

Scott Stauffer

From: Tim Dooley <tdooley@beavertonoregon.gov>
Sent: Monday, October 31, 2022 3:41 PM
To: Scott Stauffer; Brian Wallace
Subject: RE: Waiving Public Records Fees for an Individual's Own Records

I'd also oppose this. Some quick back of the envelope math shows me that over the last 3 months (since I got GovQA and can track this), about 50% of my revenue is generated from individual requests versus 50% from businesses. If that trend continues, that'd be about a \$50,000 annual hit to our budget, which operates at a loss already for this line item.

We waive fees for victims of crimes as a matter of city policy as well, though I know not everyone does that. (As a negotiating point, that's a revenue line that I could support including in statute, but I'd hold onto that until you'd have to use it. I'm sure PPB would have thoughts about that, and Tammi Weiss could give you what that might cost from her GovQA reports.)

I understand the PRACs intent, but public records is a labor-intensive field and public bodies incur substantial staff costs to fulfill requests. To eliminate 50% of our cost recovery capacity would be a lot. The city is spending \$20,000 a year on software to make it easier to request records in the interest of transparency and efficiency and the PRAC wants all taxpayers to shoulder the burden of providing services to a few.

Depending on how you interpret actual cost, I could argue that by cutting off 50% of the revenue, then my fees will have to double in order to provide the same volume of records with the same staff. That shifts the burden to the commercial requestors, which is popular, but mostly they're working for insurance companies, which will just in turn hurt consumers by passing through costs.

Transparency is a great goal, but the math for so much of the PRACs agenda does not pencil out for local governments.

I cannot support this proposal.

Tim

Scott Stauffer

From: Tim Dooley <tdooley@beavertonoregon.gov>
Sent: Monday, October 31, 2022 4:10 PM
To: Scott Stauffer; Brian Wallace
Subject: RE: Waiving Public Records Fees for an Individual's Own Records

Something to think about also is how the PRAC is defining public interest. Moving from a nebulous definition rooted in case law to a statutory definition is not without risks.

For example, what exactly does subsection (d) mean when it says “are the requester’s own records” – is that any body-worn camera footage where a person appears? A police report where someone witnesses a crime?

The exemptions of 192.345 – including criminal investigatory, litigation, civil rights and employment investigations, etc. are all conditioned on the public interest – and we’re opening a huge can of worms by doing a statutory definition. There’s a lot of downstream effects that are going to have consequences that aren’t contemplated here.

Just as another example, if we start to have to release all BWC, that’s going to be a massive burden because by statute, we have to blur the faces of everyone involved, which is incredibly labor intensive as we don’t have an AI solution to do that function. It takes ~10-15 minutes per 1 minute of video to redact faces and other visual data, such as CJIS information, that we cannot release. If we can recover costs for this, it helps, but it’s still hours of staff time who aren’t doing their “regular” jobs.

Tim

ALBERT Todd * PRA

From: Tim Dooley <tdooley@beavertonoregon.gov>
Sent: Friday, August 26, 2022 12:35 PM
To: ALBERT Todd * PRA
Subject: PRAC Legislative Subcommittee Comment

Todd –

Unfortunately, I'm not able to attend this afternoon's meeting, but I wanted to offer some context regarding public records requests and fees (speaking for myself, not the OLERA or BPD, but I think this captures the essence of what my colleagues would believe).

The Beaverton Police Department handles about 4,000 requests for records annually. In the 2021-2022 fiscal year, we took in \$101,549.02 in public records fees. This seems like a large sum, but it does not even fully subsidize 1 FTE at a clerical level when considering salary and benefits. Given all of the administrative steps it takes to intake, route, review, communicate, redact, and release public records in a law enforcement agency, we dedicate far more than 1 FTEs worth of time to handling public records requests.

In an effort to improve our processes and make it easier for community members to request records, the City of Beaverton just adopted a software program to allow us to take requests online. Many other cities and counties have adopted such software in recent years, especially in the metro area. Such investments in transparency are not cheap. Beaverton is paying nearly \$20,000 a year to operate this system, but it is a project that we felt was important for our community.

Far from being a revenue stream, public records are a cost center for localities. Oregon law allows us to recover costs, but we largely operate at a loss, and spend significant amounts of staff time fulfilling requests that are either commercial in nature, or where we waive fees, as city policy is to waive fees for crime victims. We also waive fees for requests that are de minimus in nature, but 15 minutes of staff time on such requests adds up over the course of the year.

I understand the concerns some PRAC members have raised about fees making public records inaccessible. I'd argue that the solution is greater state aid in improving information technology for cities, counties, and special districts to enable us to do things like metadata searches or de-duplication, rather than capping fees. If we don't have the technology to easily fulfill a request, we incur increased staff time and therefore costs. Local government budgets are stretched thin, especially for smaller jurisdictions, and investments in this area are usually the first to go.

In my opinion, the PRAC would be better served by gathering more data on fees and staff time (if I recall correctly, the most recent survey is several years old and arguably incomplete) as well as the IT capabilities of localities before trying to make a sweeping change to the system. Once the PRAC has a fuller, more informed picture, I think the discussion may go in a different direction.

Please let me know if I can be of any assistance to you in this process.

Cheers,

Tim Dooley
Records Manager | Beaverton Police Department
Chair | Oregon Law Enforcement Records Association
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Scott Stauffer

From: Brian Wallace <BWallace@co.marion.or.us>
Sent: Tuesday, November 1, 2022 11:21 AM
To: Scott Stauffer; Tim Dooley
Subject: RE: Waiving Public Records Fees for an Individual's Own Records

Good morning Scott,

First and foremost, thank you for reaching out and for the relationship you and the City Records Association have made with the Oregon Law Enforcement Records Association (OLERA). As you know, OLERA is a part of Oregon State Sheriff's Association (OSSA) and the Oregon Association of Chiefs of Police (OACP). Our associations worked very hard and diligently last session on several police reform bills that included transparency as a component. Part of this transparency are police records, personnel records, and policies.

Some law enforcement agencies waive or reduce fees for certain police reports for crime *victims*. Our agency provides crash reports for free, and some death reports on a case-by-case basis for family. With passage of this (or similar language), we would have a lot of repeat customers requesting all their records simply because they can, for free, thus creating a bottleneck.

A good chunk of reports that are requested are civil in nature, or non-criminal. They could be neighbor disputes, emotionally disturbed individuals, a property dispute, etc. The public should not have to flip the bill for someone's curiosity or to obtain a record that they are subject to that, at the end of the day, has not a lot to do with what the public sees as a law enforcement function. A nominal fee helps offset taxpayer money so we can place more resources into public safety.

I have conferred with OSSA Executive Director and retired Sheriff Jason Myers, and OACP Executive Director Kevin Campbell. They share the exact concerns I have, and I have recommended opposing this or similar language regarding reduced or waived fees. I don't think there is a full understanding of the implications surrounding severely reduced revenue; this would have a deep financial impact for counties and cities. Right now, we collect enough fees at Marion County to pay for about one-third of one (1) FTE position, yet we need (1) FTE to fulfill public records requests (and some days, more). Taking away our ability to collect these fees will conflict with the PRAC's intent. I cannot create FTE positions without a funding source and taking away revenue may cause the county to reduce or simply not fill vacant positions. I would pose this question to the PRAC: If an elected official or city manager had to choose between (1) FTE employee to fulfill records or (1) FTE police officer or deputy sheriff, which one do you believe they would choose?

Under this concept, records requests will back up because people will want a copy of everything simply because "they can". This seems counterintuitive to me because you're making records less accessible by extending wait times. Myself and my staff are actual practitioners in fulfilling public records requests, and we receive thousands per year. The expansion of access comes at a time when we are in the middle of a workforce crisis. The PRAC should be cognizant of the impact this will have on Oregon's smallest police agencies where the Chief is handling shifts, calls for service and where support services are extremely limited. We have 66 police departments with under 10 sworn officers where this is a reality.

I find it concerning that public records laws and policy are being decided by folks who either give legal advice about records or who *request* records but don't fulfill them. I understand the physical makeup of the PRAC is set by statute, but this is something to consider changing in the future so that the PRAC is representative of entities who continuously fulfill requests, thus being more inclusive and reflective of the public records community.

The last piece of feedback I am hearing are folks finding it odd that the PRAC is dictating fees for county agencies altogether. Seems that is better suited for our elected Sheriff and/or Commissioner's at the local level, as already written in Chapter 192.

Thank you for your continued efforts, Scott. Much appreciated.

-This email may be entered into the official PRAC record.

Brian N. Wallace

Chief Civil Deputy

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