

Public records fees / impact on journalism
Examples collected by SPJ Oregon
Summer 2022

From K. Rambo at Street Roots:

The background: When reporting on the [Multnomah County Sheriff's Office challenge coin](#) in the spring, the DA ruled we have a right to internal affairs complaints, which resulted in the pre-investigative committee deciding they didn't warrant further investigation. Predictably, we then filed for all complaints and pre-investigative assessments (PIAs) from May 20, 2020 through Dec. 31, 2020 that found the complaint didn't warrant further investigation.

The problem: The initial estimate from the sheriff's office was \$810 (including the 33% waiver), though they said the estimate was subject to a substantial increase after they began looking into it. We gave them a tentative green light to proceed so they could give us a specific estimate. About a week later, they emailed me and told me the new estimate was double — \$1,620 — and that it could still increase from there. Acting on advice from RCFP, I asked them how many records were respondent (how many PIAs found no further investigation was warranted) and how many records were not respondent (how many PIAs did result in an investigation). To both questions, the sheriff's office said they don't know the answer, which seems to me that they're just increasing the estimate until I give up or narrow it significantly.

I pressed MCSO on the volume of records in an attempt to discern whether the cost is legit. It took a couple emails to get a response, but they emailed me and essentially reiterated that they don't know how many records the request will yield. They also said they won't continue assembling the estimate unless we pay them \$250 immediately — despite not knowing how many (if any) records are respondent to the request.

"I understand your questions, but that has yet to be determined based on further review. This is not a simple process, as it demands a one-by-one approach. As a reminder, you can greatly reduce the wait, amount of employee time and cost by narrowing the duration.

At this point, due to the size and scope of the request, a payment plan shall be established. We are requesting \$250 (5 hours of employee time at \$50/ hr) to continue the review process. This cost will be subtracted from the final number, and a final estimated cost will be provided when the review process is complete."

From Garrett Anderson at the Bend Bulletin - an example of how the ability to charge egregious fees incentivizes agencies not to do proactive public disclosure.

A year ago, the local circuit court stopped posting search warrant requests in ecourt. We requested every search warrant request since that time (453). Guess what that would have cost?

Hello Garrett-

The court received your public records request for copies of all search warrants that have been filed with Deschutes County Circuit Court since July 1, 2021. We have identified 453 warrants subject to your request. A judge must review each warrant individually to ensure that it does not contain any information that is confidential or exempt from public disclosure. It is estimated that it will take an average of one hour of judicial time per search warrant. The cost for the judicial review time necessary for public record requests of this type is calculated at \$75/hour.

Based on the number of search warrants, the estimated cost for the judicial time associated with your request would be:

- 453 search warrants x \$75/hour for judicial review time: **\$33,975.00**

The cost for the judicial review time does not include the cost of the actual copies of the search warrants after the judge has completed review.

As you probably know, search warrant requests are hugely helpful in covering public safety. I used them in countless stories before the court stopped posting them. So yeah, there's been an impact.

From Kenneth Lipp at the Newport News Times (please see two related files attached)

The request is still pending — I'm seeking a fee waiver and will appeal if denied, but having to pay this fee would certainly kill the request.

Background story

https://www.newportnewstimes.com/news/da-spars-with-commissioners-during-meeting/article_665889e0-b6b4-11ec-984f-bba3b41e4466.html.

If you read the linked article, you'll see how the district attorney forced selective transparency on what's usually an internal personnel matter via the official DA Facebook page.

I made the [records] request March 31, and as you can see, it took until July to even get me a fee estimate (lots of being put off due to "staff shortage," which is believable, but I've also been told the county counsel has said several times "I don't know why Ken won't just drop this.").

I'm not sure if this is helpful to you in giving the matter's pendency, but ...it has already hindered reporting, as I've now been unable to provide a full public accounting of the circumstances for three months since the original reports.

Another example shared by Ken

<https://www.oregonlive.com/news/2019/11/douglas-county-district-attorney-refuses-to-waive-200-0-fee-for-travel-receipts.html> - The Oregonian was able to pay this and expose major misuses of public funds intended to help a struggling county. Most news organizations wouldn't have been able to foot the bill.

From Joe Douglass of Discrepancy Report

This is a detailed account of a multi-step request to get at information about police communications with political rally organizers. What's notable to me here is the charging of fees to "review possibly responsive records" last December, with no records provided since that date. <https://discrepancyreport.com/salem-police-provide-limited-communication-records-dont-explain-call-or-text-messages-between-sergeant-and-proud-boys-supporter/>

Under the Oregon Public Records Law, §192.410 et seq., I am requesting an opportunity to inspect or obtain copies of public records including written communication within/between the Lincoln County District Attorney's Office, County Counsel's Office and/or Human Resources, regarding:

- An investigation of employee Kenneth Park and Park's being placed on leave; investigation of or disciplinary action against employee R. Lynn Howard, including imposing leave; the offer of the detective position to Abby Dorsey and postponement of Dorsey's hiring; consideration of the position of "detective" within the District Attorney's Office; the duties of former DA detective Ron Benson and Benson's resignation from the office,

Please search for records between Dec. 1, 2021 and March 30, 2022.

- I am also requesting to inspect or obtain a copy of a contract or agreement with a law firm hired by the county to investigate the Lincoln County District Attorney's Office and/or District Attorney Lane Danforth; and a copy of the record of a claim paid to conduct that investigation.

If there are any fees for searching or copying these records, please inform me if the cost will exceed \$100. However, I would also like to request a waiver of all fees in that the disclosure of the requested information is in the public interest and will contribute significantly to the public's understanding of governmental operations and the duties and decisions of its elected representatives. Am a member of the news media and these records are sought for newsgathering purposes.

If you deny any or all of this request, please cite each specific exemption you feel justifies the refusal to release the information and notify me of the appeal procedures available to me under the law.

Thank you for considering my request.

Sincerely,
Kenneth Lipp
Associate editor, the News-Times



Lincoln County Counsel

225 West Olive Street, Room 110
Newport, OR 97365
(541) 265-4108 fax (541) 265-4176

Invoice No.

INVOICE

Customer

Name Kenneth Lipp
Address Newport News-Times
City _____
Phone 308-289-2597

7/1/2022

Qty	Description	Unit Price	TOTAL
140	Public Records Request - DA Office Communications Research - \$12.50 per quarter hour Estimated Research Time is 35 Hours Time is calculated using quarter hour increments	\$12.50	\$1,750.00

Payment Details

SubTotal	\$1,750.00
Shipping & Handling	\$0.00
Taxes	_____
TOTAL	\$1,750.00

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