

**January 29, 2020**

**Location: Oregon State Capitol, Hearing Rm 343, 900 Court St. NE, Salem, OR 97301  
Sunshine Committee Members**

Michael Kron, Special Counsel, Oregon Department of Justice / Chair  
Emily Matasar, Government Accountability Attorney, Governor's Office / Vice Chair (by phone)  
Bennett Hall, Newspaper Publishers Association  
Charlie Fisher, OSPIRG State Director  
Morgan Smith, Polk County Counsel  
Brent Walth, Journalism Professor, University of Oregon (by phone)

**Guests**

Andy Foltz, Public Records Counsel, Department of Justice  
Cameron Miles, Office of Legislative Counsel  
Leslie \_\_\_\_\_ (last name and organization?)  
Todd Albert (Deputy Public Records Advocate)  
Kaylee (spelling?) Klein, Attorney General's Office, Department of Justice

**Agenda**

**AUDIO STREAM 0:00:00-01:19:43**

Welcome and Introductions

**Agenda Item #1 - Family Law Exemptions**

**Chair Kron** solicited input surrounding this topic from the list of stakeholders that was generated in a previous meeting. However, to date, there's been a lack of stakeholder input. **Chair Kron** reiterates how the Committee was on the verge of a recommendation that would have mirrored some other exemptions, in that, there is not a compelling reason to change law; except it would be more efficient if exemptions were clearer, kept in the Public Records Law, and if redundancies could be eliminated/combined.

**Mr. Hall** expresses frustration with the way the public records interest test is interpreted by people who are custodians of records. He wonders if they need guidance from AG on how conditional exemptions should be weighed in the request of disclosure. Provides an example of a recent public records request to the medical examiner's office seeking a report from the death of county employee who was killed on the job, decedent has no privacy, and request was denied. Encourages reviewing how the public interest test plays out in the real world.

**Chair Kron** states that due to a lack of public participation, he has curiosity in refining the mission statement of the Sunshine Committee, questions what could be recommended to the legislature, that will help committee members stay engaged to provide good policy. **Chair Kron** inquired to policy team in AG's office about outreach to Stakeholders and ways to encourage involvement and was unsuccessful in obtaining substantive recommendations.

**Chair Kron** explains familiarity with complaints surrounding the public interest test: where one side says it's interpreted too narrowly, and the Government side is unclear on how it's supposed to work / doesn't necessarily support the discretion this authorizes.

**Mr. Fisher** says public interest test should be expanded to include more exemptions but doesn't feel it should be revised for every kind of exemption. **Chair Kron** explains this could increase volume of public comments for AG's office / transactional costs, as the resolver of these issues.

**Mr. Fisher** encourages some conditional exemptions within the exemptions because some topics are out of his area of expertise. Finds it difficult to make recommendations based on this and without any support from stakeholders.

**Chair Kron** states that attaching a public interest blanket test, could create difficulty, and he's not sure if he would support that. **Mr. Hall** expresses he would support that because it's hard to predict every scenario.

**Mr. Fisher** shares personal comments made on: ORS 25.2609(2) – Confidentiality of Records in Child Support Program

1. Doesn't know what goes into exceptions in this area of law.
2. Potentially should be access to redacted bulk child support record. Could be public interest in some circumstances.
3. Are there cities, counties, state agencies, more vulnerable than others?

**Chair Kron** to contact Child Support Division to discuss what data is available and Federal constraints that come into play, especially for confidentiality requirements.

**Mr. Foltz** shares he needs to review the statute for exceptions to see if this statute or another statute covers the bulk automated data.

**Chair Kron** to draft up written recommendations on family law exemptions to vote on at next meeting. Including, adding two specific recommendations: 1) Child Support – disidentified data should be available; 2) DHS Statute should be re-visited

**Chair Kron:** ORS 418.250 – gives broad authority to collect information and make it completely off-limits. How are they using this authority and what kind of worms would be uncanned if a recommendation is made that legislature re-visit this? What information is DHS collecting under this authority since certain information is confidential.

Including language that exemptions should ensure that identified aggregate data is available. As long as it's not personally identifiable, it should be available. **Chair Kron** likes idea of having more specific recommendations. The committee sees good reason to protect the privacy in children in foster care, and anything that does more than necessary to protect their privacy, should be revisited.

**Mr. Fisher** to put together a mock public records request.

**Ms. Matasar** to obtain a DHS Representative to speak to committee about powers.

Bulk data was sort of a “distraction”

**Agenda Item #4 – Future Business**

Member discussion for next meeting to add another item to May agenda, including one non-exemption review task. Prepping exemption review work with more active topics to keep individuals engaged.

February meeting will be based on the Legislative Subcommittee deciding if there are merits worth discussing. For March, hoping to incorporate public bodies in discussions.

**Mr. Hall** is looking for health record exemptions surrounding more patient care and outcomes.

Adjournment