

## EDITORIAL

Depriving  
the public

What's broken about Oregon's public records laws remains broken. And every year that goes by with it broken, the public's ability to know what its government is doing is diminished.

Oregon's public records laws are well-intentioned. They are also flawed.

The structure of the law creates a perverse incentive for high fees. Public bodies are not given incentives to make public documents available at low cost. The laws give them the power to charge reasonable fees to recoup their costs. That gives them no incentive to keep those costs as low as possible. And any fee — no matter how small it may seem — can be like a wall blocking the public from information. While there are ways for the public to appeal decisions to release documents, it's nowhere near as simple to get fees reduced.

The problem is easier to understand with examples. This first one we heard from Rachel Alexander, the managing editor of the Salem Reporter. She also chairs the Oregon Freedom of Information Committee of the Society of Professional Journalists.

She spoke with Oregon's Public Record Advisory Council earlier this month.

Remember earlier this year when then-Oregon State University president F. King Alexander resigned? There were questions about his role in the sexual misconduct investigations at Louisiana State University. A reporter for the Albany Democrat-Herald filed a narrow public records request asking for email among Alexander and several members of OSU's board of trustees. It was emails for a period of about a week. OSU said it would require an IT expert to search for emails and came back with a \$250 bill.

A \$250 fee might seem like nothing. It's a barrier. As you may have heard, most newspapers are struggling for money these days. Many smaller newspapers have zero budgets for public record requests. The newspaper was only able to get the records after Oregon's Society for Professional Journalists awarded it a grant to do so. The emails showed the work some members of the board of trustees were doing behind the scenes to help Alexander craft messaging.

Here's one more example. This one we heard from Ellen Osoinach, an attorney working for the Reporters Committee for Freedom of the Press. It comes thanks to the work of the Eugene Weekly and the Catalyst Journalism Project at the University of Oregon.

Landon Payne came home one night in Eugene in March 2020. After being drug free for about three years, he was high on meth. He believed people were trying to kill him. His wife called the police. He was arrested for a child support warrant. He was restrained and Tased.

When he was brought to the Lane County Jail, deputies had difficulty restraining him. He ended up on the concrete floor. Two deputies put their knees on him to hold him down. "I can't breathe," Payne said. His heart stopped just over a minute later. Deputies and emergency medical personnel managed to revive him with 20 minutes of CPR. Payne died two days later.

An incident like that raises a lot of questions. Could it have been handled differently? Did police have other options? Did they have the training to be aware of them? And it's also important to know exactly what did happen when Payne was arrested and at the jail.

The Eugene Weekly was able to get the video for the salary port, where Payne was brought at the jail. It also wanted to see the body camera videos for the officers involved. The initial public records request in April 2021 for the body worn cameras was denied. The city of Eugene wrote it "does not provide Body Worn Camera video." The Eugene Weekly appealed that decision to the Lane County District Attorney with the help of attorney Osoinach. The Lane County District Attorney ordered the videos released because of the clear public interest. But the price of one and half hours of body camera video? It was more than \$600. The Eugene Weekly and Catalyst paid for that video. Think, though, about that cost. It is a barrier for anyone hoping to learn the truth about how the Eugene police handled a critical incident.

If the solution to this fee issue were simple, of course, it would already be fixed. Many government agencies have a culture of transparency and openness. They try to be forthcoming about records, making them available swiftly and at minimal or no cost.

But even for government agencies with that culture, not every public records request is easy to tackle. Sweeping requests may require pouring through hundreds of emails or documents, taking significant staff time. Imagine what that would be like for a small town with few staff.

There are solutions out there. Some states put limits on what can be charged. Some jurisdictions bar charging for time spent researching if a record may be exempt from disclosure. The federal government defines what can be charged for FOIA requests. As Alexander put it, relying on shoestring efforts of journalists to crowdfund public records requests is no solution.

We don't expect the Legislature will take on this issue in the short 2022 session. At least another year will pass with Oregon's broken public records laws. It will be another year where the public's right to know is diminished.

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## Your views

We need to stand against tyranny  
of political dictators

To all that say an emergency lasts for 2½ years.

Governor Kate Brown once again extended her declaration of a state of emergency in Oregon, citing the impending omicron variant surge. "As Oregon prepares for what could be our worst surge in hospitalizations during this pandemic, I know that this is not the beginning of the new year any of us had hoped for," said Dictator Brown. It is what she had hoped for! She wants to leave office thinking she can get

everything she wants in spite of who or what she destroys.

Since when is an emergency for 2½ years, the definition of emergency is — a serious, unexpected, and often dangerous situation requiring immediate action. The definition of immediate is — occurring at once; happening without delay or near the present time. How is immediate been going on for 2½ years?

We all know omicron is infectious but so are all these mandates. So is tuberculosis, so is pneumonia, so is measles, so is chicken pox, so is mumps,

so is smallpox, any disease is infectious. Businesses, the children, our livelihoods, everyone's mental health are all at stake.

Each governor and/or mayor wants to be the first, especially on the West Coast. When are we, and I mean everyone, going to stand up against these dictators?

The people at Tiananmen Square in China stood up against rows of tanks. When are we going to stand up against our "tanks" of tyranny?

**Penny Rienks**  
Baker City

## OTHER VIEWS

## Putting pandemic in context

By JIM DOWNS

Since the start of the pandemic, public health authorities have been fastidiously counting the number of people infected with the coronavirus. For both the medical profession and the media, these rising figures have been the principal way of framing the pandemic in the U.S.: "124,000 new cases a day," "802,000 COVID deaths since February 2020." But this information offers an incomplete picture of the crisis, potentially warping the public's understanding in ways that could prolong the pandemic and even add to its toll.

What's missing from the day-to-day conversation is the number of uninfected people and the number of infected people who survive COVID-19. That provides a denominator to put the other figures in context. If there were 124,000 new infections per day, how many people were exposed? If 802,000 people died from COVID, how many were infected but didn't die?

Indeed, such information is the most underreported story of the pandemic. But it has long been an important piece of public health information. It advances our understanding of the nature of the disease; it hints at the power of precautions such as masks and vaccines; and it can allay fears and trauma that people are experiencing about the seemingly never-ending nature of the pandemic.

Our reliance on numbers to understand epidemics can be traced to the development of epidemiology — when medical and scientific authorities had not yet uncovered how microbes caused the spread of infectious disease. Between 1755 and 1866, when epidemiology emerged, medical practitioners believed that environmental factors caused disease. Based on this inaccurate view, they had few effective metrics to understand the origins of epidemics. As such, they counted the number of uninfected and infected patients; the number who contracted a disease and the number who died; they examined those who were hospitalized and those released.

Counting was a way to rationalize infectious disease and to create a narrative about it. For example, during the Crimean War in the 1850s, the nurse and statistician Florence Nightingale witnessed that more British soldiers died once they were admitted to the

hospital, but she couldn't see the germs that were infecting them. What she could see, she counted: the number of healthy and the number of sick soldiers, inside and outside hospitals. By creating a clear analytical assessment, she then observed how the unsanitary conditions within hospitals correlated with alarming mortality rates. According to Nightingale, a "complete system of sanitary statistics in the army" was necessary "to administer the laws of health with that certainty."

Statistics, and exploring the behaviors behind them, became a key component in epidemiological analysis because that's all that health experts had — and it helped them craft treatment strategies.

In response to a cholera outbreak in Calcutta, known today as Kolkata, William Twining, a British military doctor there, published an influential comprehensive volume on diseases in 1832. The treatise provided copious detail of hospital attendants who came into close contact with cholera patients and soiled linens but did not become ill. Had the text focused solely on people who became sick, a reader might have been misled about the risk of the disease, or led to look for its causes in the wrong place. With context about the unafflicted, the study offered key evidence that cholera was not transmitted through direct contact.

It was another set of counterexamples two decades later that helped the young science of epidemiology to zero in on the culprit. John Snow, a physician in London, famously found the common denominator among cholera cases in an 1854 outbreak: Those who became sick seemed to all have drunk water from a pump in the center of a poor neighborhood. Cementing his conclusion was the fact that employees at a nearby brewery, which had its own pump, did not contract cholera.

Learning about the daily lives of these brewery workers led Snow to theorize that cholera was transmitted through contaminated drinking water. To understand how a disease spread, he was equally invested in the infected and the uninfected.

As epidemiology evolved as a field, medical authorities continued to consider the uninfected by developing a new statistic: incidence rate or attack rate, which is still used today. This

refers to the number of new infected cases within a specific period measured against the population. While epidemiologists tabulate this rate, the media does not typically broadcast it. Instead, we are inundated with the crude morbidity and mortality (infection and death) rates.

In short, reporting the number of infected offers a numerator but we are missing the denominator. We need a clearer empirical accounting.

A recent example shows why the missing denominator is important: This past summer, the media jumped on one of the first major outbreaks of breakthrough cases in Provincetown, Mass. This provided epidemiologists with valuable evidence of how the delta variant infected many vaccinated people — but no one actually counted the number of people who were exposed but not infected. (To be fair, documenting exposure among uninfected people is more challenging than counting sick people, as is finding infection among asymptomatic people.)

By focusing on the vaccinated who became infected, the media inadvertently gave the impression that the delta variant had superpowers. If it is super, it also has a weakness: the vaccines. That's the picture that emerges if one counts the uninfected and looks at vaccination rates. A narrower focus risks overplaying the danger of the variant and underplaying the value of the vaccines. Epidemiology needs to remember its roots and school the public.

The first generation of epidemiologists were first and foremost storytellers. Without complicated modeling, or much by way of accurate aggregate data, narrating epidemics was at the center of the field, as historian Jacob Steere-Williams explains. Reclaiming this tradition and telling a more complete and nuanced narrative of COVID-19 — using modern data science as well — can help us better understand the virus and make better choices, such as getting vaccinated.

By focusing only on a rising tide of infections and deaths, we veil more of the pandemic than we reveal.

*Jim Downs, Gilder Lehrman-NEH professor of history at Gettysburg College, is the author of "Maladies of Empire: How Colonialism, Slavery and War Transformed Medicine."*