



## **Introduction**

This report is submitted to the Governor and the Legislative Assembly by the Public Records Advisory Council, per the requirements of ORS 192.483(2). The report summarizes the work of the Council and the work of the Office of the Public Records Advocate from December 2018 through November 2020.

The Advocate and the Council agree that the path forward for this office is one of increased independence. The Advocate and the Council will continue to work together to increase public records training opportunities for both government officials and the public while continuing to promote further legislative action that improves access to public records.

### *Recruitment of the Public Records Advocate*

In September, 2019, Ginger McCall resigned as Public Records Advocate. Upon resigning, Ms. McCall [produced a report of her findings](#) during her tenure as Advocate.. After Ms. McCall's departure, the Council embarked on the process of hiring a Public Records Advocate with then Deputy Todd Albert appointed as Acting Advocate. The Council announced the vacancy for the position, drafted interview questions, reviewed applications, and selected six candidates to interview. On June 10, 2020, the Council interviewed six candidates. From that pool, the Council selected three candidates to forward to the Governor's Office for further consideration.

The candidates were interviewed by DAS HR and Becky Chiao was selected and appointed as Advocate pending Senate confirmation on August 6, 2020. Ms. Chiao resigned from the position on September 29<sup>th</sup> leaving the position vacant once again. She had not yet been confirmed by the Senate. On October 7<sup>th</sup>, the Public Records Advisory Council met to vote on recommendations for next steps to pass along to the Governor. The PRAC voted to ask that the Governor appoint the next Public Records Advocate from the remaining two names initially forwarded on to her office in June. The council also voted to ask that preference be given to Deputy Advocate Todd Albert. In late October 2020, the Governor's office accepted the PRAC's recommendation, appointing Todd Albert as permanent Advocate pending Senate confirmation.

### *Legislative Proposals*

During the 2019 legislative session, the Council had two proposed pieces of legislation, HB 2430 and HB 2431.

[HB 2430](#) (Chief Sponsored by Representative Power, Senators Prozanski and Thatcher at the request of the Public Records Advisory Council) passed, making the Council permanent, with staggered terms and the same statutorily set composition.

The Council's second proposed piece of legislation, [HB 2431](#)(Also Chief Sponsored by Representative Power, Senators Prozanski and Thatcher at the request of the Public Records Advisory Council), would have created four basic annual reporting requirements for state



agencies. The legislation was not successful, as a fiscal impact statement required the bill to move to the Ways and Means Committee, where it did not receive a hearing before the end of session. The few agencies that did report a fiscal impact reported it to be minimal, and the largest fiscal impact statement by DHS was eventually dropped to zero, but not in time for consideration.

When Ms. McCall vacated the office of the Public Records Advocate, she recommended that the council pursue independence. This was pursued in [SB 1506](#) during the 2020 regular session. SB 1506 was introduced by the Senate Interim Committee on General Government and Emergency Preparedness for Representative Karin Power and Senator Kim Thatcher at the request of Public Records Advisory Council. The bill successfully passed the Senate with bi-partisan unanimous support, having been carried on the floor by ex-officio member Senator Thatcher. However, the bill ultimately died in the House as the session came to an end.

After session ended, Acting Advocate Todd Albert presented some possible changes to the bill language that would solve administrative issues that were raised. The council voted to move forward with advocating for Mr. Albert's modified legislative concept during the upcoming 2021 legislative session.

#### *Advocate's Office and Future Goals*

Since the previous report was submitted on December 1, 2018, 345 requests for assistance have been received from members of the public, representatives of the media and employees of state and local governments. Such requests have included the resolution of disputes involving the identification of appropriate records, overcoming exemptions to disclosure, the application of fees, standards for processing fee waivers and reductions, vexatious or frequent requesters, and the development of policies to ensure consistent resolution of public records requests.

The Council intends to continue to move forward with future legislative proposals, including the push for independence of the Office.

The Office of the Public Records Advocate will continue to provide training program and public outreach. It will also use its website as a platform to inform the public about public records laws.

Additionally, for public bodies that don't yet have public records policies, the Office will endeavor to work with those offices to create public records policies that promote transparency and are user-friendly.

ORS 192.475(3) also empowers the Advocate to issue written advisory opinions. The Office would like to begin issuing such opinions, providing that it has sufficient staffing and resources to provide a high quality of opinion.

**Report submitted by Stephanie Clark, State Archivist and Chair, Public Records Advisory Council**