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A matter of records
Chris Bristol
Yakima Herald-Republic, Wash.

Aug. 08--"The people of this state do not yield their sovereignty to the agencies that serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may maintain control over the instruments that they have created."

-- Introduction to Washington Public Record Act

YAKIMA -- Is it true that the city of Yakima generated 65,000 pages of documents in response to public records requests filed by just one person?

It's possible, although it seems no one has kept an exact page count.

What is clear is that the volume of overall requests filed under the state's Public Records Act is putting a strain on local government budgets.

Yakima city officials estimate they now spend \$500,000 a year handling records requests. That figure includes the 2006 hiring of the city's first public records officer, Jodi Stephens, plus staff time and outside attorneys who are paid an estimated \$150,000 to help review and act on the requests.

"Just outside attorney fees alone is probably going to be double what it was last year," says Assistant City Manager Dave Zabell.

Passed by voter initiative in 1972, the Washington Public Records Act is intended to help assure the transparency that people across the political spectrum agree is necessary for an open government.

Several states approved similar "sunshine" laws in the 1970s in the wake of the Watergate scandal and concerns about government secrecy. California's Public Records Act is what allowed the Los Angeles Times recently to obtain information about the salaries of city officials in Bell, Calif., where residents demanded resignations after learning the city manager was earning nearly \$800,000 a year and that council members were receiving close to \$100,000 for part-time work.

Locally, the public records requests range from neighbors who want to know who complained about their junked car in the alley to insurance companies investigating accidents.

The Yakima Herald-Republic regularly files requests that have included the salaries of government employees, documents involving the Yakima Police Department and information that shows how aggressive the city of Yakima was responding to fire dangers at the former Boise Cascade mill site.

City officials insist they support the Public Records Act and have no problem with the majority of records requests they receive.

And that number is growing. This year, Yakima is on pace to process close to 400 requests, up from 284 in 2007, the first year City Clerk Debbie Kloster began keeping track of the data.

It's not the overall volume of requests, but rather the occasionally complex -- or open-ended -- request that worries city officials.

For example, a request for e-mails between various sets of city officials discussing a proposed ordinance can be enormously time consuming and tedious to track down everyone who participated in the discussion and then sort out the hundreds of exemptions the state Legislature has made over the years to the Public Records Act.

Pages can routinely run into the thousands, but missing just one can put the city at risk of violating the law.

"Exponentially it grows," says Stephens, who is so busy these days that she has two computer screens on her desk.

"One person, one request, tons of information," says Kloster, who is Stephens' supervisor.

Some requesters are so prolific that they have come to be known by Stephens and Kloster as "frequent fliers."

Their requests are often so broad they are called "fishing expeditions."

Another favorite is "piggybacker," which describes those who want requests filed by other requesters.

Still, handling the public requests is a serious -- and potentially expensive -- business.

In recent years, the courts have levied huge fines against municipalities and counties for failing to comply with the Public Records Act. Exhibit A is the tiny town of Mesa, 25 miles north of Pasco, which was recently ordered to pay a former mayor \$246,000 in attorney fees and penalties for violations that started out as a dispute over a revoked building permit.

Closer to home, the city of Prosser paid out \$175,000 last year to settle a lawsuit brought by longtime City Hall critic Larry Loges, who claimed the city delayed, ignored or improperly filed 41 public records requests he made in 2006.

Here in Yakima, city officials wish the state Legislature would do something to cut down on abusive requests, especially what they call fishing expeditions by lawyers intent on using the Public Records Act as an end-run on pre-trial discovery costs.

"The law is really well intentioned," says Jim Mitchell, one of several Yakima assistant city attorneys who works on disclosure requests, "but it has really turned into quite the beast."

Not everyone agrees the law needs to be tweaked, however. Among them is Jeff Brownfield, a Yakima police officer fired in 2005, who has been suing the city to get his job back.

By his own count he has filed 42 records requests. Most of those requests, he readily admits, were made in lieu of discovery costs associated with his lawsuits.

"It costs a lot of money, these lawsuits," he says. "Anything you can do to save money when you're going against deep pockets, you do."

In a telephone interview last week, Brownfield initially agreed his various requests may have generated the 65,000 pages -- an oft repeated figure at City Hall.

But he later backed away, calling the figure "outlandish" and said city officials were to blame.

"I'll ask for something very specific, like e-mail between four people on a specific subject, and they will send me thousands of e-mail that I didn't ask for and don't want," Brownfield says.

"I have to piece them together like a puzzle. They do that on purpose. If they just did what I ask for, I would get three or four pieces of paper. Instead they send me stacks and stacks of stuff I didn't ask for."

Former city councilman Ron Bonlender complains the city has been slow to process a June request seeking e-mail he believes would prove someone on the council has been improperly leaking personnel information about City Manager Dick Zais.

Since it was only his second request, he says he wishes city officials would or could do more to help him refine his search for faster turnaround.

"I probably should have made it more specific, but I didn't want to miss anything," Bonlender says. "If refining the search was the thing for me to do, it would behoove both of us to get this taken care of."

Tweaking the Public Records Act so that officials can help narrow the scope of requests is just one of several changes to the law sought by a new group called the Washington Association of Professional Records Officers.

The founder of the group, Everett assistant city attorney Ramsey Ramerman, says only a "tiny, tiny minority" of requesters are abusive and that the public should not overreact and gut the act.

In fact, rooting out people who deliberately game the system is not the group's only goal.

Ramerman says its No. 1 mission is to educate public officials about the need to follow the law to prevent big penalties like the ones against Prosser and Mesa, which may have to declare bankruptcy.

Like most of his colleagues, he praises the Public Records Act as a truth-in-government tool that fights corruption and promotes democracy.

"Make no mistake, our records act is a really well done law," he says. "It could really just use some fine-tuning."

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