



Public Records Advisory Council Legislative Subcommittee Testimony

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The City of Portland received over 33,629 public records requests in 2021.

The City has not tracked all resources committed to responding to records requests.

The City of Portland invests significant resources to respond to Public Records Requests

City Spends over \$2,851,914 on staff to respond to Public records requests

Every Bureau has at least 1 primary responder. Some Bureaus have more than one to deal with specialized types of records like underground storage tanks or Fire EMT records.

The City did a rough calculation of the percent of time spent by primary responders and their wages (with overhead costs if available).

This does not include costs for additional employees who also collect records. These costs do not include charges for technological advancements to make it easier to gather records, such as Office 365, text archiving, a public records electronic review tool, a public records request tracking system and other investments. These charges are not passed on to requesters.

This is a significant under reporting because it does not capture all employees, all software or all overhead.

The rough calculation of City of Portland costs to fill Public Record is \$2,851,914.

The City does not recover "actual costs" on any requests

- While public records statutes allow the City to recover its "actual costs" for filling a public records request, the City does not attempt to recover all costs.
- Also, there is time spent on requests that the City does not attempt to recover: communicating with requesters, clarifying requests, assisting them to make or narrow requests.
- Creating cost estimates is often time consuming and is not something the City charges for, even though that is time spent locating records.
- The City does not charge for email and text collection time. Council has hired an employee to do this for public records so that it is cheaper and faster.
- The City focuses its charges on time spent collecting, reviewing and redacting records.
- The public records fee rate is the employees' hourly rate plus 39% percent (this is not true overhead, but a discount determined by council) to defray some of the overhead costs.
- Fee Schedule: https://www.portland.gov/sites/default/files/policies/prr-standard-fee-sch-fy-2018-19-update_no.-2.pdf

The City processed 33,629 requests and collected \$214,328 from non-commercial requesters

Of the 33,629 requests, 25,097 were made to PPB

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graph TD; A[Of the 33,629 requests, 25,097 were made to PPB] --> B[Of the requests made to PPB, 15,712 were from commercial reporting companies such as Lexis Nexis who are making requests on behalf of insurance companies.]; B --> C[Those commercial reporting companies were charged $286,728 for the requests completed in 2021.]; C --> D[The City received $214,328 in revenue from the remaining 17,917 requests (an average of $11.96 per request).];
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City grants 3 types of fee waivers:

1. Public Interest fee waivers (as required by Public Record Statute)
2. Economic fee waivers (for economic hardship)
3. Crime victim fee waivers

The City
Granted
\$75,120 in
crime victim
fee waivers

PPB granted 2,504 fee waivers to crime victims in 2021.

Each waiver was for a \$30 Police report for a value of \$75,120.



The City (including PPB) granted:



739 in 30-minute fee waivers



1838 in 1 hour fee waivers



\$65,960 dollar amount in other waivers



2,302 fee waivers were requested, more than 3,455 were granted

The City of
Portland is
generous with
fee waivers

City Council's goal is to proactively disclose information wherever possible which is why Portland, Oregon, was the first city in the United States to adopt an Open Data policy.

Budget information is posted for all Bureaus.

The City has numerous dashboards to provide information to the public. Public Records Responders give feedback based on requests received to update dashboard information.

City Bureaus also provide information proactively through Twitter and Facebook

Bureaus issue press releases, for example:

PPB Press Releases [PPB News - Portland Police Bureau - News \(portlandoregon.gov\)](http://portlandoregon.gov)

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Dashboards

PPB Crime statistics

<https://www.portlandoregon.gov/police/71978>

City of Portland Employee demographics:

<https://www.portlandoregon.gov/oehr/article/595121>

PPB website- data dashboard (interactive), press releases, OIS reports [PPB Open Data | Portland.gov](#)

Police Use of Force Dashboard [Police Use of Force Dashboard | Portland.gov](#)

- Development Review Advisory Committee meeting: <https://www.portland.gov/bds/drac/events/2022/4/21/development-review-advisory-committee-drac>
- Development Review Advisory Committee (DRAC)
- PPB Advisory Groups [Advisory Groups | Police | Portland.gov | Portland.gov](#)

Advisory group
information

City of Portland e-files system

- City of Portland has a robust searchable e-files systems for council filings, City Code, reports and other City records:
- <https://www.portland.gov/archives/search>



Trending topics link:

[https://portlandor.govqa.us/WEBAPP/_rs/\(S\(k5axwrhgfizbqzekoebdf5uh\)\)/BusinessDirectory.aspx](https://portlandor.govqa.us/WEBAPP/_rs/(S(k5axwrhgfizbqzekoebdf5uh))/BusinessDirectory.aspx)

Examples:

- Information related to 2020 protests
- PPB DOJ Settlement
- Regional Arts and Culture Council Recommendations for Monument Review
- Mayor text messages provided to other requesters
- Weekly sidewalk repair notices

The City
proactively posts
records of public
interest on
trending topics

Bureaus Post
major reports
of Public
Interest

Sample of Reports Posted by Fire Bureau:

Wildland Deployments 2021

Assembly Inspection Reports (monthly)

Annual Performance Reports

Strategic Plan 2023

Service Delivery System Studies

Standards of Emergency Coverage

Cultural Assessment

Budgets

Issues that Increase the cost of Public records

Most of the cost of public records is in reviewing unstructured data that may contain exempt material such narratives in reports and email communications.

Broad email searches often return records that are not relevant to the requester's request but must be reviewed because they are part of the agreed search terms

The failure to provide non-relevant emails can result in expensive attorney fees if litigated so the City errs on providing all records responsive to agreed search terms (which means they all must be reviewed). Requesters are sometimes frustrated by receiving irrelevant records.

Because the City can search all emails for Bureaus, requesters often ask for those broad searches despite recommendations to narrow to employees who worked on a project. The fees for a Bureaus-wide search sometimes encourage a requester to narrow the search.

Additional Issues

Sometimes it is not physically and practically possible to provide “ALL” emails a City has on a topic- and many are often not important or duplicative. Public record fees provide an important way to prioritize and narrow request

Fees encourage a requester to focus the search, use sample sets, and limit the request to what is important to the requester rather than engaging in broad fishing expeditions. Without fees there is no incentive to narrow requests.

Often requesters do not have any idea how broad their search will be and do not spend time engaging in research about the Bureau or records available.

Requesters are sometimes reluctant to tell the City what they really want and therefore the City cannot assist in narrowing the requests

Important things consider

- Responding to public records requests is not free. There are hard costs-staff, computer systems, etc.
- The City does not have unlimited resources for filling public record requests. The public taxpayer dollars and staff time spent on these requests mean that the City is not spending the money or staff on other important priorities such as the housing emergency.
- Public Records fees means that those making requests and benefiting from the records cover a small, discounted proportion of the costs.
- Some requesters seek to utilize a disproportionate share of the waivers and resources. Any waiver systems should be balance equitably among requesters and include an equity lens.
- The statute should provide better guidance on who is public interest. The Public Records manual indicates a public body can ask questions about a requester's identity, but what identity meets this standard? Only "media"? If so, what is meant by media?
- What are the requirements for public dissemination to receive a waiver? What if a requester indicates that there will be a news story or publication that does not occur? Should the public body publish?
- To be equitable, should there be a proportionate "budget" of the fee waiver for an entity so that the public body doesn't give more fee waivers to one entity or person?
- In Washington, where fees are lower, requesters ask for broad requests that are delivered in batches. Sometimes the batch deliveries last years.