



"Helping Everyday People, Every Day"

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September 20, 2019

Sent by email to:
Office of Public Records Advocate
Attn: Ginger McCall
Ginger.mccall@oregon.gov

RE: Your Resignation & Public Records Advocacy Moving Forward

Dear Ms. McCall:

First off, I would like to not just offer my sadness for your resignation, but my gratitude for your attempts to make public records law better than it was when you came into the position. There is no questioning the necessity of your office given the current status of public-record law in this state, nor that such an office required a person with integrity to the extent you've demonstrated. But moreover, as a fellow attorney, I wish to offer both my respect and gratitude for the courage it must have taken to make the decision you did. No less to act on it.

So thank you for your example. We live in a time of ethical tribulation, and I would hate to miss an opportunity to acknowledge ethical practice in motion.

Second, and to the merits, I appreciated the opportunity to listen to the hearing this last Friday, regarding the future of your office. It was encouraging to hear near-unanimity that such a future requires office independence, without executive pressure or oversight. Nonetheless, it was deeply disturbing to hear that resistance I've encountered in records requests is not anomalous.

I do not pretend to know what the present predicament indicates for exacting legislation. But as I had to candidly tell a client several years ago: I may not know the exact legal answer to "why," but I know wrong when I see it. To quote a lyric cut from the recent popular musical *Hamilton*: "I don't pretend to know the answer, but the question is real."

To that end, I do not offer advice on how to advance present legislative agendas. I write merely to present examples of how the State agencies' resistance, and indeed municipal and county resistance, to the right to records appears endemic. **This culture needs to change.**

To provide examples, I have three current clients who – despite incredibly personal stories they would have never wished upon themselves, let alone subjected to public scrutiny – allowed me to share their experiences.

The first is Shayla. Shayla was an adolescent when Oregon's DHS took custody of her. Thereafter, she was subjected to over a decade of unchecked abuse after unchecked abuse, both physical and sexual. At the time, her adolescent mind could do nothing but block it out. **When she requested her own case file, Oregon's DHS refused, citing public-record child abuse exceptions. DHS doubled down on its refusal even after a letter noting this was not a public records request, but a DHS ward asking for her own records. It continued until we implored the State Attorney General to intervene.** In her coming lawsuit, we anticipate DHS and the State will argue she does not have a right to bring a lawsuit due to statutes of limitations, despite creating a nearly two-year delay in her even reading her own records based on what seemed to me to be frivolous records-request rejections.

The second and third cases are Jenna and her fiancée Tyler. Their baby died in a state-supervised childcare setting last year. When we requested Department of Education records related to the death and practices regarding supervision of daycare services, **we were quoted around \$23,000.00 for the preparation of such records.** To a point you made in your legislative recommendations, this felt to me like **a deliberate attempt to discourage records requests – indeed, over a year after their baby's death, Jenna and Tyler have very little information on why their baby died.**

The right to records is not some abstract principle. Real people have been really impacted by seemingly-deliberate attempts to make opaque what should be transparent. **Access to knowledge, and public records, affects all Oregonians, but especially so the Shayla's, Jenna's, and Tyler's of the world. People who did not ask for the circumstances giving rise to their need for records.** People who deserve to know what happened behind the curtain.

Thank you for your willingness to advocate for people like them. And please accept my best wishes on your future career.

Sincerely,



Alexander W. Pletch
Associate Attorney
Rizk Law, P.C.