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2 quote Gearhart: 'Get rid' of papers Meeting recounted for prosecutors

By Lisa Hammersly

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Chancellor G. David Gearhart told fundraising staff members at a Jan. 14 meeting to "get rid of" budget documents, two people at that meeting told Washington County prosecutors.

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The descriptions of that meeting from a current UA official and a recently retired one echo a statement made

to legislators in September by former university spokesman John Diamond.

Diamond told members of the Legislative Joint Auditing Committee under oath Sept. 13 that Gearhart became angry about budget-related documents that were circulated at the January meeting and told staff members they should "get rid of" them and stop creating them.

Gearhart, also under oath, strongly denied the allegation: "I have never said to anybody that they should destroy documents. [Diamond's] accusations today are astounding to me. They aren't accurate. I hope he has proof of them. I deny I have told anyone to destroy documents."

According to a Nov. 7 interview with deputy prosecutors, Associate Vice Chancellor Graham Stewart said finance officer Denise Reynolds handed out a "one sheet budget document" at the Jan. 14 meeting and Diamond "brought up responding to the press."

Gearhart "got irritated" and "slammed his hands down," Stewart said, according to the prosecutor's interview notes.

Gearhart went on to say, "Why do we have these documents? Get rid of them," Stewart told his interviewer.



By Staton Breidenthal

Chancellor G. David Gearhart (shown) told fundraising staff members at a Jan. 14 meeting to "get rid of" budget documents, two people at that meeting told Washington County prosecutors.

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Former Associate Vice Chancellor for Development Bruce Pontious, now retired, told prosecutors that Gearhart “went into a tirade” after Reynolds handed out a budget document. He quoted the chancellor as saying, “Why do you still have these documents?” Pontious then quoted Gearhart as saying, “Get rid of them.”

Soon after that September meeting with legislators, Reynolds supported Gearhart’s version of what happened. She told the Arkansas Democrat-Gazette that the chancellor never told her to destroy

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documents or stop creating them.

Another half-dozen staff members present for the disputed Jan. 14 meeting, including Pontious and Stewart, have not responded to repeated calls and messages from the newspaper asking for their accounts.

Pontious could not be contacted Wednesday. Stewart, who is leaving to become an associate vice chancellor for Vanderbilt University in February, declined to comment Wednesday.

Washington County deputy prosecutor David Bercaw issued a report Dec. 12 that found no evidence of criminal activity in connection with a multimillion-dollar deficit in the university’s Advancement Division, which handles fundraising and other outreach efforts.

Prosecutors interviewed 17 fundraising and finance staff members connected with the university, and state auditors who investigated the deficit, as well as Gearhart and Diamond.

On one point under review, however, Bercaw said prosecutors in Fayetteville did not have jurisdiction. That was about the sworn conflicting accounts by Gearhart and Diamond concerning the Jan. 14 meeting and handling of documents.

“If anyone did perjure themselves, at the [legislative] hearing, jurisdiction would properly lie in Pulaski County as the hearing took place in Little Rock,” Bercaw’s report said. “However, this appears to be the product of a rather acrimonious dispute within the university community over the meaning and the reach of the Freedom of Information Act.”

At the time of the January meeting, the Democrat-Gazette was seeking information about the Advancement Division by using requests under the state Freedom of Information Act.

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The newspaper found the interviews with Pontious and Stewart among thousands of pages of documents obtained from Bercaw’s office under the Freedom of Information Act. Those documents included notes and other working papers from the investigation, now considered closed.

Asked about two more officials saying Gearhart told the group to “get rid of” documents, university spokesman Mark Rushing said Wednesday that prosecutors “conducted a thorough investigation of all matters referred by the Legislative Joint Auditing Committee.

“The prosecutors were in the best position to assess the credibility of numerous witnesses and concluded that no wrongdoing had occurred. These issues have been the subject of multiple reviews that have all concluded that no fraud, theft, misappropriation or violations of law occurred with respect to the Advancement Division deficit.”

Rushing went on to say that “prosecutors’ notes reflect that there was a debate about the creation of additional documents for the media, and that there was no directive to destroy documents that were subject to FOIA, as confirmed by the prosecutor’s report.”



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UA System spokesman Ben Beaumont said he agrees with Rushing's statement. UA board of trustees Chairman Jane Rogers did not return the newspaper's calls Wednesday.

Diamond said Wednesday that he wasn't surprised by any of the prosecutors' interviews, including Pontious' and Stewart's statements.

"It's now up to [UA System] President [Donald] Bobbitt, the board of trustees and the Pulaski County prosecutor to decide what they're going to do with this information now that it's being made public," Diamond said.

When Legislative Joint Auditing Committee Vice Chairman Sen. Bryan King, R-Berryville, heard about the Pontious and Stewart interviews, he called the information "troubling."

"It seems there may be some people who contradict Chancellor Gearhart's assertion he didn't say anything."

King said he' is considering asking Pulaski County Prosecuting Attorney Larry Jegley to look into the matter.

The other committee co-chairman, Rep. Kim Hammer, R-Benton, said he supports the Washington County prosecutor's report placing jurisdiction over the documents issue regarding the Jan. 14 meeting with Pulaski County.

"I think the [Pulaski County] prosecutor needs to complete what was started," Hammer said Wednesday.

Through its Freedom of Information Act request, the Democrat-Gazette obtained prosecutors' notes from interviews of six people who were in the Jan. 14 meeting. In addition to Gearhart, Diamond, Reynolds, Pontious and Stewart, prosecutors also talked with former chief of the university's constituent relations office, Kris Macechko.

Notes from two prosecutors from Macechko's Oct. 8 interview show that she cited "tension" about Freedom of Information Act requests. Prosecutors' notes show Macechko had little to say about documents and responses to the public and media except: "Diamond felt that more information was needed. Gearhart felt all that was necessary had been given."

Macechko could not be reached for comment Wednesday.

PUBLIC-RECORDS LAW Though Gearhart denied in September that he told anyone to destroy documents, he went on to qualify that denial, saying: "There are times we have working papers we do not keep."

If the state's largest university gets a Freedom of Information Act request, "we keep track," Gearhart continued. "But every day there are documents I tear up."

Gearhart has since repeatedly told legislators, prosecutors and others that he never ordered anyone on his staff to destroy documents that state law required the university to keep.

Arkansas has one of the nation's strongest Freedom of Information Act laws, requiring publicly financed agencies including the University of Arkansas at Fayetteville to share all documents with the public. There are a few exceptions, including Social Security numbers, legislators' documents and active criminal investigative files.

The Freedom of Information Act outlaws destruction of documents that have been requested by the public under the act. Most agencies and audit groups have best practices for retaining public documents for months or years.

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