

THE UTAH REPORTERS

2025



ALMANAC

By The Utah Investigative
Journalism Project

Utah SPJ Needs You!

The Utah Headliners Chapter of the Society of Professional Journalists is looking for a few good volunteers interested in joining the board and standing up for the Fourth Estate here in the Beehive State.

The board meets monthly, where we do such work as:

- Advocating against idiotic legislation hurting the work of the press.
- Organizing training and other career development events for journalists.
- Preparing the annual SPJ award contest and deciding on special Honors Awards winners.
- Pushing back against other attempts by government agencies to block access to records and open meetings.

Think you got what it takes? Email utahspj@gmail.com or elpenrod@gmail.com for more information. We'd love to have you on board!



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2025 Edition

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Thank you for reading the 2024-25 Utah Reporters Almanac!

As you are reading these pages, we are wrapping up one of the most consequential years in recent history for the state and the country. The 2025 legislative session was likely one of the most impactful to open government in over a decade. And I use the word “impactful” in the worst way possible, like the way you would describe a trainwreck.

Our Utah Reporters Almanac always looks back at the past calendar year and the most recent legislative session. It doesn't neatly fit into a box as if we just covered everything in the past calendar year.

But we feel it makes sense to share stories and tips about databases and court decisions from the past year relevant to you now and moving forward. We also think it's valuable to recap the most recent legislative session while it's still fresh. This legislative recap is a doozy. You might want to have a stiff drink at hand or a pillow to scream into if that's more your style.

The good news is that we have once again packed this Almanac with useful information for you moving forward, regardless of how the laws have changed. We've recapped important and useful State Records Committee decisions — yes they still will be useful even though lawmakers have abolished the committee. We've highlighted two winners to our annual GRAMA contest: a reporter looking into sexual harassment at a Utah university and citizens looking to save Abravanel Hall. There are good lessons to be learned from the examples of both our winners on requesting and fighting for records.

We're also showcasing a new police accountability tool we helped develop last year in partnership with The Invisible Institute to track how officers can move from job to job after facing disciplinary actions.

It can sometimes feel overwhelming to consider challenges facing our communities. Or to even find one's footing amid seismic shifts in government and policy. So many issues confront Utahns that it's easy to throw one's hands up in the air in exasperation. The world and its challenges are complicated and almost every serious expert agrees there are no silver bullets when it comes to fixing the problems in housing, the environment, political corruption and everything else.

At the risk of being simplistic, however, we disagree. At a fundamental level, no matter a person's politics or beliefs, we believe everyone can agree that the answer is transparency. The answer is education. The answer is knowing how to ask the right questions and get the right records and information to learn the answer. If you are reading this, we know you understand that and we offer our deepest thanks once again for believing in our mission, supporting our work and asking the right questions.



Sincerely,

Eric S. Peterson
Executive director
The Utah Investigative Journalism Project

Dear UIJP Friends,

My name is Rone Tempest. I was a national and foreign correspondent for the Los Angeles Times from 1981 to 2007. Those were heady times for American newspapers. Journalists traveled the globe (I reported from more than 50 countries and most American states). Newspapers still had the resources to devote money and time to important investigative projects. But under pressure from the internet, the newspaper business model cracked and then broke. Classified advertising, once the staple of newspaper revenue, disappeared. Newspapers cut staffs and budgets, limiting their ability to do in depth reporting. In the wake of this newspaper crisis, some brave nonprofit news organizations like The Utah Investigative Journalism Project are striving to fill that gap. I'm on the board of UIJP and could not be prouder of what we do, in the quality of our investigative reporting that we share free of charge with our media partners. You can see our stories on our website utahinvestigative.org. I'm also proud of the role we play educating young journalists and the general public in frequent reporting seminars and publications like this almanac. Please take the time to get to know us.



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Free trainings

The Utah Investigative Journalism Project offers free trainings and consultations to big and small newsrooms and interested community groups in Utah. Our aim is to better equip journalists with the skills they need to utilize databases, fight for public records and employ better investigative techniques.

OUR COURSES:

“Investigative Techniques and Strategies” gives an overview of strategies for developing investigative stories and provides an introduction to GRAMA and helpful public databases.

“GRAMA-Nomics: Making the Most of Public Records Requests” focuses on how to make GRAMAs or public records requests, how to fight records request denials and strategies for getting the records you need.

“Digging With Databases” surveys numerous useful databases reporters can tap into to scour through everything from municipal budget documents to nonprofit financials and court records.

“Investigative Interviewing” is all about the interview. How to talk to reluctant sources, get useful information and better quotes, and even how to assess the truthfulness of what the interview subject is telling you.

All trainings are designed and taught by UIJP’s executive director, Eric Peterson, a veteran Utah reporter who serves on the board for the Utah Headliners Chapter of the Society of Professional Journalists, and previously served as the board’s president.

Since training is brought directly to your newsroom, it can be tailored to fit the interests of participants and could blend components of multiple training programs as well as offer journalists the opportunity to ask specific questions about stories and projects they’re working on.

If you’re interested in setting up a training, contact Eric Peterson at epeterson@utahinvestigative.org.

Thanks to our sponsors!

This publication would not exist without the generosity of some incredible individuals and institutions in our community. Remember their names because they are heroes in our book!

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GRAMA and STATE RECORDS COMMITTEE DECISIONS

SECTION I



Courtesy photo

The State Records Committee is gone – now what?

What we know now based on the new legislation

By Eric S. Peterson | The Utah Investigative Journalism Project

The State Records Committee is gone. To read how that went down check out our Legislative Recap on page 38.

As for now, here is a run-down on what's known about the change, from how it will affect pending State Records Committee appeals to what it means for the state records ombudsman.

What happened?

SB277 got rid of the volunteer State Records Committee and has replaced it with an administrative law judge who will be the director of the newly formed Government Records Office.

The law goes into effect on May 7, 2025, so the director will not be appointed until after then.

Who is this new GRAMA Czar?

This new director will be appointed to a four-year term by the governor and with approval from the Senate. He is required to be an attorney in good standing and knowledgeable of records management practices.

The new director will hear and decide records appeals just like the old committee. But this director will also be in charge of running the new Government Records Office and, according to the law, appointing and supervising a "government records ombudsman." The state of Utah already has a records ombudsman, Monica Minaya, who helps mediate records disputes and responds to questions from the public about records denials and related issues.

Since the new director has not been appointed yet, it's unclear if they will keep the existing ombudsman or appoint a new one to take Minaya's place.

The director will also be given the power to hire support staff. According to the legislation, the new office will be given \$447,900 yearly to support at least two full-time positions.

Will this be an improvement on the old records committee?

While the previous committee was more representative of Utah communities, it had become bogged down in appeals, with records disputes typically taking months to make it before the committee.

According to [reporting by The Salt Lake Tribune](#), open government experts like David Cuillier of the Joseph L. Brechner Freedom of Information Project at the University of Florida said it can be much more efficient to move to a "GRAMA small claims court" type of model.

[Research](#) on a similar type of records court in Ohio found that from 2019 to 2024, 413

cases were handled with records being provided in 58.8% of cases. Many of these cases were resolved within weeks.

What if I have an appeal waiting to be heard by the State Records Committee currently?

According to the legislation, pending appeals before the old committee will be transferred to the new GRAMA Czar "to be resolved as soon as reasonably possible."

Will the hearings basically be the same?

For now — yes. According to the legislation, the new GRAMA Czar will use rules created by the old State Records Committee, rules that might affect how long someone speaks at a hearing for example. But the legislation also gives the new GRAMA Czar rulemaking authority so they can create their own rules getting into the nuts and bolts of how hearings will be conducted. •

State Records Committee sets precedent for recovering deleted records

By Sydnee Chapman | The Utah Investigative Journalism Project

In the digital age, can you ever truly delete something? The State Records Committee doesn't seem to think so — at least not if you're a government employee and you're deleting records that should be public.

The committee voted unanimously in the spring of 2024 that Department of Workforce Services Deputy Director Kevin Burt either had to work with the Utah Division of Technology Services to retrieve text messages he had deleted or see if the recipient of said texts had access to them.

The texts were alluded to in records provided to The Utah Investigative Journalism Project as part of a GRAMA request for communications between Burt, other state executives and lawmakers about the state's Medicaid unwinding plan.

Tens of thousands of Utahns,

including over [83,000](#) children, lost Medicaid coverage during the state's unwinding (which refers to states' resumption of annual Medicaid eligibility reviews that were paused because of the COVID-19 pandemic).

Utah had the highest decline of Medicaid enrollment in the country at [37%](#). The majority lost coverage not because DWS determined they were ineligible but because of procedural issues.

The loss of those benefits has been devastating for many Utahns, who have forgone care because the out-of-pocket price tag is just too steep or have lost access to the prescriptions they need to manage chronic conditions.

One 28-year-old Utahn lost his life to a treatable disease after his coverage ended and he had to forgo care, according to [reporting by KSL.com](#).

Despite the high public interest in the unwinding plan — particularly how elected officials sought to influence a public program funded with public dollars — Burt and DWS said the requested text messages were deleted because they were “transitory records.”

The Division of Archives and Records Service defines transitory records as “incoming and outgoing correspondence, regardless of format or mode of transmission, related to matters of short term interest. Transmittal correspondence between individuals, departments or external parties containing no final contractual, financial or policy information. This correspondence does not impact agency functions. When resolved, there is no further use or purpose.”

Burt testified that the subject of the texts was the speed of the unwinding and the possibility of accelerating it.

The end result of the correspondence, he said, was a document outlining what the department was doing with Medicaid unwinding and potential ramifications if the process was sped up.

“I just didn’t see the text as having continued administrative use. The best I can explain it is kind of having it as a virtual sticky note to remind me to do something and how to start it,” Burt said during the committee hearing. “And then once the document was created, I no longer needed the prompt or the virtual sticky note.”

The Utah Investigative Journalism Project argued that, given the nature of Medicaid unwinding, the texts held long-term interest and impacted an agency function and that the appeal could have consequences on government transparency and records access in general.

“This case also raises questions more broadly about what can or should be done to recover public records when an agency wrongly deletes them,” UIJP argued during the hearing. “Letting this one slide sends a message that if an agency would rather not have something come to light, they can just easily delete that.”

The State Records Committee said it found DWS’ argument “unconvincing” and that, given the information it

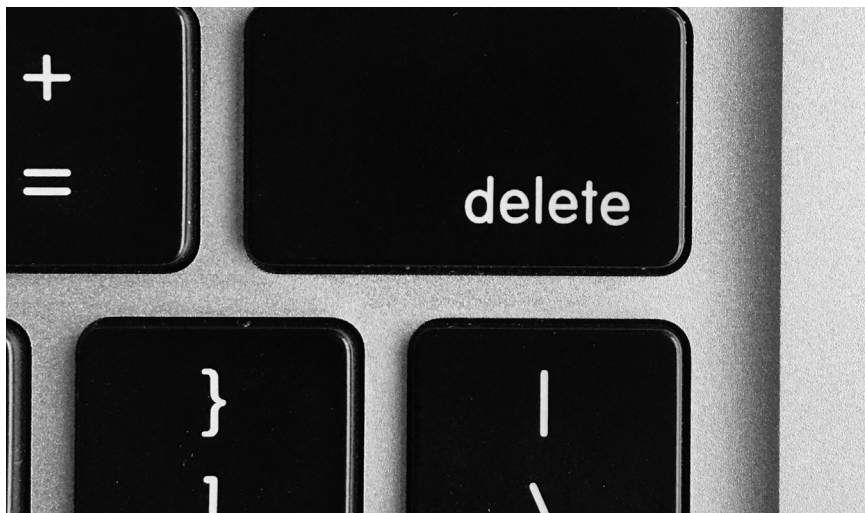


Photo via Unsplash.com

had about the texts, it was not prepared to concede that they were transitory.

“We were a little uncomfortable that the agency didn’t recognize that...given that it was related to Medicaid unwinding, that it was beginning a pretty important process,” SRC citizen representative Marie Cornwall said during the hearing. “Sure it was transitory for the individual involved but not for the policy being developed.”

Although the committee voted to continue the hearing until Burt could produce the records for it to review, DWS turned over the records to UIJP once it obtained them from a Department of Health and Human Services executive who

had received them.

In the texts, Burt and the DHHS executive discussed which aspects of the unwinding would be feasible to speed up. The two agreed that only the unwinding process for individuals eligible for emergency Medicaid should be debated with lawmakers.

Emergency Medicaid covers noncitizens experiencing a range of life-threatening conditions, such as child birth.

Families with Emergency Medicaid were some of the hardest hit by the unwinding process, according to Ciriac Alvarez Valle, a senior policy analyst at Voices for Utah Children. She said when the unwinding process was changed from the

initial plan, the public was not involved.

One of the biggest changes was moving up unwinding, she said.

“Emergency Medicaid recipients often have the fewest care options available to them when it comes to meeting their medical needs and should not have been among the first to be denied coverage as part of the unwinding plan,” she testified during the hearing.

She highlighted one family that Voices for Utah had worked with who, much earlier than they had anticipated, had to start renewing their Emergency Medicaid every month so that the mother could continue cancer treatment.

“The burden that this caused on this family and other immigrant families, who are often first-generation English learners and low-income families, had severe consequences,” she said.

“So we are really concerned about the transparency of the process, and would really be interested to know why the deviation happened when there was a plan in place and a plan that was publicly created.

Takeaways:

It's not the end of the road if an agency argues it no longer has a record.

The SRC made it clear in this case that having deleted a record is not an acceptable reason to deny a GRAMA request. In this case, the agency was able to obtain the records from another agency which had access to them. Filing a similar GRAMA request with a secondary agency with access to records you are interested in may be an option if your original request is dragging out.

Don't be afraid to call a witness.

You may not be an expert in the subject matter relating to your GRAMA request — but there are people who are. The SRC does allow you to call a witness. You should consider whether doing so may help you win your case.

In this instance, an expert witness was able to offer firsthand experience with helping individuals who were impacted by Medicaid unwinding. •

Beating the clock

Fox 13's Adam Herbets raced to request calendar records before a law went into effect

By Cathy McKittrick | The Utah Investigative Journalism Project

The timing of Adam Herbets' multiple government record requests in February of last year set the stage for a showdown between the public's right to government transparency and the Legislature's desire to increase privacy.

That ongoing conflict has yet to be fully resolved. At issue here were daily calendars where elected officials and government employees post their work-related appointments, travel, etc.

On Feb. 27, 2024 — two days before the 45-day legislative session concluded — lawmakers scrambled to pass SB240, a measure declaring that daily calendars are not considered government records, and therefore are not subject to the state's open records law, the Government Records Access and Management Act (GRAMA).

In its final House vote, SB240 passed 52-22 largely along party lines, with seven Republican representatives joining Democrats



Adam Herbets

in opposition.

On Feb. 28, Herbets, an investigative reporter for FOX 13 News, filed extensive requests for the work calendars of several dozen government employees — just hours before Gov. Cox signed the bill into law and it immediately took effect.

We asked Herbets why he decided to go big at that point.

"I guess you could call it supply and demand," Herbets said. "Once we saw that the

Legislature was going to restrict access to these types of records permanently, we thought we'd better get in while we still can. At that point you've got to request it before the governor puts pen to paper."

Requesting calendars of government officials is nothing new to Herbets, who believes they can provide valuable information about an individual's priorities as they utilize taxpayer dollars on the job.

Herbets cited Attorney General Sean Reyes as one of the most high-profile examples in his calendar quest.

"A lot of people have questions about how much time (Reyes) spends doing the work of Utah citizens versus how much time he spends going to Qatar, for example, or ... doing stuff with Operation Underground Railroad before his falling out with Tim Ballard," Herbets said.

In addition to Reyes, Herbets also [requested](#) daily calendars for other government employees in a few state agencies, cities around the Wasatch Front and one charter school – Vanguard Academy – that the Kingston polygamist group reportedly uses to educate its children.

"In response to our requests, a

few government entities supplied their calendars without a fight. Many of them appealed," [a Sept. 25 FOX 13 news story stated](#).

That article detailed Herbets' late September victory handed down by State Records Committee members in a 5-1 decision.

"Approximately seven months later, we are still waiting for the public calendars of dozens of public officials," the article stated, listing 66 officials and government employees who had not complied.

The committee's decision

In its decision "Adam Herbets (Fox 13) vs. Utah Department of Corrections," the State Records Committee determined that SB240 did not apply retroactively.

Therefore the daily calendars that Herbets requested before the bill became law on March 1, 2024, should still be made available.

"Although Petitioner submitted his request the same day that SB240 was signed, the submission was many hours before SB240 became effective," the decision [stated](#). "Consequently, the 2023 version of GRAMA governs the request, and under that version, only personal calendars are excluded from the definition

of 'record.'"

The decision also outlined an interesting timeline regarding the push to get SB240 on the governor's desk so quickly.

"To understand the parties' arguments and our analysis, it's helpful to better outline the events that led to this appeal. We begin with a short summary of those events," the decision stated.

May 2023 – the State Records Committee ruled that the work calendar of Attorney General Sean Reyes was a public record (Knox v. Attorney General's Office). The Attorney General's Office appealed their decision to the district court.

Feb. 27, 2024 – District Court Judge Patrick Corum agreed with the State Record Committee's decision.

Feb. 28, 2024 – the Utah Legislature passed SB240, inserting a semicolon after the term "daily calendar," which in effect excluded both personal and work-related calendars from the definition of "record" under GRAMA. SB240 would take effect upon the governor's signature if approved by two-thirds of each legislative chamber. Around 8 p.m. that

evening, Gov. Cox signed SB240 into law. Afterward, the Attorney General's Office appealed Judge Corum's decision and that case is still pending.

Also on Feb. 28, 2024 – Herbets submitted his GRAMA requests seeking calendars from Jan. 1, 2019, through March 1, 2025. This particular request was filed at 5:42 p.m. according to the decision.

March 7, 2024 – Herbets was denied access, citing that "calendars and/or appointments" do not constitute a record.

April 6, 2024 – Herbets filed an appeal to the chief administrative officer, which was denied based on SB240 taking effect. Herbets then filed an appeal to the State Records Committee.

Sept. 19, 2024 – the Committee considered Herbets' appeal after hearing from all parties involved.

Sept. 25, 2024 – Herbets won what is considered a partial victory.

The Committee's decision had limits – ruling that calendars after Feb. 28, 2024, could be withheld

in light of the new law. It also specified that personal information could be redacted. And because of the volume of Herbets' requests, fees could be assessed for producing the records.

Each entity involved in these requests has the right to appeal the Committee's decision in district court.

By late February 2025, more than half of the 66 calendars had not yet been received. Also, none of the officials had filed lawsuits to keep their work calendars private. But Herbets said some agencies that released the records also charged high fees, which he was contesting.

Herbets wanted people to understand that he has no interest in a government employee's personal calendar.

"We're not looking to find Sean Reyes' colonoscopy appointment," Herbets said as an example. "Those types of things should be redacted – or kept entirely separate on a different calendar, which is not that difficult to do."

For the most part people use electronic calendars, which Herbets said can be color-coded and easily separated into personal and public categories.

Herbets, a native Californian with family ties to Philadelphia,

came to Utah in 2019 and launched the FOX 13 Investigates team in 2020.

According to his bio, he enjoys focusing on large-scale investigations that expand government transparency and accountability.

Herbets has received an Edward R. Murrow Award for investigative journalism, nine Emmy Awards and two Golden Mike Awards. The Society of Professional Journalists selected him twice as "Best TV Reporter" in Utah.

Herbets acknowledged that he loves his job

"I think democracy just works better when you have journalists that do a good job — that either ask tough questions or the right questions," Herbets said. "When every station, every newspaper, every media outlet is firing on all cylinders, I think you see that in the way government is run. I truly believe that this work can and does make Utah a better place."

Takeaways

When legislation limits access to government records, keep an eye on when the bill goes into effect and make sure you get your requests in before that time! •

What is the State Records Management Committee?

An interview with committee member Matt LaPlante

By Cathy McKittrick | The Utah Investigative Journalism Project

Not everyone considers discussing how long government agencies should hang on to records as “fun.” But Matthew LaPlante does – it’s the chance to participate in vigorous exchanges with colleagues well-versed in what it takes to maintain government transparency.

At 46, LaPlante has earned several titles — including award-winning journalist, college professor, climate scientist and author. And since 2019, he has represented the news media as a member of Utah’s Records Management Committee.

That board, which is part of the state Division of Archives, meets monthly to review and approve retention schedules for state agencies that determine citizen and media access to government records.



Matthew LaPlante

Utah has 22 state agencies that contain close to 300 sub-categories, each tasked with maintaining records that could prove vital to the public’s need and right to know where and how their tax dollars get spent.

The task of deciding how long to keep different kinds of government records requires thoughtful consideration because there are so many

“Honestly it’s been quite the joy to watch the sausage get made...I’ve been witness to so many people who are engaged in this work, who are really legitimately trying to do their very best for the taxpayers who need and deserve this information.”

— Matthew LaPlante

*Utah’s Records Management Committee
News media representative*

different issues to consider.

So Utah lawmakers, in 2019, established a seven-member records management board that meets monthly to review how long various types of records should be kept and then provides guidance to the various agencies tasked with maintaining those records.

But records retention is not an exact science since some decisions involved uncharted territory. So board discussions can get lively.

“Honestly it’s been quite the joy to watch the sausage get made,” LaPlante said of his work on the committee. “I’ve been witness to so many people who are engaged in this work, who are really legitimately trying to do their very best for the taxpayers who need and deserve this information.”

While his background partially prepared him for this role,

LaPlante acknowledged that he found both the size and complexity of the work surprising.

“My notion going in was that I was going to be the person on the committee who was always going to be fighting to keep things accessible forever and ever, amen,” LaPlante said.

But then he found that deciding how long to keep different types of government records – seven years, 10 years, possibly forever – involved taking a good hard look at competing interests. For one thing, the volume of government records continues to grow, and even though they can be digitized, some of those files (think video) take up a significant amount of digital space.

“And so they can’t be maintained forever,” LaPlante said. “Not to mention the fact that the format of these files chan-

ges over time so part of our commitment for holding on to records becomes holding on to them in a way that people can access.”

And at some point the time comes to bid farewell to some records, which means destroying them so they can no longer be mined for further information.

“It’s not just size, it’s also privacy. How long do we hold on to a record that has personally identifying information, because the other thing that we need to weigh is the risk of holding onto records that have personal, confidential information that likely would never be public under a GRAMA request,” La Plante said. “That’s the other competing interest that we consider.”

GRAMA refers to the Government Records Access and Management Act, which state lawmakers approved in the 1990s and have tweaked ever since its inception.

At the committee’s September 2024 meeting, the board dealt with several different types of records, ranging from water loan documents that are retained for 30 years (the length of most such loans) to

a whole new set to consider – that of public health surveys, some of which pertain to communicable diseases and the use of vaccines.

The water loans seemed relatively cut and dried – that documents should be kept for the length of the loan (between 30 and 50 years) plus an additional five years to cover any post-loan cleanup.

But the public health surveys sparked considerable probing, with LaPlante raising significant questions.

“So beyond 10 years, is there no conceivable benefit to maintaining that data in a way that helps us understand how attitudes and trends have changed with regard to public health over time?” LaPlante asked.

And because the raw survey data lacks personal identifying information, LaPlante said he’d oppose destroying such records at the 10-year mark.

“In my mind this is usable academic data that our state is investing in collecting. And unless I’m missing something, what we’re talking about is just the cost of maintenance. I would much rather see these things transferred to archives

after 10 years.”

A representative from Utah's Department of Health and Human Services, countered that survey results are already preserved in summary form in reports that the agency retains in perpetuity, and the raw data wasn't worth preserving more than 10 years.

After further scrutiny, the board tabled this item for further discussion and action at its September meeting.

In September, DHHS provided more information about the content of the customer service survey in question, describing the raw data as more business-focused than epidemiological in nature.

The data in question was “just from the agency trying to improve its services,” said DHHS Epidemiologist Jessica Payne, noting that the size and scope of all their programs is quite large.

LaPlante ultimately deferred to the agency, moving to approve its retention schedule as written, but he encouraged fellow board members to continue to consider future research potential as they weigh other retention schedules.

State Archivist Ken Williams

praised LaPlante for his questions.

“It's always a delicate dance when we do record appraisal, because we're trying to foresee future needs while also balancing resource allocation ... we obviously can't keep everything,” Williams said. “I don't ever foresee a time when we don't need to have thoughtful conversations along the way with each one.”

LaPlante, a frequent user of GRAMA in his work as a journalist, now adds his voice and insight to the ever-evolving landscape of Utah's government records law.

He's happy to participate in the complicated but honorable task of keeping government open, transparent and accountable.

“What we're trying hard to do is to achieve one of those multiple good answers where as many people's interests are protected as possible — that we're thoughtful both about the here and now and also the future, and that we're really listening to people and understanding their needs and wants,” LaPlante said. “It's made work on this committee fun.” •

GRAMA contest winner

Using public records to uncover a sexual harassment investigation in higher education

By Sydnee Chapman | The Utah Investigative Journalism Project

Officials claimed Utah's top higher education leader resigned to "pursue other professional opportunities."

But dogged reporting from Salt Lake Tribune Reporter Courtney Tanner revealed there was likely more to former Utah System of Higher Education Commissioner Dave Woolstenhulme's surprise departure.

Tanner, who filed a number of requests relating to Woolstenhulme's resignation, is one of two GRAMA contest winners this year. The requests not only laid the foundation for Tanner's reporting on sexual misconduct investigations into Woolstenhulme but also triggered a USHE lawsuit against Tanner and the Tribune that is still active.

Tanner's reporting originated from a news tip that included the names of two Utah State employees that Woolstenhulme had allegedly interacted with inappropriately. The employees declined to speak with Tanner on the record, nervous about Woolsten-



Courtney Tanner

hulme's position of power and what speaking publicly would mean for them.

But, they said, there were records that could shine light on Woolstenhulme's alleged behavior.

Tanner went to work requesting records, making separate GRAMA requests to Utah State University, where he previously worked, and the Utah System of Higher Education.

"I was like, I don't know who is going to have what, but I'm just going to put both avenues into

play here,” Tanner said.

Her instincts paid off. Tanner later found that Woolstenhulme had been under both a Title IX investigation by USU and an internal investigation by USHE.

After several denied GRAMA requests, Tanner eventually received a record from Utah State University that confirmed the existence of the Title IX investigation and showed it had begun about six months before Woolstenhulme’s resignation.

Meanwhile, USHE had confirmed Woolstenhulme resigned days before he needed to respond to the investigation findings — a move that triggered a closure of the investigation and meant USHE never compiled a final report. Because only a draft report of the investigation existed, USHE argued that a section of GRAMA designating drafts as protected records shielded it from needing to release the record.

“I had fought for the draft of whatever findings they had,” Tanner said. “Just because he left doesn’t mean you should stop the investigation.”

The State Records Committee eventually sided with Tanner, heavily relying on the “balancing test” as the reasoning for its decision. The test weighs the pu-

blic’s interest in records with the government’s interest in keeping them private. The SRC ruled that releasing the draft report served the public interest by “allowing the public to understand the repercussive effects of impropriety among high level state officials.”

“Do I want state agencies to sue me? No. But am I proud that I’m fighting for what should be public? Yes.”

— Courtney Tanner
Salt Lake Tribune journalist

As commissioner, Woolstenhulme was in charge of thousands of students and employees across the state’s 16 colleges, universities and technical schools and had significant influence over USHE’s multi-billion-dollar budget.

The SRC directed USHE to release Woolstenhulme’s letter of resignation and a draft report of the investigation with redactions to protect the complainants’ identities. The SRC ruled that USHE did not have to release communications among Utah Board of Higher Education officials concerning the allegations.

The fight didn't stop there. Instead of handing over the draft report, the Utah Board of Higher Education appealed the case in court. The lawsuit claims releasing the report would undermine due process and potentially discourage individuals with similar complaints from coming forward.

It's not Tanner's first time handling a GRAMA request in court, but it is the first time she had been sued personally because of a request. It's an indication, Tanner says, that she's poking around in the right place.

"Do I want state agencies to sue me? No. But am I proud that I'm fighting for what should be public? Yes," Tanner said. "I think these documents deserve light. And I think that when someone's in a position of power, like the commissioner was, and abuses that power, that should be reported on and that should be public knowledge."

Because both the USHE and USU investigation reports have not been fully released, it's unclear what either entity found regarding the employees' allegations. Woolstenhulme has denied any wrongdoing, and the unredacted portions of the USU document only state that the investigation

did not reveal any systemic issues related to the university.

Tanner has been frustrated, though, by the drawn out process of fighting for the records, which began in August 2023, as well as the potential chain reaction if she does win in court.

"The thing that I worry about is that every time there's a win for transparency, every time reporters win a case in the State Records Committee, it seems like lawmakers try to take away the avenue to win public records," Tanner said.

Takeaways:

Try multiple avenues

Some records may be held by multiple government agencies. Don't be afraid to submit similar GRAMA requests to multiple agencies.

Don't forget about the balancing test

A record that isn't normally public can be released under the "balancing test" if there is an overwhelming public benefit to releasing the record. Make sure to explain the public benefit in your appeals. •

GRAMA contest winner

A labor of love; musician uses GRAMA to shine light on county's Abravanel Hall plans

By Sydnee Chapman | The Utah Investigative Journalism Project

Mercedes Smith has been struck by Abravanel Hall's beauty and elegance since the moment she walked on stage to audition for the Utah Symphony 13 years ago.

"I just truly remember my breath being taken away," said Smith, the symphony's principal flutist. I'm just fortunate that I get to sit on that stage every day — it's like my office — and look out at the same beautiful sight that I saw the very first time."

It was personal, then, when Smith heard about plans to tear down Abravanel Hall to pave way for billionaire Jazz Owner Ryan Smith's sports and entertainment district in downtown Salt Lake City.

Smith is one of two GRAMA contest winners this year. She turned down the \$100 prize, opting to instead donate it back to the UIJP.

Smith and other symphony musicians uncovered records about the city and county's revitalization plan for downtown that were



Mercedes Smith

ultimately reported on by local media and The New York Times. The records helped shed light on the behind-the-scenes conversations about Abravanel Hall and nearby buildings.

"The whole orchestra was just stunned, just shocked that something like that was even being discussed or a possibility, let alone that everyone seemed to be talking so casually about it like it was going to be no big deal to just tear this down and build a new one," Smith said.

Smith had heard about public records requests before but

had never filled out a GRAMA request. A friend with public planning experience encouraged her to request the master plan for the project, which the county posted online shortly after. Smith said the most damning record they received was a request for quote, or RFQ, from the county for a demolition and rebuild of Abravanel Hall and part of the Salt Palace Convention Center. At the time, the county was adamant that nothing had been decided about the hall's fate.

Smith also asked both the county and city for certain communications with keywords like "symphony." She eventually had to narrow down a request to the county after thousands of hits came back. The request to the city, however, was denied.

"They said that there's no responsive records, and it seemed pretty much impossible that there wouldn't be a responsive record to some really common words, like symphony," she said.

Smith appealed the denial, arguing that she had personally been the recipient of text messages that should have been responsive. However, the city stated in a denial of her appeal that it did not have the messages and claimed that text messa-

ges are transitory in nature and thus officials are not required to keep them. A ruling by the State Records Committee on a UIJP appeal earlier that spring does not support the city's claims.

Another point of frustration was the denial of Smith's fee waivers. Because of the denials, Smith had to decide how much to spend on the records at a time. Abravanel Hall was worth the fees, she said, but GRAMA encourages governmental entities to waive fees if releasing the record primarily benefits the public. Abravanel Hall is publicly owned by Salt Lake County and voters approved a bond in the '70s to pay for it — which Smith points out is in stark contrast to the lack of public involvement in the sports and entertainment district.

"It's a meaningful place to a lot of people and it's paid for with taxpayer dollars," she said. "To me that's what was surprising, that they didn't consider it (as benefiting the public), even when we had The Wall Street Journal and The New York Times calling and asking for this very specific information that was going to be publicly and widely disseminated."

Abravanel Hall appears to be



Sydnee Chapman

safe for now, thanks in part to Smith's and other musicians' efforts. The County Council unanimously passed a resolution in October agreeing to update and preserve the hall. A month later, the hall received a place on the National Register of Historic Places.

Smith said filing the GRAMA requests felt like the right thing to do during a process that has been "sad and unbelievable." While she's relieved Abravanel Hall appears to be in the clear, she worries there is still more to uncover about the process and what downtown Salt Lake will look like in the future.

"They did a great job of keeping us really concealed. There's still

stuff we don't know about what was going on or still going on," Smith said. "My main advice is just to try to be brave and do it. ... If they're proud of their decisions, they should be quite proud to share what they're doing."

Takeaways:

Be Specific in your requests

While you don't want to cast too small of a net when it comes to GRAMA requests, you also want to narrow down your request. This can include things like keywords, a date range and the names of individuals mentioned in the records. •

SECTION II

LEGAL



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Developer behind Utah Lake islands scheme received taxpayer money for working on his brother's anti-wolf campaign

By Eric S. Peterson | The Utah Investigative Journalism Project

The following story was reported by The Utah Investigative Journalism Project in partnership with The Salt Lake Tribune and was originally published Aug. 27, 2024.

For years, the state has paid millions to Big Game Forever so the organization could lobby for removing the gray wolf from the list of animals protected by the Endangered Species Act. During that time, the nonprofit kept secret how it spent these taxpayer funds.

In July 2024, Big Game Forever — co-founded by Utah lawyer and hunter Ryan Benson — was finally ordered to release documents about its subcontractors. The state now has disclosed records covering two years of spending, from mid-2018 to mid-2020.

The documents show major payments to Ryan Benson's own company, Stag Consulting, and to Stoneworth Consulting, which is owned by his

brother, Jon Benson. Jon Benson's involvement and receipt of taxpayer money from Big Game Forever had not previously been publicly known.

And Jon Benson was shown to be working hundreds of hours on delisting the wolf at the same time he listed himself as president of Lake Restoration Solutions, a company that had a high-profile, controversial plan to dredge Utah Lake to create 18,000 acres of artificial islands.

During those two years, Big Game Forever spent over \$1.3 million on "public outreach" and Jon Benson billed nearly 20% of the hours in that category. The documents indicate the percentage of a spending category each subcontractor received, not actual



Brian Maffly | The Salt Lake Tribune

Ryan Benson, pictured here at Lindon Marina, was the CEO of Lake Restoration Solutions, a now-bankrupt company that proposed dredging Utah Lake as part of a controversial development. Newly disclosed records show how a nonprofit founded by Benson — Big Game Forever — used taxpayer dollars to pay two consulting companies, one owned by Benson and the other by his brother, Jon Benson, for work related to removing federal protection for the gray wolf.

dollar amounts.

The fight over the transparency about the organization's spending goes back to 2020, when the Utah State Records Committee ordered Big Game Forever to disclose to The Utah Investigative Journalism Project the names of sub-contractors it had paid using millions of taxpayer dollars.

Big Game Forever sued in the 3rd District Court to keep the records secret for the next four years. After losing in district court, it appealed to the Utah Court of Appeals, which said the records should be released unredacted.

During this legal battle, Ryan

Benson joined Jon Benson in leadership at Lake Restoration Solutions. The plan to dredge Utah Lake would ultimately fail, but not before the company pursued one of its critics in court.

Lake Restoration Solutions sued Brigham Young University plant and wildlife sciences professor Ben Abbott for defamation in 2022 over his public criticism of the company's claims that it would be able to help clean up the lake with its massive development project. That suit was dismissed in 2023 and ruled by a judge to be an abuse of the legal system.

Abbott was surprised to learn that Jon Benson had received taxpayer money from Big Game Forever. “It was always hard to assess when interacting with Ryan and Jonathan who was making the decisions and where was all the bad judgment coming from,” Abbott said.

Abbott said he was aware that another Ryan Benson project, a separate nonprofit called Big Game Forever Foundation, had a connection to Lake Restoration Solutions, based on the company’s bankruptcy filings. Big Game Forever has a nonprofit designation that allows it to lobby on issues. Big Game Forever Foundation is a traditional charitable nonprofit.

The newly released documentation, he said, “I think, shows that that collaboration [between the brothers] went back a lot longer.”

Jon Benson refused to comment about his work for Big Game Forever. Ryan Benson did not respond to questions sent to him through his lawyer and his brother about his work for Big Game Forever, for the separate charitable foundation and for Lake Restoration Solutions.

Big money

In 2011, the Utah Legislature put the gray wolf in its crosshairs. That year, Sen. Allen Christensen, R-North Ogden, sponsored SCR15 calling on Congress to delist the wolves; during a committee hearing, he warned about the threat they posed to wildlife, livestock and rural economies. He acknowledged wolves were not a threat in Utah like they were in states like Montana, but he likened wolves to a “cancer” that needs to be contained before it spreads.

More significantly, that year, the Legislature began appropriating funding to be administered by the Division of Wildlife Resources, or DWR, to accomplish delisting. DWR passed this funding to Big Game Forever. The organization initially received \$100,000 a year.

Big Game ultimately burned through an additional \$5.1 million from the Legislature for the anti-wolf campaign, an amount confirmed by DWR. The group claimed victory in 2020 when the Trump administration removed the wolves from the endangered species list. A federal judge reversed that decision in 2022.

While the project was heralded by many Utah lawmakers worried about predators destroying livestock and big game populations, there were also repeated concerns about the lack of transparency regarding how the nonprofit was spending state money.

A 2013 legislative audit found the nonprofit was getting paid upfront, even before establishing progress on its goals. The auditors also warned that the nonprofit was mixing state and private funds.

In 2018, Big Game Forever was required by DWR to disclose the names of its subcontractors to state officials. The organization's last two annual reports, dated July 2018 to June 2019 and July 2019 to June 2020, on its anti-wolf expenditures showed that it spent \$2.5 million — with the lion's share, \$1.3 million, going to "public outreach." The names of the nine subcontractors were redacted when the report was released to the public.

The unredacted version recently obtained by The Utah Investigative Journalism Project shows Jon Benson's Stoneworth Consulting billed

2,163 hours in total, with 1,556 hours in the public outreach category. He also billed the most hours — 387.4 — in the "administrative" category. That work occurred during the same time he listed himself on his professional page as president of Lake Restoration Solutions.

It also shows the number of hours other subcontractors worked in different expense categories, without disclosing exactly how much they were each individually paid.

One entity, Lumley & Sons, billed 2,795 hours of public outreach work. There is no Lumley & Sons registered in Utah, but the name matches an email associated with Matt Lumley, president of the Montana Trappers Association and vice president of the National Trappers Association. Lumley is also listed on Big Game Forever's website as the regional director for Montana and Wyoming. Lumley did not respond to a request for comment.

In June, The New York Times reported on how Lumley had caught a Yellowstone wolf in a steel-jawed trap and, instead of killing or releasing it as soon as it was discovered per Mon-

tana law, he instead alerted Montana Gov. Greg Gianforte, who traveled from hours away to shoot the wolf in violation of state regulations.

The unredacted documents also identified two subcontractors who provided “legislative” work: Dutko, a major lobbying firm based in Washington, D.C., which billed 505 hours, along with Hartley & Associates, a Utah lobbying firm that billed 652 hours.

During the time he was billing Big Game Forever for this work, Jeff Hartley, of Hartley & Associates, was also lobbying for Lake Restoration Solutions. Hartley was a partial owner in the company, according to disclosures Ryan Benson made during a Sept. 12, 2023, bankruptcy hearing.

According to a 2013 audit, Big Game Forever would not be allowed to spend state funding to lobby the state. It’s unclear why a state-based lobbyist would be needed when the Legislature had already endorsed the project with millions of dollars over the years, and Hartley refused in a text to answer questions about his work for both entities.

The state report also lists an

entity named Two Feathers LLC as having billed 1,881 hours of “public outreach.”

Division of Wildlife Resources spokesperson Faith Jolley said any questions about that company would have to be answered by Big Game Forever. “DNR/DWR did not receive detailed information on the roles of each of the subcontractors,” Jolley said.

A 2019 report Big Game Forever produced did note Two Feathers Custom Hunting Bows in Colorado as a supporter of its efforts to remove the wolf from the endangered species list. Company owner Denny Behrens had also advocated for wolf-delisting in Colorado. Behrens did not respond to a request for comment made by phone.

Abbott said he finds the lack of oversight troubling. “The fact that we can’t get answers from government agencies about what was done and for how much, it highlights the additional risk of these public-private partnerships,” Abbott said.

‘Brains and brawn’

Other subcontractors listed include Peay Consulting, owned by Don Peay, a long-

time big game advocate who previously founded Sportsman for Fish and Wildlife, co-founded Big Game Forever and successfully lobbied for past legislative appropriations for the wolf delisting campaign. He billed 1,092 hours “public outreach” work and “direct action,” according to the state reports.

Peay would not comment on any other Big Game Forever subcontractors, such as Jon Benson, or on the amount of compensation he received for his work, except to say it was “pretty well below fair-market value.”

Peay was listed as a director for Big Game Forever in 2011 when it was first formed but notes that he was not with the organization when it received state funding. He says that he continued the work well after his contract with Big Game Forever expired in January 2020.

“I continued to work until the end objective was achieved, which was wolf-delisting,” Peay said.

He says the work he did was based on previous networks and connections he built back in 2010 when he helped advocate for the amendment to the

Endangered Species Act that in 2011 delisted the gray wolf in Montana, Idaho and eastern portions of Washington and Oregon through bipartisan support.

“I was the brains and brawn behind a huge national, grassroots effort to get bipartisan support [for the delisting],” Peay said. “When people understand what wolves are, they understand they need to be managed.”

The documents listed another entity the state could not identify, JB Inc., that did public outreach and administrative work between 2018 and 2019.

The 2018-2019 report had an “education/science” category that was not in the later report. In that category, Ryan Benson paid his own consulting company for 131 hours of work. Ryan Benson’s professional background is as a lawyer, although his biography page on Big Game Forever’s website says he minored in zoology in college. His brother Jon Benson also billed 220 hours in the “education/science” category.

Over the two-year period, Ryan Benson’s Stag Consulting billed for 2,795 hours,

mostly for “legal” work. Big Game Forever also billed the state a combined \$32,298 for travel expenses.

In both reports, Big Game Forever touted the importance of public outreach through social media, citing more than 430,000 followers on social media.

“Big Game Forever has been very effective at growing its public outreach capabilities and has a level of engagement unmatched by other groups,” the report stated.

The organization’s Facebook page lists 413,000 followers. But the majority of the posts are photos from other sites of hunters’ trophy kills from across the country and reposts of wildlife related news. Far fewer posts advocate for delisting the gray wolf.

After a federal judge in California reversed the Trump decision in February 2022 and once again protected the gray wolves across most of the country, Big Game Forever’s Facebook page said nothing about the decision and it stopped posting shortly thereafter.

Big Game Forever hasn’t had a contract with the state since 2020. In 2023, Utah lawmakers

gave Kansas-based nonprofit Hunter Nation \$500,000 for anti-wolf lobbying. In the 2024 session, Peay and Sen. Derrin Owens, R-Fountain Green, urged the Legislature to do it again.

Instead, members appropriated \$250,000 for “state management of wolves” while stipulating that an audit will be conducted on past anti-wolf lobbying payments before the money is paid out. The funds also will be used to reimburse expenses, not paid up front, and the documentation filed in support of obtaining the money will not be redacted, lawmakers insisted.

Wolves are protected as an endangered species in Utah, except for a small corner of northeast Utah that is considered part of the wider Yellowstone region where the predator is in recovery.

Entwined finances

Lake Restoration Solutions’ plans to build islands in Utah Lake were sunk in 2022 when the Utah Attorney General’s office determined that the proposal would violate the state constitution by giving away “sovereign lands” to a private

company. In 2023, the company filed for bankruptcy.

Before the bankruptcy, Lake Restoration Solutions paid \$80,000 to Ryan Benson's Big Game Forever Foundation for "intellectual property." And the charitable foundation forgave a \$250,000 loan to Lake Restoration Solutions, according to court filings.

Ryan Benson said in the bankruptcy hearing he could not find a document for the loan. He also did not respond to questions from The Utah Investigative Journalism Project about the loan. His bankruptcy attorney said that the loan from the foundation did not come from the state funds paid to the separate Big Game Forever nonprofit that had the contract to delist the gray wolf.

Jeff Hunt, an attorney at Parr, Brown, Gee & Loveless who represented the Utah Investigative Journalism Project in the yearslong battle for the records, said the decision forcing Big Game Forever to turn over the documents was a "big win."

He notes that because of the litigation, the district court and Utah Court of Appeals refuted the idea of the identity

of subcontractors being "trade secrets" and "created some important legal precedent that the public has a right to know the identities of contractors who perform work on government contracts," Hunt said.

On top of that, in 2022 the Utah Department of Natural Resources, which defended the denial of records in court, was ordered to pay attorneys' fees for The Utah Investigative Journalism Project in the amount of \$146,349.50. The next year, the Legislature passed SB231 so that the state would no longer necessarily foot the bill for companies that want to keep records secret.

"The core principle of Utah's sunshine laws is that the people's business should be conducted in public," Hunt said. "That is especially the case when we are talking about entities receiving millions in taxpayer dollars." •

*Salt Lake Tribune reporter
Leia Larsen contributed to this
report.*

LEGISLATURE 2025



Alex Goodlett | Utah News Dispatch

SECTION III

Legislature 2025: The biggest attack on open government in over a decade

By Eric S. Peterson | The Utah Investigative Journalism Project

In the 2024 Almanac, we noted a tough year at the Legislature for bills attacking open government because it was an election year, when lawmakers often look to score points by going after the big, bad media. But even with the election over, this session was no reprieve — far from it. In fact, the bills targeting open government this session may have been the worst the state has seen since lawmakers tried in 2011 to destroy Utah's open records law, the Government Records Access and Management Act, or GRAMA, with HB477.

This session was different, though. Instead of one juggernaut of a bill like HB477, lawmakers closed off access to open government from a variety of angles and bills. Some of those bills had proper hearings and the public was able to voice opposition and

make bad bills less bad (hey, we'll take it!). But in one case, they snuck an amendment into a bill at the last minute with major consequences for transparency so that no public opposition could be heard — and they got away with it.

Let's survey the damage.

The State Records Committee is gone ***[SB277](#) Government Records Management Amendments—PASSED***

Utah has been unique in the nation for having an independent body known as the State Records Committee that can settle records disputes between average citizens and the government. Has been unique that is. Sen. Mike McKell, R-Spanish Fork, passed SB277 this past session that got rid of the committee for good.

Now Utah will go from a

seven-person volunteer committee with members representing local government, the media, private citizens and other interests, to a single director.



**Sen. Mike McKell,
R-Spanish Fork**

The director will be an attorney with experience in records management law who will act as an administrative law judge. This GRAMA czar will be appointed by the governor and confirmed by the Senate.

Speaking before the Senate Government Operations Committee, McKell argued the State Records Committee had become too bogged down to work effectively.

Under statute the committee is meant to issue a

records decision within 73 days of the notice of appeal being [filed](#). McKell said the committee has not kept up with demand, according to a legislative audit. That audit noted that between 2020 and 2024 less than 10% of records appeals were heard within 73 days. In 2023 the average time for a dispute to be heard was 153 days.

“What this audit concluded is that we have a problem and we are too slow,” McKell said.

The research also showed the delay could be tracked to an increase in records disputes over the years. Back in 2014, for example, the committee heard 21 appeals. Fast forward a decade, and the committee heard 85 appeals in 2024.

“The work is becoming significantly more difficult and we need to be responsive to that,” McKell said.

While he also commended the volunteer effort of the committee, he noted that despite having “quasi-judicial” powers, “not one person is required to have a legal background, a law degree or any type of judicial experience.”

McKell’s legislation drew

intense pushback from the public. Part of that was that the original language of his bill had sought to strip out of GRAMA the “balancing test,” a key component of the law that gives the public’s right to know an edge over the government’s right to secrecy.

McKell took that language out and left the balancing test intact before presenting his new language at the committee hearing. However, that did not calm members of the public who still worried about a consolidation of power from a volunteer committee to a single employee appointed by and beholden to the governor.

“The current members are already appointed by the governor and are more representative of the people than one judge,” said Jennifer Garner, a member of the public who testified against the bill.

Tom Haraldsen, a journalist of more than 40 years and former member of the State Records Committee, pointed out to the legislative committee that group deliberation delivers results.

“As with all of you, decisions are better made when there’s a committee of people who

are able to talk about their thoughts and share their thoughts,” Haraldsen said.

John Gadd, an attorney from Pleasant Grove, spoke against the bill and noted that currently while the State Records Committee members are appointed by the governor, the position is voluntary.

“The members of the SRC are appointed to a four-year term and they serve independently without fear that their decisions will result in a loss of their livelihoods,” Gadd said.

The new director would be beholden to the governor for his job, however, and Gadd noted that he could be removed from that position without cause. That would open the possibility that he could be removed for a records dispute ruling that the governor disagreed with.

“If you do this I am afraid the director will be too beholden to the governor and will be afraid to rule against the governor for fear of losing his or her job,” Gadd said.

The legislation passed out of the committee, but by a narrow margin. McKell and other lawmakers realized the

public opposition was intense and later amended the bill language so that the director could not be removed without cause by the governor. The bill then was able to pass favorably out of the session.

Hiding government employee misconduct records

SB288 *Employment Investigation Records Amendments*—NOT PASSED



**Sen. Stephanie Pitcher,
D-Salt Lake City,**

Sen. Stephanie Pitcher, D-Salt Lake City, tried to pass legislation she argued would protect the privacy interests of victims of government workplace misconduct. She noted that information could potentially be released about

sexual harassment investigations that identified the victim because of government transparency laws.

“The potential for these details to be disclosed publicly gives victims very little confidence that they have an avenue to safely report (misconduct),” Pitcher told a Senate committee in March.

Her legislation sought to keep victim’s names out of reports released by the government; it also would prevent any records of an ongoing investigation from being released no matter what. Currently under GRAMA’s “balancing test” records from an ongoing investigation can be released if the public has a strong and compelling right to know.

But the legislation wouldn’t just have protected the identities of victims. It also would allow the identities of perpetrators to be shielded from the public if a government employee resigned before an agency completed its investigation of misconduct and issued a final written decision.

FOX13 reporter Adam Herbets noted in a story how it was discovered that a Salt

Lake City police officer “re-signed after an investigation found that he prompted a rookie officer to use a box cutter on a dead homeless man.” If Pitcher’s bill became law, someone in a similar position could resign before an investigation was completed and escape public accountability for their misconduct.

The bill was introduced in the last week of the legislative session and while it passed the Senate; it did not make it out of the House.

Required disclosure if foreign government’s pay for elected officials travel
HB460 Disclosures Amendments–NEVER GOT OUT OF COMMITTEE

Perhaps one of the most interesting open-government bills to never see the light of day was HB460, sponsored by Rep. Candice Pierucci, R-Riverton.

The bill would’ve required elected officials — including her fellow legislators — to disclose to the state if a foreign government, or a corporation or other organization controlled by a foreign government, paid for their travel expenses.



**Rep. Candice Pierucci,
R-Riverton**

Pierucci never got the chance to testify publicly about her bill as it languished in the House Rules Committee the entire session.

No attorney fees for beating the government in court

HB69 Government Records and Information Amendments–PASSED

Rep. Stephanie Gricius, R-Eagle Mountain, presented her legislation as being only about clarifying when government officials could access election information. The bill was introduced early in the session and was heard in committees in both the House and the Senate, where members of the public had

an opportunity to have their voice heard for or against the bill.

After it had passed both committees and the public could no longer speak to it, the bill's Senate sponsor, Sen. Calvin Musselman, R-West Haven, introduced an amendment adding radically new language to the bill.

Now the bill would also make it almost impossible for someone to recover attorneys fees if they had to take a records dispute with the government to court and won. In order to win attorneys fees, the member of the public now has to prove the other side is acting in "bad faith." Attorneys with The Utah Media Coalition said that is a nearly impossible burden to overcome. The bill also for the first time allows the government to collect attorney fees if they prevail in court and prove bad faith from a member of the public, creating what amendment sponsor Musselman described as a "two-way street."

While this amendment was added after the public's opportunity to comment had ended, on the Senate floor



**Sen. Calvin Musselman,
R-West Haven**

Musselman indicated that the amendment was not an off-the-cuff decision and was something that had actually been researched beforehand.

"As we researched, there are multitude of other different kinds of views on this from other states, and six other states have a two-way kind of road, and that's exactly what this bill does," Musselman said.

The effect of the bill will likely now price most people out of fighting a records battle in court. In the past attorneys may have taken on cases they felt confident about winning because they knew they could recover the legal fees.

In 2019 The Utah Investigative Journalism Project sought

records of how a nonprofit, Big Game Forever, was spending millions in taxpayer dollars to lobby for removing federal protections for the gray wolf. We won at the State Records Committee but had to take the matter to court. We got pro bono legal counsel, thankfully, that allowed us to access the records we were requesting after showing the head of the nonprofit was using the money to pay his younger brother as an employee. But it was a long and costly fight that lasted almost four years. During that time, our attorneys racked up six figures in expenses. Now that HB69 has been passed, attorneys would likely not expect to recover fees and would be unable to afford taking on such a case.

This decision may likely price out small organizations and average citizens from challenging records denials in court and may therefore embolden more agencies to deny record requests in the future.

Changing the intent of GRAMA to not favor public access to records

HB3914 Statutory Intent Amendments—PASSED

Rep. Jordan Teuscher, R-South Jordan, told a committee that HB394 was just a simple “clean up” bill going through Utah code and removing reference to legislative intent, arguing that the code should not express intent...in most cases.



**Rep. Jordan Teuscher,
R-South Jordan**

However, he also said that in some areas the legislative code would intend for language to be “operative,” meaning it should go into effect.

One of the sections of the code that was completely taken out was references to GRAMA that the courts refer to for guidance when it comes to deciding records

disputes. Teuscher said the removal did not affect how courts could interpret GRAMA.

Attorney Michael Judd, representing the Utah Media Coalition, disagreed.

He testified that the bill seemed to correct and keep certain intent language and in other places just struck it out, as it did for GRAMA.

Judd said Teuscher's bill zeroes in on the section of GRAMA "where it says, 'We as the Legislature recognize the public's right to have access to information about how the public's business is conducted' and it takes a big red pen and it crosses that out. It takes the provision of the statute that says, 'We also support the government's right to protect individual privacy,' and it takes a big red pen, and it crosses that out."

The bill passed out of that initial committee and at a later hearing Judd testified that Teuscher refused to speak with the media coalition about compromise language.

The bill was passed out favorably by both houses.

Trying to criminally punish the public for government

mistakes

SB225 Government Records Access and Management Act Amendments–NOT PASSED

Sen. Keith Grover, R-Provo, attempted to pass legislation that would make it a crime for a member of the public or a reporter to receive records accidentally from the govern-



**Sen. Keith Grover,
R-Provo**

ment and then publish or share the information.

Taylor Barnes, a reporter with Inkstick Media, an outlet that covers the defense industry, noted this likely resulted from a situation she experienced in reporting on the state of Utah providing subsidies to Northrop Grumman for their plans to develop interconti-

mental ballistic missiles in the state.

During a legal dispute for records about the state subsidy, a government employee accidentally disclosed financial paperwork about the state's deal. Inkstick's attorneys alerted the government to the error and deleted the information.

Still, Grover seemed intent to push legislation that would make a future government error like that a big problem for the recipient of such information by criminalizing use of information shared by a bureaucratic flub.

"The vague language in state Senator Grover's bill raises questions about how the government would define what constitutes 'improperly' using a record obtained 'inadvertently,' such as whether that would criminalize a journalist copied on an email containing a record that the government did not intend to release who then went on to publish that record," Barnes [wrote](#).

The bill was impeded by court precedent, showing such a maneuver was likely unconstitutional. The bill was

never passed out of committee.

No transparency for university president finalists

[SB282](#) Higher Ed Hiring Amendments—PASSED

University presidents are among the highest paid government officials in the state, overseeing thousands, if not tens of thousands of employees. They are also charged with the academic training of as many students every year.



**Sen. Chris Wilson,
R-Logan**

Under previous law, the names of finalists for a university's top position would be made public.

This added transparency and accountability to the process.

Sen. Chris Wilson, R-Logan, argued the secrecy was needed to attract the best candidates.

“Job applicants deserve privacy throughout the hiring process,” Logan testified at a House [committee hearing](#). “Especially if they are not selected for the position.” Logan noted that top-tier candidates would drop out of a process if they knew their name would be made public before landing the job because then their current employer would find out about it.

Jeff Hunt, a First Amendment attorney with Parr, Brown, Gee & Loveless, testified against the bill,

noting that in other states the public’s feedback has been incredibly valuable in vetting finalists. Information from whistleblowers revealed that a candidate for a president position at Penn State was under criminal investigation for illegally padding his salary at a previous job.

“There’s value in allowing the public to have a role in the process,” Hunt said. “I understand there are stakeholders in the search committees but the most important stakeholder is the public.”

The committee and the Legislature as a whole disagreed and passed the bill out favorably. •



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DATA & DATABASES



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SECTION IV

State tech officer fired after pushing back against plans to scrub public data

By Eric S. Peterson | The Utah Investigative Journalism Project

The following story was reported by The Utah Investigative Journalism Project in partnership with The Salt Lake Tribune and was originally published Aug. 27, 2024.

For the past decade, Drew Mingl helped build Utah's Open Data Catalog into a model of transparency for state governments across the country. The data portal posted thousands of datasets online in useful formats for all to see from agency heads and lawmakers to journalists and the public at large.

In 2017, the state was ranked No. 1 by the Centers for Data Innovation for E-government innovation and was ranked No. 6 overall for best data innovation.

But beginning in the fall of 2023, Mingl found himself clashing with his new boss, Chief Technology Officer Chris Williamson, who wanted the award-winning site to scrub all public data that came from federal sources — even data that lawmakers and agency heads had previously asked Mingl to



Drew Mingl

put on the site. Mingl estimated that might be as much as half of all the data on the site.

"How is the public being harmed by providing this Utah open data that people keep asking me for — like water & fire data or healthcare cost data that is a priority of Governor Cox?" Mingl asked in an Oct. 23, 2023, email to Williamson.

"The more public open data I can make available to Legislators

& other policy makers the better more ‘data informed’ public policy decisions can be created. Is that not a good thing?”

Williamson would not budge, and a few months later in February, Mingl was terminated. Immediately prior to the termination, Williamson complained to the state Division of Human Resources Management that Mingl “refused to take down content as directed” and that “his communication has been sparse and at times disrespectful.”

The Utah Division of Technology Services would not speak directly about Mingl’s termination since it was a personnel matter. The Utah Investigative Journalism Project, however, requested email records from the agency during the months before the termination. The Utah Division of Technology Services refused to provide the records in an easy-to-review electronic format; instead the division printed out 861 double-sided pages of emails — in color ink.

These emails show disagreements about Mingl’s in-person attendance at the office (Mingl maintains he has been a completely remote worker since the pandemic), but also showed repeated clashes over the removal

of public data. The emails also showed that staff in the office challenged the effectiveness of the data portal without letting Mingl respond to the findings of an internal audit.

‘Pretty disgusting numbers’

In 2011, lawmakers had sought to gut Utah’s open records law — the Government Records Access and Management Act — leading to public outcry. When the controversial law was abruptly repealed in the face of public outrage, the Utah Legislature also moved to make more records publicly available by just posting them online so fewer people would even have to file public requests in the first place.

This push led in 2014 to the hiring of Mingl to gather government datasets, curate them and make them available to the public on the Open Data Catalog. Citizens can view over 7,000 datasets and numerous user-friendly data dashboards. They can view 3-D crime maps, check water consumption data and see what starting salaries Utahns can expect based on what college degrees they receive. Members of the public could examine data on opioid prescription deaths by ZIP code

or see where vehicle thefts happen in Salt Lake City or neighborhoods targeted by burglars in South Jordan.

Under the supervision of previous Chief Technology Officer David Fletcher, Mingl was directed to bring in numerous federal datasets to the portal and to also help local government agencies.

But when Williamson took over the job in September 2023, he made a hard pivot and demanded public federal data be removed from the site. Williamson also initiated an internal audit of the open data portal.

In December, Mingl wrote a lengthy email to Utah Division of Technology Services staff conducting the audit raising his concerns. Williamson had interpreted state code defining “public information” to mean only information from state and local sources. Mingl explained that removing federal data would undo years of work.

He noted how a database showing Utahns how much student debt they would accrue at local universities would no longer be available.

“It has been downloaded by citizens of Utah over 3,000 times — all gone now because it came from the [Department of

Education] — wrong database apparently,” Mingl wrote.

The same went for data on most common prescriptions because it came from Medicaid or for numbers of opioid prescriptions by physicians.

Mingl noted that Williamson believed this information was protected medical information under HIPAA, the Health Insurance Portability and Accountability Act, despite the fact that the information is already put out by federal agencies.

“(By Williamson’s) interpretation, the Centers for Medicare & Medicaid has been violating HIPAA by publishing this public data for the last 15 years,” Mingl wrote the auditors.

As the internal audit progressed, emails showed Mingl was concerned that he wasn’t allowed to respond to the review.

Indeed, one email presented to Williamson by the auditors had not been shown to Mingl until after his termination and the UIJP told him about it.

In December, the auditors reported to Williamson that the Open Data Catalog datasets had only 45,697 views and 849 dataset downloads. According to the auditors, that meant the expense of the portal over the

past nine years amounted to a cost of \$43.62 per view or \$2,347.70 per download.

Williamson called the metrics “pretty disgusting numbers.”

Mingl — who is limited in what he can speak about regarding his former employment — did, however, note those metrics were not representative of the whole site. He pointed to official presentations to the Utah Transparency Board in 2018 that showed that by that time alone, the portal had received over 9 million page views.

Utah Division of Technology Services spokesperson Stephanie Weteling said site metrics from the internal audit were accurate and verified. “We have not been able to verify the numbers that (Mingl) provided in 2018,” Weteling said.

Mingl provided the UIJP a spreadsheet that he also provided to the internal auditor showing the site had actually received almost 14 million views from 2014 to 2020. He said only he was able to pull the site’s metrics and thus challenges where the auditor found the contradictory metrics. He also said under the previous chief technology officer, all metrics had to be approved with backup documentation.

But Mingl was never allowed to challenge the auditors’ final numbers while he was still employed at Utah Division of Technology Services despite asking to see their findings on multiple occasions. To this day, he says he’s never seen the audit results.

Williamson also clashed with Mingl about not being in the office enough. While Mingl notes he was made a full-time remote employee during the pandemic, Weteling noted that policy changed in 2023 and employees were required to be in the office two days a week.

But according to the records, most of Mingl’s absences were related to health concerns. He had developed issues with his prostate health and had told Williamson about it. Williamson, in separate emails, complained to state human resources staff that Mingl was not appropriately requesting medical leave. These issues resulted in Mingl being put on a performance improvement plan.

But at the end of January, just days before Williamson told human resources that Mingl was not taking direction and the termination had to go through, he had another disagreement with Mingl over public data.

Mingl had just used federal public health data to create a health care shopping tool that would allow Utahns to compare shop different procedures at different local hospitals with recent federal data. A new law required hospitals to post the data, but Mingl said the data was not clearly posted on their websites and was put in user-unfriendly file formats.

Mingl found the data and put it in a pilot dashboard, made it public and showed it to Williamson and other state officials for feedback.

"Consumers in Utah can now shop around to get the best price for their healthcare dollars which supports Gov. Cox's priorities of tackling healthcare costs," Mingl wrote proudly in a Jan. 24 email.

While other recipients showed excitement about the idea, Williamson's immediate feedback was to tell Mingl to take it off the website so the public could not view it and instructed him to focus on other tasks first.

Under review

Williamson, who resigned in April from his position, according to Wateling, was contacted by phone but refused to answer any questions, instead referring

questions to the Division of Technology Services. His position and Mingl's remain unfilled.

Weteling couldn't speak to Mingl's departure. She said an internal audit was started, but she doesn't know if it was finished or where auditors got the metrics about the Open Data Catalog.

She said the office was still reviewing what data would be made available on the portal, but she said the office was focusing on how the state code defines "public information," the same position taken by Williamson.

"Utah code requires us to have state, local government and independent entities data on the site," Weteling said. "So that's what we're really focusing on."

Jeff Hunt is an attorney at Parr, Brown, Gee & Loveless and member of the Utah Media Coalition that advocates for open government. He notes the section of code referenced doesn't mention federal data and doesn't prohibit it from being posted publicly.

"It appears the statute is focused on providing public access to information concerning state and local government operations, not the federal government," Hunt said. "At the same time, if the federal data is available,

providing it to the public through the Open Data Catalog will only improve government transparency and accountability.”

Federal data also appears not to be stricken from other state agency sites. The Utah Tax Commission posts federal tax return data, the state auditors use federal data on the Transparent Utah site. The Public Lands Policy Coordination Office uses federal data for mapping of public lands in Utah, and the Department of Workforce Services has federal wage data on its site.

Daniel Castro is the director of the Center for Data Innovation, a think tank that studies the intersection of data technology and public policy. His organization has highlighted Utah’s data portal multiple times as “an early adopter” in the data portal field.

He notes that most portals focus on their own state’s data, but some have benefitted from blending data from multiple sources, including the federal government, to provide benefits to users. He points to some of the Utah portal’s sites on crime, policing and education where Utah is excelling at bringing different data sources into useful resources for the public.

“That’s the concept of saying,

‘We’re going to take certain datasets and make them available in ways they weren’t before,’” Castro said.

But some of those innovations, like giving students data to assess how much their degree is worth and how much debt to expect, are now on hold and under review while Utah Division of Technology Services continues to reevaluate its mission — and tries to hire new leadership.

According to emails, Mingl was criticized for making health care cost data public before receiving Williamson’s approval. But the division decided to remove the federal data without apparently consulting different lawmakers who had requested federal data for the portal.

Weteling said lawmakers and other agencies hadn’t been consulted yet.

“Not at the moment, it’s under review,” Weteling said. “But, yes, we are going to include different parties to make sure we are getting it right.”

While the division has stripped huge amounts of data from the portal for the first time in a decade, she said, the end result will be better after a revamping.

“All these things are meant to be positive, so the public can get

the data they need,” Weteling said.

Mingl's background is as an auditor. He knows how easy it is for numbers to get fudged when they get buried in rows of inaccessible data, and he knows what's at stake when fudged numbers mean wasted taxpayer resources.

“I grew up poor as shit,” Mingl said. His family relied on public assistance and, knowing how important that was, it kills him to think of how wasted public funds could be better spent on those who need it.

After working as an auditor at Salt Lake Community College, Mingl was called on to fill the new position of state data coordinator, created by SB70 in the 2014 legislative session by then Sen. Deidre Henderson, R-Spanish Fork. The legislation created the Utah Open Data portal, opendata.utah.gov, as well as the Open Records Portal, open-records.utah.gov, where Utahns can file records requests with government agencies. He also manages the state's financial transparency site, spending.utah.gov. Not only does he work with small rural towns and counties in the state, but he also wrestles with federal bureaucracy to pull

federal data about Utahns and make it accessible at the data portal as well.

His work consists primarily of “finding [data], cleaning it and then uploading it,” he said. The biggest time suck is spending hours cleaning and polishing the data into a consistent format.

His marching orders are to prioritize and curate the most important information for easy online access. The data he's found can often be surprising.

“There was a new federal law that required hospitals to make available their cost structures for every single procedure with Medicaid cost data,” Mingl recalled. Within miles of each other he found two doctors doing the same knee replacement surgery with drastically different billing.

“Two providers, one cost \$39,000 and the other was \$80,000,” Mingl said.

That's just one interesting data set easily found on opendata.utah.gov by searching on the “Health” tile on the home page, among numerous other categories of data including “Education,” “Transportation,” “Government & Taxes” and more.

The tiles bring up unique catalogues worth exploring, but Mingl said the next step is to

curate the data even more.

"What I'm doing now is when you click on the 'Health' button it's going to take you to an already completely curated page," Mingl said.

With health data sets specifically, that will include interface with federal databases like those that show what pharmaceutical companies pay to doctors in stipends, free lunches and honorariums. The kind of data point that might help some Utahns understand "why does my doctor keep shoving statins down my throat," Mingl said, as an example.

The new functionality will also include custom visualizations.

"I'm going to pick the best ones and make lots of maps," Mingl said. The new site could then allow you to not only know how much a big pill company is paying a doctor, but you could scroll across a map of health care providers in your county and click on each one and get quick stats on how much they receive and from what companies.

"I'm going to make it super easy for people to get the data you need as quickly and seamlessly as possible," Mingl said.

Takeaways:

While the data is valuable for everyone, Mingl said journalists especially should take advantage of all the data available to them online. He said it can even help journalists who are being quoted excessive fees for GRAMA requests for digitally stored data.

Under Utah law, agencies are only supposed to charge the hourly rate for the lowest-paid employee capable of providing the records. He said you could easily look up the salary of the records officer for an agency on spending.utah.gov and then figure out their hourly rate and see if it matches up with what an agency is trying to charge for a GRAMA request.

"I would calculate the average salary she or he makes per hour, then I would take that total and divide by the amount of hours spent to get it, that's going to give you a defensible charge," he said.

He also encouraged people to reach out with questions at dmingl@utah.gov. He is the friendly data librarian after all.

"If I can show what can be done with the data, hopefully it will incentivize people to jump in and get their own data," Mingl said. •

New data tool allows journalists and the public to track wandering cops in Utah

By Eric S. Peterson | The Utah Investigative Journalism Project

The following story was reported by The Utah Investigative Journalism Project in partnership with the Invisible Institute and Salt Lake City Weekly and was originally published Sept. 23, 2024.

In September 2019, the Logan City Police Department hired Officer Miguel Deras, who had recently left the University of Utah's campus police. Police officers move from job to job just like anyone else, but Deras was not like anyone else.

He left his previous post without a great reference, considering that a petition had been signed by more than 130,000 individuals — including current and former University of Utah students — demanding he be fired for mishandling sensitive photos of murdered student Lauren McCluskey.

In 2018, McCluskey went to university police to report that someone had stolen explicit photos of her and was using them to try and extort money. A Utah Department of Public Safety review would later find Deras

had inappropriately shown the pictures to at least three of his male colleagues without a work-related reason and had told one colleague that he could “look at them whenever he wants.”

After the state's investigation was completed in 2020, Deras was promptly fired by Logan City.

“Our continuing efforts to hold sacred the public's trust and our duty to serve and protect has resulted in today's decision,” the department's press release stated.

Deras' move from one department to another was caught by the megawatt glare of public scrutiny surrounding the university's inept response to the McCluskey case.

The botched handling of that case culminated in her murder by Melvin Rowland, a man she briefly dated and who had

also tried to extort her with the photos.

But police screwups are not always wrapped up in such high-profile cases. Some officers have a knack for bouncing from one department to the next with little awareness from the public — or sometimes their own departments — about the true nature of their past work history.

A new data tool showing police employment history launched in Utah. The data tool, part of a national reporting project focusing on state-level police certification and employment data, was launched in Utah after a successful public records appeal by The Utah Investigative Journalism Project. Utah is one of 17 states where data about police employment history is now available through the tool.

The tool was created by the Chicago-based nonprofit journalism organization Invisible Institute and was developed with data collected by a national coalition of reporters and others convened by Big Local News. It is intended to help journalists, researchers, attorneys and the public access data about the professional work history of officers in the state.

The data can be used to track potential examples of what's known as "wandering cops": officers who commit misconduct at one department, are fired or leave under other circumstances, and are able to find work at another agency, simply because they maintain their police certifications.



Chris Burbank

The public "should have the right to investigate [if] bad cops are going from agency to agency," said former longtime Salt Lake City Police Chief Chris Burbank. "That's where there should be more public disclosure on those things, as opposed to hiding it away. There needs to be accountability for why individual agencies are hiring these people."

Certification and employment history data have been used by

journalists in California to identify officers with criminal convictions who are still employed in law enforcement; in Georgia to show that officers with checkered histories were being hired by school districts; in Illinois to show how officers who had committed controversial shootings cycled through the suburban departments outside of Chicago; and in Washington State to show weaknesses in the state

Now, the data for Utah can be accessed online at national.cdpd.co.

Most police officers in Utah find themselves working at a small number of departments throughout their career. Some move around for better jobs and opportunities. But some also move far and wide across the state, because they have to.

Take former Lehi police officer Wade Butterfield, for example,

“That’s where there should be more public disclosure on those things, as opposed to hiding it away. There needs to be accountability for why individual agencies are hiring these people.”

— Chris Burbank
Former Salt Lake City Police Chief

oversight system.

In 2020, law professors Ben Grunwald and John Rappaport published research on the problem of “wandering officers” in Florida and found they were most likely to be fired for a “moral character violation.” Those authors concluded that “wandering officers may pose serious risks, given how difficult it is to fire a police officer.”

who was charged in 1999 for criminal trespass when he broke into a woman’s home and woke her up while sitting at the edge of her bed. The woman said that when she asked him how he got in he responded: “I’m a cop. They teach us how to do that. I can get in anywhere.”

Butterfield was charged with criminal trespass, later knocked down from a misdemeanor to



Eric S. Peterson and Sam Stecklow

an infraction. As a sworn officer, though, the conduct was serious enough that his certification was suspended by Utah's Peace Officer Standards and Training Council. POST, as the agency is commonly known, trains all officers in the state and keeps track of where officers work and what their certification status is.

While POST keeps tabs on where officers end up working, it's not information they share widely.

Butterfield, as it turns out, would wind up as police chief of Myton, a small town in Duchesne County. There he would be charged with stalking,

after a woman alleged that he drove her around in his patrol car for two hours talking about sex.

That woman testified that he told her "My car is like Vegas. What happens here, stays here." While Butterfield was acquitted of that charge in 2015, even his own attorney admitted his conduct was immoral and unprofessional, just not a crime.

Other officers have also made quiet exits from one department to another following controversy. Kevin Salmon was one of two West Valley City officers involved in the 2012 shooting death of 21-year-old Danielle Willard.

Salmon and his partner Shaun

Cowley suspected Willard of buying drugs and opened fire on her when she backed her car out of a parking spot.

Cowley later said he feared she was trying to run him over. The shooting was ruled unjustified by the Salt Lake County District Attorney's office. It was determined that one of Salmon's shots grazed her chin but was not the fatal bullet.

While the recently-released POST records show that Cowley did not land a new position in Utah, Salmon went on to work for police departments in Woods Cross, then Cottonwood Heights and, more recently, Riverton.

Records show his status was "separated" from Riverton Police Department on March 1, 2024. An inquiry to the department indicated that Salmon had been investigated as part of a use-of-force investigation but had been cleared of wrongdoing.

The incident came to the attention of Riverton by body camera footage from a Herriman officer with concerns that Salmon may have held down a burglary suspect by placing his knee on the man's neck. Salmon and other Riverton officers were assisting Herriman officers in the arrest. Riverton reviewed the footage

and determined that Salmon had his knee on the suspect's upper back and not on his neck.

Other Riverton officers interviewed said the force was appropriate and was not likely on the neck of the suspect, although the suspect at one point said: "Hey you can let go of the neck, man."

While Salmon was cleared, the report noted that "Salmon did not have his body camera on during this event, and it was not detailed why in the report." Salmon later said the battery had died on the camera.

A request for comment to Salmon was passed to his attorney Bret Rawson. Rawson said Salmon would not comment on the incident but noted that Salmon retired in good standing and now is a business owner. Rawson noted Salmon served with honor and was injured multiple times on the job.

"He was a leader among his peers; he acted always with integrity and professionalism," Rawson said of Salmon. "The communities he served owe him a debt of gratitude."

By the numbers

Obtaining the records themselves was no easy task. Begin-

ning in January 2023, The Utah Investigative Journalism Project sought POST's database of officer certifications showing where they worked and reasons for separations from their employers. POST denied the request and the dispute went to the State Records Committee.

Attorney David Reymann represented The Utah Investigative Journalism Project at the hearing and talked about the lack of transparency by POST.

"This agency tracks nearly 10,000 police officers in a database, and they have refused to release any information," Reymann said. "Even basic stuff like names and whether they've been certified or not. That is stunning and it should stun this committee."

At the hearing, POST representatives argued against release of the documents based on a number of considerations. David Mooers-Putzer, the attorney representing POST, argued officer safety was the number one consideration — especially for undercover officers who could potentially be exposed if their names were released publicly.

"It's not really within POST's

ability to determine who is undercover or who may become undercover in the near future," Mooers-Putzer said.

He noted that officers who go undercover select pseudonyms that are similar to their real name, so even the release of the officer's real name could link them to their cover identity.

POST then argued it wasn't its responsibility to find out which officers were undercover, so the request would have to be made to individual law enforcement agencies. But the committee disagreed and decided that it was POST's burden to release the information, with appropriate redactions. It was not until the spring of 2024 that POST was able to remove names of undercover officers and provide the information.

The raw numbers tell their own story about policing in Utah. The data that was eventually released shows the certification records for more than 28,000 officers, including 10,000 active officers from records going back to 2008.

The records have simple labels for types of "status" for the officers, such as those who resigned, were terminated and

considered separated, which can include suspensions.

The data shows that there were only 844 terminations out of those 28,000 officers. POST said that the number may be distorted as it may include officers who were certified but never actually got employment in Utah.

The document also shows 7,664 officers who resigned. POST acknowledges it is possible that some officers were allowed to resign instead of being terminated.

Burbank, who is now a consultant with the Center for Policing Equity, said when he was chief of police in Salt Lake City, he fired roughly 10 officers each year. He also said he would let officers resign instead of being terminated, but he let them know he would document why they were resigning.

"If you resign and go work at Walmart or wherever, you can tell them 'I resigned from the police department' and that is an honest assessment," Burbank said.

But he also warned that he would provide information about the resignation if a new employer, including a new police agency, asked for it.

"I am amazed at how many police agencies never called to find out why officers resigned," he said.

'Constitutional significance'

The new data, while not providing specific details about discipline an officer faced, can still provide important clues. Some details show terminations or even make note of officers resigning when an investigation was requested by their department.

The tool also is useful because a 2019 state audit found examples of agencies not reporting instances of misconduct to POST that they were required to under the law.

Emma Penrod is President of the Utah Headliners Chapter of the Society of Professional Journalists. She sees a clear benefit for reporters looking into allegations of police misconduct.

"Give the ever-increasing demands on their time, journalists don't often have time to check into details outside their immediate area of coverage," Penrod said. "This tool will allow journalists to quickly reference information from regions they

may not cover on a daily basis, which will result in more thorough and accurate news for readers and viewers.”

It’s not only journalists who are often pressed for time. Defense attorneys, who juggle case loads of sometimes hundreds of clients, can also benefit from a reference on the police officers who may have arrested or investigated their clients.

David Ferguson, the director of the Utah Association of Criminal Defense Lawyers, said understanding an officer’s background is vitally important to a healthy criminal justice system.

“The reasons for termination can have constitutional significance to a criminal defendant and many cases depend on the credibility of the officer’s testimony about what the officer observed and their impressions and assessments,” Ferguson said. “A lot of things show up in bodycam [footage] but a lot of things don’t.”

Ferguson said that in his career of defending more than 1,000 criminal defendants and having dealt with hundreds of officers, never once did the prosecution disclose information about an officer’s past employment or

discipline histories that might have resulted in their firing from a previous job.

It’s a challenge for these lawyers who lack time and resources to investigate and find out if an officer was fired for falsifying a report or resigned under suspicion because of use of force. The ironic thing, he said, is that under the law the prosecution has to provide this information.

“Prosecutors don’t inquire about an officer’s employment and past employment and they rely entirely on the officer to self-report,” Ferguson said. “If the officer doesn’t want to reveal that their credibility might be challengeable because of the way they left a past job, it doesn’t get found out. That’s just the reality.” •