
From: Foltz Andrew
Sent: Friday, September 07, 2018 12:29 PM
To: Kron Michael C; 'HERKERT Mary E * SOS (Mary.E.HERKERT@oregon.gov)'; 'Emily Matasar'; 'Selena Deckelmann (selenamarie@gmail.com)'; 'smith.morgan@co.polk.or.us'; 'Karin Johnson'; 'eileen@eakinslaw.com'; 'Adrienne Roark (Adrienne.Roark@kptv.com)'; 'bwalth@uoregon.edu'; 'Charlie Fisher (cfisher@ospirg.org)'; 'Rep.KarinPower@oregonlegislature.gov'; 'rep.carlwilson@oregonlegislature.gov'; 'Sen.BrianBoquist@oregonlegislature.gov'; 'Sen.FloydProzanski@OregonLegislature.gov'; MILES Cameron; 'Bennett Hall'
Cc: Nguyen Ally; Altenhofen Martin
Subject: Public Records Exemption Summaries for October Meeting
Attachments: Exemption Summaries (10-3-2018).pdf

Sunshine Committee Members,

At the Committee's direction, the scope of the current review was broadened to include exemptions that deal with social security numbers (SSNs). These supplement the exemption summaries previously provided to you, which are available at: https://www.doj.state.or.us/wp-content/uploads/2018/05/OSC_2018-05-16_Exemption_Summaries.pdf. Attached are summaries of 10 additional exemptions for your review including:

Exemptions relating to SSNs in the context of divorce:

- ORS 107.840 -- SSNs of parties to divorce actions in court records
- ORS 192.345(28) -- SSNs of parties to divorce actions in court records
- ORS 432.360 -- SSNs of parties to divorce actions in county records

Exemptions relating to SSNs of students:

- ORS 350.278 -- SSNs of college students
- ORS 350.280 -- SSNs of community college students

Exemptions relating to personal information contained in motor vehicle records:

- ORS 802.177 -- personal information contained in motor vehicle records
- ORS 802.181 -- redisclosure of information contained in motor vehicle records
- ORS 802.195 -- SSNs in motor vehicle records

Miscellaneous:

- ORS 192.355(23) -- contact information of library patrons
- ORS 192.355(28) -- personal and contact information of public utility customers

Please let me know if you have any questions.

Best Regards,

Andy

Andrew C. Foltz

Senior Assistant Attorney General | Public Records Counsel | General Counsel Division Oregon Department of Justice

1162 Court Street NE, Salem OR 97301-4096

503.947.4540

andrew.foltz@doj.state.or.us

Exemption Statute and Title: [ORS 107.840](#) Confidentiality of Social Security Numbers

Summary: Directs the State Court Administrator to adopt procedures to keep confidential the social security numbers of parties in actions for divorce or summary dissolution. Incorporated into Oregon PRL through [ORS 192.355\(9\)](#) (disclosure prohibited or restricted under Oregon law). Also incorporated directly into Oregon PRL through [ORS 192.345\(28\)](#). Also see [ORS 432.360](#) (exempting the same information contained in county records).

Relevant Text:

- (1) The State Court Administrator shall establish a procedure applicable to every court in this state that ensures that the Social Security numbers of parties to a proceeding under [ORS 107.085](#) or [107.485](#) are kept confidential and exempt from public inspection.
- (2) The procedure established under this section must:
 - (a) Require that Social Security numbers be listed on a separate paper attached to an affidavit or a declaration under penalty of perjury in the form required by ORCP 1 E, executed by the person providing the Social Security number, certifying that the Social Security number is correct;
 - (b) Ensure that the Social Security numbers are provided to or made accessible to the entities primarily responsible for providing support enforcement services under [ORS 25.080](#) (Entity primarily responsible for support enforcement services); and
 - (c) Comply with the requirements of 42 U.S.C. 666 relating to provision of Social Security numbers.

Key Terms & Definitions: N/A.

Enumerated Exceptions or Public Interest Balancing Test? No. But note that it is incorporated as a conditional exemption subject to balancing in [ORS 192.345\(28\)](#).

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 192.345\(28\)](#) Public records conditionally exempt from disclosure.

Summary: Conditionally exempts from disclosure the social security numbers of the parties in actions for divorce or summary dissolution. Incorporated directly into Oregon PRL. Also see [ORS 107.840](#) (expressly exempts the same information) and [ORS 432.360](#) (expressly exempts same information in county records).

Relevant Text:

The following public records are exempt from disclosure under [ORS 192.311](#) to [192.478](#) unless the public interest requires disclosure in the particular instance:

(28) Social Security numbers as provided in [ORS 107.840](#).

Key Terms & Definitions: N/A.

Enumerated Exceptions or Public Interest Balancing Test? Yes – public interest balancing test. Note, however, that [ORS 107.840](#) itself does not require balancing.

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 432.360](#) Records of dissolution of marriage and dissolution of domestic partnership subject to full disclosure

Summary: Expressly exempts from disclosure the social security numbers of parties in actions for divorce or summary dissolution that are contained in county records. Exception to the general rule that records of marriage and divorce are subject to full disclosure. Incorporated into Oregon PRL through [ORS 192.355\(9\)](#) (disclosure prohibited or restricted under Oregon law). Also see [ORS 107.840](#) (expressly exempts the same information in court records) and [ORS 192.345\(28\)](#) (conditionally exempts the same information court records)

Relevant Text:

(1) Except as provided in subsection (2) of this section, notwithstanding any other provision of law, all marriage and domestic partnership records and all records of dissolution of marriage and dissolution of domestic partnership in the custody of a county clerk or county recording officer and all records of dissolution of marriage and dissolution of domestic partnership in the custody of the state courts are open and subject to full disclosure.

(2) Records of dissolution of marriage and dissolution of domestic partnership in the custody of the state courts shall be completed and maintained in accordance with procedures established under [ORS 107.840](#) to ensure that the Social Security numbers of parties to proceedings under [ORS 107.085](#) and [107.485](#) are kept confidential and exempt from public inspection.

Key Terms & Definitions: N/A.

Enumerated Exceptions or Public Interest Balancing Test? No. But note that the same information is only conditionally exempt under [ORS 192.345\(28\)](#).

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 350.278](#) Disclosure of Social Security number of student attending public university. [formerly ORS 326.587]

Summary: Exempts from disclosure the social security numbers of students attending public universities. Incorporated into Oregon PRL through [ORS 192.355\(9\)](#) (disclosure prohibited or restricted under Oregon law).

Relevant Text:

- (1) A public university listed in [ORS 352.002](#) may not disclose the Social Security number of a student who is attending the public university.
- (2) Subsection (1) of this section does not apply if the public university discloses the Social Security number:
 - (a) At the request of a law enforcement agency or an agency providing support enforcement services under [ORS 25.080](#);
 - (b) After obtaining written permission for the disclosure from the student to whom the number refers;
 - (c) In the payment of wages or benefits;
 - (d) In the payment or collection of taxes or of a debt owed by the student to whom the number refers;
 - (e) For purposes of statistical analysis; or
 - (f) As otherwise required by law.

Key Terms & Definitions:

-[ORS 352.002](#) defines public universities as:

- UofO
- OSU
- PSU
- OIT
- Eastern, Western and Southern Oregon Universities

Enumerated Exceptions or Public Interest Balancing Test? Yes – limited exceptions for official use (enumerated above).

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 350.280](#) Disclosure of Social Security number of community college student. [formerly ORS 326.589]

Summary: Exempts from disclosure the social security numbers of students attending a community college. Incorporated into Oregon PRL through [ORS 192.355\(9\)](#) (disclosure prohibited or restricted under Oregon law).

Relevant Text:

- (1) A community college as defined in [ORS 341.005](#) may not disclose the Social Security number of a student who is attending the college.
- (2) Subsection (1) of this section does not apply if the college discloses the Social Security number:
 - (a) At the request of a law enforcement agency or an agency providing support enforcement services under [ORS 25.080](#);
 - (b) After obtaining written permission for the disclosure from the student to whom the number refers;
 - (c) In the payment of wages or benefits;
 - (d) In the payment or collection of taxes or of a debt owed by the student to whom the number refers; or
 - (e) For purposes of statistical analysis.

Key Terms & Definitions: N/A.

Enumerated Exceptions or Public Interest Balancing Test? Yes – limited exceptions for official use (enumerated above).

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: [ORS 802.177](#) Prohibition on release of personal information from motor vehicle records.

Summary: Generally prohibits anyone working for the Department of Transportation from disclosing “personal information” obtained in connection with a motor vehicle record. Incorporated into Oregon PRL through [ORS 192.355\(9\)](#) (disclosure prohibited or restricted under Oregon law). Also see [ORS 802.181](#) (redisclosure by authorized recipients of personal information from motor vehicle records) and [ORS 802.195](#) (prohibits disclosure of social security numbers obtained in connection with motor vehicle record).

Relevant Text:

Except as otherwise provided in [ORS 802.179](#), neither the Department of Transportation nor any officer, employee or contractor of the department may knowingly disclose or otherwise make available to any person personal information about an individual that is obtained by the department in connection with a motor vehicle record.

Key Terms & Definitions:

-“Motor vehicle record” means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.

-“Personal information” means the following information that identifies an individual:

- (a) Driver license, driver permit or identification card number;
- (b) Name;
- (c) Address (excluding five-digit zip code); and
- (d) Telephone number.

Enumerated Exceptions or Public Interest Balancing Test? Yes – 19 broad exceptions enumerated in [ORS 802.179](#) (e.g., to other government agencies for use in carrying out other agency’s functions; for use in connection with vehicle-related matters; to insurers; to lien holders; with individual’s consent).

Cited in Court Cases, AG Opinions and/or Public Records Orders? Yes.

-[PRO Edelman \(10/30/2002\)](#) (addresses of individuals on a mailing list were exempt where addresses were derived from individuals’ motor vehicle records)

-[PRO Jacobsen \(3/22/2006\)](#) (mailing addresses associated with licensed recreational vehicles (RVs) in RV parks were generally exempt)

-[PRO White \(4/29/2008\)](#) (petitioner not entitled to physician's address contained in petitioner's motor vehicle record where physician submitted Mandatory Impairment Referral)

-[PRO Ferguson \(6/16/2008\)](#) (petitioner not entitled to unredacted copy of a vehicle title containing a third party's personal information)

-[PRO Peterson \(10/7/2013\)](#) (because police reports submitted to DMV were deemed to be motor vehicle records, personal information contained in those reports was exempt)

Exemption Statute and Title: [ORS 802.181](#) Redisclosure by authorized recipients of personal information from motor vehicle records.

Summary: Restricts the redisclosure of personal information disclosed under [ORS 802.179](#)'s exceptions to [ORS 802.177](#). Incorporated into Oregon PRL through [ORS 192.355\(9\)](#) (disclosure prohibited or restricted under Oregon law).

Relevant Text:

- (1) Except as otherwise provided in subsections (2) to (5) of this section, a person or government agency that is authorized under [ORS 802.179](#) to receive personal information from motor vehicle records may resell or redisclose the information only:
 - (a) To a person or government agency authorized to receive the information under [ORS 802.179](#) and only if the person or government agency is authorized by the Department of Transportation to receive the resold or redisclosed information; and
 - (b) For purposes authorized under [ORS 802.179](#).
- (2) A researcher who receives personal information under [ORS 802.179\(5\)](#) may not resell or redisclose the information except as provided in [ORS 802.179\(5\)](#).
- (3) A person who receives personal information under [ORS 802.179\(11\)](#) may not resell or redisclose the information except as provided in [ORS 802.179\(11\)](#).
- (4) A representative of the news media who receives personal information under [ORS 802.179\(14\)](#) may not resell or redisclose the information except as provided in [ORS 802.179\(14\)](#).
- (5) No one who receives personal information from the department under [ORS 802.179](#) may sell or redisclose the information to a person who is in the business of disseminating the information.
- (6) A person who resells or rediscloses personal information as authorized by this section, other than a representative of the news media, must keep records for a period of five years that identify each person who receives the information and the permitted purpose for which the person received the information. Records kept in accordance with this subsection must be made available to the department on request.
- (7) A procurement organization that receives personal information as authorized by [ORS 802.179\(19\)](#) may not resell or redisclose the information.
- (8) The State of Oregon is immune from liability for any claim resulting from the resale or redisclosure of personal information under this section.

Key Terms & Definitions:

-“Motor vehicle record” means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.

-“Personal information” means the following information that identifies an individual:

- (a) Driver license, driver permit or identification card number;
- (b) Name;
- (c) Address (excluding five-digit zip code); and
- (d) Telephone number.

Enumerated Exceptions or Public Interest Balancing Test? Yes – redisclosure generally subject to the same 19 broad exceptions enumerated in [ORS 802.179](#) (e.g., to other government agencies for use in carrying out other agency’s functions; for use in connection with vehicle-related matters; to insurers; to lien holders; with individual’s consent).

Cited in Court Cases, AG Opinions and/or Public Records Orders? Yes.

-[PRO Schneiderman](#) (2/9/2000) (state police authorized to redisclose requested information to the subject of the records)

-[PRO Peterson](#) (4/11/2014) (DMV authorized to disclose personal information to state police under ORS 802.177, but ORS 802.181 restricted state police from redisclosing the same information to petitioner)

Exemption Statute and Title: [ORS 802.195](#) Social Security numbers.

Summary: Generally prohibits anyone working for the Department of Transportation from disclosing social security numbers obtained in connection with an individual's motor vehicle record. When disclosure is authorized, the statute restricts subsequent redisclosure by agencies. Incorporated into Oregon PRL through [ORS 192.355\(9\)](#) (disclosure prohibited or restricted under Oregon law). Also see [ORS 802.177](#) (prohibits disclosure of any "personal information" obtained in connection with a motor vehicle record).

Relevant Text:

(2) Neither the Department of Transportation nor any officer, employee or contractor of the department may knowingly disclose or otherwise make available to any person an individual's Social Security number that is obtained by the department in connection with a motor vehicle record.

(3) Notwithstanding subsection (2) of this section, the department may, upon the request of another government agency, or shall, as required by law, disclose an individual's Social Security number from a motor vehicle record to the other agency for use in carrying out the other agency's governmental functions.

(4) An Oregon government agency that receives an individual's Social Security number under subsection (3) of this section may not redisclose the Social Security number except as required by law. An Oregon government agency that rediscloses a Social Security number as authorized by this subsection shall keep for five years records that identify each other government agency that receives the Social Security number. Records kept in accordance with this subsection must be made available to the department upon request.

Key Terms & Definitions:

-“Motor vehicle record” means any record that pertains to a grant of driving privileges, an identification card issued by the Department of Transportation, a vehicle title or a vehicle registration.

Enumerated Exceptions or Public Interest Balancing Test? Yes – permitted to disclose SSNs to other government agencies for use in carrying out other agency's functions, or as required by law.

Cited in Court Cases, AG Opinions and/or Public Records Orders? Yes.

-[PRO Ferguson](#) (6/16/2008) (petitioner not entitled to unredacted copy of a vehicle title containing a third party's personal information)

Exemption Statute and Title: ORS 192.355(23) Public records exempt from disclosure.

Summary: Expressly prohibits disclosure of library records containing patron personal and contact information. Incorporated directly into Oregon PRL.

Relevant Text:

The following public records are exempt from disclosure under ORS 192.311 to 192.478:

(23) The records of a library, including:

(a) Circulation records, showing use of specific library material by a named person;

(b) The name of a library patron together with the address or telephone number of the patron; and

(c) The electronic mail address of a patron.

Key Terms & Definitions: N/A.

Enumerated Exceptions or Public Interest Balancing Test? No.

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.

Exemption Statute and Title: ORS 192.355(28) Public records exempt from disclosure.

Summary: Exempts “personally identifiable information” about electric utility customers, and the names, dates of birth, driver license numbers, telephone numbers, e-mail addresses or social security numbers of customers who receive water, sewer or storm drain services from a public body. Incorporated directly into Oregon PRL.

Relevant Text:

The following public records are exempt from disclosure under ORS 192.311 to 192.478:

(28) Personally identifiable information about customers of a municipal electric utility or a people’s utility district or the names, dates of birth, driver license numbers, telephone numbers, electronic mail addresses or Social Security numbers of customers who receive water, sewer or storm drain services from a public body as defined in ORS 174.109. The utility or district may release personally identifiable information about a customer, and a public body providing water, sewer or storm drain services may release the name, date of birth, driver license number, telephone number, electronic mail address or Social Security number of a customer, if the customer consents in writing or electronically, if the disclosure is necessary for the utility, district or other public body to render services to the customer, if the disclosure is required pursuant to a court order or if the disclosure is otherwise required by federal or state law. The utility, district or other public body may charge as appropriate for the costs of providing such information. The utility, district or other public body may make customer records available to third party credit agencies on a regular basis in connection with the establishment and management of customer accounts or in the event such accounts are delinquent.

Key Terms & Definitions: N/A.

-Note that “personally identifiable information” is not defined in this subsection.

Enumerated Exceptions or Public Interest Balancing Test? Yes – limited enumerated exceptions (e.g., disclosure with consent, as required by law, as necessary to serve customers).

Cited in Court Cases, AG Opinions and/or Public Records Orders? No.