

## THE (SALEM) STATESMAN JOURNAL:

Records law provides newspaper a window into government  
Documents uncovered some of year's top stories

RICHARD R. AGUIRRE  
Statesman Journal

March 14, 2005

In theory, the Oregon Public Records Law is supposed to ensure that "every person has a right to inspect any public record of a public body in this state" unless disclosure is barred by the Legislature.

In practice, records include agendas and minutes of government meetings, budgets, police arrest reports, project summaries, employment and construction contracts, and much, much more.

During the past year, the Statesman Journal has published many stories based about documents obtained through public-records requests.

Most recently, reporters Alan Gustafson and Shawn Day used such records to report on sexual-harassment complaints at Western Oregon University involving Gary Welander, a professor, and others.

Day got copies of Welander's indictment, arrest, conviction and sentencing for second-degree sex abuse in 1978. The records were relevant because former WOU student Rosemary Garcia cited Welander's criminal past as a reason for naming Western Oregon University as a defendant in her sexual harassment lawsuit.

Day and Gustafson also got copies of a letter sent to WOU officials several years ago by an earlier sex-abuse victim, who told the university about Welander's past and expressed disbelief that he was working there as a teacher.

As part of its investigation, the newspaper is seeking access to university reports, including disciplinary actions taken against professors accused of sexual misconduct. These requests have been denied by university officials, but the newspaper still is seeking the information.

There have been many other stories based on public records.

For example, based on a review last year of correspondence between city officials, consultants and state officials, Keizer reporter Crystal Bolner was able to report on the extent of groundwater contamination in Keizer.

Bolner reported that the contamination involved a larger area than reported in the city's annual groundwater report and that the city knew about the seriousness for more than a year before notifying users of the public water system.

Meanwhile, Gustafson learned that staff injuries substantially increased in 2004 at the Oregon State Hospital, propelled by a surge in patient-caused violence. Hospitalwide, 208 injuries were recorded through October, up from 185 in all of 2003.

Getting that information played a key role in determining that other safety problems existed at the state hospital. For example, the newspaper reported in December that assaults on patients and staff members are rarely investigated by state police and rarely prosecuted by the Marion County district attorney's office.

Education reporter Tracy Loew reported that Salem-Keizer School District Superintendent Kay Baker ignored warnings that administrators were not following standard contracting and purchasing procedures.

The newspaper obtained more than 200 records through public-records requests. The story prompted Secretary of State Bill Bradbury to propose state audits of selected school districts and led to an overhaul of the district's contracting and purchasing policies.

Loew later reported that the Salem-Keizer School Board, meeting in an executive session, gave administrators an 8-percent pay raise. The school board went public with the plan after being told the newspaper planned to publish it. The newspaper later published the current and new salaries of all 140 administrators by name.

Business reporter Michael Rose reported in August about financial problems at the Oregon Garden in Silverton.

A review of financial documents showed that the garden would be unable to make payments on a \$5 million revenue bond issued by Marion County.

The garden lost \$932,000 in 2003 and suffered a \$383,330 deficit in 2002, its financial statements showed.

State reporter Steve Law used e-mails and other correspondence to show that SAIF, the state workers' compensation insurer, used a high-priced lobbyist to persuade the governor's office to tone down a medical malpractice insurance plan so SAIF wouldn't have to pay for it out of its funds.

The lobbyist was former Gov. Neil Goldschmidt, who later was embroiled in a sex scandal.

Law and reporters Loew and Peter Wong later documented the close ties between Goldschmidt and Gov. Ted Kulongoski.

The reporters reviewed e-mails and correspondence between the governor's office and Goldschmidt's consulting firm, plus a copy of the governor's appointments calendar.

Law also used forms filled in by applicants for board and commission appointments to document the Democratic governor's uneven affirmative-action hiring record.

Loew reported that the Salem-Keizer School District had received complaints about middle-school band teacher Joe Billera as long as three years before he was arrested for sexually abusing four students, but had never placed him on leave, hired an independent investigator or reported him to the police or the Teacher Standards and Practices Commission \_ all standard procedures when a teacher is accused of serious misconduct.

Billera recently was sentenced to 12 years in prison after pleading guilty to 10 charges including rape.

Last year, county reporter Cara Roberts Murez reported that the traffic team for the Marion County Sheriff's Office was sending cited speeders to a court in Woodburn, even though there were closer justice courts in Salem and Stayton.

The reason: The judge in Woodburn more likely would impose the full fine. And the traffic team's operating costs are paid through tickets.

More examples of stories reported by the Statesman Journal because of access to information ensured by the Oregon Public Records Law include:

Projects reporter Alan Gustafson showed that more than 140 long-overdue civil penalties remained on the books at the state Department of Environmental Quality. Collectively, the unpaid fines totaled \$3.36 million, Gustafson reported in May.

The delinquent debtors included one firm that abandoned a polluted piece of land along

Fairgrounds Road NE in North Salem. The company neglected to pay civil penalties totaling more than \$130,000 and left taxpayers, in the form of a government grant, to pick up the tab for cleanup measures.

Education reporter Tracy Loew reported that a last-minute change to the contract of Willamette Education Service District Superintendent Skip Liebertz let him purchase his district-owned vehicle \_ a 2003 Honda Pilot with leather seats, a towing package and a navigation system \_ for \$7,900.

The district bought the luxury SUV for \$34,417. It had a retail value of \$26,665.

Earlier public-records requests by Loew revealed Liebertz's unsuccessful attempt to change his contract to obtain insurance coverage for his family for 10 years after he retired and secretly negotiated contract changes that gave him a raise, a tax-sheltered annuity and five weeks of paid vacation.

Salem city reporter Dennis Thompson Jr. reported on the Salem City Council's controversial decision to award management of Wallace Marine Park's softball fields to a new company instead of the nonprofit group that had run the program for 11 years.

The decision was a blow to the Salem Sports Foundation and a win for Tournaments NW Inc., a new company with no softball experience that pledged to run a financially successful program.

Instead, Tournaments NW ended its first season more than \$56,000 in the red, Thompson reported in December.

Despite that, city officials said the company deserved a full year to prove itself rather than judging it on an abbreviated season.

Access to e-mails to and from the Dallas School District helped Polk County reporter Shawn Day report on problems at Morrison Charter School. They included financial irregularities and other problems that jeopardized the future of the 80-student charter school.

Through a records request, reporter Tara McLain obtained a database with detailed information about state teachers from the Oregon Teacher Standards and Practices Commission.

A computer-assisted analysis showed that Oregon school districts are hiring greater numbers of older teachers.

More than half of the new teaching licenses given in 2003 went to people older than 30. One-quarter went to new teachers 40 and older.

A more competitive job market and more people switching to teaching as a second career might account for the shift, experts said. This information was valuable because it contradicted the popular conception that all new teachers are young.

Business reporter Toby Manthey used city-permit records to report on plans by Wachovia, a new major Salem employer, and the reopening of the mothballed Tyco plant.

Manthey also was able to report on plans by Kelly's Home Center to build a new store because of access to documents from the Army Corps of Engineer. Although the owners didn't want to reveal much about their project, Manthey was able to describe the location of the development, tell an approximate size, and even give some rationale behind the new store.

State reporter Peter Wong checked disciplinary records of Dan Doyle of Salem and James Leuenberger of Lake Oswego, both lawyers, because such information is open to

the public through the Oregon State Bar.

The bar licenses and disciplines lawyers, who are subject to the authority of the Supreme Court.

Doyle's offenses of neglecting clients and mishandling money resulted in his 30-day suspension from practice last year. They were disclosed in a stipulated agreement between him and the bar. The offenses occurred during his first couple of years as a state representative.

Leuenberger's multiple offenses, according to bar disciplinary records, stemmed from a legal case in which he was accused of using delay tactics and failing to inform his clients of a potential conflict of interest. The bar recommended him for a six-month suspension at the same time that he was a candidate for the Oregon Supreme Court. The court reprimanded him last year, but only after he lost the May election.

Disciplinary records of the Oregon State Bar are completely open to the public, thanks to a 1976 decision of the Oregon Supreme Court. Openness is not the case with other professions, whose regulatory boards can shield disciplinary records.

Last year, state reporter Steve Law used real-estate documents to show that Doyle, a fiscally conservative state representative from Salem, failed to pay income taxes for several years. Doyle had three liens slapped on him at the same time that he was buying a nice home in a suburban neighborhood.

This year, Law reported on campaign-finance irregularities by Doyle's wife, Victoria. Law reviewed finance reports Victoria Doyle filed with Marion County when she was running for county clerk.

The state Attorney General's Office is investigating both Dan and Victoria Doyle for possible criminal charges.

Law used e-mails and other correspondence from SAIF, the state workers' compensation insurer, to show how SAIF had subsidized the state's leading business lobby to gain favor among businesses and Republicans in the Legislature.

Later, Law used subpoenaed e-mails and other correspondence from SAIF to document efforts to support a labor education group in a bid to win support from Democrats for SAIF in the Legislature.

Law used a state-supplied spreadsheet of retailers doing business with the lottery to document the economic impact of video poker in the state and Salem area and how much money the largest video-poker retailers in the area were earning from the highly lucrative games.

Finally, Law used tax and real-estate documents from Clackamas and Marion counties to document a history of late property tax payments by state Sen. Kurt Schrader, D-Canby, the Senate's budget chief.

Law also reported on the six tax liens and three late residential property tax payments by House Majority Wayne Scott, R-Canby, who is the House budget chief.