

GOVERNMENT RECORDS OMBUDSMAN 2021 report

Presented to the Government Operations Interim Committee



division of
**Archives and
Records Service**

This report is required by Utah Code 63A-12-111(2)(d).

Prepared by Utah State Archives and Records Service

Government Records Ombudsman
Department of Government Operations
Division of Archives and Records Service

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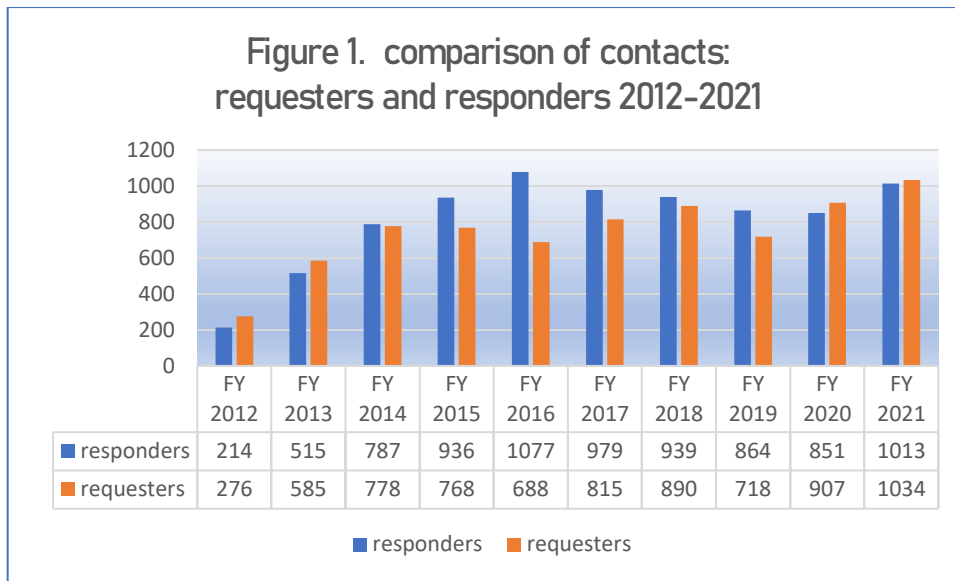
This is a report of the work of the Government Records Ombudsman for fiscal year 2020-2021. The Government Records Ombudsman is required to be familiar with the provisions of the Government Records Access and Management Act (GRAMA) in order to be a resource for people who are seeking government records, making records requests under GRAMA, or appealing denial of access to records. The ombudsman is also a resource for government employees who are responding to records requests. The ombudsman may also attempt to mediate disputes over records access issues when both parties are willing to participate. The ombudsman's 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. 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 Utah Legislature created this position in 2012.

Summary of Contacts

During fiscal year 2020-2021 the Government Records Ombudsman provided 2,047 consultations about issues related to records access or mediation of conflicts over records access. Of these consultations, 1,034 involved records seekers or requesters (the public, the media, and other non-government entities). The ombudsman provided another 1,013 consultations with government employees who were responding to records requests.

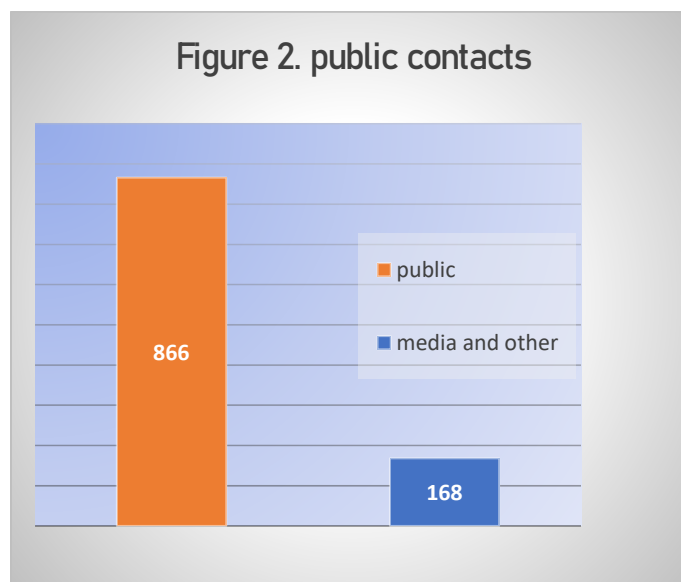
Figure 1 shows trends in contacts over the nine years of the ombudsman’s appointment.



Records requesters:

During fiscal year 2020-2021 the Government Records Ombudsman provided 1,034 consultations with records seekers. Of these, 866 were members of the general public and 168 were members of the media or representatives of non-profits, or other organizations such as out of state governments.

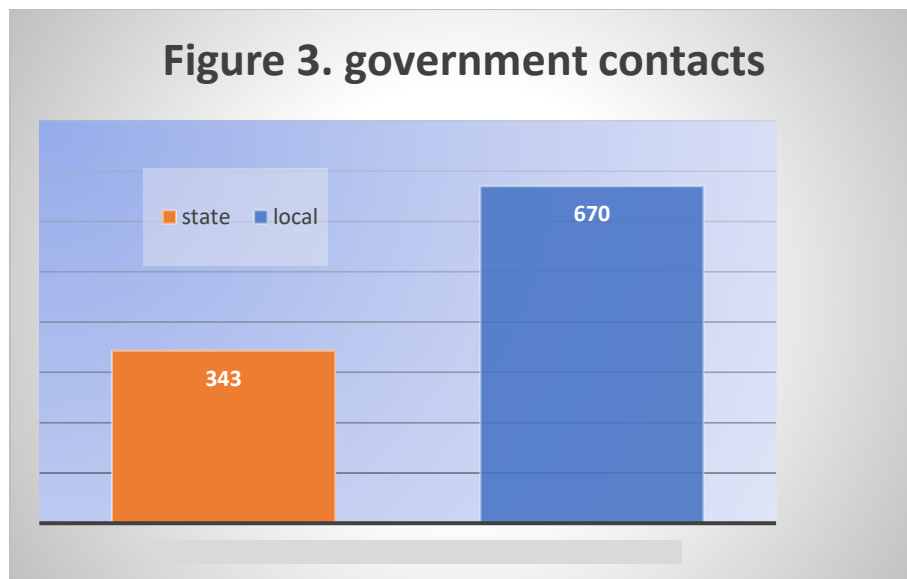
Figure 2 shows compares citizen contacts to representatives of media or other entities.



Records request responders:

During fiscal year 2020-2021 the Government Records Ombudsman provided 1,013 consultations with records seekers. Of these, 343 were employees of state government and 670 were employees of local government, including counties, municipalities, school districts and special districts.

Figure 3 shows compares state and local government in contacts.



Mediation summary:

A significant part of the ombudsman's work is conducting mediation meetings. Mediation is a valuable resource for all parties involved records disputes because it provides an avenue to explore multiple options for resolving conflicts over records access. The State Records Committee has jurisdiction to make determinations in favor of one party or the other, but mediation provides opportunities to compromise or to clear up miscommunication. Forty-one issues resolved through mediation means a substantial reduction in the number of hearings that proceed to the State Records Committee. It also means earlier and more flexible resolution of issues, including potentially earlier acquisition of records for requesters.

During fiscal year 2020-2021 the Government Records Ombudsman mediated 63 disputes over records access issues. Of these, 43 were resolved through mediation. Sixteen moved on to the State Records Committee for a decision. Of the 16 appeals heard by the State Records Committee after mediation attempts, 6 were denied, 7 were granted or partially granted, 1 was withdrawn after continuance, and 2 hearings are pending. The outcome of 4 mediation attempts are still pending. In 3 of the pending cases, mediation was attempted after a State Records Committee continuance for the purpose of reviewing records in camera. Compared to previous years the number of mediation attempts has increased. More mediation meetings are being conducted virtually. A summary of information about mediation attempts, including government types, topic of requested records, and outcome is included as Table 1.

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

	Entity type	Topic	Outcome
1	Public/county	Expansive request	Resolved in mediation
2	Non-profit/DPS	Copyright issue	SRC – appeal denied
3	Media/county	Jail records	Resolved in mediation
4	Public/municipality	Fee waiver	Resolved in mediation
5	Non-profit/DWS	Expansive request	SRC – continued to resolution
6	Business/municipality	Building permits	Resolved in mediation
7	Media/special district	Body camera footage	Resolved in mediation
8	Media/university	Police records/video	SRC appeal granted
9	Public/IPA	Public meeting records	SRC appeal granted
10	Public/Human Services	Investigation records	SRC appeal denied
11	Media/special district	Contracts/policies	SRC appeal partially granted
12	Public/UDC	Inmate records	Resolved in mediation
13	Public/DPS	Accident report	Resolved in mediation
14	Public/special dist./DAS	Accounting records	No hearing
15	Public/charter school	Policies	Resolved in mediation
16	Media/DNR	Hunting license record	Resolved in mediation
17	Media/municipality	Law enforcement	SRC appeal granted
18	Non-profit/university	Research records	SRC appeal denied
19	Public/municipality	Police video/fee waiver	Resolved in mediation
20	Public/municipality	Fee waiver	SRC appeal denied
21	Media/DAS	Procurement records	Post SRC mediation/pending
22	Public/school district	Email	Resolved in mediation
23	Public/UDC	Inmate records	Resolved in mediation
24	Public/special district	Open meeting records	Resolved in mediation
25	Public/municipality	Police investigation	Resolved in mediation
26	Public/municipality	Expansive request	Resolved in mediation

27	Public/UDOT	GRAMA applicability	SRC appeal granted
28	Non-profit/UDAF	Animal research	SRC appeal partially granted
29	Media/university	Email	Resolved in mediation
30	Public/special district	Police investigation	SRC appeal granted
31	Public/university	Personnel records	Resolved in mediation
32	Public/UDOT	Expansive request	Post SRC mediation/pending
33	Media/university	Police records	Resolved in mediation
34	Public/DNR	Law enforcement	Resolved in mediation
35	Public/special district	Personnel records	Resolved in mediation
36	Public/special district	Expansive request	Resolved in mediation
37	Media/municipality	Police data	Resolved in mediation
38	Public/municipality	Open meeting records	SRC appeal denied
39	Media/university	Expansive request	Resolved in mediation
40	Public/special district	Expansive request	Resolved in mediation
41	Public/municipality	Open meeting/zoning	Resolved in mediation
42	Public/county	Open meeting records	Resolved in mediation
43	Municipality/county	Expansive request	No hearing
44	Public/municipality	Procurement records	Resolved in mediation
45	Media/municipality	Police records	Resolved in mediation
46	Media/POST	Personnel records	Resolved in mediation
47	Media/county	Police records	Resolved in mediation
48	Public/school district	Personnel records	Resolved in mediation
49	Public/school district	Email	Resolved in mediation
50	Public/municipality	Building permits	Resolved in mediation
51	Public/county	Text messages	SRC appeal denied
52	Public/SITLA	Fee waiver	SRC appeal pending
53	Public/county	Email/police investigation	pending
54	Public/Lt. Gov.	Contracts	Resolved in mediation
55	Public/municipality	Personnel records	SRC appeal pending
56	Public/school district	Personnel records	Resolved in mediation
57	Public/school district	Procurement records	Resolved in mediation
58	Public/school district	Fee waiver	Resolved in mediation
59	Non-profit/UDOT	Expansive request	Post SRC mediation/pending
60	Public/governor	Policy statements	Resolved in mediation
61	Public/municipality	Procurement records	Resolved in mediation
62	Public/county	Personnel records	Resolved in mediation
63	Public/special district	Financial records	Resolved in mediation

Table 2 and Figure 4 summarize mediation success.

Table 2. Mediation Success

Resolved in mediation	41
Moved to SRC hearing	13
Outcome pending	4
Success not measured by subsequent hearing	2

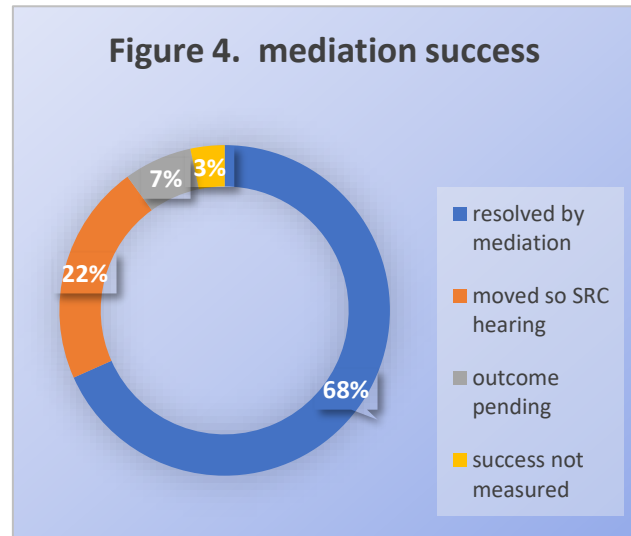
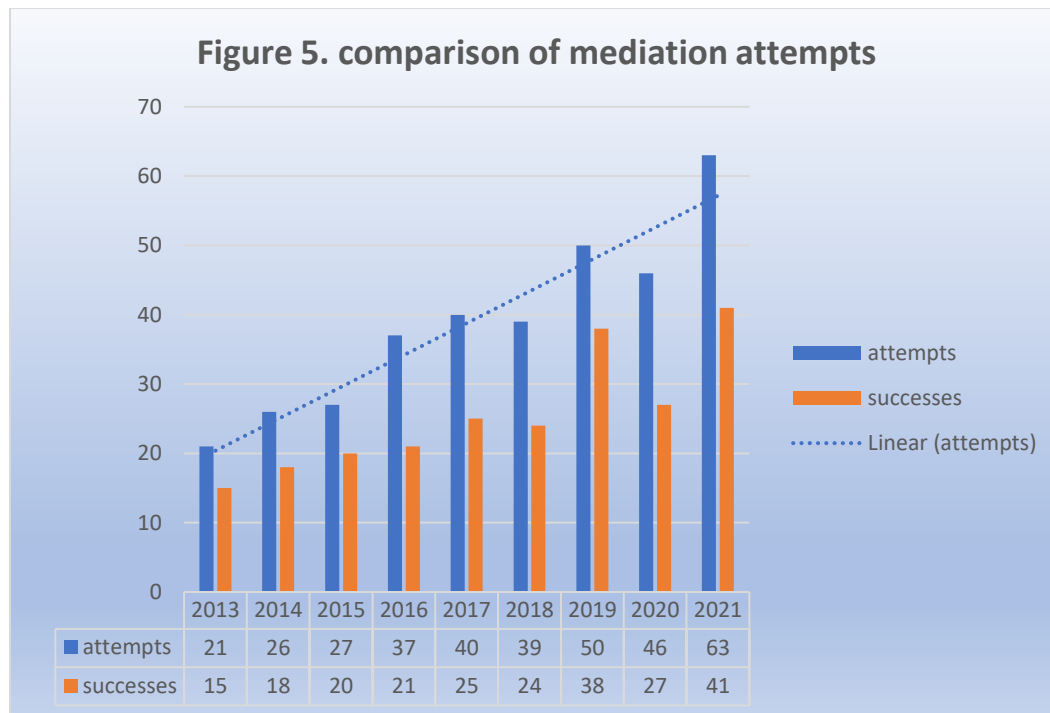


Figure 5 provides a comparison of mediation activity with previous years of the ombudsman's work.



Ombudsman's additional activities

The Government Records Ombudsman provides training about GRAMA. Most of the training offered during the 2020-2021 fiscal year was presented virtually. At least 683 people participated in this training. In addition to training events hosted by the State Archives or other governmental entities, ombudsman also provided virtual presentations for the Utah Municipal Clerks Association, the Indigent Defense Commission and RootsTech. The ombudsman complete updating all of the forms related to records access, such as a model GRAMA request form and various forms to be used for responding to records requests or appealing access denials.

Ombudsman's Observations

Public expectation and demand for access to government records continues to increase. During the past year, the public and the media have focused a lot of attention on law enforcement agencies. The public continues to make requests for records about the pandemic and consequent government actions. Across the board, the number of records requests and the number of appeals to the State Records Committee continues to increase. With improvements in technology, records requests are becoming more expansive and more complex. Perceived lack of transparency in the communications of government employees and officials is particularly frustrating to members of the public who wish to understand and participate in government processes.