

**Testimony of Ginger McCall, Former Public Records Advocate
In Favor of SB 1506
February 8, 2020**

I don't need to tell you a theoretical story about how the current structure of the Public Records Advocate Office could lead to the office being undermined by political influence. I don't need to tell you that theoretical story, because I lived the actual story. The origin of SB 1506 is my own experience as Oregon's first Public Records Advocate.

I moved across the country to set up the Office of the Public Records Advocate, which had been presented to me, to the public, and to the legislature, as an independent office. As Public Records Advocate, I was to provide training on public records law, provide mediation on public records issues, and to chair the Public Records Advisory Council. And these are the things I did, with considerable success. I've attached just a few of the many words of thanks I received from government employees for the trainings I gave as Advocate. The public support I received, in the form of comments submitted for the Public Records Advisory Council's September 2019 and January 2020 meetings, are a testament to the assistance I provided the public and the news media. In my year and a half as Advocate, the Office trained more than 2,000 people across this state and responded to more than 250 requests for assistance. The Advocate and Council conducted the first ever Public Records Survey, released two reports, and agreed on two pieces of proposed legislation.

Despite the death of my seven week old daughter in March 2019, I continued with this work, because I was passionate about it, because I thought this office served an essential role in Oregon. I tell you this so that you realize that I would never have left this job voluntarily. It is a job that I would have been happy to do for many years, had I not encountered an unworkable amount of political pressure from Governor Brown's aids. From January 2019 onward, I had a series of meetings with the Governor's staff, including her General Counsel and Government Accountability Attorney, in which I was pressured to secretly represent the Governor's political interests on the Public Records Advisory Council, even to the point of undermining the Council's proposals. During these meetings, which I recorded in detailed contemporaneous memos, I was told that I worked for the Governor, that I was to be "on the team," and that I was not to make it appear that I was in any way opposed to the Governor's interests or policies. But I was also told that I was not to acknowledge these things publicly. Specifically, I was told not to tell members of the press that I was representing the Governor's interests - which put me in an impossible position, since the Public Records Advisory Council, which I ostensibly reported to, included several members of the press. Even the shocking death of my child did not cause the Governor's staff to cease these uncomfortable and inappropriate demands.

Eventually, after trying several avenues to resolve this - including discussing my objections with the Governor's staff and reaching out to the Oregon Department of Justice for assistance - I was faced with the unpleasant choice of giving up my dream job or making an unethical

misrepresentation to the Council and the public regarding my allegiances. In the end, I chose to resign in protest and move back across the country to D.C. at great personal expense.

So I don't need to ask you to speculate about how the current structure of this office can lead to the Advocate being the subject of intense political pressure. I lived that, and during what would, under any definition, already have been the worst year of my life.

It is essential that the legislature adopt the Public Records Advisory Council's legislative proposal for independence of the Office of the Public Records Advocate. After what happened to me, the public can no longer trust the integrity of the Public Records Advocate. The independence of this office is important in order to be able to propose ambitious reforms, engage in meaningful and trusted facilitated dispute resolution, and even offer credible training on public records. The Council's proposal, SB 1506, contains several important provisions.

First, the proposed legislation states explicitly that the Office of the Public Records Advocate is independent. This independence is essential because if it is not granted, the public has no reason to trust the Advocate's fairness in assistance and mediation and no reason to believe that the Advocate's trainings will be fair or neutral. And the Council has no reason to trust that the Advocate will not be secretly working for a politician's agenda, as I was asked to do. SB 1506 ensures independence by setting up a clear reporting structure for the Advocate, which will minimize potential future interference by elected officials. The Advocate will be selected by, report to, and be removable for cause by the Council. This minimizes the potential for political interference by any one elected official, since the Advocate will be reporting to the entire Council. But make no mistake, the Advocate will be accountable - to a multistakeholder Council which can remove the Advocate at any time for cause. The Advocate is therefore accountable to three elected officials - the Attorney General, the Governor (through the Department of Administrative Services), and the Secretary of State - as well as to the requester community and several other stakeholders. This structure, if anything, assures even greater accountability while, at the same time, limiting the influence of any one politician.

Additionally, the Council will be able to ask legislators to introduce proposed legislation on its behalf, instead of proposed legislation going through the Governor's office. This is important because the Governor's office no longer releases legislative concepts in response to public records requests, and the withholding of discussions regarding the Council's legislative proposals would put the Council - which is based on a principle of transparency - in an awkward position. Also, running the Council's proposals through the Governor's office could open up the possibility of political interference by that office - the very kind of political interference I faced, which was based on the Governor's objection to one of the Council's proposed pieces of legislation.

The public has expressed its support of the independence of this office repeatedly - in numerous editorials, comments submitted to the Public Records Advisory Council, and social

media posts. For the legislature to ignore this clear public mandate would even further undermine public faith in government.

It is essential that SB 1506 be passed as soon as possible to ensure the integrity of the Office of the Public Records Advocate, to rebuild public trust in the Office, to be able to attract qualified applicants for the position of Public Records Advocate, and to show the public that public engagement on a topic is still meaningful to the Oregon legislature.