Meeting Date	12/16/2015	**Time**	1:00-3:00pm	**Location or Call In**	Capitol Building – Hearing Room 343
Meeting Name	Public Records Task Force Meeting				
Meeting Owner	Michael Kron			**Minutes:** Emily Anderson	
Attendees	In person: Ellen Rosenblum, Michael Kron, Robert Taylor, Les Zaitz, Jeb Bladine, Dave Rosenfeld, Betty Reynolds, Rob Bovett, Josh Nasbe, Phil Lemman, Scott Winkels, Mark Landauer, Senator Lee Beyer, Representative John Huffman Via teleconference: Gina Zejdlik, Representative Ken Helm				

Michael Kron opens the public records tasks force meeting by saying his main goal is to hammer out the policy statement to a form that everyone is happy with it. Michael would also like to make a final decision regarding additional organization changes other than the catalogue that DOJ is working on. Michael would also like to hammer out details regarding when and where public input will be solicited. Michael would like to hear a lot from the members. Michael has gotten a lot of emails and is hoping the suggestions will come up at the table.

First thing on the agenda is just a welcome.

Introduction of members of the task force in order of how individuals are seated:

Michael Kron is in the Attorney General's Office.

Ellen Rosunblum is the Oregon Attorney General. Ellen says **Michael** is more than in the Attorney General's office. He is her special counsel for legal matters and especially for public records.

Ellen thanks Michael for stepping up to lead this group.

Robert Taylor is the Deputy Secretary of State.

Les Zaitz is with the Oregonian, representing the Oregon Territory Society of Professional Journalists.

Jeb Bladine is from the News Register, representing the Oregon Newspaper Publishers Association.

Dave Rosenfeld is from the Oregon State Public Interest Research Group.

Betty Reynolds is a public member of the task force, reflecting her past as the Director of the Ethics Commission, and is also Vice-President of the Oregon School Boards Association

Rob Bovett is from the Association of Oregon Counties.

Josh Nasbe is from the Oregon Judicial Department.

Phil Lemman is also from the Oregon Judicial Department.

Scott Winkels is from the League of Oregon Cities.

Mark Landauer is from the Special Districts Association of Oregon.

Michael Kron – Thanks everyone for being here. Does anyone in the audience want to tell us who they are? That way you will know who each other are as well. No pressure, I don't see any hands. We do have a volunteer.

Introductions from public attendees seated around the room:

Connor Redmonds is from Oregon Records Management Archivist Association and is also the Port of Portland Record Manager.

Sue Ryan is from the City of Newberg.

Bill Harbaugh is from the University of Oregon.

Kelsey Wilson represents the Newspaper Publishers Association.

Morgan Allen is from the Oregon School Boards Association, but is here on behalf of the K-12 school district.

Ryan Fisher is with Northwest Public Affairs.

Amy Williams is from the Department of Administrative Services.

Aaron Knott is from the Attorney General's office.

Additional introduction of Task Force Members:

Senator Beyer – Senator from District 6, which is the Linn/Lane County area.

Introduction of Task Force Members who are attending the meeting via teleconference:

Gina Zejdlik is from the Governor's Office.

Michael Kron – Is Representative Helm there?

Representative Helm – I'm here.

Phone introductions conclude.

Michael Kron – Dexter, do you want to introduce yourself?

Dexter Johnson is the Legislative Counsel.

Michael Kron – That takes care of item one. Item number two, which hopefully will be even faster… Representative Huffman, you missed our re-introducing ourselves to one another.

Representative Huffman – I'm John.

Introductions conclude.

Michal Kron – Item number two is approval of prior minutes. I got a lot of suggestions from people. Betty caught all of our staff typos. If anyone has any objections to the minutes as they stand, now is the time to voice those. Minutes approved.

Now we get into the meat, and this is where I want to hear a lot from you guys today. I circulated and you have in front of you a draft of a policy statement. This is the first concrete proposal I envision coming out of this group. I improved it based on the feedback of the group. I would really like to conclude this discussion, and if possible have a consensus policy statement that will be part of what we propose in terms of reforming the public records law. I know Mr. Rosenfeld had some good ideas – I'm going to ask him to share some of his thoughts.

Dave Rosenfeld – Sure that's fine. Thanks Michael for putting this together. I didn't read it all that carefully, but most of the language other than the four attempts to itemize what the exceptions would be, I thought it made sense for the most part. The only part I would give another look is in the first paragraph and the second one it looks like you chose the word "narrow" as a way of describing what would be an appropriate exception. I'm just wondering what came of the suggestion Representative Huffman made in the previous meeting? You were saying as few exceptions as possible.

Representative Huffman – I think I said with few or rare…

Dave Rosenfeld – Something like that.

Representative Huffman – I was wondering about "narrow" also. How do you define that?

Dave Rosenfeld – I could be conflating my perspective with yours, but I will just represent mine for the moment. It feels like both are important, and both are different. Few, that talks about

the quantity and I subscribe to that. I look at the narrow and I think of that like substance – you want to be very specific. I feel like both could for the basis of a policy.

Bullet point B – protect the economic affairs of private individuals – I think there is a reason why you want to create some kind of rational. I think the way that's written, it's almost a step backwards in state policy. At least state policy right now, to the extent there is anything, it's very specific about what kind of economic interests you're trying to protect, which is trade secrets, proprietary information. This would imply that basically any intersection between private economic enterprise and government would be a justification for creating an exemption. I would be advocating for trying to be as specific as possible and pinpoint the thing where there is some kind of social consensus about where it's really just no one's business ever about what is going on in a private economic enterprise. I would suggest either borrowing from what's already in the statute, or, we have a lot of experience with health insurance rate review. If you look in that statute, that exemption there for what elements of health insurance filings are subject where the DCBS Director can keep that under wraps. There's kind of a dual test where number one, is there a trade secret going on, and would disclosure of the trade secret harm competition? You might want to consider looking at that as a better way to get at what we're talking about there.

On the fourth bullet point – the efficient administration – I would ask that we catalogue more before we try and settle on language. What exactly are the types of things that that's intended to capture? We had an email exchange yesterday about this where I can't think of a single thing that would be a valid justification in the name of efficiency. In my view, it's sort of like if it's inefficient for the government to disclose a certain set of information, than the burden is on the government to become more efficient. I'm sympathetic to the length of time issue, but I think that's different, as we talked about. Your description of the issues around trying to disclose all the Cover Oregon stuff, sometimes it takes longer than a fixed amount of time; but that's a different matter. When you're talking about the substance, I can't really think of an instance. I know we had talked about attorney-client privilege, which maybe that's intending to capture. But that's not an efficiency thing, that's just a thing. You might as well just say it, and be explicit about it as being an item. I think we would want to catalogue what we are talking about there. The ones I can think of aren't really about efficiency.

For example, I'm making this up, if the DOJ is preparing a suit against a giant pharmaceutical company for a violation of the Fair Trade Practices Act, you could say you don't want to disclose the legal background to the public because that would undermine your case, but that again strikes me as not an efficiency thing, that's a law enforcement thing. If you were trying to capture that, you would just add on to the third bullet point and go 'public safety and law enforcement' or something like that.

In the efficiency of government, I still can't think of an instance where you would ever really want that to be the justification.

Michael Kron – I'm going to be quiet until other people are done.

Jeb Bladine– Do you have specific language you want to propose? You have a concept, but do you have specific language you would recommend?

Dave Rosenfeld – That's why I think we need to catalogue it first, because without an example I would just strike 'D' all together.

Michael Kron – I did get started on cataloguing those 443 exemptions. There are a few I put in that category. This shouldn't be taken as anything other than an attempt to catalogue them. Examples in current law that I felt best fit in that category are mediation communications and mediation agreements of public bodies, the privilege you've already mentioned, confidential matters that come before the legislative counsel. Our colleague **Dexter** gets matters from Representatives and Senators and is statutorily required to treat those as confidential until they are approved by the member. Public body software programs is one that I put in that category. I was kind of treating it as a dumping ground, which maybe goes to your criticism a little bit. Those are some of the kinds of things that I found going about a quarter of the way through the exemptions that seemed to fit there.

Dave Rosenfeld – As a process point, I am remembering that giant excel chart. I'm going to stop, and go back and look at that, and then I could probably come back with an idea or proposal but I'm not going to do that here because we're talking.

Michael Kron – I am hoping to have it 443 out of 443 before the next time we meet, so then you will be able to sort them and see what I thought.

Jeb Bladine – If you're negotiating a deal and you make an offer, and decide what our maximum would be, that document you wouldn't want to go out. I think efficient is kind of a bad word to have in here, it sounds like it's sort of so things are nice for people in government. You could almost take the word out, to enable the administration of government, and maybe public interest for the second administration. If the public interest would be significantly impaired without the exemption. That might address this. I share your concerns about how broad these are. The hope is that the 'few' and 'narrow' and 'limited' terminology explicitly applies to all of this. Here are four broad areas which don't mean they're opening this up, there are four broad areas where these few limited, focused set of exemptions come in and if that's understood, maybe it speaks to that.

Senator Beyer – It strikes me that some of this stuff, it's when is the information is available. If a government entity is in the middle of a negotiation over selling or buying something, it may be detrimental to the public interest to have that disclosed during that negotiation. But certainly after it's done that information should be available.

Jeb Bladine – Part of that ties back into executive sessions too. There are a lot of documents that are subject of executive session for that kind of purpose. I'm not arguing your points. I think the 'efficient administration of government' is one that people can look at and say 'it would really be inefficient if I let these documents go. We'd have to talk and meet and struggle and debate.' No that's not what we mean; it's for public interest administration of justice, perhaps.

Rob Bovett – I have a number of thoughts. The easy one is a minor suggestion in the first and third paragraphs. 'Insure' with an 'I' should be 'ensure' with an 'E'. I also share the concerns

with the use of the word 'narrowly'. I don't know what that gets to; I think we need to choose different words. I'm just not comfortable with that because I don't know what it means.

In terms of the A,B,C, or D, the way I view subsection two is kind of an exclusive list of four justifications for any exemption. In reading through that, I understand the first three. The fourth I don't understand at all, plus I have concerns. The attorney-client is the first thing that came to mind when I'm discussing litigation with my board and we're being sued about or suing over something and we are in settlement negotiations and I'm engaging in private attorney-client privileged conversations about settling that, and now I have to justify my attorney-client privilege with a new test, whether that keeping that confidential would or wouldn't significantly impair. To me, D doesn't make any sense. I think it should be stricken but I think it needs to be replaced with something that gets it to mean what we mean.

With 2A – I'm not sure we need the term 'private'. We have an interest in protecting the privacy and safety of public employees as well; it's not just private individuals.

I would completely rewrite subsection three. We don't have legislation that tells the legislative assembly to do something without telling them what's to be done. It doesn't make any sense. It's a policy statement from us to the legislature. We can ask the legislature to identify what they mean. I'm not sure what mechanism they do so with other than by statute. I really don't know what the purpose of subsection three is. If I knew what its purpose was, I could craft something to rewrite it. I'm not comfortable with the way it's written now because I don't know what it means and don't know what it does.

Michael Kron – We talked last time about the fact that some states have enacted something that is when legislature enacts exemptions, these are the reasons why it shall do so, and it shall make these sort of findings. I put it in for a discussion point. I think it ultimately is not binding on the legislature. It might have some good in getting them to think about it, or it may not be worth doing and be worth striking completely.

Rob Bovett – I'm of the latter opinion. I don't like to read fluff in statutes that doesn't have any meaning. The legislature usually says what it means and if we can't define it from the statute, the legislature has enacted statutory rules of construction that tell us what to do. Normally they tell us to look at the legislative history which is where we do this. Unless we can define a real purpose to subsection three, I suggest we strike three.

Michael Kron – I think that's a concrete motion.

Senator Beyer – There is maybe a way to get at it. If you struck some of this and just said "the effect of the exemption of the public records from mandatory disclosure shall express the interest exemption…" and on from there.

Rob Bovett – But how do you do that?

Senator Beyer – It's just a directive statement that the legislature adopts for future legislatures. You can't mandate the legislature but you can provide guidance. Does that work, **Dexter**?

Dexter Johnson – You can provide guidance. You can have policy statements of what the legislative intent was, that's actually fairly common. They will not bind a future legislature. Paragraph two isn't binding on future legislature either. The future legislature would be able to enact an exemption on any basis and not just the four categories you have there.

Rob Bovett - I guess I disagree with you a little bit on subsection two in the sense that the way the first part of that sentence is phrased. It's legislative direction on statutory construction. This is like one of your 171 statutes that basically tells a court exceptions from the public disclosure requirement of this chapter shall be construed narrowly. This is basically telling the court to interpret it narrowly and you have to plug it into one of these four specific boxes.

Dexter Johnson – It's the last point that I think is problematic. I agree with you, the first sentence is a direction of construction, but a future legislature could enact exemption on any basis and be implicit if not expressly an exception to that.

Rob Bovett – Agreed. So I'm not really sure exactly what we're doing. If we're really intending subsection two to accomplish those two things, maybe we ought to break it out into separate subsections. The first sentence is subsection two. The third subsection is that second sentence with the A, B, C, and D and we probably ought to change the lingo to make what you just said clear. This is our policy statement of this legislature. But again, I don't know what we're hoping to accomplish.

Robert Taylor – Any future legislature can do whatever it wants with exemptions; and indeed that's been the experience over the last few decades, and that's why we have four hundred and some-odd of these exceptions. I think what we're trying to do is to say "enough is enough with that. Let's not do that anymore." Let's have the legislature give itself some guidance and directions to say the exceptions should be narrow and few. If you are going to adopt any more in the future, they need to meet this four, five, six criteria. They can ignore that, but there will be some political pressure if they choose to adopt 60 more new exceptions in the next session that don't fit any of those categories.

Senator Beyer – You make it a lot more palatable if you take the verbiage about the legislative assembly out completely and just be directive. Just say exemptions from public requirement shall serve one or more of the following interest.

Rob Bovett – Or should. So if you start that sentence 'any exemptions from public disclosure requirement should serve one or more of the following interests', and then have A, B, C, and a completely different D.

Betty Reynolds – In overall defense of the policy statement, I do like seeing it in there to the extent that it's going to be a part of chapter 192. There is a policy statement preceding the public meetings piece. By comparison, it's shorter, but I do like the other tenure of a strong statement regarding the public interest.

Phil Lemman – I think the way we got there was reviewing the other states. Florida has a statute that says as part of the review process, I think this is part of the sunset review of exemptions, the legislature shall consider the following: What specific records are affected by the exemption, what's the unique effect, identifiable public purpose, and what I recall is we were talking about providing some guidance in a prospective manner so when the legislature is asked to exempt records it has some considerations it has given itself at the time. The other thing is rather than just construction guidance to the courts, it was also application guidance to agencies. There was discussion about agencies, when given the choice, will default to withholding even when they are allowed to disclose.

Les Zaitz – There is that audience for this policy statement. The clearer we are about stating it, not only for legislative intent, but for agencies to follow; we're going to save ourselves a lot of trouble down the road.

Jeb Bladine – How would this as written play out? I read this as a 'where as' clause, a 'where as' requirement. Not necessarily part of legislation, almost a mandatory legislative intent. It's easy to say, 'just go research legislative intent', but it's pretty difficult sometimes. Is that what this is? If you're going to pass a new exemption, that as part of the legislation you need a 25 word where-as, something that says we're doing this because, and not to be part of the actual legislation?

Michael Kron – I envision that it would be in the statute books. I think we talked a little bit about that last time in the fact that the public meetings law has a similar very strong statement of purpose. It's not binding on the legislature. It would inform application both in the agency context and also in the courts. One of the ways the public meetings statement of policy plays out quite strongly is the courts look at it and when they find ambiguity in other parts of the public meetings law, they try and resolve that ambiguity in a way that meshes with the policy statement.

That is guidance to the legislature; it's not mandatory, it's not binding. The courts have been using 'narrowly construed" for 40 years, that's kind of why I like it. It's not introducing a new term. I like words like "limited and few" but like someone said last time, if we are going to use that term we need to get rid of some of the 443 that we have. I think it helps the people who are applying it understand what it means. I think it would serve all of those functions without being binding on the legislature.

Senator Byers – It seems to me that it's stronger if you take 'narrowly' out.

Michael Kron – Shall be construed to favor the people's right to know?

Senator Beyer – It's the people's right to know. That's the predominant interest.

Les Zaitz – In our existing statutes, we have scattered about the exemptions, the public interest balancing test. I'm wondering if under section two, we could do something that explicitly invokes that balancing test for all exemptions. We can't always imagine a circumstance that on the face of it might seem to have no public relevance and have no reason for disclosure. There can be occasion rare circumstances where the information ought to be public. If we put into the

policy statement invoking that we are always framing exceptions against the public interest in disclosure. That helps underscore that this information is public and the exceptions should always be measured against the public interest and not the purpose of the exception. What is it that you trying to protect and what would be the countervailing public interest?

Michael Kron – It makes sense in a lot of ways, but I have two misgivings about it personally and I'm curious what other people think. One is that functionally it is a huge amendment to the substance of our public records law and the second is I think that would be very difficult to get consensus on in time for me to have a policy statement. I think the repercussions would be hard to note. I think maybe it's something we should revisit when looking more at the substance of exemptions.

Scott Winkels – If I was municipal attorney on billable hours, I would really, really like that. I think that's a challenge. The actual undertaking of it, to change the way we have been doing business for so long, is a huge lift. I like three. I think what I like about three is that it does not lend itself to easy mischief in a way if we were to list out all of these narrow areas I think what I would foresee down the road, probably starting in the 19th session – we start changing, adding to that. We end up building a statute that eventually gets to where we are now, where we have a complicated mess of exemptions. If someone had the interest and the juice to pass exemptions in the past, logic would tell me that someone will have the interest and the juice to pass exemptions in the future. I don't think this lends itself to that sort of mischief. This is simply asking the legislature to make a case for why you're doing it. And for that reason, I think I like it.

Michael Kron – **Rob** – frowning.

Rob Bovett – No, I'm not frowning. I don't disagree with what Scott said; I just want to rewrite it all. If you want something said like that, let's say it. Just not quite this way.

Michael Kron – I'm not opposed to that. Is anyone opposed to rewriting it to say what Scott said? I think it's a great idea.

Rob Bovett – Put in an aspirational standard into statute as guidance to future legislatures, saying we would really like you to justify and expressly identify why you're creating this new exemption.

Michael Kron – Does that mean partly the word 'should'? Which I think you guys didn't like last week, just for the record.

Rob Bovett – I think the word 'should' is realistic, because you can't say 'shall'. You know you can't bind a future legislature, even though you'd like to. You might as well just say 'should', because in fact that's the most you can do.

Phil Lemman – Well, what if you say 'shall'? Then you have to say 'notwithstanding sub three' in order to not do that.

Rob Bovett – What if the legislature, I'm not saying this will happen, what if the legislature passes a new exemption and they add it to 192.501 and add a new subsection 53 or whatever we're up to. And it's clear on the face of it what its purpose is, because some bad thing happened last week. Typical reason for legislation. So it just goes through. There's no attachment to it, there's hardly any legislative history. Then?

Senator Beyer – Then you have an exemption.

Rob Bovett – Then you have an exemption.

Senator Beyer – That's what the effect is.

Rob Bovett – Then they haven't really explained it all. They haven't expressly identified the interest; they haven't done any of that. It's still enforceable.

Phil Lemman – I don't know it makes a lot of difference either way. From my perspective, what this does is a statement from one legislature to future legislatures saying we want to have some internal discipline and discussion when we, as an institution, take this action. So to say 'should' is letting them off the hook. When we say 'shall', it's a different instruction. Understanding you can't bind the next and all that stuff, if we're serious about having the legislature imposing that internal discipline on itself that it ought to be strong.

Michael Kron – We have three Legislators here today, would any of them like to weigh into this?

Representative Huffman – I was just sitting here smiling, thinking about the times I've sat on the floor listening to the arguments why we should pass another exemption. There is always an argument there why it should be done, but how much of the history to really prove why we should build exemption number 444. But why are we doing it? Is for the sake of transparency? Go back to the very beginning, go back to one. Why are we doing this? It is the policy of the state of Oregon… Is it for the sake of transparency? Is it because Oregonians have the right? Why exactly are we doing it? We're missing something there.

Jeb Bladine – Could a variation of number three actually be written into ORS 192? And then 'it shall' would be 'shall'?

Michael Kron – I'm hoping that's where the entirety of this policy statement ends up.

Jeb Bladine – if something says 'shall' in law now, I usually assume it means shall.

Michael Kron – The problem is this legislature doesn't get to tell the legislature in two or three years what they shall do. That's what the constitution is for. That's the point **Rob** initially made. The questions is, I think, between 'shall' and 'should', is how much pressure do we want to put on legislature to actually follow through with this?

Senator Beyer – You can't. To the extent you just make a clear, short, crisp policy direction, and leave out words like 'the legislature shall', you're better off. Then you won't build up the angst of future legislatures about, they can't tell me what to do.

Michael Kron – That's a good legislative perspective there.

Gina Zejdlik – I have a couple thoughts. I really like where **Senator Beyer** is going with the crisp, clear statement. I think power of statement and the ability to hold power over time is not so much what the statement says. I think the fact that it's there is probably a good idea, but I think it depends on what this group produces. As the 17th legislature marches up a hard hill, are we going to look at this statement and look at the 400 exemptions we already have to make sure they fit? I think the power of the statement will come out of what this group does and what we are able to pass in a session. After legislators take a hard vote on something, they remember that. Some of it matters more what actions follow it more than anything else.

Michael Kron – Is that a suggestion that some of this should be excised entirely?

Gina Zejdlik – No, I think we need a statement. Everyone's observations that the statement itself is not going to have any true binding effect on future legislatures is true. The power of the statement fits in with what we produce as a whole out of the taskforce. If the legislature as a whole in interested in true public records reform, that will hold power. That will carry forth. The statement is a necessary part of this. And I also think 'shall' is better. Even if you can write 'notwithstanding', you have to. It creates at least some hurdle to get over.

Michal Kron – I'm going to try and describe what I see as the issues on the table. One is getting rid of 'narrow' and talking more about 'limited' or 'few' or potentially using both. A few people have suggested there is a little bit of a dispute if we want three to be in the bill at all. There are smaller issues with the four specific purposes for exemptions we've identified. I guess the most difficult question is how much this group as a whole wants to be addressing future legislatures. In my mind, that's a big part of the purpose, but I understand both the point that as a practical matter, we can't bind them. And maybe as a practical matter too, they may not like that. But we're really asking them to do it, right? We're suggesting that they do.

Senator Beyer – The way three is construed, if you start it out as 'exemptions from public records for mandatory disclosure shall identify the interest that the exemption is necessary to serve', that really is more directive to the implementation side. If some local government wanted to do something, that's sort of directive to them that they better identify which of these or others you actually were exempting. What's your authority to exempt the record?

Michael Kron – This in three you're talking about? So exemptions from public disclosure, or maybe laws enacting?

Senator Beyer – I wouldn't do it about laws enacted, but the same it would state a fairly strong policy to future legislatures if they chose to observe it, that it should still be in that context.

Dexter Johnson – You may want to restructure this a little so the whole thing is a policy statement. It is the policy of the state of Oregon that 1, 2, and 3. I agree with **Senator Beyer** about taking the legislature itself out of it and just stating that an exemption shall expressly identify the interests of the exemption that the exemption is trying to serve, or something of that nature. That way you don't get the legislature trying to avoid what appears to be a binding requirement.

Phil Lemman – I like the statutory instruction that this is what we are trying to accomplish and request that future legislatures do that. In companion with that, is there another way to institutionalize that concept in the legislative process? Whether it's in a drafting rule or in the rules of the House and Senate? I don't know this is going to result in a statute, when they exempt a record from disclosure that this information would be in statute, it may just be in a staff measure summary or something where there's a document that explains or justifies that action. So maybe there's another way to put that into the legislative process in addition to or in lieu of three.

Michael Kron – We have are a lot of people here who are qualified to answer that question I think. **Robert** and **Dexter** come to mind, and maybe the Legislators themselves. I certainly don't know.

Senator Beyer – I think the reality is all you can have at best is a directive statement and future legislatures will choose to pay attention to that or ignore it. The only other way you're going to put it is to put something in the constitution.

Phil Lemman – I just thought if it's in the rules of the Senate.

Senator Beyer – Rules change every session.

Phil Lemman – That is part of my point. You're putting that up for approval every session by the members of the body. I don't think it would necessarily replace that, but to your point, it would be an opportunity to affirm or modify or reject that principle.

Dexter Johnson – There is a provision in the constitution that says each house may adopt rules of its own proceedings and so the question becomes is this requirement a rule of legislative proceeding or not? I have my doubts about that.

Senator Beyer – I think where we're at is as good as you're going to get.

Robert Taylor – I agree with **Gina** that what we do with the exemptions will be a more lasting impact than whether we agree to keep number three in here or not. I think that's where the real works is and should be. Whether it's by chamber rule or statute, every two years we get a new legislature and they can rewrite every rule and every statute. I do think it would be useful to put some strong language in there telling them what we think they ought to do, because I do think it would create some pressure on them to think carefully about new exemptions. That's really what we want, that's what we're trying to communicate – before you go and add another 400

exemptions, you need to think about it and try and justify why you're doing that. You can't make them think about it.

Phil Lemman – One of the purposes of this group and legislation in 2017 is to tell the public that this legislature looks at public records differently. To have a statutory statement from the 2017 legislature is a way of doing that. Part of the goal of this body is to make recommendations to the next legislative assembly to strengthen the public records law.

Jeb Bladine – I also take this exercise as declaring what somebody needs to do to the other 450.

Michael Kron – Starting with us, I think.

Jeb Bladine – Why? And is it too broad? It's a good direction to give to future legislatures to declare a reason for doing something and we that should look back at the 400 we have at see if they should all really be there, or should be combined or have lost their role, or should have a public interest when there isn't one. Presumably if there is a committee as other states have, somebody would be looking at all these exemptions along the way with this same kind of language in mind.

Les Zaitz – I have a question for the Legislators – all these being equal, if you were starting with a blank slate to work on a public records piece of legislation, and you want to consider what's the existing state policy, if you have this sort of statement that is state policy as the starting point, does that help provide guidance on where to go? I recognize the legislature can do what it wants, but I'm thinking of a Legislator coming to this issue brand new, and having no understanding of what public policy is but here's this statement that carves it out, does that in some way provide guidance?

Representative Huffman – I think it's beneficial.

Les Zaitz – Whether it's binding or not seems to almost be immaterial. It's the principle we're trying to state, not the tactical.

Representative Helm – I agree with what **John** just said and what the **Senator** said before. I don't see why we wouldn't want to have a strong policy statement. I know as a newbie, back when I was given an idea or fixing a problem that requires change, the first thing I would do was go back and look at the organic statute and see what it says. It's rarely we need a wholesale change in this area of law, but rather there's already been work done on this before; and how can I add to or subtract from that in a way that makes sense and gets my objectives met. I like this idea that it is the policy of the legislature etcetera, etcetera. That gives you a great starting point and that does make future legislators think, 'has somebody already solved this problem good enough?'

Betty Reynolds – Can we clarify, based on the last few statements, including **Jeb's**? As drafted, it appears to apply to future exemptions, but I think **Jeb** is suggesting this may cause a retroactive look back on all exemptions. Maybe **Dexter** has an opinion on how the legislature might view that.

Dexter Johnson – I would not think it would have a retroactive effect just by itself. The legislature that enacts this has the opportunity to do whatever it wants with the existing exemptions. The first part, as **Michael** pointed out, is what the court's standard is now for exemptions anyway.

Michael Kron – I think it would be useful for that exercise, but it wouldn't accomplish it in itself. But I think the next exercise that at least a few brave souls in this body, and hopefully all of us are going to be looking at, is how well do the 450 exemptions that we have fit in the criteria that we will refine.

I'm going to propose that we take about a five minute break so I can do some scribbling based on the ideas that have been tossed around here and you guys can get some coffee.

Task Force takes five minute break

Michael Kron – I think we could do a couple things and I want to take the temperature of the group. One is we could sit here and continue to hash this out, I think we are really close. On the other hand, I think the piece that needs to be hammered out in order to proceed actually looking substantively at the exemptions, is the piece about the four areas we have identified where exemptions really are appropriate. Are you guys interested in continuing the conversation we are having? Or having me come back to you guys with another take on those issues based on all the really good feedback here today? I would like to collect notes you may have made. It might be helpful to me to see what you scribbled on the policy statement in front of you. Which of those two seems the most fruitful?

Mark Landauer – It seems to me that refining your four categories would be helpful now. I'm not opposed to or generally support the policy statement. If it's the will of the group, great. But my suggestions would be to go to the four categories.

Les Zaitz – A shortcut would be if anyone has specific language they could propose now for any of those four. I would like to continue to see us move forward and not get tangled up in drafting broad policies when we've got a lot of hard work to do with exemptions.

Mark Landauer – What I'm suggesting is if we can get the four categories sort of sewn up, then you can go through all the exemptions. And everyone seems to think that's going to be a lot of work.

Senator Beyer – Just listening to everyone, my sense is that we have general agreement about the intent. We could wordsmith it for the next three hours, but I would rather let you take another cut at it. I think the real meat of it is, we won't know if we got it right or not until we start walking through the exemptions.

Dave Rosenfeld – I agree with **Senator Beyer**.

Rob Bovett – I agree with **Senator Beyer** too.

Michael Kron – I think **Dave** suggested that the economic affairs language is kind of broad. Some of the economic affairs I had in mind was people's income tax returns. Maybe we want to cabin those more under personal privacy. They're not necessarily trade secrets. Similarly, people who are applying to the state for need based assistance programs are often required to provide economic information. I think you could easily make a case that those fit under privacy and maybe we just want to agree that those kinds of things are going to go under privacy and then we can talk more narrowly in economic affairs about things that could cause competitive harm.

Senator Beyer – We've got a lot on the economics here, but then you have the commerce statutes that have protection of interests that are not even mentioned directly in the public records. Someone needs to look at that.

Michael Kron – The trade secrets type stuff?

Senator Beyer – Trade secrets, yeah. I guess I have two experiences that bring me to that. One is having done a lot of economic development deals. Some of the information that people are required to provide is probably unreasonable to ask that it be made public record. Some you could make a public record, but it's a matter of timing.

The other from my time, working on insurance issues, and working on public utility issues, everything they bring in they throw as a trade secret. Most of those cases, the standard as I understand it is you need to challenge it, and demonstrate that it is.

Michael Kron – In my opinion, we don't need to get into things like whether in a specific exemption should eventually be disclosed, I think that's something to leave for assessing in our individual exemptions. We can identify like, what are we protecting, either permanently or while we're protecting it and kind of articulate that criteria.

Does anyone think that personal privacy and safety language needs to be improved other than removing 'private'? To protect the privacy and safety of individuals. That one sound pretty good to everybody? And to protect the public safety, and someone suggested adding law enforcement. I think we would add law enforcement, what would we say though? I don't think we can just say protecting law enforcement.

Dave Rosenfeld – I suggested that, and being a non law enforcement official, I really actually don't know what I'm talking about except that I was thinking of some of these cases that the DOJ might do to try and enforce the law and where the development of whatever you're trying to do to sue whoever you're trying to sue; you probably don't want somebody to know about that, and that does seem like a law enforcement issue.

Michael Kron – Law enforcement processes? That's probably not the right word either. **Les**, I'm thinking you're going to have a good idea on this one.

Les Zaitz –These are broad principles. In my mind, public safety is pretty broad, that covers a lot of ground.

Michael Kron – Without being too broad?

Ellen Rosenblum – you aren't including investigative protection there, are you?

Michael Kron – I think the investigative stuff fits more neatly in the administration of government. I'm sort of purposefully tabling B.

Ellen Rosenblum – I would keep C just public safety.

Michael Kron – Public safety. It sounds like everyone is pretty comfortable with that. And then D is the one we discussed a little bit and I think I have been putting things like our investigative processes, and I think I mentioned a few things already; we have the legislative counsel example, when things are brought to **Dexter** and his office, and they shouldn't be disclosed right away until they become a formal concept. I think somebody suggested getting rid of efficient, first are we comfortable as a whole that this probably has to be a category? I know **Dave** is not.

Ellen Rosenblum – Could it just be government, instead of governmental programs? To enable the administration of government, only if it's administration would be significantly impaired without the exemption? Is that too broad?

Scott Winkels – I also think if we're just going to say C – public safety, that's great but I don't think that necessarily reaches civil enforcement action that the city or a state agency might be engaged in; and there's an obvious reason why we might want to keep that close to the vest for a while.

Ellen Rosenblum – And that would be in D though, we were talking about that in D.

Scott Winkels – Yeah that would put that in D.

Michael Kron – But we need to keep D, I think.

Ellen Rosenblum – That's why I'm proposing that it be broadened to include government more generally. Governmental programs is probably government, to be clearer.

Michael Kron – I feel like somebody is concerned about our university system and other things, and that's how we got the governmental, but I don't really know that that makes a difference.

Jeb Bladine – We run across people that think people coming to public meetings is inefficient. So to just say that it impairs is pretty light. I would think it needs to almost thwart the public interest process of administration of government; it's not just that it makes it inefficient. Lots of things we do make the administration of government inefficient.

Michael Kron – But you're not happy with significantly…

Jeb Bladine – Significantly impairs what? The administration? A lot of things that we do significantly impair government's process of administration of government. You would have to have specific exemptions hat fall under that category.

Les Zaitz – Does changing it to 'significantly damage' make any difference?

Jeb Bladine – Perhaps. Impaired could be a process or a timeline.

Phil Lemman – What if we added something about the public interest in effective administration? The reason we put in some of those procedural things is for fairness.

Jeb Bladine – That's kind of what I originally thought.

Phil Lemman – It's not the administration in and of itself, it's the public interest in the effective administration of providing government services or operational government.

Jeb Bladine – That's not bad. That's where in my example of offer up to so much is kind of a public interest. It's in the public interest not to tell this guy you're willing to go an extra million dollars when he might settle for a half million.

Michael Kron – How do people feel about **Phil's** suggestion here? I kind of like it. We are talking about to enable the administration of government only if the public interest in the efficient administration would be significantly impaired.

Phil Lemman – Effective.

Michael Kron – I like it.

Betty Reynolds – I think that 'effective' and 'efficient' are a little subjective. Granted, this whole section relates to exceptions or exemptions, but looking at the Secretary of State's audit and the point that the individual public employee who's trying to interpret if the exemptions apply tends not to look at the public interest balancing test.

I think subjective terms like 'efficient' – I think a public employee might tend to say 'If this might cost me time and money I might not need to disclose it.' At the same time I like **Attorney General Rosenblum's** suggestion. Leaving out the subjective terms of efficiency and effectiveness. And I like your addition, **Phil**, of public interest, I think that reinforces to public employees who are fulfilling public records requests to remember the public interest.

Michael Kron – So only if the public interest in, what are we going to say? I think we're really close. Only if the public interest in administration in government processes?

Rob Bovett – I'm still struggling with the whole construct. In 192.501, half of the exemptions are keyed off of a public interests test. In 192.502, a public interest test isn't required. Examples

are federally mandated privacy laws, attorney-client privilege. By only having these four, and it says any, so this is an exclusive list, you are going to put arguably a balancing test on my attorney-client privilege.

Michael Kron – I don't think that's it.

Rob Bovett – I think that's the construct of what you have here is sub-two.

Michael Kron – I disagree actually.

Rob Bovett – So where are you going to fit attorney-client privilege in?

Michael Kron – Oh it fits in there. It's not imposing a public interest test, it's telling the legislature to weigh the public interests.

Rob Bovett – But it says the legislative assembly intends that any exemptions from public disclosure requirements serve one or more of the following interests. The court is going to look at that and say, 'Mr. Bovett, you declined that public records request because its attorney-client protected information. But you didn't engage in any public interest balancing test, because clearly you don't fall under A, B, or C.'

Michael Kron – You are certainly welcome to rewrite the introductory language, which I think you're saying is creating the problem, but I think the point here is to say the legislature should be doing.

Rob Bovett – That's not what the sentence says.

Michael Kron – I understand. I think we're trying now to narrow the categories rather than deal with that other issue of how we are addressing the future legislatures.

Rob Bovett – Just to state the inverse, I don't know that I would necessarily support a legislative statement to future legislatures saying there can be no further category of exemption that doesn't require a public interest test.

Michael Kron – That's not what I'm saying either. It's saying the legislature, and we've said this in our manual, in the unconditional exemptions, the legislature has effectively made the public interest determination. And this is not intended to take the legislature's ability to make that determination away.

Rob Bovett – And that's what I'm struggling with, I'm not sure what this is intending to do.

Michael Kron – It's telling them to make that determination actually and specifically, and not just they've done it by passing a law.

Rob Bovett – I guess I'll wait to see what your renewed lead-in language does, because that's not how I read what's written here.

Michael Kron – **Phil**, I think I'm representing correctly what your intent was with suggesting your language, is that right?

Phil Lemman – I just think the reason we are concerned about administration of government services is there is a public interest in doing that. I wasn't thinking that it requires a public interest balancing test. My bias is to explain what it is we are doing and why, and there's a public interest in having safeguards and procedures that might interfere with the absolute efficiency, but they contribute to the effectiveness because they promote public confidence. Some addition of public interest in administration was as far as I had thought.

Ellen Rosenblum – Would it be possible to have a separate section that would addresses **Rob's** concern? I happen to share his concern that as soon as you put the words 'public interest' into the category that includes attorney-client privilege, other types of privileges where you aren't required to consider the public interest in the same way, it's confusing. Even if it's not intended that way, it comes across that way. How about just adding a section for that category that really doesn't fit in the balancing?

Senator Beyer – I agree with the **Attorney General** and **Rob**. If this becomes the intro paragraph to the law, and you're trying to adjudicate a claim, that's where you look first. It almost strikes me that we need to add to the ABC. One is where it's prescribed by federal law, and I think specifically calling out attorney-client privilege makes sense.

Josh Nasbe – There is also a deliberative process privilege that's important to the Judicial Department. As you're doing this, I encourage you to look at 502.9A – information made confidential or restricted. I like the language there. It talks about privileges, confidential information. You might want to look at that as you construct this. I don't have a problem calling out the attorney-client privilege, that's just not the only privilege that we should worry about.

Rob Bovett – That's just one example of many that don't require the public interest balancing test for a variety of reasons.

Robert Taylor – What strikes me about D, I come at it from the other angle, which is if that is going to be one of the things we by which we test all of these hundreds of exemptions, it feels too broad to me. Even if as we try and wordsmith it, it still feels very broad. You could make a case that all 443 fall somewhere in that efficient administration consistent with the public interest. I would rather than try and find something broad you can fit privilege and everything else under, we might break it out. A new D and maybe an E or an F.

We want to protect the government as a buyer-seller client in a transactional matter. That folds in this whole idea of if you're buying property you don't want to tell what your maximum price is; if I'm a client in a case my attorney-client privilege is sacred. That's the governmental interest that you're trying to protect in those exemptions and I think everyone agrees that those are worthwhile. So I would almost narrow that, and then if we have to come up with a couple of other categories as your additions, I would do that.

Michael Kron – Buyer/seller, attorney-client?

Robert Taylor – buyer/seller client or judicial officer.

Michael Kron – This seems like a clever way of addressing a lot of this. Because the concern I had about the direction of reintroducing the language of 502.9A I feel like then we haven't really done anything, we've just moved that broad, catchall language up into the policy statement.

But I think that's very concrete. What are the government interests that we're really talking about? Buying and selling, transacting in general, giving legal advice.

Senator Beyer – You've got to be careful about that though. On one hand you want to protect the governmental interest in doing that. But at some point you don't want that to be a cover up.

Phil Lemman – When it's the public interest in its government, not the government's interest. You're creating a separate entity that has its own interest called government. To me that is one of the balancing public interests. Not to dive into whether this all requires a test, but when you said the government's interest, that just kind of struck me and I would look at it a little differently.

Michael Kron – So to protect the public by ensuring its government can effectively…

Phil Lemman – I don't know how different that is really than the effective administration.

Michael Kron – I think the idea is to be more specific about the administrative interests. I like that idea. The problem with it is it's hard to be specific.

Phil Lemman – We can also just make it 'including', and give some examples. These are general categories rather than a narrow listing.

Jeb Bladine – The public interest applies to all four of these equally, not just to that one. If you're going to public interest in here, it kind of begs to deal with it separately to say that the public interest applies to most exemptions except where it doesn't. Maybe there's a lead in to the fact that 502 has become at catch-all for things that really ought to be in 501. It might be that having a discussion of public interest or no public interest has some place in this policy; but that it would apply to all of these categories.

Michael Kron – I'm still trying to figure out what the categories are. We agreed on two.

Josh Nasbe – Was it **Senator Beyer** who suggested we sort of work through the exemptions and then reverse engineer? I suspect going through these 443, we might come up with a fifth or sixth box.

Michael Kron – For now maybe leave it as the governmental catch all, we take a look at what lands in there and what we like and we don't, and try and divine principles from that exercise.

Senator Beyer – I think we need to get into the details and that will come back and define this a little bit morel

Rob Bovett – I think once we go through the exemptions and divine principles after we've done the hard work. Every time we recraft the language, all I'm doing in my brain is going back 25 years of being a municipal attorney. Anything you come up with is going to be missing something to me.

Michael Kron – I've made my way through about a quarter of the exemptions, cataloguing them as I think they should be cataloged. I don't think I can do it by myself. I'm not sure if everyone at this table wants to be involved in that.

Senator Beyer – What did you just ask? To catalogue these exemptions into one of these four areas, or are we going to as a group or subgroups review the exemptions and come up with a…

Michael Kron – We could try and do them all as a big group. I think we need one or more subgroups to do it as a practical matter. That's what I was hoping to get volunteers for. **Scott**?

Scott Winkles – Yeah, I'll take a slice.

Michael Kron – And I think **Jeb**, and **Betty**, and **Dave**.

Ellen Rosenblum – **Robert** just volunteered.

Michael Kron – **Robert**, and **John**, was that a hand? Okay, **Scott**, **Michael**, **Jeb**, **Betty**, **Dave**, and **Robert**.

Senator Beyer – And what are you going to do?

Michael Kron – We are going to look at them all and tell you where we think they fit.

Senator Beyer – Are we going to talk about whether they should be an exemption going forward or not?

Michael Kron – We are going to talk about what we don't like. We will give you nice reports.

Robert Taylor – Of the 443, you will break it up, and everyone gets like 50, and we go through, and in my opinion, these ones go in A and these ones go in B? And then we give them back to the group, and then maybe the next meeting we go through all of them?

Michael Kron – I think we'll want to meet in the meantime. I think we should each do 50-some and then we should get together and talk as a smaller group about what we've done.

Ellen Rosenblum – So when we are meeting as subgroups would it make sense to also discuss if we think they should be removed or are we just categorizing them?

Michael Kron – No I think it would make sense to do both. I think we want to come back with recommendations unless you guys don't want to know what we think.

Senator Beyer – An alternative might be that your workgroup take a chunk of them at a time and then the full group gets together to hear what you have to say about that group.

Michael Kron – What would you prefer as a larger group?

Scott Winkels – I like the **Senator's** idea.

Ellen Rosenblum – I like the **Senator's** idea too.

Michael Kron – I really like the idea of making public bodies tell the public as part of their public records policy what exemptions that they may not be aware of, that come up a lot in that public body's work. Just so you are aware, when you are requesting records from the Department of Justice, a lot of what we have is privileged and/or work product, and you're not going to be able to get it. I don't think that most people necessarily know that. I think a lot of public bodies work with exemptions that are very specific to their work. I think it would be useful additions to their policies.

Phil Lemman – I think we are the exception to that rule. We have everything from law enforcement to adoption to trade secrets to labor negotiations, you name it. I'm not sure it would be a benefit to anybody to know that anybody can file anything with the court.

Michael Kron – Anyone else have categorical agreement or disagreement to that? I feel like it would be a useful addition to the policy. It might be something that the state could sort of trial run and see how it goes.

Scott Winkels – Speaking for the cities, I think we would be willing to let you go first. My concern is that we do get outlier requests and when you do get that request that is an outlier, you have set yourself up for a conflict that maybe didn't need to happen.

Michael Kron – I am going to think about that a little bit. **Gina**, maybe you and I could discuss it. Maybe DOJ could try it and we could see how it goes. The other one I wondered about is a couple of states have immunity for disclosures under the Public Records Act, this is something that was proposed under Kroger's Omnibus Bill that a lot of government people liked, and frankly I think everyone should like it. It's just going to make government more confident in what it's doing.

Mark Landauer – And more likely to release.

Scott Winkels – I think it reduces the cost of some of the requests. You may not use as much of your city attorney's time to process the requests if you have good faith protection.

Michael Kron – Is anyone opposed to that as idea? I am going to say we should do that. Those were really the only things I wanted to talk about on additional organizational improvements, unless any of you have ideas.

Phil Lemman – When an agency or entity responds to a records request, are they required to explain or identify their thoughts on what the interests are and how they balance them?

Michael Kron – Currently I would say no.

Phil Lemman – We talked about fee waivers a little bit, and the ones I've seen when the news media says 'I'm investigating or reporting on behalf of the public, therefore it's in the public interest that I don't have to pay for this.' And that's as far as the discussion goes, and I think on the flipside that's also true. If you're denying accessing to a record under this exemption, and if it goes to a review, it might be helpful and also an educational tool to have that discussion in a denial.

Michael Kron – So if a public body is invoking a conditional exemption, actually require them to explain, at least briefly?

Phil Lemman – Explain that there is a balancing test.

Michael Kron – It would entail a little bit of work. Assuming like other things in the public records law, you could add to it at the review stage. Under the current law, you can even add new exemption claims when you get to court. It doesn't seem like it would add that much. That's and interesting item for discussion.

Jeb Bladine – I'm interested in where things are going with Governor's legislation to come and that process – whether there's going to be an Ombudsman proposal, whether there's going to be a proposal for a committee like some states have to continue review, whether there's going to be sunset. And whether this this task force has any designated roll in that?

Michael Kron – It wasn't on the radar when I put this group together. **Gina**, do you want to talk about that at all? **Jeb** was wondering about the role of the task force with respect to the Ombudsman proposal and wanting an update.

Gina Zejdlik – I have been gathering information about how to structure this, and I think we have at least the beginnings of a way to start. But once we have our idea solidified more I would love feedback from this group. Maybe it will be more pulled together in January.

Senator Beyer – To **Jeb's** point, I thought that we were more on the revisions that were going to become part of the **Attorney General's** proposal in 2017. My assumption is that you and the Governor are talking, although not necessarily agreeing.

Ellen Rosenblum – I think that can be assumed, although I did talk to **Michael** about whether we should have that on this agenda, and we decided that at least for right now, we're not quite prepared to have it as a discussion item today, because there's some work that's still being done.

However, I am very interested in supporting the Governor on this proposal. If it's something that the committee wants to take a position on, I would be happy to have it on the agenda next time. But I want to give **Gina** and the Governor time to be ready to ask us to do that, and I hadn't gotten that request yet.

Representative Huffman – I think it's beneficial to have it on a future agenda so that we know. I've had questions about how the Ombudsman would work and how they would in relationship to your office. Would there be overlap? Or would your structure change because of the Ombudsman? I would just like to know how that would work.

Ellen Rosenblum – I didn't want to make any presumptions about that at this point. I have indicated to the Governor that I wouldn't see it as something that would need to be in the Department of Justice, given the role that we have. I didn't have the impression that there would be a change in our role as a result of this, but that it would enhance and be an addition. And an opportunity to resolve cases sooner that we currently can and thereby dealing with some of the issues we are dealing with as a taskforce, the timeliness in particular, and the cost.

Betty Reynolds – In considering recommendations regarding fees and waivers and timelines: If you could keep in mind the impact on local governments, I'm thinking of our 197 school districts – no one is working in the summers. So just bear in mind that employees who are fulfilling requests go beyond just state agencies.

Senator Beyer – Even beyond that, think of the special districts that are out there that may not have any staff.

Michael Kron – I think fees and costs is a future agenda item. It might compliment nicely with about 50 or 60 exemptions for the small group to report on it. Do you want me to put that on the agenda and see if we get to it? I would suggest we start with the audit report.

Other thing on our agenda today is to talk about taking public testimony, it's actually really important. I am thinking after our next meeting would be the right time to do that. We might have a more polished statement. Or before would be good too. My boss suggested January 13. I don't think these are things that any of you need to attend. I don't think we need to have formal events. I think we need public input, and I would like to have some formal events. There is no reason why any of you couldn't be out talking to people if there are people you know who would want to provide input.

Is there anyone that would be interested in joining the **Attorney General** and I on an actual, official, public testimony type event?

Representative Huffman – I would be happy to sit in and participate. I was thinking connect with leg days maybe.

Ellen Rosenblum – End of day? Something like 4 to 6 to give people a chance to come after work if need be.

Representative Huffman – And easier to get a hearing room later, maybe.

Michael Kron – Who would be interested in participating in that?

Scott Winkels – Of course depending where and when.

Rob Bovett – I noticed a lot of the interim committees are meeting from 2-5, so I don't know if they plan on getting out early, or shortening it up, but a lot of us are going to be in the building until 5:00 with other obligations. So I would be happy to join you at 5 wherever you want.

Ellen Rosenblum – We could start at 5. A lot of people would like to come before 5, so we can split it. Would that be okay? We could start at 4:30, or something like that.

Les Zaitz – Some of us can hold informal sessions, particularly for the rural eastern part of the state, just to solicit comment. I don't know how we can construct that in a way that comports with all the requirements, but something less than a formal hearing.

Michael Kron – There are two things we would want to do: Provide public notice in a way that's meaningful, and take notes.

Ellen Rosenblum – I love the idea of having outreach to your part of the state and to others.

Jeb Bladine – What's the focus of the public testimony?

Ellen Rosenblum – I think we would want to pose some questions, so people can be thinking about what some constructive input would look like.

Jeb Bladine – But wide open in terms of the public records law?

Ellen Rosenblum – Yeah.

Representative Huffman – It would be good to encourage those to come who have had frustrations and challenges, at least in their mind or perception that they're not getting information they feel they should. It would be interesting to hear what those are as it feeds into looking at the 443 exemptions. Start weighing out do we have problems; how big are the problems?

Michael Kron – I think I opened the first meeting with a letter from a woman expressing disbelief that she had been unable to get a contract under which a former public employee was paid by the county, neither how much nor for what. I think we would hear stories for sure.

Ellen Rosenblum – It would be nice to give the opportunity if they can't make it in person to give testimony in writing and make it a record here. Give them a number of different options.

Michael Kron – was just talking to IS today. There is going to be an email address for people to write to this task force. I will happily compile them. That will be posted on the same website

where information about these meetings is posted. I think we got mostly to everything on our agenda today. I appreciate the extent that everyone participated. We made a lot of progress and I'm excited to come back with a policy statement and will in touch with the smaller group about the exemptions.

Ellen Rosenblum – Happy holidays, everyone. Enjoy the season.

Michael Kron adjourns meeting.