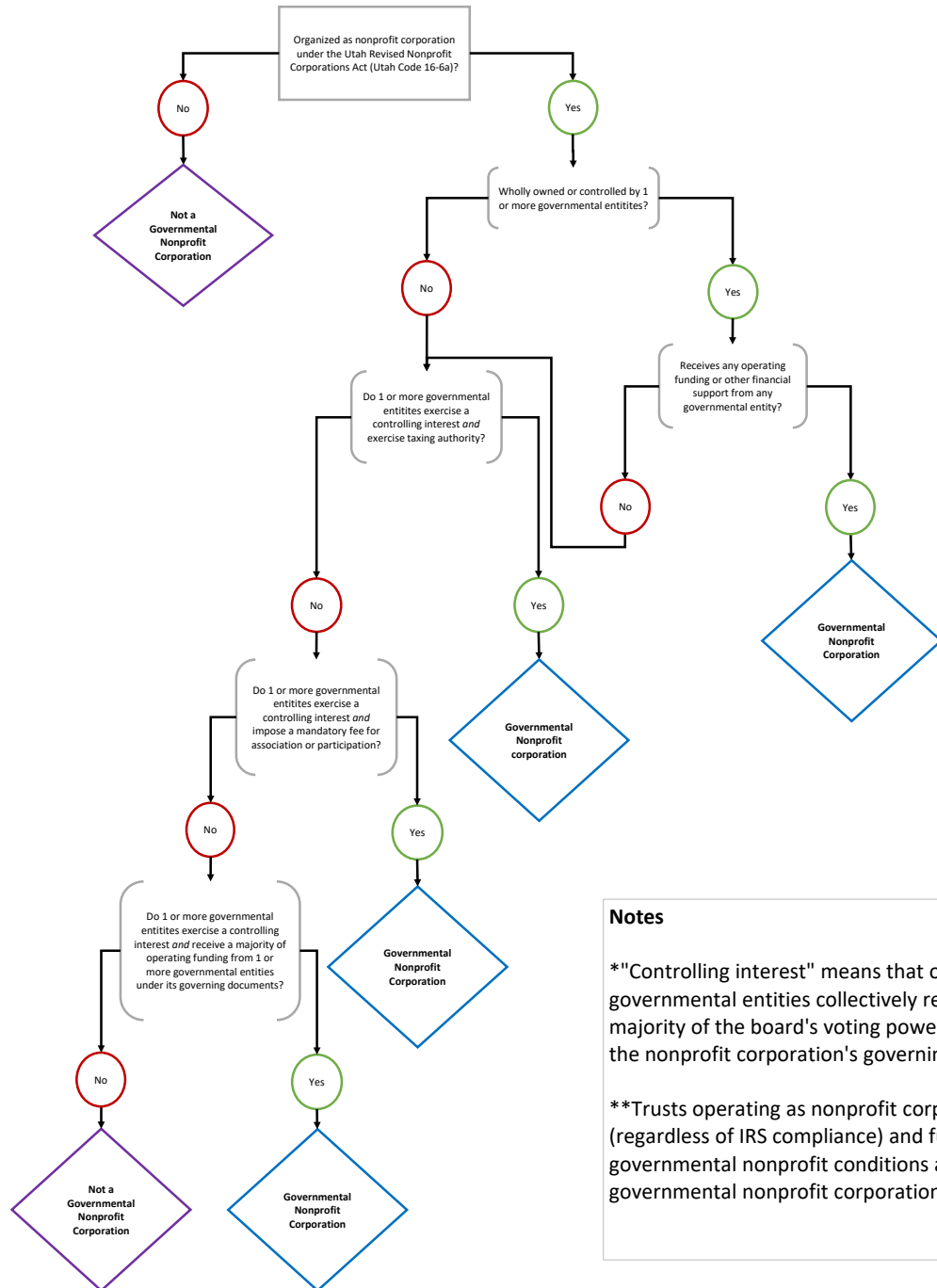




Decision Tree for  
Governmental Nonprofit Corporation Status



**Notes**

\*"Controlling interest" means that one or more governmental entities collectively represent a majority of the board's voting power as outlined in the nonprofit corporation's governing documents.

\*\*Trusts operating as nonprofit corporations (regardless of IRS compliance) and fulfilling governmental nonprofit conditions are governmental nonprofit corporations.



OFFICE OF THE  
STATE AUDITOR

**Reporting Requirements for Nongovernmental Nonprofit Organizations (NGOs)  
That Receive Federal Pass-Through, State, or Local Government Money  
(Not applicable to NGOs that are charter schools)**

**Definitions**

**"Federal pass-through money"** means federal money received by the state or a political subdivision and passed through to an NGO through a subaward or contract. "Federal pass-through money" does NOT include federal money received by an NGO as payment for goods or services purchased by the state or political subdivision from the NGO.

**"State money"** means any money that is owned, held, or administered by a state agency and derived from state fee or tax revenues, including funds awarded directly to the NGO by the state entity or appropriated to a state entity to distribute to an NGO. "State money" does NOT include money to an NGO for the purchase of goods or services based on a contract between a state entity and an NGO that is subject to the state procurement process, nor does it include donations/contributions received by a State entity and passed through to an NGO.

**"Local money"** means money that is owned, held, or administered by a political subdivision of the state that is derived from fee or tax revenues. "Local money" does NOT include money received by an NGO as payment for goods and services purchased from the NGO or contributions/donations received by the political subdivision.

**NGO Reporting Requirements**

- An NGO that receives state money or federal pass-through money *from a state agency* must enter into a written agreement with that state agency in which the NGO agrees to disclose to the state agency **annually** whether the NGO received or spent at least \$25,000 in combined federal pass-through, state, and local money in both 1) the previous year, and 2) the year in which the federal pass-through or state money is received.
- An NGO that receives or spends at least \$25,000 in combined federal pass-through, state, and local money is required to submit the following reports **annually** to the Office of the Utah State Auditor at [reporting.auditor.utah.gov](http://reporting.auditor.utah.gov). (If your nonprofit is not located in the dropdown menu for nonprofits, please contact Brooke Russell at [brookerussell@utah.gov](mailto:brookerussell@utah.gov) 801-538-1025.) These reports are due within **6 months** of the NGO's fiscal year end.

TOTAL COMBINED AMOUNT OF FEDERAL PASS-THROUGH, STATE, AND LOCAL MONEY	TYPE OF REPORT REQUIRED (DUE WITHIN 6 MONTHS OF NGO'S FISCAL YEAR END)
More than \$1,000,000	An audit in accordance with Generally Accepted Auditing Standards (GAAS)
Between \$350,000 and \$1,000,000	A review conducted by an independent certified public accountant
Between \$100,000 and \$350,000	A compilation of its accounts by an independent certified public accountant
Between \$25,000 and \$100,000	A copy of Form 990 or a financial survey form ( <a href="https://auditor.utah.gov/local-government-2/publications/forms-for-local-governments/">https://auditor.utah.gov/local-government-2/publications/forms-for-local-governments/</a> "Small Financial Survey (Less than \$350,000)")

**Note:** An audit in accordance with GAAS will satisfy any of the reporting requirements listed above.

## Question and Answers:

**Question: If an NGO goes through a competitive application process, are they exempt from reporting requirements?**

**Answer:** No. Even if an NGO goes through a competitive application process, the result is still a grant awarded to the NGO and would qualify them for reporting to the Office of the State Auditor. A competitive application process is NOT the same as going through the “state procurement process.”

**Question: Are the reporting requirements based on the amount awarded during the fiscal year, or the actual amounts received and/or spent during the fiscal year?**

**Answer:** The reporting requirements (i.e. audit, review, compilation, Form 990) are based on the actual combined amount of federal pass-through, state, and local money *received or spent during the NGO's fiscal year*, regardless of when the money was awarded.

**Question: What are NGOs required to report to an awarding state agency on an annual basis?**

**Answer:** NGOs that receive money from a state agency (either federal pass-through or state money) are required to report whether they did or will receive or spend between \$25,000 and \$100,000, between \$100,000 and \$350,000, between \$350,000 and \$1,000,000 or greater than \$1,000,000 in combined federal pass-through, state, or local money for both:

- 1) The previous fiscal year of the nonprofit organization; **and**
- 2) The fiscal year in which the money is issued.

**Question: What reports are required of NGOs that receive or spend between \$25,000 and \$100,000 in combined federal pass-through, state, and local money in a given fiscal year?**

**Answer:** The law allows the state auditor to determine the reporting format for nonprofits that receive or spend less than \$100,000. As such, we have determined that we will accept the NGO's Form 990 as their fiscal report. NGOs that fall within this range may also use the “Small Financial Survey (Less than \$350,000)” found at [auditor.utah.gov](http://auditor.utah.gov).

**Question: What is required of an NGO that receives or spends less than \$25,000 in combined federal pass-through, state, and local money in a given fiscal year, even though they may have been awarded more than \$25,000?**

**Answer:** An NGO is only required to report to the Office of the State Auditor if it actually *receives or spends* an excess of \$25,000 in combined federal pass-through, state, and local money during their fiscal year. If an NGO receives or spends less than \$25,000, they are not required to report to our Office, even if they may have been *awarded* more than \$25,000 during the year.

**Question: Do these requirements apply to charter schools that are nonprofits?**

**Answer:** No. The law specifically excludes charter schools that are nonprofits from being subject to these requirements (see *Utah Code* 51-2a-201.5(5)). Charter schools that are nonprofits are subject, instead, to *Utah Code* 53G-5-404.

**Question: How can an NGO determine whether they are a subrecipient (of award funds) or a contractor, to ascertain whether they are required to follow reporting requirements?**

**Answer:** Procurement contracts are not subject to reporting requirements. A procurement contract occurs when the principal purpose of the contract is for the State to acquire property or services for the direct use of the State, but not to carry out a program for a public purpose. Further, the contractor provides similar goods or services to purchasers other than state entities.

The following table is based upon guidance given in the Uniform Guidance for Federal Awards and provides additional considerations. **We encourage NGOs to work with their awarding agencies to identify whether they are a subrecipient or a contractor since there are a multitude of situations and every case is different.**

Guidelines for Subrecipient/Contractor Determination	
Subrecipient	Contractor
<ul style="list-style-type: none"> <li>• Creates an "assistance" relationship.</li> <li>• Determines who is eligible to receive assistance.</li> <li>• Has its performance measured in relation to whether objectives of the assistance program are met.</li> <li>• Has responsibility for programmatic decision making.</li> <li>• Is responsible for adherence to applicable program requirements specified in the award documentation.</li> <li>• In accordance with its agreement, uses the funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the awarding agency.</li> </ul>	<ul style="list-style-type: none"> <li>• Purpose is to obtain goods and services for the contracting entity's own use and creates a procurement relationship.</li> <li>• Provides the goods and services within normal business operations.</li> <li>• Provides similar goods or services to many different purchasers.</li> <li>• Normally operates in a competitive environment.</li> <li>• Provides goods or services that are ancillary to the operation of the program.</li> <li>• Is not subject to compliance requirements of the program as a result of the agreement, though similar requirements may apply for other reasons.</li> </ul>

**Legal Requirements** – *Utah Code 51-2a-201.5*

**For questions** – Contact Calvin Bergmann at 801-834-5413 or [cbergmann@utah.gov](mailto:cbergmann@utah.gov).

**DECISION TREE:**  
**DETERMINING WHETHER AN NGO IS REQUIRED**  
**TO REPORT TO THE OFFICE OF THE UTAH STATE AUDITOR**

1. Did the NGO receive in excess of \$25,000 in federal pass-through, state, and local money during a given fiscal year?

☐ Yes – Continue ➞

☐ No – Stop! The NGO is not required to submit reports to the Office of the Utah State Auditor (OSA).

2. Is the NGO considered a subrecipient or grantee by the awarding agency?

☐ Yes – Continue ➞

☐ No – Stop! The NGO is not required to submit reports to the Office of the Utah State Auditor (OSA).

3. Are total annual receipt or expense of federal pass-through, state and local money less than \$1 million?

☐ Yes – Continue ➞

☐ No – Stop! An audit in accordance with Generally Accepted Auditing Standards (GAAS) is required to be performed and submitted to the OSA.\*

4. Are total annual receipt or expense of federal pass-through, state and local money less than \$350,000?

☐ Yes – Continue ➞

☐ No – Stop! A review conducted by an independent certified public accountant is required to be performed and submitted to the OSA.\*

5. Are total annual receipt or expense of federal pass-through, state and local money less than \$100,000?

☐ Yes – A copy of Form 990, Form 990 EZ, or a financial report form (located at <https://auditor.utah.gov/local-government-2/publications/forms-for-local-governments/> “Small Financial Survey (less than \$350,000) is required to be completed and submitted to the OSA.\*

☐ No – Stop! A compilation of its accounts by an independent certified public accountant is required to be completed and submitted to the OSA.\*

\* An entity may decide to have a financial audit even if one is not required as outlined above. If an audit is performed, the audit would satisfy any of the reporting requirements listed above.

**A complete list of the current reporting requirements can be found on the osa website at:**  
**[auditor.utah.gov](https://auditor.utah.gov).**

**NOTE: PLEASE SUBMIT REQUIRED REPORTS AT [reporting.auditor.utah.gov](https://reporting.auditor.utah.gov). ALL REQUIRED REPORTS ARE DUE WITHIN 6 MONTHS OF THE NGO’S FISCAL YEAR END.**

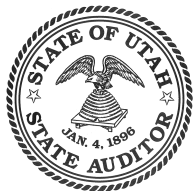
Rebekkah,

We have reviewed the bylaws of SWAP and determined that they are a private non-profit for financial reporting purposes and not subject to the requirements that apply to government entities. In our analysis, we used the attached decision tree.

Private non-profits are only required to submit information to the Office of the State Auditor if they receive public money in excess of certain thresholds (see attached - reporting requirements for NGO's)

Seth Oveson, CPA  
Manager, Local Governments Division  
435-572-0440

Office of the State Auditor  
Utah State Capitol Complex  
East Office Building, Suite E310  
Salt Lake City, UT 84114-2310



Local government reporting requirements can be found on the local government resource center: [resources.auditor.utah.gov](https://resources.auditor.utah.gov)

State Reporting Site: [reporting.auditor.utah.gov/UtahLogin](https://reporting.auditor.utah.gov/UtahLogin)

On Mon, Jun 21, 2021 at 1:12 PM Rebekkah Shaw [rshaw@utah.gov](mailto:rshaw@utah.gov)> wrote:

Mr. Oveson,

The State Records Committee has asked me to follow up with the Auditor's Office on this matter. Is SWAP a governmental entity? Any information you can give us would be greatly appreciated.

Regards,  
~Rebekkah

**Rebekkah Shaw**  
**Executive Secretary, State Records Committee**



Utah Division of Archives  
and Records Service

346 South Rio Grande St.  
Salt Lake City UT 84101  
[801.531.3851](tel:801.531.3851) / [SRCsecretary@utah.gov](mailto:SRCsecretary@utah.gov)

{

On Mon, Apr 26, 2021 at 10:43 AM Seth Oveson [soveson@utah.gov](mailto:soveson@utah.gov)> wrote:

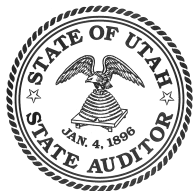
Rebekkah,

We have requested some information from SWAP to help us make the determination. I believe I should be able to answer your question by the end of the week.

Thanks,

Seth Oveson, CPA  
Manager, Local Governments Division  
435-572-0440

Office of the State Auditor  
Utah State Capitol Complex  
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State Reporting Site: [reporting.auditor.utah.gov/UtahLogin](https://reporting.auditor.utah.gov/UtahLogin)

On Wed, Apr 21, 2021 at 4:32 PM Rebekkah Shaw [rshaw@utah.gov](mailto:rshaw@utah.gov) wrote:

Mr. Oveson,

The Archives has reached out to the Auditor's Office before for assistance in determining an organization is a governmental entity. The Utah Association of Counties is the most recent discussion that comes to mind. Feedback from the Auditor's Office has always been helpful, so I wanted to ask about another organization. Is the Statewide Association of Prosecutors and Public Attorneys (SWAP) a governmental entity?

They are not on the Public Notice Website or the Open Records Portal, which is where I always look first. It is listed as a corporation on the Division of Corporations website. What are your thoughts?

Thank you for your help!  
~Rebekkah

**Rebekkah Shaw**  
**Executive Secretary, State Records Committee**  
 Utah Division of Archives  
and Records Service

346 South Rio Grande St.  
Salt Lake City UT 84101  
[801.531.3851](tel:801.531.3851) / [SRCsecretary@utah.gov](mailto:SRCsecretary@utah.gov)



Calvin Bergmann &lt;cbergmann@utah.gov&gt;

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**FW: "Consulting" meeting between SRC & OSA**

2 messages

**John Dougall** <jdougall@utah.gov>

Mon, Jul 12, 2021 at 11:35 PM

To: Seth Oveson &lt;soveson@utah.gov&gt;, Calvin Bergmann &lt;cbergmann@utah.gov&gt;

Who consulted with the SRC? See attached. I'm particularly concerned because of the information last week where SWAP appeared to register with the LG's office indicating they are a governmental nonprofit.

---

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>**Date:** Monday, July 12, 2021 at 6:23 PM**To:** John Dougall <[jdougall@utah.gov](mailto:jdougall@utah.gov)>**Cc:** SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)>, Kenneth Williams <[kenwilliams@utah.gov](mailto:kenwilliams@utah.gov)>, Pmansfie4 <[pmansfie4@gmail.com](mailto:pmansfie4@gmail.com)>, Paul Tonks <[phtonks@agutah.gov](mailto:phtonks@agutah.gov)>, Sean Reyes <[seanreyes@agutah.gov](mailto:seanreyes@agutah.gov)>, "[districtattorney@slco.org](mailto:districtattorney@slco.org)" <[districtattorney@slco.org](mailto:districtattorney@slco.org)>, "[davidl@utahcounty.gov](mailto:davidl@utahcounty.gov)" <[davidl@utahcounty.gov](mailto:davidl@utahcounty.gov)>, "[troy@daviscountyutah.gov](mailto:troy@daviscountyutah.gov)" <[troy@daviscountyutah.gov](mailto:troy@daviscountyutah.gov)>, "Christopher F. Allred" <[callred@co.weber.ut.us](mailto:callred@co.weber.ut.us)>, James Swink <[jswink@cacheattorney.org](mailto:jswink@cacheattorney.org)>, "[ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov)" <[ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov)>, "[rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov)" <[rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov)>, "[sgarside@laytoncity.org](mailto:sgarside@laytoncity.org)" <[sgarside@laytoncity.org](mailto:sgarside@laytoncity.org)>, Jeff Buhman <[jbuhman@swap-ut.org](mailto:jbuhman@swap-ut.org)>**Subject:** "Consulting" meeting between SRC & OSA

Respectfully John, the attached July 9, 2021 decision of the SRC leads me to believe that a "*consulting*" meeting with your office was indeed convened by the SRC so it could make the decision to deny me appellate hearings regarding the SWAP.

Please confirm that such "*consulting*" action did, or did not, happen.

On Monday, July 12, 2021, 05:57:46 PM MDT, John Dougall <[jdougall@utah.gov](mailto:jdougall@utah.gov)> wrote:

Brady,

The reason no notice was given "that the SRC would be meeting with the State Auditor..." was because no meeting took place. I've never heard of anyone suggesting the SRC meet with the State Auditor during my 8.5 years of service as State Auditor.

-John D.



**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**Date:** Monday, July 12, 2021 at 5:29 PM

**To:** SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)>, Kenneth Williams <[kenwilliams@utah.gov](mailto:kenwilliams@utah.gov)>, Pmansfie4 <[pmansfie4@gmail.com](mailto:pmansfie4@gmail.com)>, John Dougall <[jdougall@utah.gov](mailto:jdougall@utah.gov)>, Sean Reyes <[seanreyes@agutah.gov](mailto:seanreyes@agutah.gov)>, Lonny Pehrson <[lpehrson@agutah.gov](mailto:lpehrson@agutah.gov)>, Paul Tonks <[phtonks@agutah.gov](mailto:phtonks@agutah.gov)>, "districtattorney@slco.org" <[districtattorney@slco.org](mailto:districtattorney@slco.org)>, "davidl@utahcounty.gov" <[davidl@utahcounty.gov](mailto:davidl@utahcounty.gov)>, "troy@daviscountyutah.gov" <[troy@daviscountyutah.gov](mailto:troy@daviscountyutah.gov)>, "Christopher F. Allred" <[callred@co.weber.ut.us](mailto:callred@co.weber.ut.us)>, James Swink <[jswink@cacheattorney.org](mailto:jswink@cacheattorney.org)>, "ryan.robinson@wvc-ut.gov" <[ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov)>, "rvandyke@kane.utah.gov" <[rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov)>, "sgarside@laytoncity.org" <[sgarside@laytoncity.org](mailto:sgarside@laytoncity.org)>, Jeff Buhman <[jbuhman@swap-ut.org](mailto:jbuhman@swap-ut.org)>

**Subject:** SRC's violation of OPMA & secret agenda re: SWAP hearings

Dear Ms. Shaw, SRC, Mr. Dougall and SWAP,

Regarding the "Statewide Association of Public Attorneys of Utah", a.k.a. "Statewide Association of Prosecutors", a.k.a. "Utah Statewide Association of Prosecutors and Public Attorneys" (SWAP), I certainly should have been made aware in an *agenda before July 8* that the SRC would be meeting with the State Auditor and the SWAP to cancel the appellate hearings scheduled by Ms. Shaw under *UC 63G-2-403(4)*. Such meeting should certainly have been governed by the OPMA just as the hearings of the SRC are.

The agenda for the July 8, 2021 SRC meeting I see posted in the UPNW gives me ***NO NOTICE*** that the SRC would be convening to consult with the State Auditor and the SWAP for the purpose of "*removing*" my Appeal Req. #2021-61, -64 and -65. (*see attachment*)

Referring to *R35-2-2* and *UC 63G-2-403*, there is no provision for all members of the SRC holding a meeting to overrule a decision of the ES to hold a hearing *after* notice of such hearing has been sent to a petitioner and a governmental entity. Yet that is exactly what the SRC has done under a *secret agenda*. *How ironic it is that the SRC disrespects and defies the OPMA just like the SWAP! It's even more ironic that the State Auditor/member of the Utah Transparency Advisory Board played a part in such actions.*

I protest violation of the OPMA and a secret agenda of the SRC.

Sincerely,

BRADY EAMES

On Friday, July 9, 2021, 02:39:34 PM MDT, SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)> wrote:

Mr. Eames,

Please see the attached letter from the State Records Committee regarding your appeals for SWAP records.

Regards,

~Rebekkah

--

**Error! Filename not specified.** Rebekkah Shaw

Utah Department of Government Operations  
Division of Archives and Records Service

Executive Secretary, State Records Committee

801-531-3851

**Error! Filename not specified.** **Error! Filename not specified.** **Error! Filename not specified.**  
**Error! Filename not specified.**



**SRC-removal of Appeal Req. 2021-61, -64 and -65-70921.pdf**  
149K

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**Calvin Bergmann** <cbergmann@utah.gov>

To: John Dougall <jdougall@utah.gov>

Cc: Seth Oveson <soveson@utah.gov>

Tue, Jul 13, 2021 at 7:43 AM

Hello John,

I do not know to which information last week that you refer. However, when I searched this morning, Statewide Association of Public Attorneys of Utah ("SWAP") is currently registered as a nonprofit corporation, not a governmental nonprofit corporation, on the [Lieutenant Governor's Local Government and Limited Purpose Entity Registry](#).

Additionally, the below email thread between Rebekkah Shaw, State Records Committee, and Seth, was logged to the SWAP entity in Salesforce on June 28, 2021:



From: [Seth Oveson](#)

Use To: [rshaw@utah.gov](#) Cc: [kenwilliams@utah.gov](#) [mteerlink@utah.gov](#)

3:03 PM | Jun 28

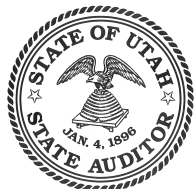
Rebekkah,

We have reviewed the bylaws of SWAP and determined that they are a private non-profit for financial reporting purposes and not subject to the requirements that apply to government entities. In our analysis, we used the attached decision tree.

Private non-profits are only required to submit information to the Office of the State Auditor if they receive public money in excess of certain thresholds (see attached - reporting requirements for NGO's)

Seth Oveson, CPA  
Manager, Local Governments Division  
435-572-0440

Office of the State Auditor  
Utah State Capitol Complex  
East Office Building, Suite E310  
Salt Lake City, UT 84114-2310



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State Reporting Site: [reporting.auditor.utah.gov/UtahLogin](https://reporting.auditor.utah.gov/UtahLogin)

On Mon, Jun 21, 2021 at 1:12 PM Rebekkah Shaw <[rshaw@utah.gov](mailto:rshaw@utah.gov)> wrote:  
Mr. Overson,

The State Records Committee has asked me to follow up with the Auditor's Office on this matter. Is SWAP a governmental entity? Any information you can give us would be greatly appreciated.

Regards,  
~Rebekkah

**Rebekkah Shaw**  
**Executive Secretary, State Records Committee**

**DAS** | Utah Division of Archives  
and Records Service

346 South Rio Grande St.  
Salt Lake City UT 84101  
[801.531.3851](tel:801.531.3851) / [SRCsecretary@utah.gov](mailto:SRCsecretary@utah.gov)

On Mon, Apr 26, 2021 at 10:43 AM Seth Oveson <[soveson@utah.gov](mailto:soveson@utah.gov)> wrote:  
Rebekkah,

We have requested some information from SWAP to help us make the determination. I believe I should be able to answer your question by the end of the week.

Thanks,

Seth Oveson, CPA  
Manager, Local Governments Division  
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State Reporting Site: [reporting.auditor.utah.gov/UtahLogin](https://reporting.auditor.utah.gov/UtahLogin)

On Wed, Apr 21, 2021 at 4:32 PM Rebekkah Shaw <[rshaw@utah.gov](mailto:rshaw@utah.gov)> wrote:  
Mr. Oveson,

The Archives has reached out to the Auditor's Office before for assistance in determining an organization is a governmental entity. The Utah Association of Counties is the most recent discussion that comes to mind. Feedback from the Auditor's Office has always been helpful, so I wanted to ask about another organization. Is the Statewide Association of Prosecutors and Public Attorneys (SWAP) a governmental entity?

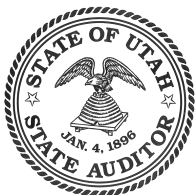
They are not on the Public Notice Website or the Open Records Portal, which is where I always look first. It is listed as a corporation on the Division of Corporations website. What are your thoughts?

Thank you for your help!  
~Rebekkah

**Rebekkah Shaw**  
**Executive Secretary, State Records Committee**



Utah Division of Archives  
and Records Service  
346 South Rio Grande St.  
Salt Lake City UT 84101  
[801.531.3851](tel:801.531.3851) / [SRCsecretary@utah.gov](mailto:SRCsecretary@utah.gov)



**Calvin Bergmann, MPA | Sr. Local Gov. Analyst**  
**801-834-5413**  
**LG Resource Center; State Reporting System**

[Quoted text hidden]

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## 2 attachments



**Decision-Tree-for-Governmental-Nonprofit-Corporation-Status\_2019-04 (2).pdf**  
110K



**REPORTING-REQUIREMENTS-FOR-NGOs\_Updated-8\_13\_2019 (3).pdf**  
266K



Calvin Bergmann <cbergmann@utah.gov>

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## FW: SWAP

2 messages

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**John Dougall** <jdougall@utah.gov>  
To: Calvin Bergmann <cbergmann@utah.gov>  
Cc: Seth Oveson <soveson@utah.gov>

Tue, Jul 13, 2021 at 10:05 AM

Calvin: Here's what I sent to Seth last week. Looks like the info has changed since I sent those emails. Also, if SWAP is truly private, why would they register on the LG's site?

---

**From:** John Dougall <jdougall@utah.gov>  
**Date:** Wednesday, July 7, 2021 at 11:06 PM  
**To:** Seth Oveson <soveson@utah.gov>  
**Subject:** Re: SWAP

<https://entityregistry.utah.gov/s/search-entity-detail?id=0010b00002SxaamAAB>

---

**From:** John Dougall <jdougall@utah.gov>  
**Date:** Wednesday, July 7, 2021 at 11:05 PM  
**To:** Seth Oveson <soveson@utah.gov>  
**Subject:** SWAP

Looks like SWAP filed with the LG indicating it is a governmental nonprofit.

<https://entityregistry.utah.gov/s/search-entity>

---

**From:** Brady Eames <ibuncle@yahoo.com>  
**Date:** Wednesday, July 7, 2021 at 10:46 PM  
**To:** John Dougall <jdougall@utah.gov>, Kenneth Williams <kenwilliams@utah.gov>, "ryan.robinson@wvc-ut.gov" <ryan.robinson@wvc-ut.gov>, "Christopher F. Allred" <callred@co.weber.ut.us>, "rvandyke@kane.utah.gov" <rvandyke@kane.utah.gov>, "sgarside@laytoncity.org" <sgarside@laytoncity.org>, Jeff Buhman <jbuhman@swap-ut.org>, Sean Reyes <seanreyes@agutah.gov>, Daniel Burton <danburton@agutah.gov>, Lonny Pehrson

<lpehrson@agutah.gov>, Paul Tonks <phtonks@agutah.gov>, SRC Secretary <srcsecretary@utah.gov>, "dhenderson@utah.gov" <dhenderson@utah.gov>, "mikecaldwell@ogdencity.com" <mikecaldwell@ogdencity.com>, Cameron Diehl <cdiehl@ulct.org>, Nick Jarvis <njarvis@ulct.org>, Stan Summers <ssummers@boxeldercounty.org>, Brandy Grace <brandy@uacnet.org>, "hunter@uacnet.org" <hunter@uacnet.org>, Todd Weiler <tweiler@le.utah.gov>, Karianne Lisonbee <karilisonbee@le.utah.gov>, "kcullimore@le.utah.gov" <kcullimore@le.utah.gov>, "lescamilla@le.utah.gov" <lescamilla@le.utah.gov>, "jjohnson@le.utah.gov" <jjohnson@le.utah.gov>, "mkennedy@le.utah.gov" <mkennedy@le.utah.gov>, "cacton@le.utah.gov" <cacton@le.utah.gov>, "kbirkeland@le.utah.gov" <kbirkeland@le.utah.gov>, "bbrammer@le.utah.gov" <bbrammer@le.utah.gov>, "chall@le.utah.gov" <chall@le.utah.gov>, Jon Hawkins <jhawkins@le.utah.gov>, Brian King <briansking@le.utah.gov>, "cmusselman@le.utah.gov" <cmusselman@le.utah.gov>, "spitcher@le.utah.gov" <spitcher@le.utah.gov>, Mike Schultz <mikeschultz@le.utah.gov>, "vlsnow@le.utah.gov" <vlsnow@le.utah.gov>, "markwheatley@le.utah.gov" <markwheatley@le.utah.gov>, Kristina King <kking@le.utah.gov>, Jacqueline Carlton <jcarlton@le.utah.gov>, Christopher Williams <cwilliams@le.utah.gov>, "ryanwilcox@le.utah.gov" <ryanwilcox@le.utah.gov>, "jburtan@le.utah.gov" <jburtan@le.utah.gov>, Francis Gibson <fgibson@le.utah.gov>, "mgwynn@le.utah.gov" <mgwynn@le.utah.gov>, "shollins@le.utah.gov" <shollins@le.utah.gov>, Marsha Judkins <mjudkins@le.utah.gov>, "kmiles@le.utah.gov" <kmiles@le.utah.gov>, "pray@le.utah.gov" <pray@le.utah.gov>, "angelaromero@le.utah.gov" <angelaromero@le.utah.gov>, "astoddard@le.utah.gov" <astoddard@le.utah.gov>, John Feinauer <jfeinauer@le.utah.gov>, "dkitchen@le.utah.gov" <dkitchen@le.utah.gov>, "jwstevenson@le.utah.gov" <jwstevenson@le.utah.gov>, "dthatcher@le.utah.gov" <dthatcher@le.utah.gov>, Tom Ross <tomross@utah.gov>, Pam Vickrey <pvickrey@ujda.org>, "briannielsen@utah.gov" <briannielsen@utah.gov>, "brettmarkpeterson@utah.gov" <brettmarkpeterson@utah.gov>, "rmauro@sllda.com" <rmauro@sllda.com>, "ed@edbrasslaw.com" <ed@edbrasslaw.com>, "pcassell@summitcounty.org" <pcassell@summitcounty.org>, Robert Church <rjchurch@agutah.gov>, "sfoote@duchesne.utah.gov" <sfoote@duchesne.utah.gov>, Hfarnsworth Barpresident <hfarnsworth.barpresident@utahbar.org>, Heather Thuet <heather.thuet@chrisjen.com>, Herm Olsen <herm@hao-law.com>, Cachecountybar <cachecountybar@gmail.com>, Mesmith <mesmith@slco.org>, Jaqualin Peterson <jfpeterson@agutah.gov>  
**Cc:** Heidi Stringham <hstringham@utah.gov>  
**Subject:** 1 more reason SWAP is governmental entity: plays Utah death penalty game

Dear all concerned with open & honest government,

The SWAP and its "legislative advisory committee" are critical players in the death penalty game here in the State of Utah. That's surely one more reason it's a governmental entity.

*(see legislative history of 2003 Senate Bill 8 "Sentencing in Capital Cases Amendments" at*

*<https://le.utah.gov/~2003/bills/static/SB0008.html>)*

Sincerely,

BRADY EAMES

----- Forwarded Message -----

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**To:** John Dougall <[jdougall@utah.gov](mailto:jdougall@utah.gov)>; Kenneth Williams <[kenwilliams@utah.gov](mailto:kenwilliams@utah.gov)>; [ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov) <[ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov)>; Christopher F. Allred <[callred@co.weber.ut.us](mailto:callred@co.weber.ut.us)>; [rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov) <[rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov)>; [sgarside@laytoncity.org](mailto:sgarside@laytoncity.org) <[sgarside@laytoncity.org](mailto:sgarside@laytoncity.org)>; Jeff Buhman <[jbuhman@swap-ut.org](mailto:jbuhman@swap-ut.org)>; James Swink <[jswink@cacheattorney.org](mailto:jswink@cacheattorney.org)>; [pcassell@summitcounty.org](mailto:pcassell@summitcounty.org) <[pcassell@summitcounty.org](mailto:pcassell@summitcounty.org)>; Sean Reyes <[seanreyes@agutah.gov](mailto:seanreyes@agutah.gov)>; Daniel Burton <[danburton@agutah.gov](mailto:danburton@agutah.gov)>; Lonny Pehrson <[lpehrson@agutah.gov](mailto:lpehrson@agutah.gov)>; Paul Tonks <[phtonks@agutah.gov](mailto:phtonks@agutah.gov)>; SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)>; [dhenderson@utah.gov](mailto:dhenderson@utah.gov) <[dhenderson@utah.gov](mailto:dhenderson@utah.gov)>; [mikecaldwell@ogdencity.com](mailto:mikecaldwell@ogdencity.com) <[mikecaldwell@ogdencity.com](mailto:mikecaldwell@ogdencity.com)>; Cameron Diehl <[cdiehl@ulct.org](mailto:cdiehl@ulct.org)>; Nick Jarvis <[njarvis@ulct.org](mailto:njarvis@ulct.org)>; Stan Summers <[ssummers@boxeldercounty.org](mailto:ssummers@boxeldercounty.org)>; Brandy Grace <[brandy@uacnet.org](mailto:brandy@uacnet.org)>; [hunter@uacnet.org](mailto:hunter@uacnet.org) <[hunter@uacnet.org](mailto:hunter@uacnet.org)>

**Cc:** Heidi Stringham <[hstringham@utah.gov](mailto:hstringham@utah.gov)>

**Sent:** Wednesday, July 7, 2021, 06:41:10 PM MDT

**Subject:** SWAP is a governmental entity & position of HRC

Dear all concerned with open & honest government,

Regarding the "Statewide Association of Public Attorneys of Utah", a.k.a. "Statewide Association of Prosecutors", a.k.a. "Utah Statewide Association of Prosecutors and Public Attorneys" (SWAP), I forward you this position of the History Research Center (HRC):

*"According to the State Auditor's Office, SWAP is a private non-profit company."*

Based on my research of the SWAP, my position is that it is a governmental entity because:

- (1) The members of the SWAP can only be attorneys who are compensated using public funds.
- (2) The Board of the SWAP is composed entirely of attorneys who are compensated using state, county, municipal or town public funds.
- (3) I know Cache County Corporation has used public funds to pay dues owed to the SWAP.

and

- (4) There is no indication in the following vital documents that the SWAP is "private":

(A) Articles of Incorporation,

(B) Bylaws,

and

(C) Entity registration with Office of Lieutenant Governor. This document reveals the SWAP is ***"governmental Nonprofit Corporation"***.

Sincerely,

BRADY EAMES



----- Forwarded Message -----

**From:** Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)>

**To:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**Sent:** Wednesday, July 7, 2021, 03:28:02 PM MDT

**Subject:** Re: SWAP is a governmental entity

SWAP is not listed as an entity in our system. According to the State Auditor's Office, SWAP is a private non-profit company.

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
[300 S. Rio Grande](#)  
[Salt Lake City, UT 84101](#)  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Wed, Jul 7, 2021 at 2:52 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

What did you refer to that reveals or who advised you to inform me that SWAP is "non-governmental agencies/companies"?

On August 12, 2021, the State Records Committee is holding a hearing regarding my request to inspect the meeting records of the SWAP. The Attorney General believes SWAP is a governmental entity governed by the GRAMA and the OPMA.

Sincerely,

BRADY EAMES



On Wednesday, July 7, 2021, 02:36:46 PM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

I will get you on the calendar for the 16th at 9 am. The Archives does not hold records from non-governmental agencies/companies.

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
[300 S. Rio Grande](#)  
[Salt Lake City, UT 84101](#)  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Wed, Jul 7, 2021 at 2:34 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

Friday, July 16th, 9-3.

Are you maintaining any meeting records pertaining to the "Statewide Association of Public Attorneys of Utah", a.k.a. "Statewide Association of Prosecutors", a.k.a. "Utah Statewide Association of Prosecutors and Public Attorneys"?

THNX,

BRADY

On Wednesday, July 7, 2021, 07:56:38 AM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

Which day did you want to come in? I provided you several options.

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Tue, Jul 6, 2021 at 11:32 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

The records I want to inspect also include those of the meetings of the subcommittees of the Utah Sentencing Commission **between *June 20, 2002 to March 15, 2003***.

Sincerely,

BRADY EAMES

On Tuesday, July 6, 2021, 04:27:04 PM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

I have the following open appointments

Friday, July 9th at 1-3 pm

Monday, July 12th at 1-3 pm

Wednesday, July 14th at 10-12 am or 1-3 pm

Friday, July 16th, 9-3

Let me know which days and times work for you. I will get you on the calendar.

Thanks,

Heidi

Reference Staff

Research Center of the Utah State Archives & Utah State History

300 S. Rio Grande

Salt Lake City, UT 84101

<http://historyresearch.utah.gov>

[historyresearch@utah.gov](mailto:historyresearch@utah.gov)

(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Tue, Jul 6, 2021 at 4:19 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear ARC,

Which days and times are open for my inspection of any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by the Utah Sentencing Commission (USC) between ***June 20, 2002 to March 15, 2003.***

Sincerely,

BRADY EAMES

On Tuesday, April 20, 2021, 03:52:02 PM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

I do have an appointment available on Thursday the 22nd at 1 if you wanted to come in then.

Let me know if you would like this appointment.

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
[300 S. Rio Grande](#)  
[Salt Lake City, UT 84101](#)  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 245-7227

The Research Center is now scheduling research appointments. Contact a staff member for more information.

To better protect the public and Research Center staff from the spread of the COVID-19 virus, the Research Center of the Utah State Archives and Utah State History will be closed to walk-in traffic, until further notice.

Staff will continue to be available to respond to requests for records by email.

On Fri, Apr 9, 2021 at 3:33 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

Due to circumstances which have just arisen, I need to inspect the records of the USC another day. I prefer afternoons.

Sincerely,

BRADY EAMES

On Tuesday, April 6, 2021, 08:42:33 AM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

I will schedule you from 9-1230.

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 245-7227

The Research Center is now scheduling research appointments. Contact a staff member for more information.

To better protect the public and Research Center staff from the spread of the COVID-19 virus, the Research Center of the Utah State Archives and Utah State History will be closed to walk-in traffic until further notice.

Staff will continue to be available to respond to requests for records by email.

On Mon, Apr 5, 2021 at 4:47 PM Brady Eames <[ibundle@yahoo.com](mailto:ibundle@yahoo.com)> wrote:

Dear Heidi,

Wednesday-April 14, 2021 at 9 will work. How much time will I have?

Sincerely,

BRADY EAMES

On Monday, April 5, 2021, 10:33:30 AM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

You will need to schedule an appointment to come to the Archives building to view these records. I have Monday the 12th at 10 am available or Wednesday the 14th at 9. Which day will work best for you?

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 245-7227

The Research Center is now scheduling research appointments. Contact a staff member for more information.

To better protect the public and Research Center staff from the spread of the COVID-19 virus, the Research Center of the Utah State Archives and Utah State History will be closed to walk-in traffic, until further notice.

Staff will continue to be available to respond to requests for records by email.

On Sat, Apr 3, 2021 at 1:55 AM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

**AMENDED DESCRIPTIONS OF PUBLIC GOVERNMENT RECORDS**

**(A)** Any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by the **USC itself** between **June 20, 2002 to March 15, 2003**,

and

**(B)** Any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by any **subcommittee of USC** between **June 20, 2002 to March 15, 2003**,

----- Forwarded Message -----

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**To:** Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)>

**Sent:** Saturday, April 3, 2021, 01:51:19 AM MDT

**Subject:** EXPEDITED RECORDS INSPECTION REQUEST to HRC-certain OPMA records of USC

**Dear Heidi,**

***This request is submitted based on the attached GRAMA appellate decision.***

## **EXPEDITED RECORDS INSPECTION REQUEST**

***See bases for expedited request below***

### **Acronyms and/or Terms Used in this Request**

HRC is History Research Center

PRMA is the Public Records Management Act as amended

OPMA is Open and Public Meetings Act as amended

GRS is General Retention Schedule as amended

GRAMA is the Government Records Access Management Act as amended

USC is Utah Sentencing Commission

**To:** HRC

**Attn:** Heidi Stringham-reference archivist and manager

**Requester:**

Brady Eames

Physical address: [478 E. 700 N.-Apt. #2-Logan, UT 84321](#)

Email address: [ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)

Daytime cell phone number: 435-881-1022

**Format: PAPER COPIES**

**Manner of Access and Inspection:**

***in person at:***

**[300 S. Rio Grande Street,](#)  
[Salt Lake City, UT](#)**

## **LEGAL AUTHORITIES**

***ONLINE United States Bill of Rights § 1st amendment***

(as per <https://www.archives.gov/founding-docs/bill-of-rights-transcript>)

***ONLINE Utah Constitution § Article I, Section 1***

(as per [https://le.utah.gov/xcode/UC\\_1800010118000101.pdf](https://le.utah.gov/xcode/UC_1800010118000101.pdf) )

***ONLINE Utah Supreme Court decision KUTV, Inc. v. Utah State Board of Education, 689 P.2d 1357 (1984)***

(as per <https://archives.utah.gov/src/case-laws/supreme-court-utah/kutv-v-usbe.pdf>)

***ONLINE PRMA***

(as per [https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12_1800010118000101.pdf))

***ONLINE OPMA***

(as per [https://le.utah.gov/xcode/Title52/Chapter4/C52-4\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title52/Chapter4/C52-4_1800010118000101.pdf))

***ONLINE Retention Schedule of USC-Series 22244***

(as per [https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT\\_RUNWHAT=HTML\\_1SERIES&WEBINPUT\\_BIBLGRPC\\_RID=22244&A=B](https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT_RUNWHAT=HTML_1SERIES&WEBINPUT_BIBLGRPC_RID=22244&A=B))

***ONLINE GRS-1709***

(as per <https://axaemarchives.utah.gov/grsdetail.php?fq=grsItemRecordId:21456>)

***ONLINE GRAMA***

(as per [https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2_1800010118000101.pdf) )

## **DESCRIPTIONS OF PUBLIC GOVERNMENT RECORDS**



Any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by the USC between ***June 20, 2002 to March 15, 2003.***

**BASES for EXPEDITED REQUEST and RESPONSE**

As one of the citizens of the United States, State of Utah, Cache County and Logan City, I believe I have the right to expeditiously and freely inspect the above described records because they are mandated to be made, retained and open for public inspection,

***Please acknowledge receipt so that I know when the statute of limitations begins to run.***

Respectfully submitted,

BRADY EAMES

----- Forwarded Message -----

**From:** Tom Ross <[tomross@utah.gov](mailto:tomross@utah.gov)>

**To:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**Cc:** SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)>; Monica Diaz <[monicadiaz@utah.gov](mailto:monicadiaz@utah.gov)>; Norma Hernandez <[nhernandez@utah.gov](mailto:nhernandez@utah.gov)>

**Sent:** Thursday, April 1, 2021, 02:58:47 PM MDT

**Subject:** Re: EXPEDITED APPEAL to SRC-denied free inspection of certain public records of USC

Mr Eames,

Attached to this email is my response to your appeal.

Respectfully,

Tom Ross

On Wed, Mar 31, 2021 at 7:16 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

**EXPEDITED APPEAL**

## Acronyms and/or Terms Used in this Appeal

USC is Utah Sentencing Commission

UC is State of Utah Code as amended

UCCP is the State of Utah Code of Criminal Procedure as amended

PRMA is the Public Records Management Act as amended

GRS is General Retention Schedule as amended

OPMA is Open and Public Meetings Act as amended

GRAMA is the Government Records Access Management Act as amended

UPNW is Utah Public Notice Website at <https://www.utah.gov/pmn/>

DCMC is the State of Utah 4th judicial district court for Millard County

AGO is the State of Utah Attorney General's Office

FPD is the Federal Public Defender

Legislature is the State of Utah house of senators and the Utah house of representatives

UJC is the State of Utah Judicial Council

UAC is State of Utah Administrative Code as amended

**To:** SRC

Attn: Rebekkah Shaw-executive secretary of the SRC

### **Appellant:**

Brady Eames

Physical address: [478 E. 700 N.-Apt. #2-Logan, UT 84321](#)

Email address: [ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)

Daytime cell phone number: 435-881-1022

**Appellee:** Tom Ross-executive director of USC

### **Important Note:**

***Both Monica Diaz and Norma Hernandez are not recognized as certified records officers of the USC***

***(see attachment)***

## BASES OF APPEAL

(1) For and on behalf of the State of Utah and the USC, Tom Ross has neglected to make an appellate decision regarding my **emailed** expedited request to **freely and immediately inspection** the following open and public meeting records of any subcommittee of the USC or of the USC itself (**Atkins OPM Records**):

(A) any and all **public notices** of any and all **meetings** convened by any **subcommittee** of the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

(B) any and all **minutes** of any and all **meetings** convened by any **subcommittee** of the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

(D) any and all **public notices** of any and all **meetings** convened by the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

and

(E) any and all **minutes** of any and all **meetings** convened by the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002)

(2) I'm lead to believe by the attached "*Legislative Summary 2003 General Session*" (**Summary**) that both a certain subcommittee of the USC and the USC itself convened certain open and public meetings between **June 20, 2002 and March 15, 2003** with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002).

(3) The **Summary** convinces me that the USC was very influential with respect to and involved with the passage and approval of **Senate Bill 8 "Sentencing in Capital Cases Amendments"** (<https://le.utah.gov/~2003/bills/static/SB0008.html>) and is therefore very influential with respect to the interpretation and execution of **UCCP § Title 77-Chapter 15a, "Exemptions from Death Penatly in Capital Cases"** ([https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a\\_1800010118000101](https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a_1800010118000101))

(4) Instead of allowing me to inspect the **Atkins OPM Records**, Monica Diaz has made the *attached* decision to simply linked me to <https://www.utah.gov/pmn/index.html> and left it up to me to blindly find them myself in all the electronic open and public meetings records of the USC which are currently maintained in the UPNW and are actually **dated from February 16, 2021 back to April 9, 2008**.

(5) I don't have to pay any fees to inspect any of the open and public meetings records of the USC which are currently open for public inspection in the UPNW so it's completely unreasonable and illegal for Monica Diaz to charge me to inspect the **Atkins OPM Records**.

(6) The **Atkins OPM Records** should not suddenly and during a 60-day time period have to be compiled, packaged and and tailored into an organization or media in order for the public to inspect them. **As the OPMA clearly mandates, the Atkins OPM Records shall be available to me for inspection at the primary office of the USC.** (see [https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203\\_2018050820180508](https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203_2018050820180508))

(7) As I made clear in my request, I reserve the right to **freely and immediately inspect** the **PAPER COPIES** of the **Atkins OPM Records** and of the **Reports** at the **primary office** of the USC at the following address:

**State Capitol Complex**

**Senate Building 330**

**Salt Lake City, UT**

(9) Currently in the DCMC under Case #881701140-Archuleta V. Utah, the FPD and the AGO are litigating and a judge is adjudicating and issuing decisions and orders with respect to the abrogation of the death sentence of Michael Anthony Archuleta (Archuleta) based on his motioning the DCMC that he can prove that before he was the age of 22, he was on **November 22, 1988** when he committed the **especially heinous and exceptionally depraved capital murder** of Gordon Ray Church and he is as of **November 19, 2020** "mentally retarded"/"intellectually disabled" albeit he was **unanimously convicted** by a jury of capital murder on **December 20, 1989** and was **unanimously sentenced** to death on **December 21, 1989** by the same **jury**.

(10) UCCP § Title 77-Chapter 15a does not provide the FPD, the AGO or the DCMC any rights or duties with respect to the litigation and adjudication of the abrogation of any death sentence of any person who at any time **after her/his capital murder trial, conviction and sentence to death** files any motion with a court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a **capital murder** and she/is is currently "mentally retarded"/"intellectually disabled".

(11) Certainly in the **Atkins OPM Records** and in the **Reports** it will be revealed to me whether the USC **has or has not** ever developed guidelines and/or proposed recommendations to the Legislature, the Governor or the UJC regarding the abrogation of a death sentence of any person who at any time **after her/his capital murder trial, conviction and sentence to death** files any motion with any court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a **capital murder** and she/he is currently "mentally retarded"/"intellectually disabled".

(12) The **Atkins OPM Records** are statutorily classified as public and shall be retained permanently according to duly made schedules.

(13) The **Reports** are classified as public and shall be retained permanently according to duly made schedules.

and

(14) Certainly considering the GRAMA, the OPMA and the fact that the USC has not made and codified any rules with respect to its records, I'm being compelled to pay illegall fees to inspect the **Atkins OPM Records**. (see current version of UAC R356 at <https://rules.utah.gov/publicat/code/r356/r356.htm>)

### RELIEF SOUGHT

(A) Please schedule and convene and open and public meeting to address my right to **freely and immediately inspect** the **PAPER COPIES** of the **Atkins OPM Records** and of the **Reports** at the following **primary office** of the USC:

State Capitol Complex

Senate Building 330

Salt Lake City, UT

***Please acknowledge receipt so that I know when the statute of limitations begins to run.***

Respectfully appealed,

BRADY EAMES

----- Forwarded Message -----

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**To:** [tomross@utah.gov](mailto:tomross@utah.gov) <[tomross@utah.gov](mailto:tomross@utah.gov)>

**Cc:** Monica Diaz <[monicadiaz@utah.gov](mailto:monicadiaz@utah.gov)>; Norma Hernandez <[nhernandez@utah.gov](mailto:nhernandez@utah.gov)>

**Sent:** Saturday, March 20, 2021, 04:39:54 AM MDT

**Subject:** EXPEDITED APPEAL to Ross-denied free inspection of certain public records of USC

Dear Mr. Ross,

I must bring it to your attention as the newly appointed executive director of the Commission on Criminal and Juvenile Justice that the Utah Sentencing Commission does not appear to have any duly made and codified rules with respect to its records so I hold any and all officers and employees of such executive governmental entity accountable for duly and faithfully respecting and executing the Government Records Access Management Act as amended.

I trust that you shall accept this emailed appeal.

Sincerely,  
BRADY EAMES

## **EXPEDITED APPEAL**

***See bases for expedited appeal and decision below***

### **Acronyms and/or Terms Used in this Appeal**

USC is Utah Sentencing Commission

UC is State of Utah Code as amended

UCCP is the State of Utah Code of Criminal Procedure as amended

PRMA is the Public Records Management Act as amended

GRS is General Retention Schedule as amended

OPMA is Open and Public Meetings Act as amended

GRAMA is the Government Records Access Management Act as amended

UPNW is Utah Public Notice Website at <https://www.utah.gov/pmn/>

DCMC is the State of Utah 4th judicial district court for Millard County

AGO is the State of Utah Attorney General's Office

FPD is the Federal Public Defender

Legislature is the State of Utah house of senators and the Utah house of representatives

UJC is the State of Utah Judicial Council

UAC is State of Utah Administrative Code as amended

**To:** USC

**Attn:** Tom Ross-executive director of USC

**Appellant:**

Brady Eames

Physical address: 478 E. 700 N.-Apt. #2-Logan, UT 84321

Email address: [ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)

Daytime cell phone number: 435-881-1022

**Appellee:** Monica Diaz-director of the USC

**Important Notes:**

***Both Monica Diaz and Norma Hernandez are not recognized as certified records officers of the USC***

***(see attachment)***

**LEGAL AUTHORITIES**

***ONLINE United States Bill of Rights § 1st amendment***

*(as per <https://www.archives.gov/founding-docs/bill-of-rights-transcript>)*

***ONLINE Utah Constitution § Article I, Section 1***

*(as per [https://le.utah.gov/xcode/UC\\_1800010118000101.pdf](https://le.utah.gov/xcode/UC_1800010118000101.pdf))*

***ONLINE Utah Supreme Court decision KUTV, Inc. v. Utah State Board of Education, 689 P.2d 1357 (1984)***

*(as per <https://archives.utah.gov/src/case-laws/supreme-court-utah/kutv-v-usbe.pdf>)*

***ONLINE Senate Bill 127 of 1993***

*(as per <https://image.le.utah.gov/imaging/Viewer.asp?Image=1>)*

***ONLINE UC-Title 63M, Chapter 7, Part 4***

*(as per [https://le.utah.gov/xcode/Title63M/Chapter7/C63M-7-P4\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63M/Chapter7/C63M-7-P4_1800010118000101.pdf))*

***ONLINE UCCP-Title 77m Chapter 15a***

*(as per [https://le.utah.gov/xcode/Title77/Chapter15A/C77-15a\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title77/Chapter15A/C77-15a_1800010118000101.pdf))*

***ONLINE PRMA***

*(as per [https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12_1800010118000101.pdf))*

***ONLINE Retention Schedule of USC-Series 22244***

*(as per [https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT\\_RUNWHAT=HTML\\_1SERIES&WEBINPUT\\_BIBLGRPC\\_RID=22244&A=B](https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT_RUNWHAT=HTML_1SERIES&WEBINPUT_BIBLGRPC_RID=22244&A=B))*

***ONLINE Retention Schedule of USC-Series 22243***

(as per [https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT\\_RUNWHAT=HTML\\_1SERIES&WEBINPUT\\_BIBLGRPC\\_RID=22243&A=B](https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT_RUNWHAT=HTML_1SERIES&WEBINPUT_BIBLGRPC_RID=22243&A=B))

**ONLINE GRS-1709**

(as per <https://axaemarchives.utah.gov/grsdetail.php?fq=grsItemRecordId:21456>)

**ONLINE GRS-1678**

(as per [https://axaemarchives.utah.gov/solrDetailPages/scheduleItem/ARC/ScheduleItem\\_detail.html?fq=grsItemRecordId:21140](https://axaemarchives.utah.gov/solrDetailPages/scheduleItem/ARC/ScheduleItem_detail.html?fq=grsItemRecordId:21140))

**ONLINE OPMA**

(as per [https://le.utah.gov/xcode/Title52/Chapter4/C52-4\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title52/Chapter4/C52-4_1800010118000101.pdf))

**ONLINE GRAMA**

(as per [https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2_1800010118000101.pdf))

**BASES**

(1) For and on behalf of the State of Utah and the USC, Monica Diaz is manifesting in the attached decision that it is her intent to deny me **free and immediate inspection** of the following open and public meeting records of any subcommittee of the USC or of the USC itself (**Atkins OPM Records**):

(A) any and all **public notices** of any and all **meetings** convened by any **subcommittee** of the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

(B) any and all **minutes** of any and all **meetings** convened by any **subcommittee** of the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

(D) any and all **public notices** of any and all **meetings** convened by the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

and

(E) any and all **minutes** of any and all **meetings** convened by the USC with respect to



the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002)

(2) I'm lead to believe by the attached "*Legislative Summary 2003 General Session*" (**Summary**) that both a certain subcommittee of the USC and the USC itself convened certain open and public meetings between **June 20, 2002 and March 15, 2003** with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002).

(3) The **Summary** convinces me that the USC was very influential with respect to and involved with the passage and approval of **Senate Bill 8 "Sentencing in Capital Cases Amendments"** ([SB0008](#))

SB0008

and is therefore very influential with respect to the interpretation and execution of **UCCP § Title 77-Chapter 15a, "Exemptions from Death Penatly in Capital Cases"** ([https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a\\_1800010118000101](https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a_1800010118000101))

(4) Instead of allowing me to inspect the **Atkins OPM Records**, Monica Diaz has simply linked me to <https://www.utah.gov/pmn/index.html>

Public Notice Website

and left it up to me to blindly find them myself in all the electronic open and public meetings records of the USC which are currently maintained

in the UPNW and are actually **dated from February 16, 2021 back to April 9, 2008**.

(5) I don't have to pay any fees to inspect any of the open and public meetings records of the USC which are currently open for public inspection in the UPNW so it's completely unreasonable and illegal for Monica Diaz to charge me to inspect the **Atkins OPM Records**.

(6) The **Atkins OPM Records** should not suddenly and during a 60-day time period have to be compiled, packaged and and tailored into an organization or media in order for the public to inspect them. **As the OPMA clearly mandates, the Atkins OPM Records shall be available to me for inspection at the primary office of the USC.** (see [https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203\\_2018050820180508](https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203_2018050820180508))

(7) Monica Diaz did not manifest in the attached decision that she had any intentions of allowing me to **freely and immediately inspect** any and all **reports of the USC (Reports)** which have been prepared, published and distributed with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002).

(8) As I made clear in my request, I reserve the right to **freely and immediately inspect** the **PAPER COPIES** of the **Atkins OPM Records** and of the **Reports** at the **primary office** of the USC at the following address:

**State Capitol Complex**

**Senate Building 330**

**Salt Lake City, UT**

(9) Currently in the DCMC under *Case #881701140-Archuleta V. Utah*, the FPD and the AGO are litigating and a judge is adjudicating and issuing decisions and orders with respect to the abrogation of the death sentence of Michael Anthony Archuleta (Archuleta) based on his motioning the DCMC that he can prove that before he was the age of 22, he was ON **November 22, 1988** when he committed the **especially heinous and exceptionally depraved capital murder** of Gordon Ray Church and he is as of **November 19, 2020** "**mentally retarded**"/"**intellectually disabled**" albeit he was **unanimously convicted** by a jury of capital murder on **December**

**20, 1989** and was **unanimously sentenced** to death on **December 21, 1989** by the same **jury**.

(10) UCCP § Title 77-Chapter 15a does not provide the FPD, the AGO or the DCMC any rights or duties with respect to the litigation and adjudication of the abrogation of any death sentence of any person who at any time **after her/his capital murder trial, conviction and sentence to death** files any motion with a court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a **capital murder** and she/is is currently "**mentally retarded**"/"**intellectually disabled**".

(11) Certainly in the **Atkins OPM Records** and in the **Reports** it will be revealed to me whether the USC **has or has not** ever developed guidelines and/or proposed recommendations to the Legislature, the Governor or the UJC regarding the abrogation of a death sentence of any person who at any time **after her/his capital murder trial, conviction and sentence to death** files any motion with any court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a **capital murder** and she/he is currently "**mentally retarded**"/"**intellectually disabled**".

(12) The **Atkins OPM Records** are statutorily classified as public and shall be retained permanently according to duly made schedules.

(13) The **Reports** are classified as public and shall be retained permanently according to duly made schedules.

and

(14) Certainly considering that the USC has not made and codified any rules with respect to its records, Monica Diaz is illegally charging me to inspect the **Atkins OPM Records**. (see current version of UAC R356 at [R356. Governor, Criminal and Juvenile Justice \(State Commission on\). Table of Contents.](#))

**R356. Governor, Criminal and Juvenile Justice  
(State Commission on). Tab...**

Utah Administrative Code

**RELIEF SOUGHT**

(A) Please allow me to exercise my right to ***freely and immediately inspect*** the ***PAPER COPIES*** of the ***Atkins OPM Records*** and of the ***Reports*** at the following **primary office** of the USC:

**State Capitol Complex**

**Senate Building 330**

**Salt Lake City, UT**

***Please acknowledge receipt so that I know when the statute of limitations begins to run.***

Respectfully appealed,

BRADY EAMES

On Friday, March 19, 2021, 04:12:00 PM MDT, Monica Diaz <[monicadiaz@utah.gov](mailto:monicadiaz@utah.gov)> wrote:

Please see the attached response to your request.

Best,

Monica

--

Monica Diaz, Director

Utah Sentencing Commission

Pronouns: she/her/hers

Senate Building, Suite 330

P.O. Box 142330

Salt Lake City, UT 84114-2330

(801) 953-7042 (cell)

| | | | | | | | (801) 538-1645 (office)

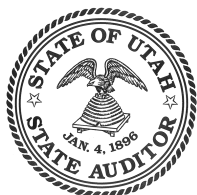
**Calvin Bergmann** <cbergmann@utah.gov>  
To: John Dougall <jdougall@utah.gov>  
Cc: Seth Oveson <soveson@utah.gov>

Tue, Jul 13, 2021 at 10:15 AM

Hello John,

The reason this entity would register on the Lieutenant Governor's Local Government and Limited Purpose Entity Registry is because it is required to do so, per [Utah Code 67-1a-15\(1\)\(b\)\(ii\)\(M\)](#), if it receives greater than \$25,000 of federal pass through money, state money, and local money, per [Utah Code 51-2a-201.5\(2\)\(d\)](#).

Thanks,



**Calvin Bergmann, MPA | Sr. Local Gov. Analyst**  
**801-834-5413**  
**LG Resource Center; State Reporting System**

On Tue, Jul 13, 2021 at 10:05 AM John Dougall <jdougall@utah.gov> wrote:

Calvin: Here's what I sent to Seth last week. Looks like the info has changed since I sent those emails. Also, if SWAP is truly private, why would they register on the LG's site?

---

**From:** John Dougall <jdougall@utah.gov>  
**Date:** Wednesday, July 7, 2021 at 11:06 PM  
**To:** Seth Oveson <soveson@utah.gov>  
**Subject:** Re: SWAP

<https://entityregistry.utah.gov/s/search-entity-detail?id=0010b00002SxaamAAB>

---

**From:** John Dougall <jdougall@utah.gov>  
**Date:** Wednesday, July 7, 2021 at 11:05 PM  
**To:** Seth Oveson <soveson@utah.gov>  
**Subject:** SWAP

Looks like SWAP filed with the LG indicating it is a governmental nonprofit.

<https://entityregistry.utah.gov/s/search-entity>

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**Date:** Wednesday, July 7, 2021 at 10:46 PM

**To:** John Dougall <[jdougall@utah.gov](mailto:jdougall@utah.gov)>, Kenneth Williams <[kenwilliams@utah.gov](mailto:kenwilliams@utah.gov)>, "ryan.robinson@wvc-ut.gov" <[ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov)>, "Christopher F. Allred" <[callred@co.weber.ut.us](mailto:callred@co.weber.ut.us)>, "rvandyke@kane.utah.gov" <[rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov)>, "sgarside@laytoncity.org" <[sgarside@laytoncity.org](mailto:sgarside@laytoncity.org)>, Jeff Buhman <[jbuhman@swap-ut.org](mailto:jbuhman@swap-ut.org)>, Sean Reyes <[seanreyes@agutah.gov](mailto:seanreyes@agutah.gov)>, Daniel Burton <[danburton@agutah.gov](mailto:danburton@agutah.gov)>, Lonny Pehrson <[lpehrson@agutah.gov](mailto:lpehrson@agutah.gov)>, Paul Tonks <[phtonks@agutah.gov](mailto:phtonks@agutah.gov)>, SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)>, "dhenderson@utah.gov" <[dhenderson@utah.gov](mailto:dhenderson@utah.gov)>, "mikecaldwell@ogdencity.com" <[mikecaldwell@ogdencity.com](mailto:mikecaldwell@ogdencity.com)>, Cameron Diehl <[cdiehl@ulct.org](mailto:cdiehl@ulct.org)>, Nick Jarvis <[njarvis@ulct.org](mailto:njarvis@ulct.org)>, Stan Summers <[ssummers@boxeldercounty.org](mailto:ssummers@boxeldercounty.org)>, Brandy Grace <[brandy@uacnet.org](mailto:brandy@uacnet.org)>, "hunter@uacnet.org" <[hunter@uacnet.org](mailto:hunter@uacnet.org)>, Todd Weiler <[tweiler@le.utah.gov](mailto:tweiler@le.utah.gov)>, Karianne Lisonbee <[karilisonbee@le.utah.gov](mailto:karilisonbee@le.utah.gov)>, "kcullimore@le.utah.gov" <[kcullimore@le.utah.gov](mailto:kcullimore@le.utah.gov)>, "lescamilla@le.utah.gov" <[lescamilla@le.utah.gov](mailto:lescamilla@le.utah.gov)>, "jjohnson@le.utah.gov" <[jjohnson@le.utah.gov](mailto:jjohnson@le.utah.gov)>, "mkennedy@le.utah.gov" <[mkennedy@le.utah.gov](mailto:mkennedy@le.utah.gov)>, "cacton@le.utah.gov" <[cacton@le.utah.gov](mailto:cacton@le.utah.gov)>, "kbirkeland@le.utah.gov" <[kbirkeland@le.utah.gov](mailto:kbirkeland@le.utah.gov)>, "bbrammer@le.utah.gov" <[bbrammer@le.utah.gov](mailto:bbrammer@le.utah.gov)>, "chall@le.utah.gov" <[chall@le.utah.gov](mailto:chall@le.utah.gov)>, Jon Hawkins <[jhawkins@le.utah.gov](mailto:jhawkins@le.utah.gov)>, Brian King <[briansking@le.utah.gov](mailto:briansking@le.utah.gov)>, "cmusselman@le.utah.gov" <[cmusselman@le.utah.gov](mailto:cmusselman@le.utah.gov)>, "spitcher@le.utah.gov" <[spitcher@le.utah.gov](mailto:spitcher@le.utah.gov)>, Mike Schultz <[mikeschultz@le.utah.gov](mailto:mikeschultz@le.utah.gov)>, "vlsnow@le.utah.gov" <[vlsnow@le.utah.gov](mailto:vlsnow@le.utah.gov)>, "markwheatley@le.utah.gov" <[markwheatley@le.utah.gov](mailto:markwheatley@le.utah.gov)>, Kristina King <[kking@le.utah.gov](mailto:kking@le.utah.gov)>, Jacqueline Carlton <[jcarlton@le.utah.gov](mailto:jcarlton@le.utah.gov)>, Christopher Williams <[cwilliams@le.utah.gov](mailto:cwilliams@le.utah.gov)>, "ryanwilcox@le.utah.gov" <[ryanwilcox@le.utah.gov](mailto:ryanwilcox@le.utah.gov)>, "jburtion@le.utah.gov" <[jburtion@le.utah.gov](mailto:jburtion@le.utah.gov)>, Francis Gibson <[fgibson@le.utah.gov](mailto:fgibson@le.utah.gov)>, "mgwynn@le.utah.gov" <[mgwynn@le.utah.gov](mailto:mgwynn@le.utah.gov)>, "shollins@le.utah.gov" <[shollins@le.utah.gov](mailto:shollins@le.utah.gov)>, Marsha Judkins <[mjudkins@le.utah.gov](mailto:mjudkins@le.utah.gov)>, "kmls@le.utah.gov" <[kmls@le.utah.gov](mailto:kmls@le.utah.gov)>, "pray@le.utah.gov" <[pray@le.utah.gov](mailto:pray@le.utah.gov)>, "angelaromero@le.utah.gov" <[angelaromero@le.utah.gov](mailto:angelaromero@le.utah.gov)>, "astoddard@le.utah.gov" <[astoddard@le.utah.gov](mailto:astoddard@le.utah.gov)>, John Feinauer <[jfeinauer@le.utah.gov](mailto:jfeinauer@le.utah.gov)>, "dkitchen@le.utah.gov" <[dkitchen@le.utah.gov](mailto:dkitchen@le.utah.gov)>, "jwstevenson@le.utah.gov" <[jwstevenson@le.utah.gov](mailto:jwstevenson@le.utah.gov)>, "dthatcher@le.utah.gov" <[dthatcher@le.utah.gov](mailto:dthatcher@le.utah.gov)>, Tom Ross <[tomross@utah.gov](mailto:tomross@utah.gov)>, Pam Vickrey <[pvickrey@ujda.org](mailto:pvickrey@ujda.org)>, "briannielsen@utah.gov" <[briannielsen@utah.gov](mailto:briannielsen@utah.gov)>, "brettmarkpeterson@utah.gov" <[brettmarkpeterson@utah.gov](mailto:brettmarkpeterson@utah.gov)>, "rmauro@sllda.com" <[rmauro@sllda.com](mailto:rmauro@sllda.com)>, "ed@edbrasslaw.com" <[ed@edbrasslaw.com](mailto:ed@edbrasslaw.com)>, "pcassell@summitcounty.org" <[pcassell@summitcounty.org](mailto:pcassell@summitcounty.org)>, Robert Church <[rjchurch@agutah.gov](mailto:rjchurch@agutah.gov)>, "sfoote@duchesne.utah.gov" <[sfoote@duchesne.utah.gov](mailto:sfoote@duchesne.utah.gov)>, Hfarnsworth Barpresident <[hfarnsworth.barpresident@utahbar.org](mailto:hfarnsworth.barpresident@utahbar.org)>, Heather Thuet <[heather.thuet@chrisjen.com](mailto:heather.thuet@chrisjen.com)>, Herm Olsen <[herm@hao-law.com](mailto:herm@hao-law.com)>, Cachecountybar <[cachecountybar@gmail.com](mailto:cachecountybar@gmail.com)>, Mesmith <[mesmith@slco.org](mailto:mesmith@slco.org)>, Jaqualin Peterson <[jfpeterson@agutah.gov](mailto:jfpeterson@agutah.gov)>

**Cc:** Heidi Stringham <[hstringham@utah.gov](mailto:hstringham@utah.gov)>

**Subject:** 1 more reason SWAP is governmental entity: plays Utah death penalty game

Dear all concerned with open & honest government,

The SWAP and its "legislative advisory committee" are critical players in the death penalty game here in the State of Utah. That's surely one more reason it's a governmental entity.

(see legislative history of 2003 Senate Bill 8 "Sentencing in Capital Cases Amendments" at <https://le.utah.gov/~2003/bills/static/SB0008.html>)

Sincerely,

BRADY EAMES

----- Forwarded Message -----

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**To:** John Dougall <[jdougall@utah.gov](mailto:jdougall@utah.gov)>; Kenneth Williams <[kenwilliams@utah.gov](mailto:kenwilliams@utah.gov)>; [ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov) <[ryan.robinson@wvc-ut.gov](mailto:ryan.robinson@wvc-ut.gov)>; Christopher F. Allred <[callred@co.weber.ut.us](mailto:callred@co.weber.ut.us)>; [rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov) <[rvandyke@kane.utah.gov](mailto:rvandyke@kane.utah.gov)>; [sgarside@laytoncity.org](mailto:sgarside@laytoncity.org) <[sgarside@laytoncity.org](mailto:sgarside@laytoncity.org)>; Jeff Buhman <[jbuhman@swap-ut.org](mailto:jbuhman@swap-ut.org)>; James Swink <[jswink@cacheattorney.org](mailto:jswink@cacheattorney.org)>; [pcassell@summitcounty.org](mailto:pcassell@summitcounty.org) <[pcassell@summitcounty.org](mailto:pcassell@summitcounty.org)>; Sean Reyes <[seanreyes@agutah.gov](mailto:seanreyes@agutah.gov)>; Daniel Burton <[danburton@agutah.gov](mailto:danburton@agutah.gov)>; Lonny Pehrson <[lpehrson@agutah.gov](mailto:lpehrson@agutah.gov)>; Paul Tonks <[phtonks@agutah.gov](mailto:phtonks@agutah.gov)>; SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)>; [dhenderson@utah.gov](mailto:dhenderson@utah.gov) <[dhenderson@utah.gov](mailto:dhenderson@utah.gov)>; [mikecaldwell@ogdencity.com](mailto:mikecaldwell@ogdencity.com) <[mikecaldwell@ogdencity.com](mailto:mikecaldwell@ogdencity.com)>; Cameron Diehl <[cdiehl@ulct.org](mailto:cdiehl@ulct.org)>; Nick Jarvis <[njarvis@ulct.org](mailto:njarvis@ulct.org)>; Stan Summers <[ssummers@boxeldercounty.org](mailto:ssummers@boxeldercounty.org)>; Brandy Grace <[brandy@uacnet.org](mailto:brandy@uacnet.org)>; [hunter@uacnet.org](mailto:hunter@uacnet.org) <[hunter@uacnet.org](mailto:hunter@uacnet.org)>

**Cc:** Heidi Stringham <[hstringham@utah.gov](mailto:hstringham@utah.gov)>

**Sent:** Wednesday, July 7, 2021, 06:41:10 PM MDT

**Subject:** SWAP is a governmental entity & position of HRC

Dear all concerned with open & honest government,

Regarding the "Statewide Association of Public Attorneys of Utah", a.k.a. "Statewide Association of Prosecutors", a.k.a. "Utah Statewide Association of Prosecutors and Public Attorneys" (SWAP), I forward you this position of the History Research Center (HRC):

*"According to the State Auditor's Office, SWAP is a private non-profit company."*

Based on my research of the SWAP, my position is that it is a governmental entity because:

- (1) The members of the SWAP can only be attorneys who are compensated using public funds.
  - (2) The Board of the SWAP is composed entirely of attorneys who are compensated using state, county, municipal or town public funds.
  - (3) I know Cache County Corporation has used public funds to pay dues owed to the SWAP.
- and
- (4) There is no indication in the following vital documents that the SWAP is "private":



(A) Articles of Incorporation,

(B) Bylaws,

and

(C) Entity registration with Office of Lieutenant Governor. This document reveals the SWAP is "**governmental** Nonprofit Corporation".

Sincerely,

BRADY EAMES

----- Forwarded Message -----

**From:** Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)>

**To:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**Sent:** Wednesday, July 7, 2021, 03:28:02 PM MDT

**Subject:** Re: SWAP is a governmental entity

SWAP is not listed as an entity in our system. According to the State Auditor's Office, SWAP is a private non-profit company.

Heidi

Reference Staff

Research Center of the Utah State Archives & Utah State History

300 S. Rio Grande

Salt Lake City, UT 84101

<http://historyresearch.utah.gov>

[historyresearch@utah.gov](mailto:historyresearch@utah.gov)

(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Wed, Jul 7, 2021 at 2:52 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,



What did you refer to that reveals or who advised you to inform me that SWAP is "non-governmental agencies/companies"?

On August 12, 2021, the State Records Committee is holding a hearing regarding my request to inspect the meeting records of the SWAP. The Attorney General believes SWAP is a governmental entity governed by the GRAMA and the OPMA.

Sincerely,

BRADY EAMES

On Wednesday, July 7, 2021, 02:36:46 PM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

I will get you on the calendar for the 16th at 9 am. The Archives does not hold records from non-governmental agencies/companies.

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Wed, Jul 7, 2021 at 2:34 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

Friday, July 16th, 9-3.

Are you maintaining any meeting records pertaining to the "Statewide Association of Public Attorneys of Utah", a.k.a. "Statewide Association of Prosecutors", a.k.a. "Utah Statewide Association of Prosecutors and Public Attorneys"?

THNX,  
BRADY

On Wednesday, July 7, 2021, 07:56:38 AM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

Which day did you want to come in? I provided you several options.

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Tue, Jul 6, 2021 at 11:32 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

The records I want to inspect also include those of the meetings of the subcommittees of the Utah Sentencing Commission **between *June 20, 2002 to March 15, 2003***.

Sincerely,

BRADY EAMES

On Tuesday, July 6, 2021, 04:27:04 PM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

I have the following open appointments

Friday, July 9th at 1-3 pm

Monday, July 12th at 1-3 pm

Wednesday, July 14th at 10-12 am or 1-3 pm

Friday, July 16th, 9-3

Let me know which days and times work for you. I will get you on the calendar.

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 531-3847

The Research Center is now scheduling research appointments. Contact a staff member for more information.

On Tue, Jul 6, 2021 at 4:19 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear ARC,

Which days and times are open for my inspection of any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by the Utah Sentencing Commission (USC) between **June 20, 2002 to March 15, 2003**.

Sincerely,

BRADY EAMES

On Tuesday, April 20, 2021, 03:52:02 PM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

I do have an appointment available on Thursday the 22nd at 1 if you wanted to come in then.

Let me know if you would like this appointment.

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 245-7227

The Research Center is now scheduling research appointments. Contact a staff member for more information.

To better protect the public and Research Center staff from the spread of the COVID-19 virus, the Research Center of the Utah State Archives and Utah State History will be closed to walk-in traffic, until further notice.

Staff will continue to be available to respond to requests for records by email.

On Fri, Apr 9, 2021 at 3:33 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

Due to circumstances which have just arisen, I need to inspect the records of the USC another day. I prefer afternoons.

Sincerely,

BRADY EAMES

On Tuesday, April 6, 2021, 08:42:33 AM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

I will schedule you from 9-1230.

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 245-7227

The Research Center is now scheduling research appointments. Contact a staff member for more information.

To better protect the public and Research Center staff from the spread of the COVID-19 virus, the Research Center of the Utah State Archives and Utah State History will be closed to walk-in traffic until further notice.

Staff will continue to be available to respond to requests for records by email.

On Mon, Apr 5, 2021 at 4:47 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

Dear Heidi,

Wednesday-April 14, 2021 at 9 will work. How much time will I have?

Sincerely,

BRADY EAMES

On Monday, April 5, 2021, 10:33:30 AM MDT, Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)> wrote:

Brady,

You will need to schedule an appointment to come to the Archives building to view these records. I have Monday the 12th at 10 am available or Wednesday the 14th at 9. Which day will work best for you?

Thanks,

Heidi

Reference Staff  
Research Center of the Utah State Archives & Utah State History  
300 S. Rio Grande  
Salt Lake City, UT 84101  
<http://historyresearch.utah.gov>  
[historyresearch@utah.gov](mailto:historyresearch@utah.gov)  
(801) 245-7227

The Research Center is now scheduling research appointments. Contact a staff member for more information.

To better protect the public and Research Center staff from the spread of the COVID-19 virus, the Research Center of the Utah State Archives and Utah State History will be closed to walk-in traffic, until further notice.

Staff will continue to be available to respond to requests for records by email.

On Sat, Apr 3, 2021 at 1:55 AM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

**AMENDED DESCRIPTIONS OF PUBLIC GOVERNMENT RECORDS**

**(A)** Any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by the **USC itself** between **June 20, 2002 to March 15, 2003**,

and

**(B)** Any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by any **subcommittee of USC** between **June 20, 2002 to March 15, 2003**,

----- Forwarded Message -----

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**To:** Research Center <[historyresearch@utah.gov](mailto:historyresearch@utah.gov)>

**Sent:** Saturday, April 3, 2021, 01:51:19 AM MDT

**Subject:** EXPEDITED RECORDS INSPECTION REQUEST to HRC-certain OPMA records of USC

**Dear Heidi,**

***This request is submitted based on the attached GRAMA appellate decision.***

**EXPEDITED RECORDS INSPECTION REQUEST**

***See bases for expedited request below***

**Acronyms and/or Terms Used in this Request**

HRC is History Research Center

PRMA is the Public Records Management Act as amended

OPMA is Open and Public Meetings Act as amended

GRS is General Retention Schedule as amended

GRAMA is the Government Records Access Management Act as amended

USC is Utah Sentencing Commission

**To:** HRC

**Attn:** Heidi Stringham-reference archivist and manager

**Requester:**

Brady Eames

Physical address: 478 E. 700 N.-Apt. #2-Logan, UT 84321

Email address: [ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)

Daytime cell phone number: 435-881-1022

**Format:** *PAPER COPIES*

**Manner of Access and Inspection:**

*in person at:*

*300 S. Rio Grande Street,*

*Salt Lake City, UT*

**LEGAL AUTHORITIES**

***ONLINE United States Bill of Rights § 1st amendment***

(as per <https://www.archives.gov/founding-docs/bill-of-rights-transcript>)

***ONLINE Utah Constitution § Article I, Section 1***

(as per [https://le.utah.gov/xcode/UC\\_1800010118000101.pdf](https://le.utah.gov/xcode/UC_1800010118000101.pdf))

***ONLINE Utah Supreme Court decision KUTV, Inc. v. Utah State Board of Education, 689 P.2d 1357 (1984)***

(as per <https://archives.utah.gov/src/case-laws/supreme-court-utah/kutv-v-usbe.pdf>)

***ONLINE PRMA***

(as per [https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12_1800010118000101.pdf))



**ONLINE OPMA**

(as per [https://le.utah.gov/xcode/Title52/Chapter4/C52-4\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title52/Chapter4/C52-4_1800010118000101.pdf))

**ONLINE Retention Schedule of USC-Series 22244**

(as per [https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT\\_RUNWHAT=HTML\\_1SERIES&WEBINPUT\\_BIBLGRPC\\_RID=22244&A=B](https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT_RUNWHAT=HTML_1SERIES&WEBINPUT_BIBLGRPC_RID=22244&A=B))

**ONLINE GRS-1709**

(as per <https://axaemarchives.utah.gov/grsdetail.php?fq=grsItemRecordId:21456>)

**ONLINE GRAMA**

(as per [https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2_1800010118000101.pdf))

**DESCRIPTIONS OF PUBLIC GOVERNMENT RECORDS**

Any and all public notices, minutes and distributed public materials pertaining to the open and public meetings convened by the USC between ***June 20, 2002 to March 15, 2003.***

**BASES for EXPEDITED REQUEST and RESPONSE**

As one of the citizens of the United States, State of Utah, Cache County and Logan City, I believe I have the right to expeditiously and freely inspect the above described records because they are mandated to be made, retained and open for public inspection,

***Please acknowledge receipt so that I know when the statute of limitations begins to run.***

Respectfully submitted,

BRADY EAMES

----- Forwarded Message -----

**From:** Tom Ross <[tomross@utah.gov](mailto:tomross@utah.gov)>

**To:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**Cc:** SRC Secretary <[srcsecretary@utah.gov](mailto:srcsecretary@utah.gov)>; Monica Diaz <[monicadiaz@utah.gov](mailto:monicadiaz@utah.gov)>; Norma Hernandez <[nhernandez@utah.gov](mailto:nhernandez@utah.gov)>

**Sent:** Thursday, April 1, 2021, 02:58:47 PM MDT

**Subject:** Re: EXPEDITED APPEAL to SRC-denied free inspection of certain public records of USC

Mr Eames,

Attached to this email is my response to your appeal.

Respectfully,

Tom Ross

On Wed, Mar 31, 2021 at 7:16 PM Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)> wrote:

## **EXPEDITED APPEAL**

### **Acronyms and/or Terms Used in this Appeal**

USC is Utah Sentencing Commission

UC is State of Utah Code as amended

UCCP is the State of Utah Code of Criminal Procedure as amended

PRMA is the Public Records Management Act as amended

GRS is General Retention Schedule as amended

OPMA is Open and Public Meetings Act as amended

GRAMA is the Government Records Access Management Act as amended

UPNW is Utah Public Notice Website at <https://www.utah.gov/pmn/>

DCMC is the State of Utah 4th judicial district court for Millard County

AGO is the State of Utah Attorney General's Office

FPD is the Federal Public Defender

Legislature is the State of Utah house of senators and the Utah house of representatives

UJC is the State of Utah Judicial Council

UAC is State of Utah Administrative Code as amended

**To:** SRC

Attn: Rebekkah Shaw-executive secretary of the SRC

**Appellant:**

Brady Eames

Physical address: 478 E. 700 N.-Apt. #2-Logan, UT 84321

Email address: [ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)

Daytime cell phone number: 435-881-1022

**Appellee:** Tom Ross-executive director of USC

**Important Note:**

***Both Monica Diaz and Norma Hernandez are not recognized as certified records officers of the USC***

***(see attachment)***

**BASES OF APPEAL**

**(1)** For and on behalf of the State of Utah and the USC, Tom Ross has neglected to make an appellate decision regarding my ***emailed*** expedited request to ***freely and immediately inspection*** the following open and public meeting records of any subcommittee of the USC or of the USC itself ***(Atkins OPM Records)***:

**(A)** any and all ***public notices*** of any and all ***meetings*** convened by any ***subcommittee*** of the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

**(B)** any and all ***minutes*** of any and all ***meetings*** convened by any ***subcommittee*** of the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

**(D)** any and all ***public notices*** of any and all ***meetings*** convened by the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

and

**(E)** any and all ***minutes*** of any and all ***meetings*** convened by the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002)

**(2)** I'm lead to believe by the attached "*Legislative Summary 2003 General Session*" (***Summary***) that both a certain subcommittee of the USC and the USC itself

convened certain open and public meetings between **June 20, 2002 and March 15, 2003** with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002).

(3) The **Summary** convinces me that the USC was very influential with respect to and involved with the passage and approval of **Senate Bill 8 "Sentencing in Capital Cases Amendments"** (<https://le.utah.gov/~2003/bills/static/SB0008.html>) and is therefore very influential with respect to the interpretation and execution of **UCCP § Title 77-Chapter 15a, "Exemptions from Death Penatly in Capital Cases"** ([https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a\\_1800010118000101](https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a_1800010118000101))

(4) Instead of allowing me to inspect the **Atkins OPM Records**, Monica Diaz has made the *attached* decision to simply linked me to <https://www.utah.gov/pmn/index.html> and left it up to me to blindly find them myself in all the electronic open and public meetings records of the USC which are currently maintained in the UPNW and are actually **dated from February 16, 2021 back to April 9, 2008**.

(5) I don't have to pay any fees to inspect any of the open and public meetings records of the USC which are currently open for public inspection in the UPNW so it's completely unreasonable and illegal for Monica Diaz to charge me to inspect the **Atkins OPM Records**.

(6) The **Atkins OPM Records** should not suddenly and during a 60-day time period have to be compiled, packaged and and tailored into an organization or media in order for the public to inspect them. **As the OPMA clearly mandates, the Atkins OPM Records shall be available to me for inspection at the primary office of the USC.** (see [https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203\\_2018050820180508](https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203_2018050820180508))

(7) As I made clear in my request, I reserve the right to **freely and immediately inspect** the **PAPER COPIES** of the **Atkins OPM Records** and of the **Reports** at the **primary office** of the USC at the following address:

**State Capitol Complex**

**Senate Building 330**

**Salt Lake City, UT**

(9) Currently in the DCMC under *Case #881701140-Archuleta V. Utah*, the FPD and the AGO are litigating and a judge is adjudicating and issuing decisions and orders with respect to the abrogation of the death sentence of Michael Anthony Archuleta (Archuleta) based on his motioning the DCMC that he can prove that before he was the age of 22, he was on **November 22, 1988** when he committed the **especially henious and exceptionally depraved capital murder** of Gordon Ray Church and he is as of **November 19, 2020 "mentally retarded"/"intellectually disabled"** albeit he was **unanimously convicted** by a jury of capital murder on **December 20, 1989** and was **unanimously sentenced** to death on **December 21, 1989** by the same **jury**.

(10) UCCP § Title 77-Chapter 15a does not provide the FPD, the AGO or the DCMC any rights or duties with respect to the litigation and adjudication of the abrogation of any death sentence of any person who at any time **after her/his capital murder trial, conviction and sentence to death** files any motion with a court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a **capital murder** and she/is is currently "*mentally retarded*" "*intellectually disabled*".

(11) Certainly in the **Atkins OPM Records** and in the **Reports** it will be revealed to me whether the USC **has or has not** ever developed guidelines and/or proposed recommendations to the Legislature, the Governor or the UJC regarding the abrogation of a death sentence of any person who at any time **after her/his capital murder trial, conviction and sentence to death** files any motion with any court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a **capital murder** and she/he is currently "*mentally retarded*" "*intellectually disabled*".

(12) The **Atkins OPM Records** are statutorily classified as public and shall be retained permanently according to duly made schedules.

(13) The **Reports** are classified as public and shall be retained permanently according to duly made schedules.

and

(14) Certainly considering the GRAMA, the OPMA and the fact that the USC has not made and codified any rules with respect to its records, I'm being compelled to pay illegall fees to inspect the **Atkins OPM Records**. (see current version of UAC R356 at <https://rules.utah.gov/publicat/code/r356/r356.htm>)

## RELIEF SOUGHT

(A) Please schedule and convene and open and public meeting to address my right to **freely and immediately inspect** the **PAPER COPIES** of the **Atkins OPM Records** and of the **Reports** at the following **primary office** of the USC:

State Capitol Complex

Senate Building 330

Salt Lake City, UT

***Please acknowledge receipt so that I know when the statute of limitations begins to run.***

Respectfully appealed,

BRADY EAMES

----- Forwarded Message -----

**From:** Brady Eames <[ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)>

**To:** [tomross@utah.gov](mailto:tomross@utah.gov) <[tomross@utah.gov](mailto:tomross@utah.gov)>

**Cc:** Monica Diaz <[monicadiaz@utah.gov](mailto:monicadiaz@utah.gov)>; Norma Hernandez <[nhernandez@utah.gov](mailto:nhernandez@utah.gov)>

**Sent:** Saturday, March 20, 2021, 04:39:54 AM MDT

**Subject:** EXPEDITED APPEAL to Ross-denied free inspection of certain public records of USC

Dear Mr. Ross,

I must bring it to your attention as the newly appointed executive director of the Commission on Criminal and Juvenile Justice that the Utah Sentencing Commission does not appear to have any duly made and codified rules with respect to its records so I hold any and all officers and employees of such executive governmental entity accountable for duly and faithfully respecting and executing the Government Records Access Management Act as amended.

I trust that you shall accept this emailed appeal.

Sincerely,  
BRADY EAMES

## **EXPEDITED APPEAL**

***See bases for expedited appeal and decision below***

### **Acronyms and/or Terms Used in this Appeal**

USC is Utah Sentencing Commission

UC is State of Utah Code as amended

UCCP is the State of Utah Code of Criminal Procedure as amended

PRMA is the Public Records Management Act as amended

GRS is General Retention Schedule as amended

OPMA is Open and Public Meetings Act as amended

GRAMA is the Government Records Access Management Act as amended

UPNW is Utah Public Notice Website at <https://www.utah.gov/pmn/>

DCMC is the State of Utah 4th judicial district court for Millard County

AGO is the State of Utah Attorney General's Office

FPD is the Federal Public Defender

Legislature is the State of Utah house of senators and the Utah house of representatives

UJC is the State of Utah Judicial Council

UAC is State of Utah Administrative Code as amended

**To:** USC

**Attn:** Tom Ross-executive director of USC

**Appellant:**

Brady Eames

Physical address: 478 E. 700 N.-Apt. #2-Logan, UT 84321

Email address: [ibuncle@yahoo.com](mailto:ibuncle@yahoo.com)

Daytime cell phone number: 435-881-1022

**Appellee:** Monica Diaz-director of the USC

**Important Notes:**

***Both Monica Diaz and Norma Hernandez are not recognized as certified records officers of the USC***

***(see attachment)***

**LEGAL AUTHORITIES**

***ONLINE United States Bill of Rights § 1st amendment***

*(as per <https://www.archives.gov/founding-docs/bill-of-rights-transcript>)*

***ONLINE Utah Constitution § Article I, Section 1***

*(as per [https://le.utah.gov/xcode/UC\\_1800010118000101.pdf](https://le.utah.gov/xcode/UC_1800010118000101.pdf) )*

**ONLINE Utah Supreme Court decision KUTV, Inc. v. Utah State Board of Education, 689 P.2d 1357 (1984)**

(as per <https://archives.utah.gov/src/case-laws/supreme-court-utah/kutv-v-usbe.pdf>)

**ONLINE Senate Bill 127 of 1993**

(as per <https://image.le.utah.gov/imaging/Viewer.asp?Image=1>)

**ONLINE UC-Title 63M, Chapter 7, Part 4**

(as per [https://le.utah.gov/xcode/Title63M/Chapter7/C63M-7-P4\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63M/Chapter7/C63M-7-P4_1800010118000101.pdf))

**ONLINE UCCP-Title 77m Chapter 15a**

(as per [https://le.utah.gov/xcode/Title77/Chapter15A/C77-15a\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title77/Chapter15A/C77-15a_1800010118000101.pdf))

**ONLINE PRMA**

(as per [https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63A/Chapter12/C63A-12_1800010118000101.pdf))

**ONLINE Retention Schedule of USC-Series 22244**

(as per [https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT\\_RUNWHAT=HTML\\_1SERIES&WEBINPUT\\_BIBLGRPC\\_RID=22244&A=B](https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT_RUNWHAT=HTML_1SERIES&WEBINPUT_BIBLGRPC_RID=22244&A=B))

**ONLINE Retention Schedule of USC-Series 22243**

(as per [https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT\\_RUNWHAT=HTML\\_1SERIES&WEBINPUT\\_BIBLGRPC\\_RID=22243&A=B](https://axaemarchives.utah.gov/cgi-bin/appxretcget.cgi?WEBINPUT_RUNWHAT=HTML_1SERIES&WEBINPUT_BIBLGRPC_RID=22243&A=B))

**ONLINE GRS-1709**

(as per <https://axaemarchives.utah.gov/grsdetail.php?fq=grsItemRecordId:21456>)

**ONLINE GRS-1678**

(as per [https://axaemarchives.utah.gov/solrDetailPages/scheduleItem/ARC/ScheduleItem\\_detail.html?fq=grsItemRecordId:21140](https://axaemarchives.utah.gov/solrDetailPages/scheduleItem/ARC/ScheduleItem_detail.html?fq=grsItemRecordId:21140))

**ONLINE OPMA**

(as per [https://le.utah.gov/xcode/Title52/Chapter4/C52-4\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title52/Chapter4/C52-4_1800010118000101.pdf))

**ONLINE GRAMA**

(as per [https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2\\_1800010118000101.pdf](https://le.utah.gov/xcode/Title63G/Chapter2/C63G-2_1800010118000101.pdf))

**BASES**

(1) For and on behalf of the State of Utah and the USC, Monica Diaz is manifesting in the attached decision that it is her intent to deny me **free and immediate inspection** of the following open and public meeting records of any subcommittee of the USC or of the USC itself (**Atkins OPM Records**):

(A) any and all **public notices** of any and all **meetings** convened by any **subcommittee** of the USC with respect to the death penalty



in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

(B) any and all **minutes** of any and all **meetings** convened by any **subcommittee** of the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

(D) any and all **public notices** of any and all **meetings** convened by the USC with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002),

and

(E) any and all **minutes** of any and all **meetings** convened by the USC with respect to

the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002)

(2) I'm lead to believe by the attached "*Legislative Summary 2003 General Session*" (**Summary**) that both a certain subcommittee of the USC and the USC itself convened certain open and public meetings between **June 20, 2002 and March 15, 2003** with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002).

(3) The **Summary** convinces me that the USC was very influential with respect to and involved with the passage and approval of **Senate Bill 8 "Sentencing in Capital Cases Amendments"** ([SB0008](#))

SB0008

and is therefore very influential with respect to the interpretation and execution of **UCCP § Title 77-Chapter 15a, "Exemptions from Death Penatly in Capital Cases"** ([https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a\\_1800010118000101](https://le.utah.gov/xcode/Title77/Chapter15A/77-15a.html?v=C77-15a_1800010118000101))

(4) Instead of allowing me to inspect the **Atkins OPM Records**, Monica Diaz has simply linked me to <https://www.utah.gov/pmn/index.html>

Public Notice Website

and left it up to me to blindly find them myself in all the electronic open and public meetings records of the USC which are currently maintained in the UPNW and are actually **dated from February 16, 2021 back to April 9, 2008**.

(5) I don't have to pay any fees to inspect any of the open and public meetings records of the USC which are currently open for public inspection in the UPNW so it's completely unreasonable and illegal for Monica Diaz to charge me to inspect the **Atkins OPM Records**.

(6) The **Atkins OPM Records** should not suddenly and during a 60-day time period have to be compiled, packaged and and tailored into an organization or media in order for the public to inspect them. **As the OPMA clearly mandates, the Atkins OPM Records shall be available to me for inspection at the primary office of the USC.** (see [https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203\\_2018050820180508](https://le.utah.gov/xcode/Title52/Chapter4/52-4-S203.html?v=C52-4-S203_2018050820180508))

(7) Monica Diaz did not manifest in the attached decision that she had any intentions of allowing me to **freely and immediately inspect** any and all **reports of the USC (Reports)** which have been prepared, published and distributed with respect to the death penalty in capital cases in the State of Utah and *Atkins v. Virginia*, 536 U.S. 304 (2002).

(8) As I made clear in my request, I reserve the right to ***freely and immediately inspect*** the ***PAPER COPIES*** of the ***Atkins OPM Records*** and of the ***Reports*** at the ***primary office*** of the USC at the following address:

**State Capitol Complex**

**Senate Building 330**

**Salt Lake City, UT**

(9) Currently in the DCMC under ***Case #881701140-Archuleta V. Utah***, the FPD and the AGO are litigating and a judge is adjudicating and issuing decisions and orders with respect to the abrogation of the death sentence of Michael Anthony Archuleta (Archuleta) based on his motioning the DCMC that he can prove that before he was the age of 22, he was ON ***November 22, 1988*** when he committed the ***especially heinous and exceptionally depraved capital murder*** of Gordon Ray Church and he is as of ***November 19, 2020 "mentally retarded"/"intellectually disabled"*** albeit he was ***unanimously convicted*** by a jury of capital murder on ***December 20, 1989*** and was ***unanimously sentenced*** to death on ***December 21, 1989*** by the same ***jury***.

(10) ***UCCP § Title 77-Chapter 15a*** does not provide the FPD, the AGO or the DCMC any rights or duties with respect to the litigation and adjudication of the abrogation of any death sentence of any person who at any time ***after her/his capital murder trial, conviction and sentence to death*** files any motion with a court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a ***capital murder*** and she/is is currently ***"mentally retarded"/"intellectually disabled"***.

(11) Certainly in the ***Atkins OPM Records*** and in the ***Reports*** it will be revealed to me whether the USC ***has or has not*** ever developed guidelines and/or proposed recommendations to the Legislature, the Governor or the UJC regarding the abrogation of a death sentence of any person who at any time ***after her/his capital murder trial, conviction and sentence to death*** files any motion with any court that she/he can prove that she/he was before the age of 22, she/he was at the the time she/he committed a ***capital murder*** and she/he is currently ***"mentally retarded"/"intellectually disabled"***.

(12) The **Atkins OPM Records** are statutorily classified as public and shall be retained permanently according to duly made schedules.

(13) The **Reports** are classified as public and shall be retained permanently according to duly made schedules.

and

(14) Certainly considering that the USC has not made and codified any rules with respect to its records, Monica Diaz is illegally charging me to inspect the **Atkins OPM Records**. (see current version of UAC R356 at [R356. Governor, Criminal and Juvenile Justice \(State Commission on\). Table of Contents.](#))

**R356. Governor, Criminal and Juvenile Justice  
(State Commission on). Tab...**

Utah Administrative Code

## RELIEF SOUGHT

(A) Please allow me to exercise my right to ***freely and immediately*** inspect the **PAPER COPIES** of the **Atkins OPM Records** and of the **Reports** at the following **primary office** of the USC:

**State Capitol Complex**

**Senate Building 330**

**Salt Lake City, UT**

***Please acknowledge receipt so that I know when the statute of limitations begins to run.***

Respectfully appealed,

BRADY EAMES

On Friday, March 19, 2021, 04:12:00 PM MDT, Monica Diaz <[monicadiaz@utah.gov](mailto:monicadiaz@utah.gov)> wrote:

Please see the attached response to your request.

Best,

Monica

--

Monica Diaz, Director

Utah Sentencing Commission

Pronouns: she/her/hers

Senate Building, Suite 330  
P.O. Box 142330  
Salt Lake City, UT 84114-2330

(801) 953-7042 (cell)

(801) 538-1645 (office)



Calvin Bergmann &lt;cbergmann@utah.gov&gt;

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**SWAP**

4 messages

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**John Dougall** <jdougall@utah.gov>  
To: Calvin Bergmann <cbergmann@utah.gov>

Thu, Jul 15, 2021 at 10:02 AM

Could you send me a copy of the SWAP bylaws, specifically the board composition portion, and whatever flowchart was shared with the State Records Committee?

---

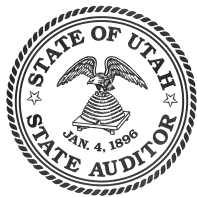
**Calvin Bergmann** <cbergmann@utah.gov>  
To: John Dougall <jdougall@utah.gov>

Thu, Jul 15, 2021 at 10:13 AM

Hello John,

The attached three documents provided to our office in April by SWAP. I also attached the Governmental Nonprofit Decision Tree (the flowchart referenced) and Nongovernmental Nonprofit Reporting Requirements.

Thanks,



**Calvin Bergmann, MPA | Sr. Local Gov. Analyst**  
**801-834-5413**  
**LG Resource Center; State Reporting System**

On Thu, Jul 15, 2021 at 10:02 AM John Dougall <jdougall@utah.gov> wrote:

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---

**5 attachments**

 **SWAP Bylaw Amendment No 1.final signed.20190417.pdf**  
61K

 **SWAP by-laws approved 10-4-17..pdf**  
267K

 **Amendment 2 to Bylaws.signed.Sep 2020.pdf**  
1284K

 **Decision-Tree-for-Governmental-Nonprofit-Corporation-Status\_2019-04.pdf**  
110K

 **REPORTING-REQUIREMENTS-FOR-NGOs\_Updated-8\_13\_2019.pdf**  
266K

**John Dougall** <jdougall@utah.gov>  
To: Calvin Bergmann <cbergmann@utah.gov>

Thu, Jul 15, 2021 at 2:45 PM


Calvin,

What's the code reference for the wholly controlled criteria in our decision tree?

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Thanks,

 Image removed by sender.

**Calvin Bergmann, MPA | Sr. Local Gov. Analyst**

**801-834-5413**

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**Decision-Tree-for-Governmental-Nonprofit-Corporation-Status\_2019-04.pdf**  
110K

**John Dougall** <jdougall@utah.gov>  
To: Calvin Bergmann <cbergmann@utah.gov>

Thu, Jul 15, 2021 at 5:30 PM

Never mind. I found it.

**From:** John Dougall <[jdougall@utah.gov](mailto:jdougall@utah.gov)>  
**Date:** Thursday, July 15, 2021 at 2:45 PM  
**To:** Calvin Bergmann <[cbergmann@utah.gov](mailto:cbergmann@utah.gov)>  
**Subject:** FW: SWAP


Calvin,

What's the code reference for the wholly controlled criteria in our decision tree?

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**801-834-5413**

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