

GOVERNMENT RECORDS OMBUDSMAN 2020 report

Presented to the Government Operations Interim Committee

compiled by the Utah State Archives

8/7/2020



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 7, 2020

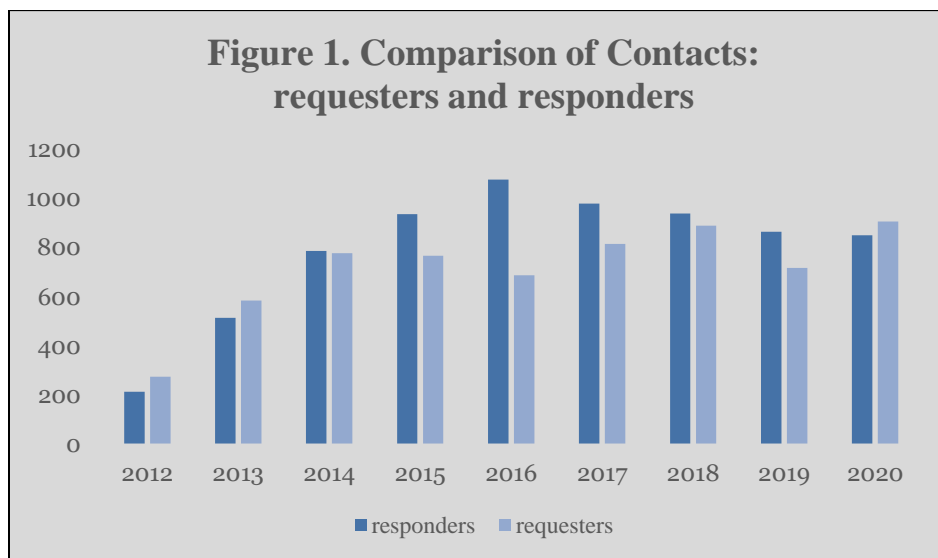
This is a report of the work of the Government Records Ombudsman for fiscal year 2019-2020. The Government Records Ombudsman is a resource for people who are searching for government records, making records requests under the Government Records Access and Management Act (GRAMA) and for people who are 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](#).

In addition to the responsibilities specifically outlined above, the ombudsman provides training about GRAMA and records issues, and serves as a member of the Utah Transparency Advisory Board which provides oversight of Utah's transparency websites. The ombudsman works closely with the State Records Committee executive secretary and with the administrator of the Public Notice Website and Open Records Portal. Rosemary Cundiff has served as Utah's government records ombudsman since the position was created in 2012.

Summary of Contacts

During FY 2019-2020 the Government Records Ombudsman provided 1,768 consultations about issues related to records access or mediation. Of these consultations, 907 involved requesters (the public, the media, and other non-government entities) and 861 involved responders who are employees of governmental entities in Utah.

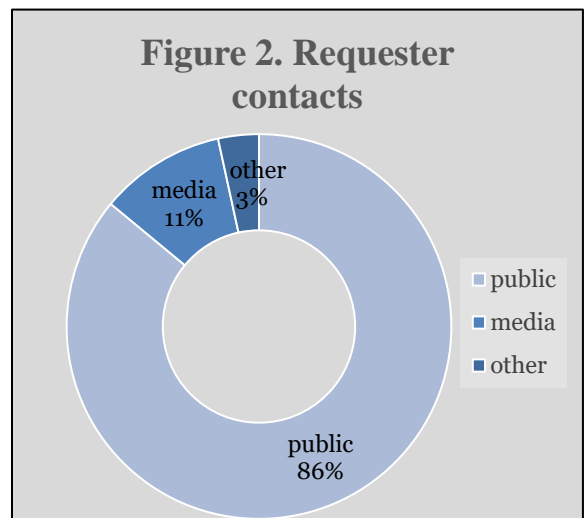
Figure 1 shows trends in Ombudsman contacts over the years of the Ombudsman’s appointment.



RECORDS REQUESTERS:

During FY 2019-2020, the Government Records Ombudsman provided 907 consultations with records seekers. Of these, 780 were members of the general public, 96 were members of the media, and 31 were representatives of entities such as non-profit organizations or out-of-state governments.

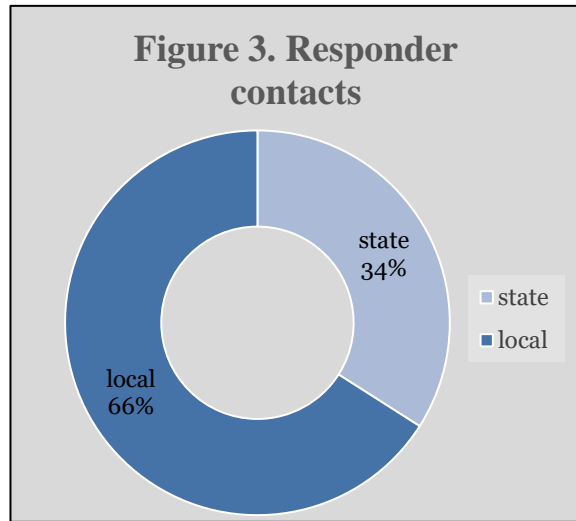
Figure 2 shows that the majority of people who contact the ombudsman are citizens and not representatives of the media or other entities.



RESPONDERS:

During FY 2019-2020, the Government Records Ombudsman provided 861 consultations with government employees. Of these, 293 work for state government and 568 work for local governments.

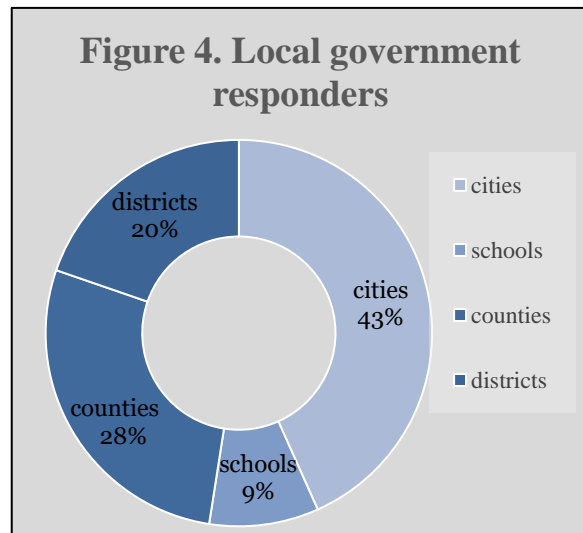
Figure 3 shows that the majority of government employees who contact the ombudsman work for local governments. However, during FY 2019-2020, the percentage of contacts with state government employees has been higher than in previous years.



LOCAL GOVERNMENT RESPONDERS:

Of 568 consultations with local governments, 246 were with municipalities, 158 were with counties, 112 were with special districts, and 52 were with schools or school districts.

Figure 4 shows that the majority of local government employees who contact the ombudsman work for cities or towns. However, a significant number of contacts come from employees of counties and special districts as well.



STATE GOVERNMENT RESPONDERS: The 293 consultations with state government included 32 different state agencies. Of these, the most frequent consultations were with Universities (including BYU police department), the Department of Corrections, and the Tax Commission. The ombudsman also had frequent contact with the Departments of Administrative Services, Natural Resources, Human Services, Workforce Services, and the Attorney General’s Office.

Mediation Summary

During FY 2019-2020 the Government Records Ombudsman mediated 46 disputes over records access issues. Of these, 27 were resolved, 15 moved on to hearings before the State Records Committee, and the outcome of 4 remains pending. Two involved issues about which a hearing was not anticipated.

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

Table 1. Mediation Types and Outcomes

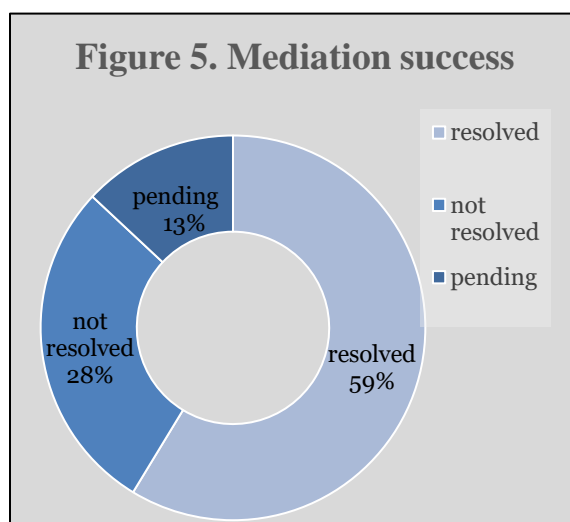
	Entities	Topic	Outcome
1	Service district/county	Records custody issue	No hearing
2	Public/UDC	Fee waiver	Moved to SRC
3	Public/county	Email	Resolved in mediation
4	Public/county	Attorney client privilege	Moved to SRC
5	Media/university	Police records/attorney client privilege	Moved to SRC
6	Media/university	Police records	Resolved in mediation
7	Media/county	Police investigation records	Resolved in mediation
8	Public/municipal	Police records	Resolved in mediation
9	Public/service district	Investigation records	Moved to SRC
10	Public/municipal	Text messages	Resolved in mediation
11	Public/UDC	Inmate records	Resolved in mediation
12	Public/district	Multiple records	Resolved in mediation
13	Public/Tax Commission	Tax assessment records	Moved to SRC
14	Public/municipality	Police records	Resolved in mediation
15	Public/municipality	Multiple records	Resolved in mediation
16	Public/district	Police records	Resolved in mediation
17	Public/DWS	Personnel records	Resolved in mediation
18	Public/municipality	City planning records	Resolved in mediation
19	Media/SOE	Internal investigation records	Resolved in mediation
20	Public/university	Student records	Resolved in mediation
21	Public/Tax Commission	Investigation records	Moved to SRC
22	Public/County	Jail records	Moved to SRC
23	Public/UDC	Personnel records	Resolved in mediation
24	Public/county	Jail records/medical records	Resolved in mediation
25	Public/county	Financial and budget records	Resolved in mediation
26	Public/county	Jail records	Moved to SRC
27	Public/Commerce	Complaint records	Resolved in mediation
28	Public/Insurance	Complaint records	Resolved in mediation
29	Public/county	Fee waiver	Resolved in mediation
30	Public/municipality	Email	Moved to SRC

31	Public/DNR	Business confidentiality	Moved to SRC
32	Media/DNR	Business confidentiality	Moved to SRC
33	Public/DAS	Mountain Accord records	No hearing
34	Public/county	Jail records	Resolved in mediation
35	Public/AG	Financial records	Moved to SRC
36	Public/county	Municipal billing records	Pending
37	Media/DAF	Cannabis licenses	Resolved in mediation
38	Public/municipality	Procurement records	Resolved in mediation
39	Public/municipality	Police records	Resolved in mediation
40	Public/JCC	Investigation records	Moved to SRC
41	Public/municipality	Building permit records/fees	Pending
42	Public/municipal	Police records	Resolved in mediation
43	Public/county	Tax appraisal records	Resolved in mediation
44	Public/university	Extraordinary circumstances	Resolved in mediation
45	Public/school district	Student and investigation records	Pending
46	Public/school district	Email	Pending

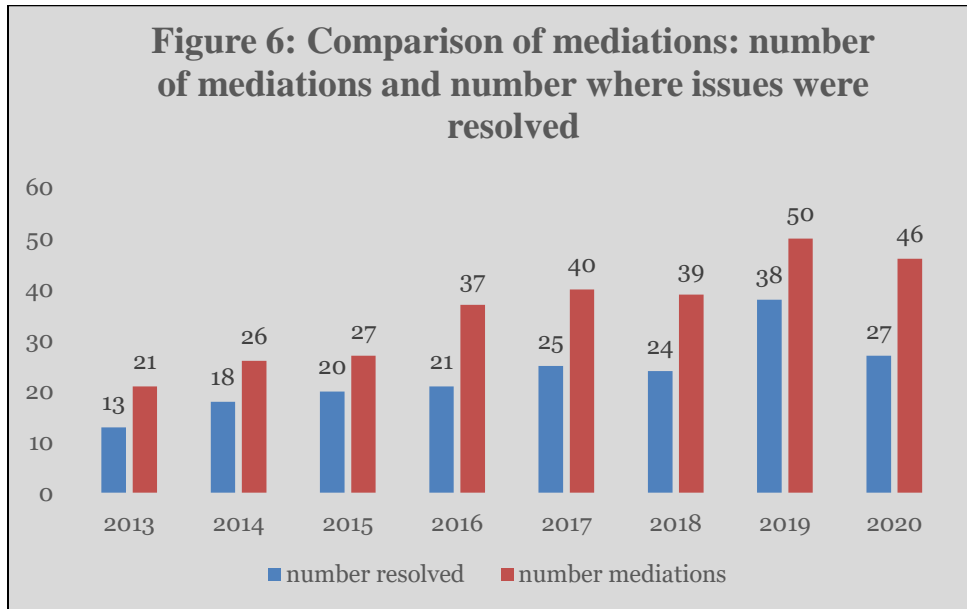
Table 2 and Figure 5 summarize mediation success. Compared to last year, the number of mediations has decreased and so has the percentage of successful resolutions. The inability of parties to meet and talk in person due to the COVID-19 pandemic may be a factor in this downward trend.

Table 2. Mediation Outcomes

resolved by mediation	27
not resolved by mediation	13
outcome pending	4
Success not measured	2



A comparison for all years shows an overall increase in mediation meetings, as illustrated in **Figure 6**.



Ombudsman’s additional activities

The Government Records Ombudsman provided training about GRAMA at the Archives and other venues around the state. At least 315 people have participated in this training during the first three quarters. Training events scheduled during the last quarter of fiscal year 2019-2020, as well as the annual Sunshine Conference were cancelled, due to the pandemic. The ombudsman has created some online training and is in the process of updating GRAMA-related forms which are available on the State Archives website.

The Utah Council for Citizen Diplomacy again asked the ombudsman to speak to international guests about the role of the ombudsman. This demonstrates international interest in this position. The Utah Association of Special Districts (UASD) affirmed the value of this position by honoring the ombudsman with an award for outstanding public service at the Association’s annual banquet in November, 2019. A copy of this award is attached to this report (Exhibit 1). This award is about the value of the position which the Legislature had the foresight to create as much it is about the individual who occupies the position.

Ombudsman's Observations

The position of government records ombudsman was created eight years ago. During this time there has been a steady increase, not just in ombudsman contacts, but also in appeals to the State Records Committee, mediations about records issues, and in the number of requests being made through the Open Records Portal. This suggests that more people are attempting to access government records than ever before. Perhaps citizens are more politically involved and more aware of government.

Exhibit 1

UTAH ASSOCIATION OF SPECIAL DISTRICTS
RESOLUTION AWARDING
THE
2019 DISTINGUISHED PUBLIC SERVICE AWARD
TO
ROSEMARY CUNDIFF

WHEREAS, in 2012, the position of Government Records Ombudsman, to be appointed by the State Archivist, was created;

WHEREAS, Rosemary Cundiff who, at that time was the head of the Records Management Section at State Archives, was appointed as the first, and to date only, Government Records Ombudsman;

WHEREAS, the stated purpose of State Archives "is to assist Utah government agencies in the efficient management of their records, to preserve those records of enduring value, and to provide quality access to public information";

WHEREAS, throughout her 19 years as a State Archives employee, Rosemary has exemplified that mission statement and, as the Government Records Ombudsman, she has provided invaluable advice and assistance to citizens seeking government records and to governmental agencies and entities as they respond to records requests;

WHEREAS, Rosemary has set a high standard by doing her best to help private citizens, businesses and governmental entities and agencies navigate through the Government Records Access and Management Act, which can be daunting, and to resolve disagreements through negotiation and discussions, thereby avoiding protracted divisive disputes;

WHEREAS, Rosemary has been an invaluable resource to local and special service district records officers, who are responsible for the maintenance of their districts' records, classifying those records, and responding to records requests;

WHEREAS, Rosemary is uniformly courteous, helpful and respectful; and

WHEREAS, in recognition of exemplary work and leadership in the protection, preservation, proper classification and lawful public access to government records, and her invaluable assistance to local and special service districts throughout Utah, Rosemary Cundiff has been selected to receive the 2019 UASD Distinguished Public Service Award.

NOW, THEREFORE, be it resolved as follows:

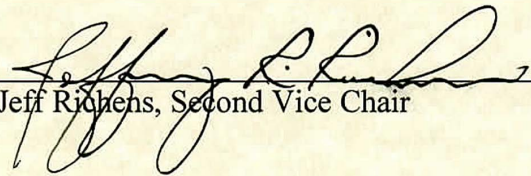
In recognition of distinguished public service to the state of Utah, private citizens, the Utah Association of Special Districts and local and special service districts throughout the state

of Utah, Rosemary Cundiff is recognized and honored as the recipient of the 2019 Utah Association of Special Districts Distinguished Public Service Award.

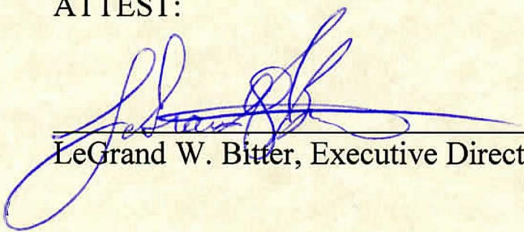
DATED this ^{8th} day of November, 2019.


Mark T. Becraft, Chair


Corey Cram, First Vice Chair


Jeff Richens, Second Vice Chair

ATTEST:


LeGrand W. Bitter, Executive Director

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