

THE (ALBANY) DEMOCRAT-HERALD

Editorial

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Sunday's paper carried long reports on how tough it is to get a look at some public records in Oregon. It's tough partly because of the nature of public records and how they are kept. Governments can't just keep their records in a shoebox on the counter so anybody can see them any time he wants.

If a request comes in, somebody first has to locate the wanted item, then make sure it's not covered by the numerous exemptions the Legislature has inserted in the public-records law over the years. As busy as most offices are, most public employees also can't just jump up and go hunting for files any time somebody asks.

That means that if you're looking for a particular record, it is wise to call ahead, tell the agency what you want, and see what's the best time for you to come in. It doesn't pay to just waltz in unannounced, demand to see something and act like you're entitled, right now.

Another reason that records are hard to get is that the law is purposely vague, and interpretation has made it even murkier over the years.

For example, here's one question and the attorney general's answer in the 1997 edition of the state's public records manual: "Q. Are an outside consultant's report and recommendations paid for by a public body subject to disclosure? "A. Yes, although various exemptions may apply to all or parts of the report."

That is hardly useful as guidance for local records clerks and their bosses, but it reflects the confusing and fractured nature of the law on this subject. The law contains numerous exemptions, and most of them seem reasonable at least in theory. But they are very elastic and can be stretched.

Unless the public interest requires disclosure, for instance, the law exempts from disclosure those records pertaining to litigation. Records may be kept confidential even if no lawsuit has been filed but when it appears to the public body that litigation "is reasonably likely to occur."

Ours is an age when anything is likely to result in litigation, so this conditional exemption potentially covers just about all public records. You can see them, or maybe you can't. There's another reason why records may be hard to get: They include information that is not supposed to be disclosed, even if the record itself is supposed to be open. Social Security numbers are not to be given out, but some government records such as concealed-weapons permits contain them. This provides a handy excuse if somebody does not want to give access to such a permit. It first has to be edited, and that takes time and possibly if many permits are requested considerable expense.

The original 1973 law had a few exemptions. But the list has grown, and now the law might as well be called the Oregon Confidential Records Law. Everybody, including public officials, calls for complete openness in government when making speeches. But all the hurdles raised to prevent disclosures hurdles raised in practice and by the law itself suggest that officials are kidding when they say that.