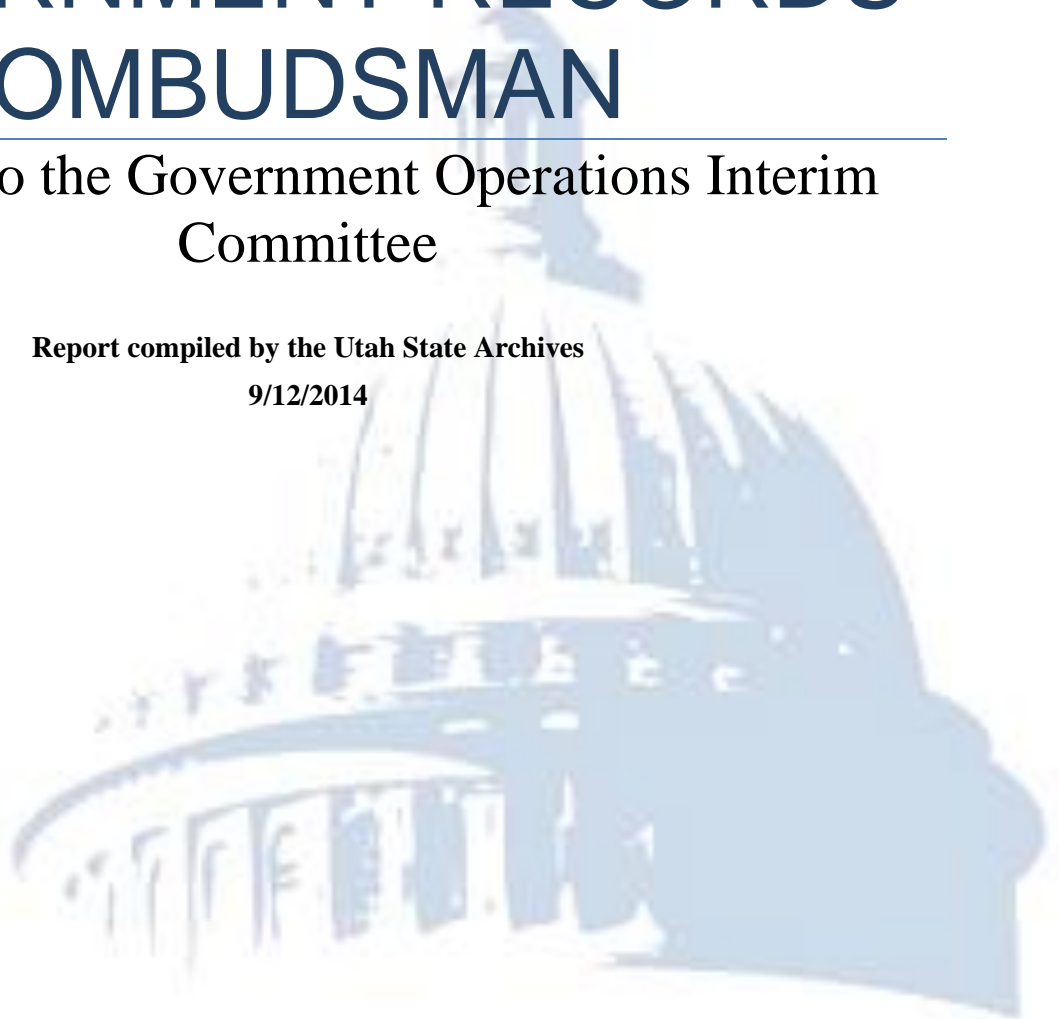


GOVERNMENT RECORDS OMBUDSMAN

Presented to the Government Operations Interim
Committee

Report compiled by the Utah State Archives

9/12/2014



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

September 12, 2014

At the end of fiscal year 2014 the government records ombudsman completed a second full year of service to the state of Utah. Appointed by the director of the Division of Archives and Records Services, the government records ombudsman must be familiar with the Government Records Access and Management Act (GRAMA) in order to be a resource for records officers who are responding to GRAMA requests and also to assist anyone who is requesting records or appealing the denial of either access to records or a fee waiver. Upon request, the government records ombudsman can mediate disputes between requesters and responders. These responsibilities are defined in Utah Code 63A-12-111:

63A-12-111. Government records ombudsman.

- (1) (a) The director of the division shall appoint a government records ombudsman.
- (b) The government records ombudsman may not be a member of the records committee.
- (2) The government records ombudsman shall:
 - (a) be familiar with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;
 - (b) serve as a resource for a person who is making or responding to a records request or filing an appeal relating to a records request;
 - (c) upon request, attempt to mediate disputes between requestors and responders; and
 - (d) on an annual basis, report to the Government Operations Interim Committee on the work performed by the government records ombudsman during the previous year.
- (3) The government records ombudsman may not testify, or be compelled to testify, before the records committee, another administrative body, or a court regarding a matter that the government records ombudsman provided services in relation to under this section.

Two years ago the Legislature created this position as a resource for government employees who must comply with the law, and also for members of the media and the public who are seeking records. Increased contact in the second year suggests that the office is being utilized.

Activities and services

The government records ombudsman has continued to keep records of contacts and requests since the time of appointment. This report includes work completed during the second full year, which is FY 2013-2014 (July 1, 2013, to June 30, 2014). During the second fiscal year, the government records ombudsman provided 1,565 consultations, including mail, email, telephone, or in-person assistance. Of these 778 involved requesters (the public or the media) and 787 involved records responders (governmental entities). These numbers reflect a 42 percent increase over the first fiscal year. This is a 33 percent increase in consultations with requesters and a 52 percent increase in consultations with government responders.

Increased contact suggests that more people are becoming aware of the office and are utilizing its service. Responders are using the ombudsman as a sounding board for their decisions about responses to records requests. They are also using the ombudsman to facilitate communication or mediation with difficult requesters. Requesters are contacting the ombudsman to discover where to direct their requests, to ask for help with appeals or for help interpreting responses to records requests. They are calling the ombudsman to complain about government. The office is a place to air grievances.

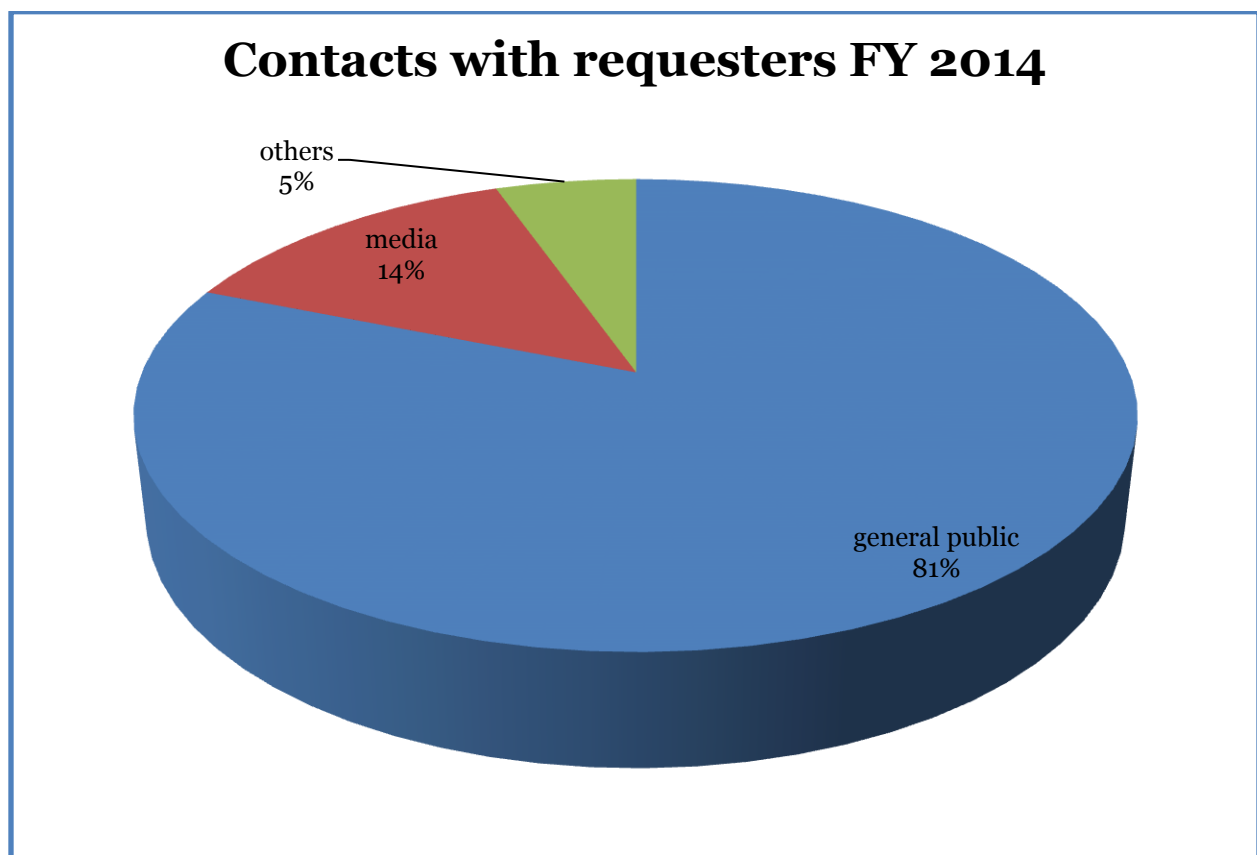
The government records ombudsman provided training at the Archives and upon invitation at annual conferences. These included presentations for the Utah League of Cities and Towns, the Utah Association of Special Districts, and the Municipal Clerks Association. The ombudsman responded to invitations to provide training for specific groups including the Department of Administrative Services and several law enforcement agencies. In all, the ombudsman's presentations reached 278 people.

In response to questions about sharing records, the ombudsman compiled [What Does GRAMA say about Sharing Records?](#) The ombudsman also added [record sharing forms](#) to the GRAMA forms and worksheets that were already available on the Archives website.

The services of the records ombudsman increase government efficiency by reducing the number of hearings that go before the State Records Committee. During the 2014 fiscal year mediation over records access disputes successfully resolved the issues in 18 of 26 instances, thus eliminating 18 potential hearings. In addition to full mediation, there were at least 43 instances in which initial contact with a requester or responder resulted in the ombudsman's contact with the counter responding or requesting party. In addition to improving efficiency and transparency in government, the office of the ombudsman is facilitating communication between requesters and responders.

Requesters¹

During the FY 2013-14, the government records ombudsman provided 778 consultations with records requesters. Of these, 631 were members of the public, 105 were representatives of the media, and 42 represented corporations, non-profits, or out-of-state governments (other entities). In the second year, 81 percent of requests for assistance came from the public. Requests from the media accounted for 14 percent² and other entities 5 percent. Increased contact in the second year is exclusively increased contact with the public. The number of contacts with the media and other entities remained approximately constant for both years.

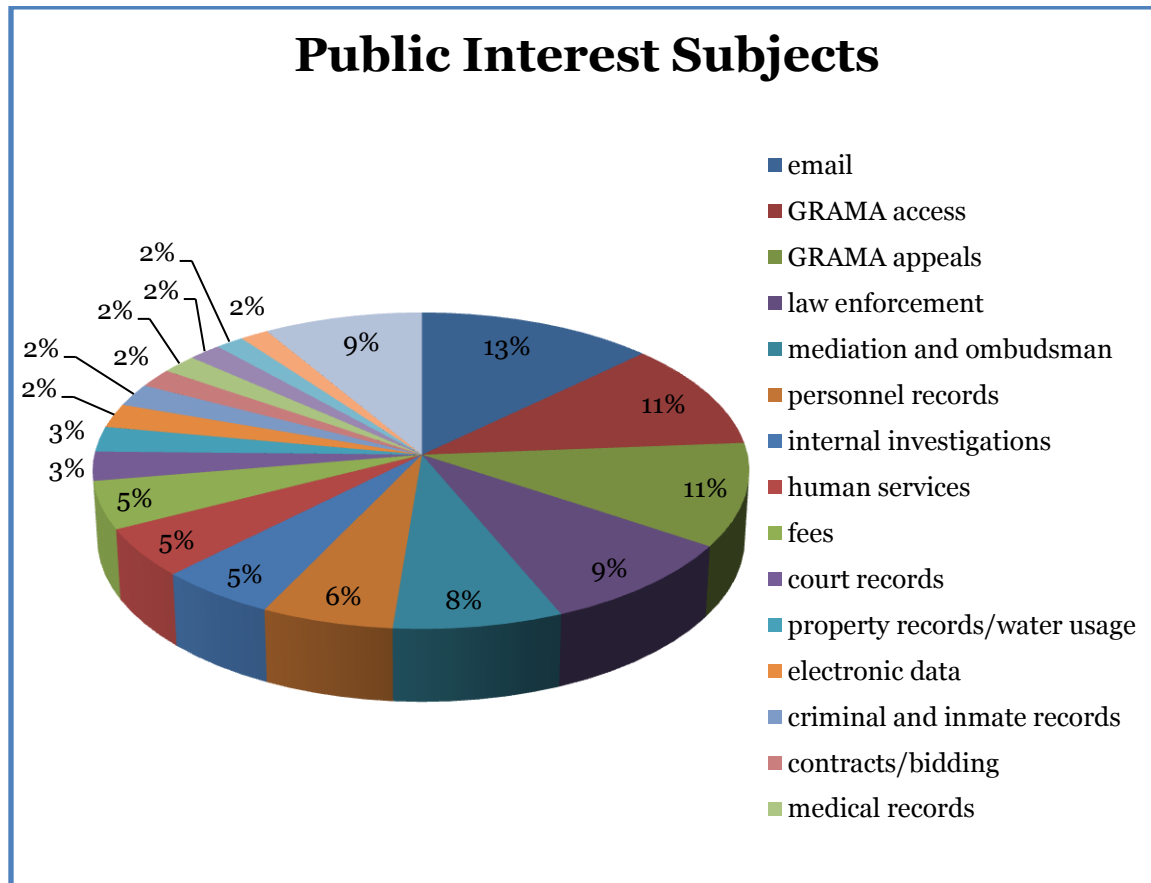


¹ All graph numbers are rounded up; percentages may not be exact. Refer to Appendix for complete compilations.

² Public requests were 75 percent and media 18 percent in the last records ombudsman report.

Types of records

Requesters are interested in a wide variety of records and issues. Questions about email were at the top of the list at 13 percent, followed by questions about GRAMA access and appeals (11 percent each) and about law enforcement (9 percent). There was also considerable interest in mediation, personnel records, internal investigations, human services, and fees. Collectively, requests identified by electronic format (email and other electronic data) accounted for 12 percent.



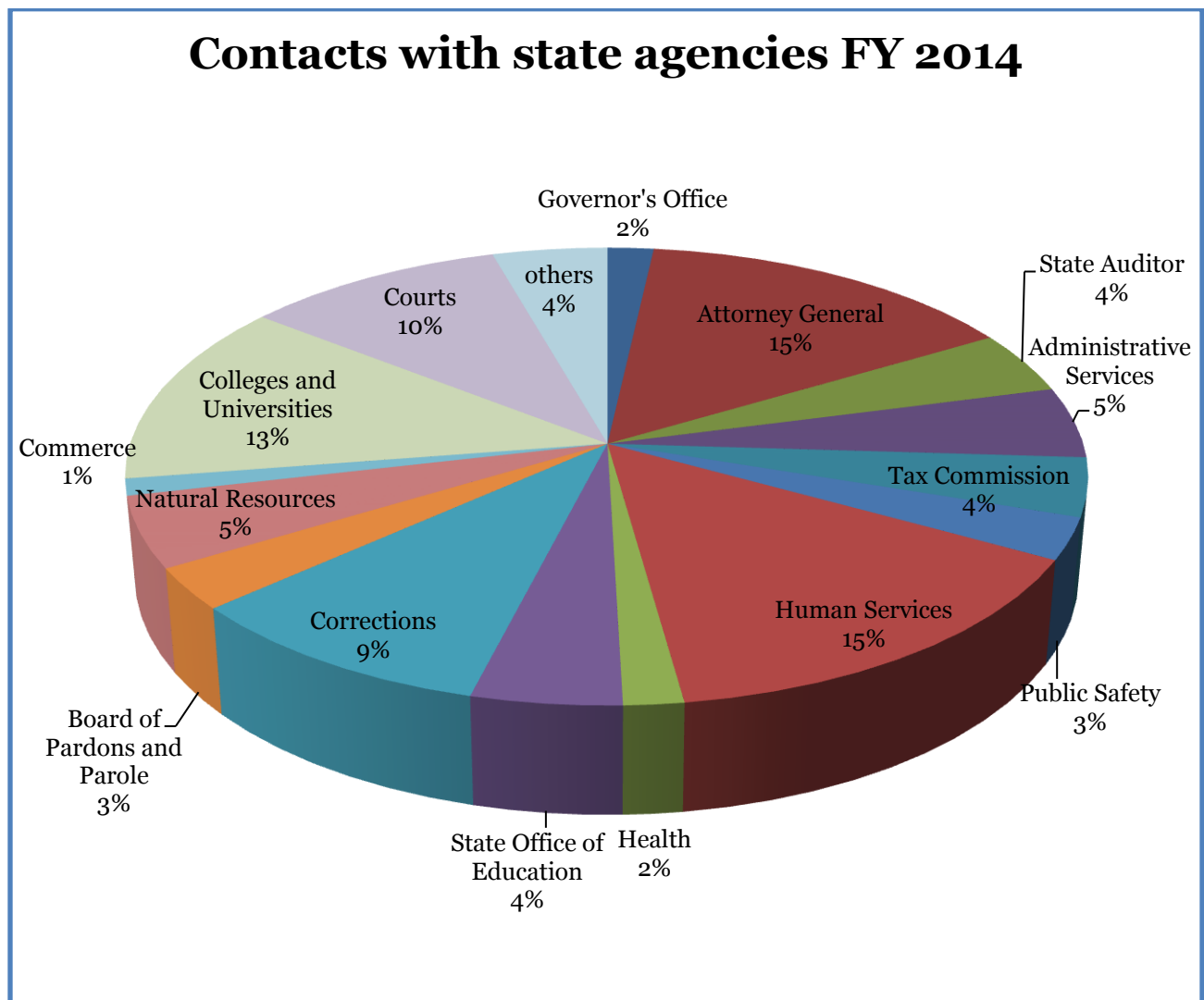
“Other” subjects include attorney client privilege; policies, ordinances, laws; vital records; records management; certification and training; corporations/business; historical records; natural resources; notary records; audits; oaths of office; records sharing; student records; tax assessment; and amending records.

Responders

The government records ombudsman provided 787 consultations with government employees. Of these 339 represented state government (43 percent) and 448 represented local governmental entities (57 percent).

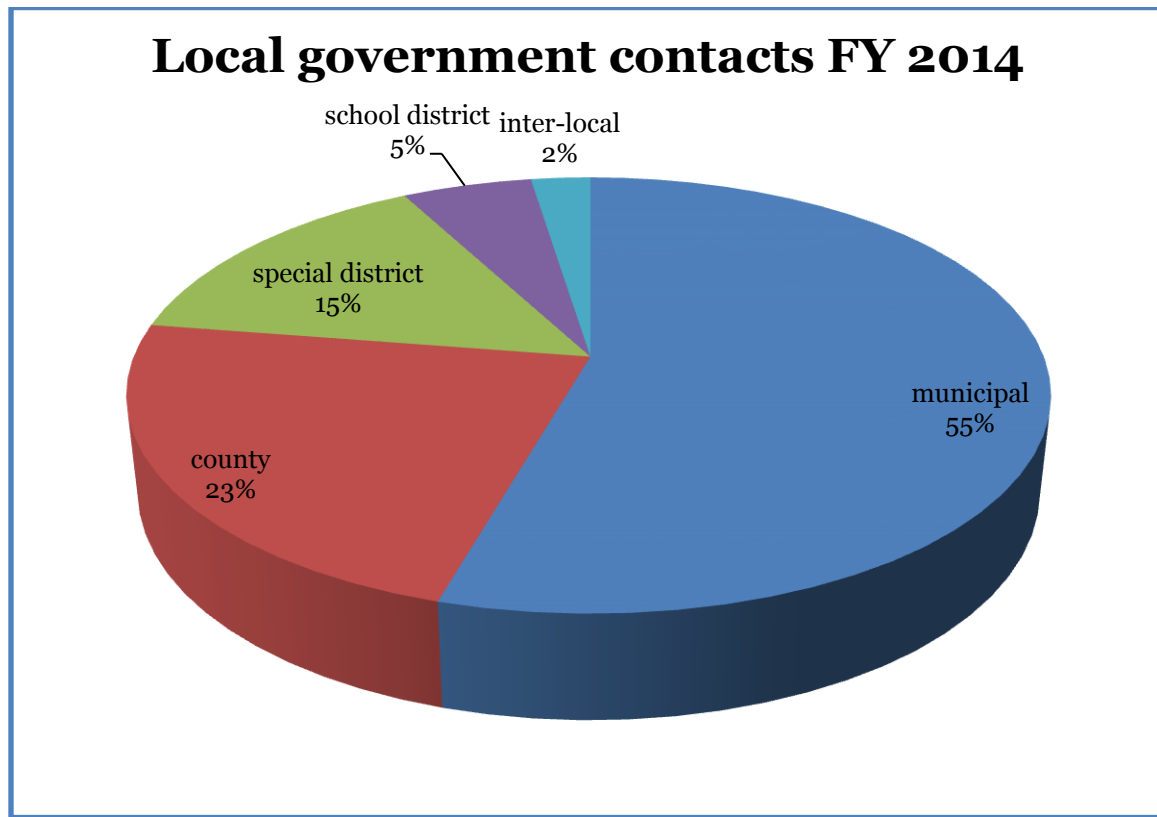
State Agency Responders

Contacts with state government increased from 214 in the first year to 339 in the second year. Within state government the Department of Human Services (15 percent), the Attorney General's Office (15 percent), Colleges and Universities (13 percent), and the Department of Corrections (9 percent) were the most frequent consultations.



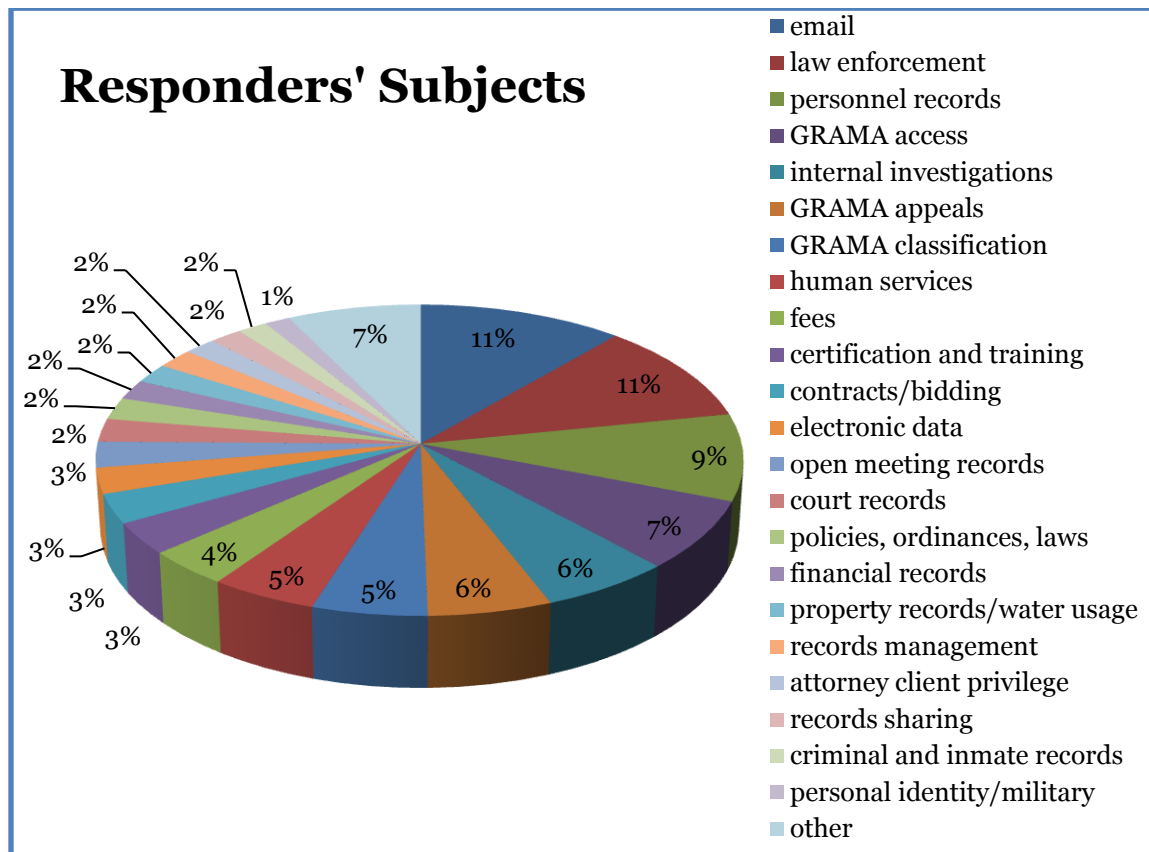
Local Government

Consultations with local governments increased from 214 in the first year to 448 in the second year, which is more than double. Of consultations with local governments, 244 represented municipalities (55 percent), 103 represented counties (23 percent), 66 represented special districts (15 percent), 24 represented school districts (5 percent), and 11 represented inter-local entities (2 percent).



Types of records

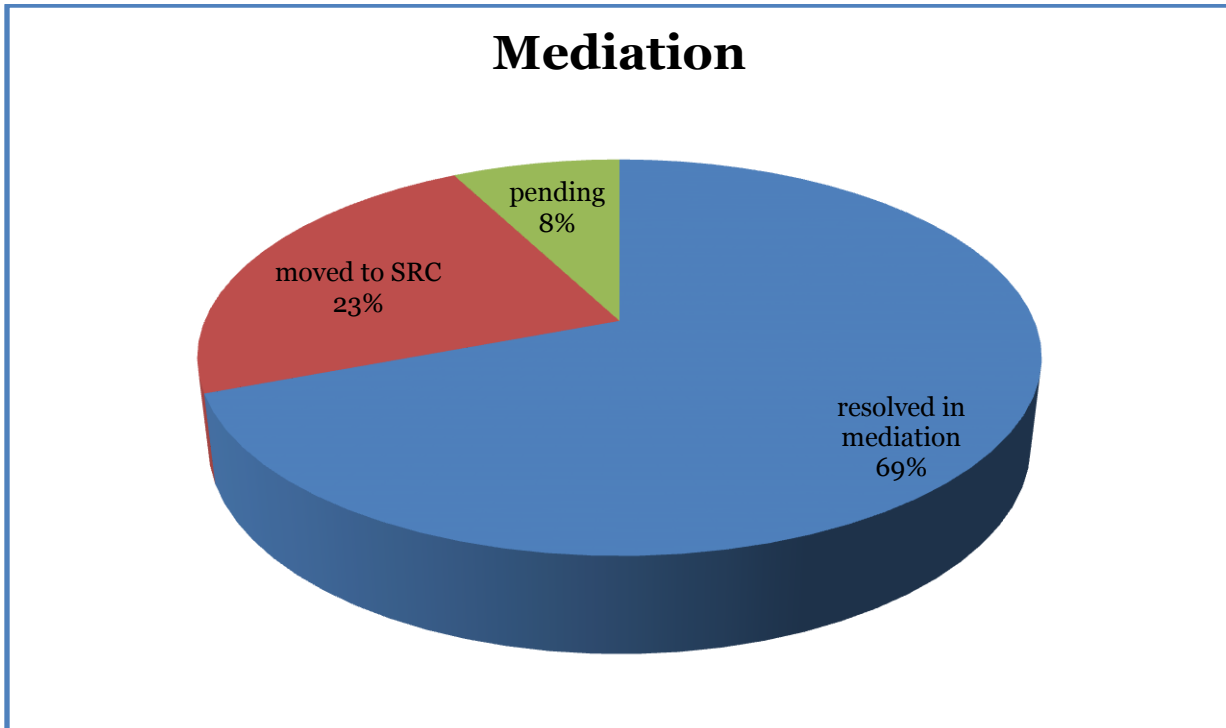
In most cases, responders were interested in the same kinds of records and issues as requesters. Email, GRAMA access and appeals, and law enforcement were among the most popular topics for both requesters and responders. Personnel records, internal investigations, human services, and fees were also at the top of the responders' list. However, the topics of GRAMA classification, certification and training, and records management were significantly more frequent for responders than requesters. Collectively, issues relating to electronic records (email and other electronic data) were 14 percent.



“Other” subjects include mediation and ombudsman, student records, medical records, historical records, notary records, natural resources, amending records, audits, oaths of office, tax assessment, and corporations/business.

Mediation

In twenty-six instances, the records ombudsman facilitated formal mediation between parties, usually involving in-person meetings of both parties with the records ombudsman. In eighteen cases (69 percent), the issue was resolved through mediation. Six cases (23 percent) required a hearing before the State Records Committee after mediation, and in two cases the outcome is not yet determined.



Appendix:

Compilation of statistical information

Requester Contacts

Topic	Public	Media	Others	Total	Percent
Amending Records	1			1	0.13%
Attorney Client Privilege	2	6		8	1.03%
Audits	2			2	0.26%
Certification and Training	3		3	6	0.77%
Contracts/Bidding	9	4	2	15	1.93%
Corporations/Business	3	2	1	6	0.77%
Court Records	22		1	23	2.96%
Criminal and Inmate Records	16		2	18	2.31%
Electronic Data		7	12	19	2.44%
Email	61	35	4	100	12.85%
Fees	31	7		38	4.88%
Financial Records	12			12	1.54%
GRAMA Access	81	4		85	10.93%
GRAMA Classification					0.00%
GRAMA Appeals	80	2		82	10.54%
Historical Records	4		1	5	0.64%
Human Services	39			39	5.01%
Internal Investigations	25	16		41	5.27%
Law Enforcement	66	5	2	73	9.38%
Mediation and Ombudsman	56	3		59	7.58%
Medical Records	9	6		15	1.93%
Natural Resources	1		3	4	0.51%
Notary Records	4			4	0.51%
Oaths of Office	2			2	0.26%
Open Meeting Records	14			14	1.80%
Personal Identity/Military	7	2	3	12	1.54%
Personnel Records	46			46	5.91%
Policies, Ordinances, Laws	7	1		8	1.03%
Property Records/Water Usage	13	3	4	20	2.57%
Records Sharing	1		1	2	0.26%
Records Management	2	2	3	7	0.90%
Student Records	2			2	0.26%
Tax Assessment	2			2	0.26%
Vital Records	8			8	1.03%
Total				778	

Responder Contacts

Topic	Inter-local	County	Mun	Spec Dist	School	State	Total	Percent
Amending Records				4			4	0.51%
Attorney Client Privilege			1	1		12	14	1.78%
Audits		3					3	0.38%
Certification and Training		1	11	6		8	26	3.30%
Contracts/Bidding	11	2	8	2	1		24	3.05%
Corporations/Business			1				1	0.13%
Court Records		1	2			16	19	2.41%
Criminal and Inmate Records		1				12	13	1.65%
Electronic Data		11	6	1		3	21	2.67%
Email		16	58	2	3	10	89	11.31%
Fees		2	7	4	2	15	30	3.81%
Financial Records		1	12			3	16	2.03%
GRAMA Access		4	14	20		19	57	7.24%
GRAMA Classification		5	19	3		14	41	5.21%
GRAMA Appeals		5	14	3	2	20	44	5.59%
Historical Records		2		1	1	2	6	0.76%
Human Services			7			31	38	4.83%
Internal Investigations			7			40	47	5.97%
Law Enforcement		30	32	5		16	83	10.55%
Mediation and Ombudsman		2	7			1	10	1.27%
Medical Records						7	7	0.89%
Natural Resources						5	5	0.64%
Notary Records						6	6	0.76%
Oaths of Office			1			2	3	0.38%
Open Meeting Records		3	8	5		5	21	2.67%
Personal Identity/Military			3	1		7	11	1.40%
Personnel Records		1	2	2	9	57	71	9.02%
Policies, Ordinances, Laws		2	8	1		7	18	2.29%
Property Records/Water Usage		3	7	1		5	16	2.03%
Records Sharing		2	4	2		6	14	1.78%
Records Management		3	5	2	1	5	16	2.03%
Student Records					5	5	10	1.27%
Tax Assessment		3					3	0.38%
Total							787	

Mediation

	entities	topic	outcome
1	Media/state gov	Fees	Resolved in mediation
2	Public/municipality	Confidentiality agreement, contract	moved to SRC and district court
3	Media/municipality	Water usage	moved to SRC
4	Public/state gov	Dispatch tapes	Resolved in mediation
5	Public/state gov	Internal investigation	Resolved in mediation
6	Public/municipality	Email	Resolved in mediation
7	Media/municipality	Criminal investigation	moved to SRC
8	Public/municipality	Police reports	Resolved in mediation
9	Public/state gov	Fees	Resolved in mediation
10	Media/municipality	Internal investigation	Resolved in mediation
11	Public/school district	Personnel records, fees	moved to SRC
12	Media/state gov	Attorney client privilege, email	moved to SRC
13	Public/municipality	GRAMA vs discovery, police reports	moved to SRC
14	Public/county	GRAMA vs discovery, police reports	Resolved in mediation
15	Public/state gov	Email, personnel records	Resolved in mediation
16	Public/municipality	Email	pending
17	Public/county	Email	Resolved in mediation
18	Interlocal/interlocal	Contract	Resolved in mediation
19	Media/state gov	Medical research records	Resolved in mediation
20	Public/municipality	Email, contracts	Resolved in mediation
21	Public/state gov	DCFS case files	Resolved in mediation
22	Public/state gov	Personnel records, tenure	Resolved in mediation
23	Media/municipality	Email	Resolved in mediation
24	Public/state gov	Correspondence, contracts, marketing information	pending
25	Media/state gov	Student records	Resolved in mediation
26	Media/state gov	Medical research agreements	Resolved in mediation

Total resolved in mediation	18
Total moved to SRC	6
Total pending	2