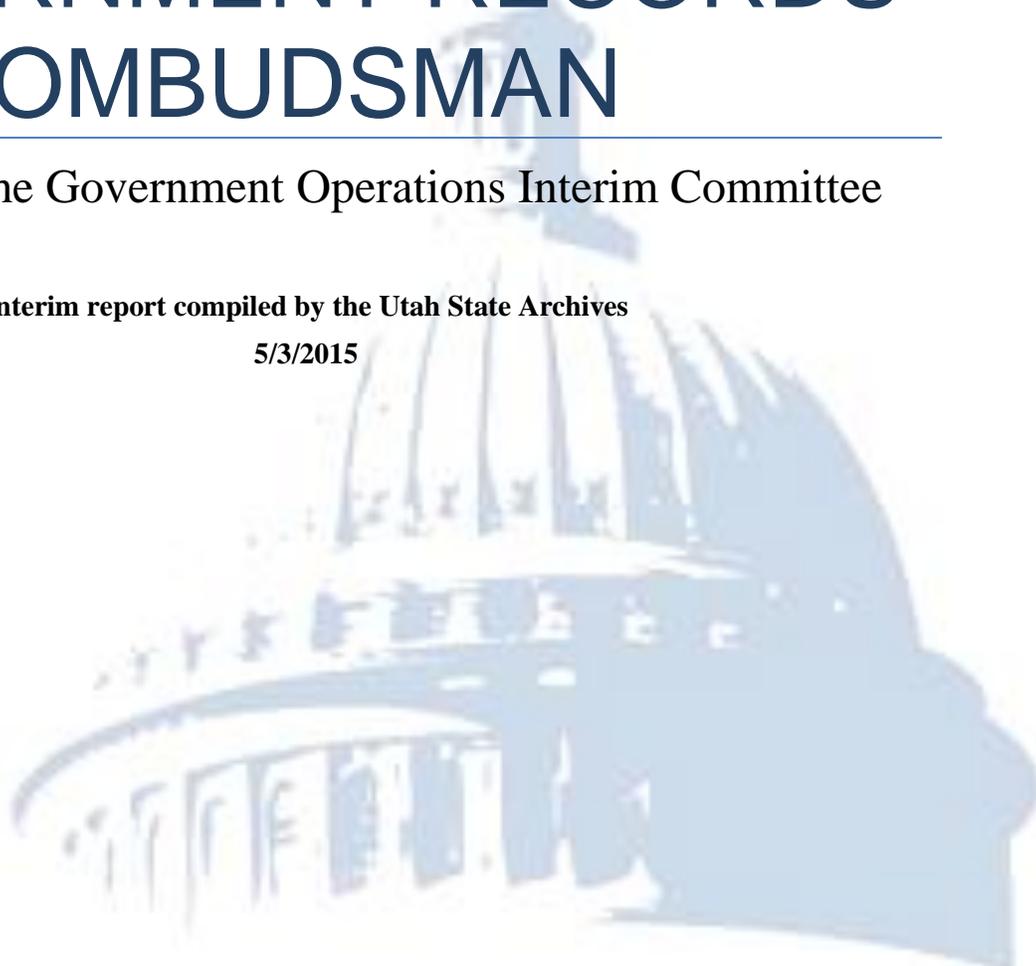


GOVERNMENT RECORDS OMBUDSMAN

Presented to the Government Operations Interim Committee

Interim report compiled by the Utah State Archives

5/3/2015



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

May 3, 2014

This report covers the work of the government records ombudsman for the first ten months of fiscal year 2015. An updated final report will be published at the end of June, which is the end of the fiscal year. The updated report will provide consistency over time.

The government records ombudsman acts as a resource for records officers who are responding to GRAMA requests and for persons who are either seeking records or appealing denials of records or of fee waivers. The government records ombudsman is also authorized to mediate disputes between requesters and responders. These responsibilities are defined in Utah Code 63A-12-111.

63A-12-111. Government records ombudsman.

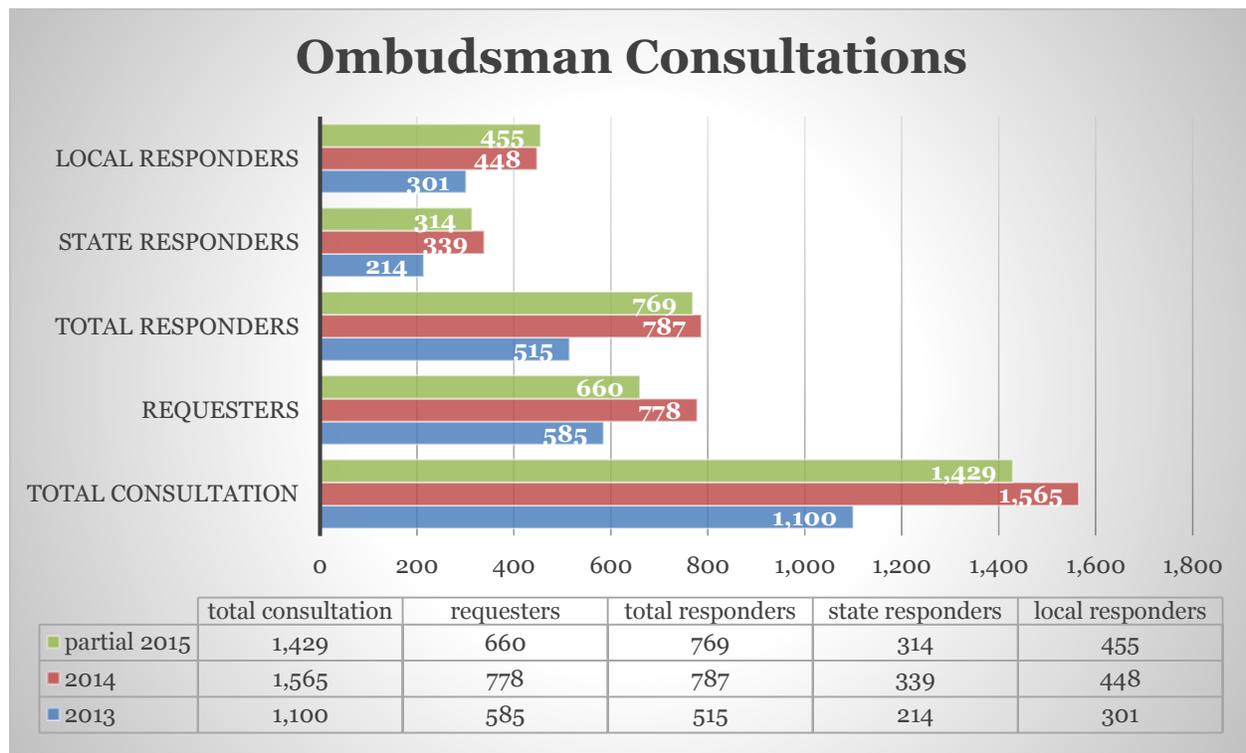
- (1) (a) The director of the division shall appoint a government records ombudsman.
- (b) The government records ombudsman may not be a member of the records committee.
- (2) The government records ombudsman shall:
 - (a) be familiar with the provisions of Title 63G, Chapter 2, Government Records Access 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.

Activities and services

The government records ombudsman has continued to keep records of contacts and requests since the time of appointment. The current report includes work completed during the first ten months of the third fiscal year of appointment, which is fiscal year 2015, including July 1, 2015, to April 30, 2015. During this period the government records ombudsman provided 1,429 consultations, including mail, email, telephone, or in-person assistance. Of these 660 involved requesters (the public, the media, and other entities) and 769 involved records responders (Utah governmental entities). These numbers represent an anticipated increase over last year in the number of consultations with responders. The number of consultations with requesters is anticipated to be about the same as for last year.

Continued activity suggests that the office of the ombudsman is a valuable resource for persons who need help understanding the Government Records Access and Management Act (GRAMA) and how to apply it when either requesting records or responding to a records request.

The following graph shows trends in ombudsman contacts over three years:



The government records ombudsman provided training at the State Archives, by invitation for local and state agencies, and at annual conferences. In all, ombudsman presentations have reached about 474 people during the period covered by this report. This can be compared with 278 people during fiscal year 2014. On behalf of the State Archives, the ombudsman has provided training on the Government Records and Management Act (GRAMA) in Salt Lake City and regionally throughout the state. The ombudsman appeared on a local television show, *The County Seat*. The ombudsman has provided training on GRAMA or given presentations about records and government transparency in the following venues:

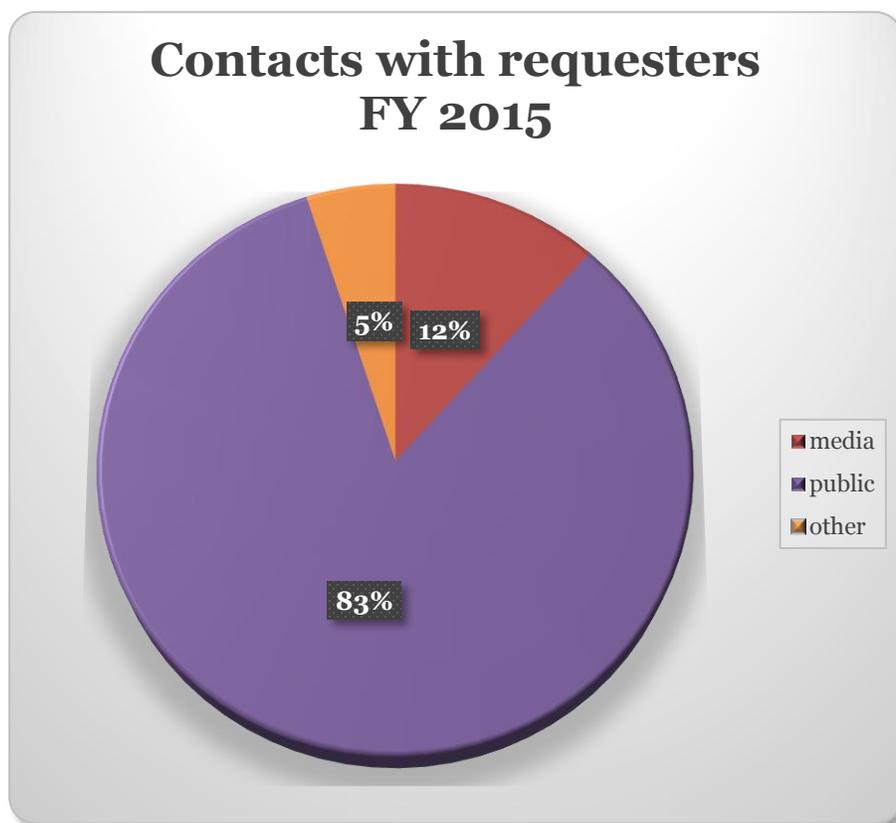
- Utah League of Cities and Towns
- Utah Association of Special Districts
- Utah Association of School Business Administrators
- SAINTCON sponsored by UEN
- Utah Citizens for Diplomacy
- Society of Professional Journalists
- ARMA International Utah – Salt Lake Chapter

The ombudsman has been involved in an advisory capacity in the development of the Open Records Portal, which is a central location from which the public will be able to make GRAMA requests to all governmental entities. On January 1, 2015, the portal opened for GRAMA requests to state government. It will be open for municipalities, counties, schools, and special transit districts on January 1, 2016, and for special districts in January 2017.

During the first ten months of the 2015 fiscal year, the ombudsman provided mediation assistance in nineteen cases of dispute or misunderstanding over records. Of these fourteen were successfully resolved and five moved on through the appeals process to be resolved by the State Records Committee. Overall, ombudsman involvement decreases the number of hearings before the committee. In some cases, the ombudsman works with requesters to help them make appeals when they do not understand the appeals process. It is anticipated that the total number of mediations will be down as nineteen for the first ten months of FY 2015 compared to twenty-six in FY 2014.

Ombudsman contacts with requesters¹

During the first ten months of FY 2014-15, the government records ombudsman provided 660 consultations with records requesters. Of these, 550 were members of the public, 77 were representatives of the media, and 33 represented corporations, non-profits, or out-of-state governments (other entities). During the period reported 83 percent of requests for assistance came from the public. Requests from the media accounted for 12 percent and other entities 5 percent. These percentages are about the same as reported in the last fiscal year.



Requesters typically contact the ombudsman when they do not understand how to make a records request or how to appeal a denial. They also call with complaints about responses from governmental entities or their failure to respond. Some consultations are part of the mediation process.

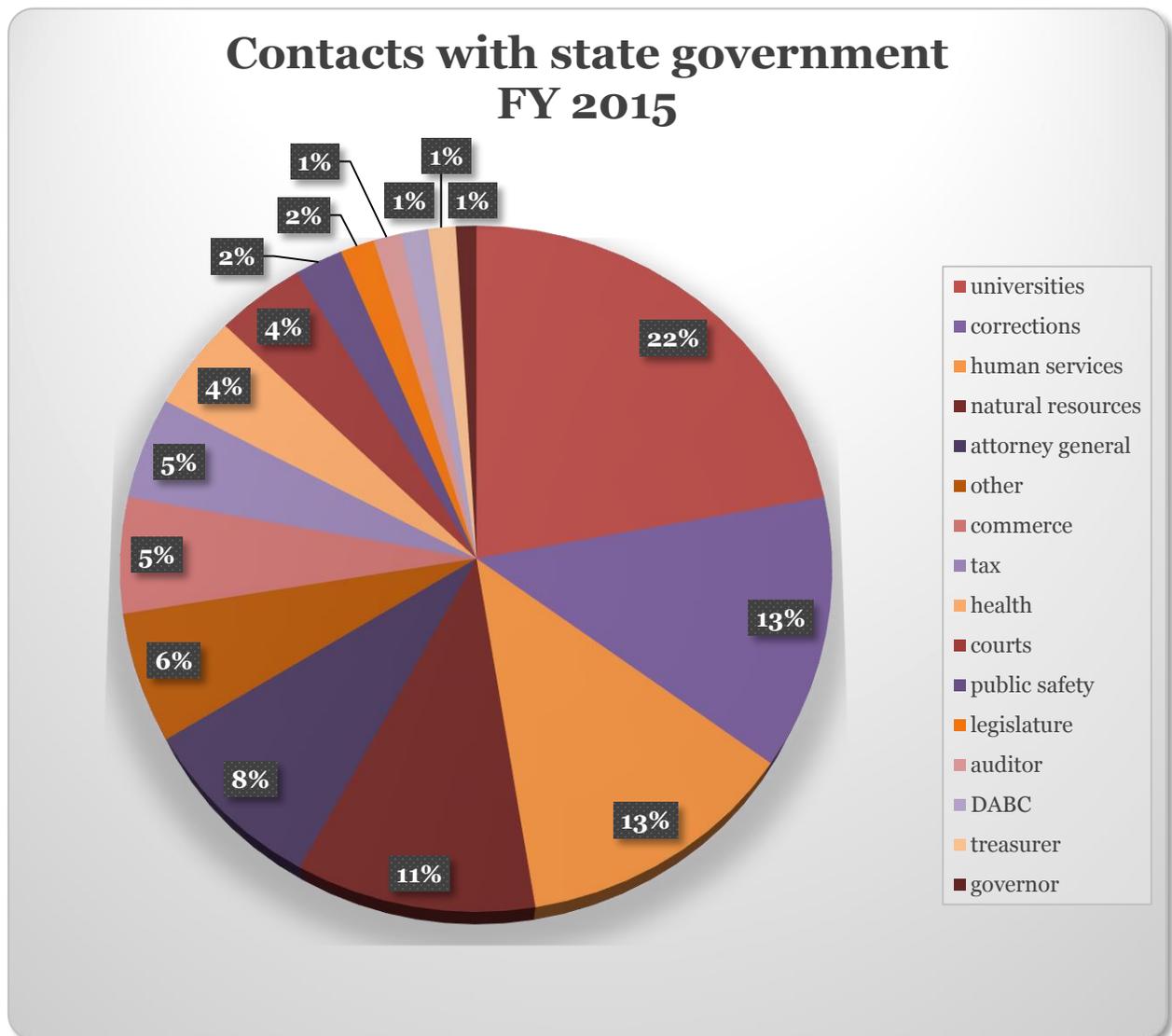
¹ All graph numbers are rounded up; percentages may not be exact. Refer to Appendix for complete compilations.

Ombudsman contacts with responders

The government records ombudsman provided 769 consultations with government employees. Of these 314 represented state government (41percent) and 455 represented local governmental entities (59 percent).

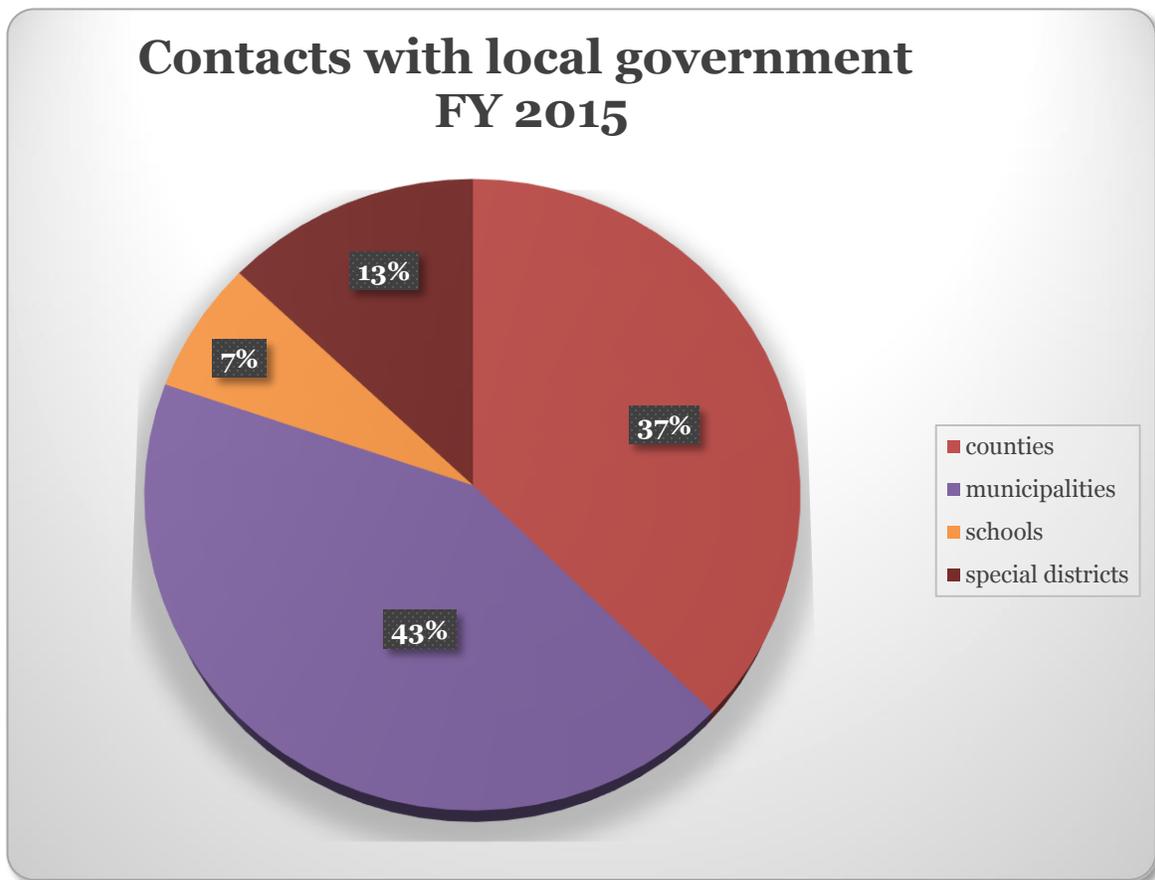
State Agency Responders

Ombudsman consultations with state agencies included 26 different governmental entities. Of these the most frequent consultations were with universities (22 percent), the Department of Corrections (13 percent), the Attorney General's Office (13 percent), and the Department of Human Services (11 percent).



Local Government

Within local government consultations with municipalities were at 43 percent, counties at 37 percent, special districts at 13 percent and school districts at 7 percent. As a percentage this represents an increase in consultations with counties and a reduction in consultations with municipalities.



Responders typically contact the ombudsman to ask advice about how to respond to a request or how to classify records. They may also call to discuss a vexatious requester, to request training, or to ask questions about certification or training. The ombudsman may call a responder as a follow up to a conversation with a requester or as part of a mediation process.

Mediation

In nineteen instances, the records ombudsman facilitated formal mediation between parties, usually involving in-person meetings of both parties with the records ombudsman. In fourteen cases (74percent), the issue was resolved through mediation. Five cases (26 percent) required a hearing before the State Records Committee after mediation.

	Entities	Topic	Outcome
1	Public/state government	DCFS case files	Resolved in mediation
2	Media/university	Contracts	Resolved in mediation
3	Corporation/ special district	Investigation case file	Resolved in mediation
4	Public/municipality	Dispatch tapes	Resolved in mediation
5	Non-profit/state government	Fees	Resolved in mediation
6	Media/municipality	Attorney client privilege	Resolved in mediation
7	Special district/state government	Correspondence, audit	Moved to SRC
8	Media/municipality	Settlement agreement	Resolved in mediation
9	Public/county	Law enforcement records	Moved to SRC
10	Public/university	Trademarks and marketing	Moved to SRC
11	Public/state government	Toxicology reports, fees	Resolved in mediation
12	Public/municipality	Parking enforcement records	Resolved in mediation
13	Public/municipality	Minutes, business licenses	Moved to SRC
14	Public/municipality	Property records	Resolved in mediation
15	Public/university	Personal vs. university research	Resolved in mediation
16	Public/school district	Personnel records	Resolved in mediation
17	Public/special district	Attorney client privilege	Resolved in mediation
18	Public/county	Tax appraisal, appraiser qualifications	Moved to SRC
19	Public/county	Personnel records	Resolved in mediation

Total resolved in mediation	14
Total moved to SRC	5
Total pending	0