

March 5, 1992

SEVIER COUNTY POLICIES  
REGARDING THE MAINTENANCE AND PRESERVATION OF  
ACCURATE PUBLIC RECORDS; PROVIDING FOR ACCESS TO  
RECORDS BY MEMBERS OF THE PUBLIC AND IN ACCORDANCE  
WITH APPROPRIATE STATE STATUTE; SETTING OUT RESPONSE  
TIME REQUIREMENTS AND FEE FORMULAS FOR PUBLIC RECORD  
ACCESS REQUESTS; CREATING THE OFFICE OF COUNTY ARCHIVES;  
AND ESTABLISHING OTHER PROCEDURES REGARDING THE STORAGE  
OF AND ACCESS TO GOVERNMENTAL RECORDS HELD BY THE COUNTY.

The Board of County Commissioners of the County of Sevier establishes a policy as follows:

SECTION I. Sevier County Public Records Policy is hereby established to read as follows:

1. The Board of County Commissioners of Sevier County finds that it is in the best interests of Sevier County and the citizens thereof to maintain and preserve accurate governmental records, to provide ready access to records which are defined by law as open to the public, and to retain the security of records which are defined by law as non-public. It is the policy of the County that all governmental records, which are defined by applicable Utah statutory and case law as public records, shall be made available to citizens within a reasonable time after request and at a reasonable cost as set forth in this ordinance.

2. In establishing this policy, it is the purpose and intent of the Board of County Commissioners to provide, in accordance with the Government Records Access Management Act (hereinafter referred to as "the Act"), Chapter 2 of Title 63 of the Utah Code Annotated (1953), a policy acknowledging and complying with the Act and providing for its application in the County. County divisions and agencies shall comply with the provisions of this

policy, the Act and shall also comply with other federal and state statutory and regulatory record-keeping requirements.

3. A. Members of the public shall have the right to see, review, examine, and take copies of all County governmental records defined as "public" under the provisions of this ordinance, upon the payment of the lawful fee. Appropriate access to public records may be had, regardless of the format in which the record is kept.

B. The County has no obligation to create a new record or new record series in response to a request from a member of the public, if the record requested is not otherwise regularly maintained or kept.

C. When an agency or division record is temporarily held by the County Attorney's Office, pursuant to its statutory and ordinance functions, the record shall not be considered a County Attorney's Office record for the purposes of this Chapter; provided, however, the record shall be considered a record of the division or agency which usually keeps or maintains that record and any requests for access to such records shall be directed to that department or agency, rather than the County Attorney's Office.

4. A. Public records shall be those County records as defined in the Act, Section 63-2-201 (U.C.A., 1953, as amended). Public records may be made available to any person. All County records are considered public unless they are expressly classified otherwise in accordance with procedures established by this chapter, by the Act, or by other applicable law.

B. Private records shall be those County records classified as "private", as defined in the Act, Section 63-2-302 (U.C.A., 1953, as amended) and as defined in procedures established in this Chapter. Private records shall be made available to the following persons:

The subject of the record, the parent or legal guardian of a minor who is the subject of a record, the legal guardian of an incapacitated individual who is the subject of the record, any person who has a power of attorney or a notarized release from the subject of the record or his legal representative, or any person possessed of and serving a court order issued by a court of competent jurisdiction.

C. Confidential records shall be those County records classified as "confidential", as defined in the Act, Section 63-2-303 (U.C.A., 1953, as amended) and as defined in procedures established in this Chapter. Confidential records shall be made available to a physician, psychologist, or certified social worker who submits a notarized release from the subject of the record or any person presenting a court order signed by a judge of competent jurisdiction.

D. Protected records shall be those County records classified as "protected", as defined in the Act, Section 63-2-304 (U.C.A., 1953, as amended) and as defined in procedures established in this Chapter. Protected records shall be made available to the person who submitted the information in the record, a person who has power of authority or notarized release from the subject of the record, or to any person presenting a court order regarding the release of the information and signed by a judge of competent jurisdiction.

5. A. The County recognizes and upholds the personal right of privacy retained by persons who may be the subject of government records. County records regarding named or readily identifiable individuals which deal with matters of a delicate nature which would engender shame, humiliation or embarrassment in the subject of that record, in accordance with accepted

standards of social propriety, shall generally not be classified as public records, in accordance with the Act and procedures established in this ordinance.

B. The County may, as determined appropriate by the division director of the division responding to a request for records, notify the subject of a record that a request for access to the subject's record has been made. In cases in which a request is made for records which are not classified as public, the division director shall notify the subject of such records that the request has been made. In circumstances in which a controversy arises or an appeal is taken by a requester of records regarding the propriety of the classification of the record or a denial of access thereto or under circumstances in which the requester maintains that the public interest in access to the record outweighs the subject's privacy interest, the County division director in charge of such records shall notify the subject of the records in question of the request.

C. The County may require that the requester of records in contested cases, as related in sub-paragraphs 10-1-5 A and B above, shall be required to provide a written release from the subject of the records in question before access to such records is provided.

6. All County records and records series shall be classified according to the provisions of the Act and this Chapter. Any records or record series generated in the future shall also be so classified. Records classification shall be conducted under the supervision of the County Records Officer who shall be assisted, as necessary, by a Classification Review Committee consisting of the Records Officer or his designee, a representative of the County Attorney's Office, and the Division Director of the division in

charge of the record in question, or his designee. Classification forms and guidelines shall be prepared and promulgated by the Records Officer and the County Records Task Force.

7. A. Requests for records shall, in the majority of cases, be responded to immediately. Under circumstances in which a County division or agency is not able to immediately respond to a records request, the requester shall fill out and present to the County agency a written request on forms provided by the County. The date and time of the request shall be noted on the written request form and all time frames provided under this section shall commence from that time and date.

B. A County agency may respond to a request for a record by approving the request and providing the records, denying the request, notifying the requester that the County does not maintain the record, notifying the requester that it cannot immediately approve or deny the request, or by specifying that the request may not be immediately satisfied but will be responded to on or before a date certain.

C. 1. In most circumstances and excepting those eventualities set out below at subparagraph 10-1-7 C.2, a County agency shall respond to a written request for a public record within five business days after that request.

2. The following extraordinary circumstances shall justify a County agency's failure to respond to a written request for a public record within five business days and shall extend the time for response thereto to fifteen business days.

a. The County division or agency, another division or agency, or some other governmental entity is currently and actively using the

record requested;

b. The record requested is for either a voluminous quantity of records or requires a County division or agency to review a large number of records to locate the materials requested;

c. The County division or agency is currently processing either a large number of records requests or is subject to extraordinary seasonal work loads in the processing of other work;

d. The request involves an analysis of legal issues to determine the proper County response to the request;

e. The request involves extensive editing to separate public information in a record from that which is not public; or

f. Providing the information in a format requested or separating public information from that which is non-public requires computer programming.

D. The failure or inability of a County division or agency to respond to a request for a record within the time frames set out herein, or the County's denial of such a request, shall give an aggrieved requester the right to appeal as provided in Section 10-1-9.

8. A. Applicable fees for the processing of information requests under this Chapter shall include the following categories of fees and charges:

1. Fees and charges set out by statute shall be imposed at the amount so set.

2. For fees and charges not set out by statute, the level of cost recovery shall be established at the full cost of the service, including overhead.

3. Services provided to any public or private agencies, for their sole use, shall be charged at full cost. Services or information provided to any public or private agency for resale shall be charged at fair market value, but in no instance shall the rate charged be less than full cost.

B. Nonstatutory fees or charges for records services provided by the County shall be set by the County Commission, based upon its review of the full costs of providing such services. Such rates shall be reviewed annually each November.

C. The methodology of determining full costs of records services shall be the responsibility of the County Auditor, who shall maintain and disseminate forms and review procedures as necessary for the determination of the full costs of County services. The procedures and methodology for cost allocation shall be set forth in the policies and procedures of the County Auditor's Office.

D. Where practical, uniform schedules of fees shall be established, with the approval of the Board of County Commissioners, for use by all County divisions, departments and offices.

E. In circumstances in which a record request will entail extraordinary costs, such as the writing of new computer programs or research involving extensive personnel costs, the requester may receive an estimate of approximate costs before any extraordinary costs are accrued.

9. A. Persons aggrieved by the County's classification of a record or by the County's response to a record request may request and be granted a full administrative appeal of that grievance. An intermediate or initial appeal may be made, at the requester's option, to the County's Records

Task Force. A requester who is aggrieved by the County Records Task Force decision may file an administrative appeal of that decision with the Board of County Commissioners. The appeal of a decision of the Board of County Commissioners may be made to the District Court, in accordance with the Act and the Utah Rules of Civil Procedure.

B. An appeal under this section shall be brought within fifteen calendar days of the date of the action aggrieved, or of the date when the person grieving reasonably should have become aware of the action.

C. The appellant shall set forth in writing the nature and date of the request, attaching a copy of the request form, if available.

10. In accordance with the procedures of Section 63-2-803 (U.C.A., 1953, as amended) of the Act, neither the County nor any of its officers or employees shall be liable for damages resulting from the release of a record where the requester presented to the County evidence of authority to obtain the record, even if it may be subsequently determined that the requester had no such authority.

11. A. The County shall appoint a County Records Officer, within the Department of Administrative Services, to oversee and coordinate records access and management and County archives activities. The Records Officer shall make annual reports of his activities to the Board of County Commissioners.

B. There is hereby created the County Records Task Force, to be chaired by the County Records Officer. Members of that Task Force shall include representatives from the Commission staff, the three County departments, and from the elected offices. The Records Task Force shall meet

periodically as needed, as determined by the Task Force and the County Records Officer.

C. Each division of County government shall appoint a Division Records Representative to assist with and be directly responsible for the implementation of this ordinance in County divisions. Regular training shall be provided under the direction of the County Records Task Force to Division Records Representatives.

D. The County Records Task Force shall develop, as needed, records maintenance and access policies and procedures to govern and implement the provisions of the Act and this Chapter. Approval and promulgation of records policies and procedures shall be in accordance with the provisions of this code of ordinances. Copies of all rules and policies promulgated under this ordinance shall be forwarded to the Utah State Division of Archives.

12. The County Records Officer and County Records Task Force shall develop County policies and guidelines relating to the retention and maintenance of County records. Records maintenance policies and procedures shall be developed to ensure that due care is taken to maintain County records safely and accurately. Policies and regulations regarding types of papers, inks, electronic media, and other records storage materials shall be developed and promulgated by the County Records Officer, subject to the approval of the Board of County Commissioners. All County records shall remain the property of the County unless federal or state statutory authority relating to a specific record or record series provides otherwise.

13. There is created the County Archives Section, to be managed by the County Records Officer. It is the responsibility of County Archives to receive formal County records, minutes and other documents and to

store and preserve such records and to provide reasonable access thereto as may be calculated to accurately and safely maintain County records over a long term in compliance with this Chapter and the Act. Policies and guidelines regarding the nature of records and record series which are to be received and stored by County Archives shall be developed and promulgated by the County Records Task Force. County Archives shall be considered the formal and official repository of County Records, documents and, where appropriate, historical artifacts.

14. A. The County retains and reserves to itself the right to use any type of computer, data processing, or electronic information storage or processing system, which is not prohibited by state statute, to store and maintain County records. All computerized data and information which is properly classified, in accordance with the Act and this Chapter, as a public record shall be made available to a requester within a reasonable time and at a reasonable cost.

B. Members of the public shall have the right to have access to data, which are defined as public records in accordance with the Act and this Chapter, contained in computers, data processing systems or other electronic information storage systems. Access to such public record data may be had in such a manner as determined by the division director of the division maintaining the records to be appropriate, considering all circumstances. Access may include but not limited to the following:

1. By sitting at and viewing a County computer terminal to retrieve data directly from the terminal screen; provided, however, that due regard shall be exercised to ensure that any data which might be defined by

the Act or this Chapter as not being public records will not be retrieved or displayed on the screen;

2. By providing paper or "hard" copies of data printouts or by providing magnetic tapes, disks, or other means of electronic storage containing the computer, data processing, or other electronic information system data, at the requester's option; or

3. By the use, where appropriate, of remote terminals which have access to County computer, data processing or electronic information systems pursuant to a formal two-party contract permitting such remote terminal access and provided that due regard shall be exercised to ensure that data which might be defined as not being public records will not be available by remote terminal access.

C. Computer software, which is defined to refer to the computer program which consists of a series of computer commands or directions which are used to manipulate data, is not considered data nor a public record. It shall not be subject to disclosure under this Chapter or the Act, including copyrighted software and other copyrighted materials which have been purchased by or licensed to the County and software and other materials which have been copyrighted by the County.

D. All data retained on computer, data processing or electronic information systems shall be kept and maintained with due diligence to protect the security of any data which is considered not public under state law. The County Records Task Force shall develop policies and regulations regarding the nature and duration of the storage of any public or non-public data, contained or stored upon computer, data processing or electronic information systems.

Section II. This policy shall become effective upon approval.

APPROVED and ADOPTED this 5<sup>th</sup> day of March, 1992.

  
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COMMISSION CHAIRMAN

ATTEST:

  
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COUNTY CLERK