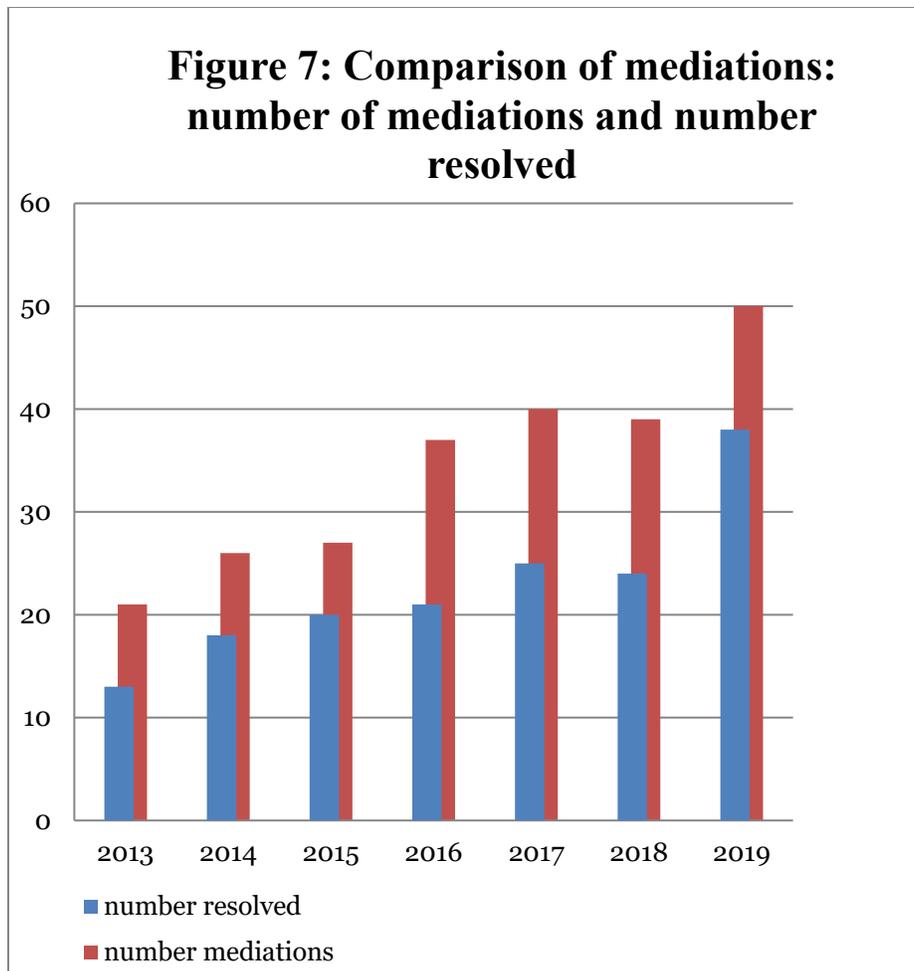
32	Public/Human Services	Investigation records	Resolved in mediation
33	Media/County	Email	Moved to SRC
34	Media/Municipal	Police records	Resolved in mediation
35	Media/University	Investigation records	Resolved in mediation
36	Media/University	Email	Resolved in mediation
37	Public/Human Services	Medical records	Resolved in mediation
38	Public/County	Email	Resolved in mediation
39	Public/Municipality	Investigation records	Resolved in mediation
40	Media/AG	Investigation records	Moved to SRC
41	Media/University	Investigation records	Resolved in mediation
42	Public/Municipal	Police records	Resolved in mediation
43	Public/County	Attorney communications	Moved to SRC
44	Public/UDC	Police video	Resolved in mediation
45	Nonprofit/Governor	Email	Resolved in mediation
46	Public/School District	Video recordings	Resolved in mediation
47	Public/Municipality	Investigation records	pending
48	Public/County	Inmate records	Moved to SRC
49	Public/GOED	Email	pending
50	Media/University	Fees	Pending

**Table 2** and **Figure 6** summarize mediation success. Compared to previous years, the number of mediations has increased, and so has the level of successful resolutions. Comparisons are illustrated in **Figure 7**.

**Table 2.** Mediation Outcomes

Total resolved in mediation	38
Total unresolved	10
Total pending	2





### Ombudsman’s additional activities

The Government Records Ombudsman provided training about GRAMA at the Archives and other venues around the state. At least 282 people have participated in this training. Through the Utah Council for Citizen Diplomacy, the ombudsman hosted 26 guests from Latin and South America to discuss the role of the ombudsman and tour Utah State Archives.

The Ombudsman has been involved in an advisory capacity with the ongoing development of the Open Records Portal, which is a central location from which the public is able to make GRAMA requests to governmental entities. Use of the portal is rapidly increasing.

In March, the Ombudsman and other members of the Archives staff hosted the second Open Records Conference to celebrate government transparency. This event was highly successful, and the Archives staff hopes to make it an annual tradition. [Presentations](#) from that day are available on the Archives website.

## Ombudsman's Observations

The Utah Municipal Clerks Association has reported that they are receiving recurrent requests for records which the recipient intends to use for commercial purposes. These requests are for compilations of records such as purchasing/vendor information, business licensing information, building permits, code enforcement information, inactive utility accounts, maps of utilities, zoning, subdivisions, and more. Requesters often ask for owners' names and contact information and for records to be provided in a specific format. The clerks would appreciate a greater level of compensation for the work they do when they process requests for information that is intended to be used for commercial purposes. Utah tax dollars are supporting the commercial enterprises of companies outside of Utah.

There is a pattern of lost or otherwise unavailable records in small governmental entities such as special districts. Some of these entities are too small to have office space, so records are in homes or random places. Records are lost when there is change in personnel. Frequently, it is succeeding personnel who are frustrated by the loss of records. Perhaps it is time for a Legislative mandate that all governmental entities that are subject to OPMA post their meeting minutes on the Public Notice Website. This would help by providing a repository of basic records for all governmental entities.

The position of government records ombudsman was created seven years ago in 2012. As previously stated, the ombudsman is to be familiar with the provisions of GRAMA; to serve as a resource for a person who is making or responding to a request; and to mediate disputes between requesters and responders. Workflows have been established to accomplish these responsibilities. However, the Archives and the Department of Administrative Services would like to craft administrative rules to clarify certain processes such as the way in which the ombudsman interfaces with the State Records Committee. The law is currently unclear about rule making authority for the position of the ombudsman. This lack of clarity can be resolved by specifically stating that the Department of Administrative Services has rule making authority for the government records ombudsman. This rule making authority could be specifically extended to the Open Records Portal and the Public Notice Website as well.