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| <p align="center">September 17, 2025 Location: Department of Justice Sunshine Committee Members</p> |
| <p>Charlie Fisher, OSPIRG State Director, Committee Co-Chair Morgan Smith, Polk County Counsel / Co-chair Cameron Miles, Government Accountability Attorney, Governor's Office Emily Cureton, OPB Central Oregon Bureau Chief Alex Downing, City Recorder for Corvallis Leslie Wu, Policy Advisor, Office of Attorney General Dan Rayfield Stephanie Clark, State Archivist Elliot Njus, Editor, The Oregonian Mark Landauer, Lobbyist, Special Districts Association of Oregon</p> |
| <p align="center">Guests</p> |
| <p>David Pitcher, Public Records Counsel, Department of Justice Kate Wilkinson Sam Dupree, Senior Assistant General Counsel, Oregon Judicial Department</p> |
| <p align="center">Agenda</p> |
| <p align="center">AUDIO STREAM 0:00:00-0.5</p> |
| <p><u>First Agenda Item – Call to order, welcome, introductions</u></p> <p>Committee members introduced themselves for the in-person meeting.</p> |
| <p><u>Second Agenda Item: Review/Approve Minutes</u></p> <p>Mr. Landauer moved to approve minutes. Ms. Wu seconded the motion. All were in favor. Motion passed 9-0.</p> |
| <p><u>Third Agenda Item: Report from the Special Project Subcommittee</u></p> <p>Co-Chair Smith reported that Mr. Njus, Ms. Downing and Mr. Miles were present. Co-Chair Smith said they failed at coming together with a cohesive recommendation. They discussed the judicial fitness and judicial conduct exemptions. He said he didn't think there was any incentive to change the physical disability exemptions, but most of it was related to judicial misconduct. They were joined by the executive director of the Commission for Judicial Fitness, who was very helpful. The subcommittee developed two options, no change, or all investigatory materials gathered as part of the inquiry into judicial misconduct would become public, based on whether the complaint was founded. A third path would be similar to what the bar association does.</p> <p>Co-Chair Smith said that the subcommittee recognized that it is a tough balance. The commission gets a large number of complaints, largely from self-represented litigants in family law proceedings, for very little merit. He said one full-time staff person reviews complaints. For more significant complaints, they hire outside counsel. He said they also discussed the public access to the actual complaints themselves and the names of the complainants. The complainants were a mixed bag of individuals. There was a strong suggestion from Ms. Mortimer with the Commission for Judicial Fitness that complainants wouldn't want their information made public, so that was why the subcommittee couldn't come to a consensus.</p> <p>Ms. Cureton said that she would argue that the status quo is pretty concerning, as you have some of the most powerful people in government about whom complaints are funneled</p> |

through one staff member, who by their own admission is fielding 300 complaints a year. But there is no transparency around those complaints, which doesn't give the public a chance to understand if the release system is working, she said. She said she hears the concerns about a chilling effect, but she said she didn't understand why judges should be held to a different standard than attorneys. **Ms. Cureton** said she thought it was a big problem that judges facing investigation will resign or retire rather than face a hearing of some kind that would bring the issue to light.

Co-Chair Smith said Ms. Mortimer was a one-employee state agency.

Ms. Wu said that elected officials should have a thick skin, but she was concerned about the chilling effect on the complainant versus the public interest, as in the case of sexual assault allegations.

Co-Chair Smith also had concerns that people wouldn't complain because of their desire for privacy or fear of retaliation if their identities were made public.

Ms. Cureton said the process seems very different than even for police officers or attorneys, positions with less power who aren't elected but who have less power and are in similar fields where this information is available. She wanted to know why judges would merit greater protection.

Co-Chair Smith said that putting aside the complaint of privacy, everything else could be made public.

Ms. Clark said that the committee is looking at this from an accessibility standpoint, but they should also look at what is actually feasible or practical. If they were to recommend changes, would there also be resources for the one-person state agency to respond to those?

Mr. Landauer said he didn't know if he was in agreement that all complaints needed to be made public. He said there are clearly a majority of complaints that are non-meritorious, and he didn't know what the public interest was in those. But if a judge has violated a code of ethics, he said he had no problem making those public. He felt judges should be treated similarly to police officers in the disciplinary process. He said he would be interested in having more discussion about those instances where a judge resigns before an investigation goes to hearing. He said he would like to see that be more consistent with how police officers are dealt with.

Ms. Cureton said that's why there would be a public interest balancing test.

Co-Chair Fisher said that the public would want to know about non-meritorious complaints just to know if the process is working.

Ms. Wu said that it brings up an interesting situation where she was imagining a judge running for re-election and there was a person lodging non-meritorious complaints over and over, which could be used to affect the outcome of the election.

Mr. Landauer said that if a public employee gets into trouble and that person's behavior merited some type of employer action, those are the complaints that are made available to the public. If there was no disciplinary action, then the complaint wouldn't be made public.

Mr. Miles said that he had another concern beyond an election. If a judge was seen as tough on crime, people could file non-meritorious complaints against him and defense attorneys could use that as a reason for the judge to be recused from cases. He didn't like the idea that people could use the process to target judges they don't like. His concern was also protecting whistleblowers.

Ms. Wu said one thing she is hearing from the group is that it was problematic for judges to resign to get out of public accountability.

Ms. Cureton said she wanted to stress that the decision about what is and is not meritorious being made by one staff person was an inhuman standard.

Co-Chair Fisher said he thought the group was in agreement that the situation where a judge steps down to prevent information being made public should change. Second is when discipline wasn't deemed necessary, how should those be dealt with?

Mr. Miles said he would be careful about the language they are using. Non-meritorious and unproven are different and should be treated differently, he said. He again reiterated that whistleblowers, such as court staff or defense attorneys, should be confidential.

Co-Chair Fisher said that the complainant should be allowed to indicate that they want to remain confidential.

Mr. Landauer said that he could support the release of non-meritorious records as long as they protected the complainant.

Co-Chair Smith said the recommendation should read, "Documents currently exempt from public disclosure should be conditionally exempt. Complaints and investigatory materials related to a judge who resigns or retires shall no longer be exempt from public disclosure. Complainants that wish to remain anonymous should be allowed to do so."

Mr. Njus made a motion to pass the recommendation as stated. **Ms. Cureton** seconded the motion. All were in favor; the motion passed 9-0.

Mr. Landauer questioned whether it was the committee's intent to open records to past judges and not just judges under investigation. **Co-Chair Smith** said that it was a good compromise to allow for an audit of the efficacy of the system. **Mr. Miles** said that if there's not smoke, then no one will ask for their records.

Fourth Agenda Item – Discussion on future processes and results

Co-Chair Fisher said he wanted to have a larger conversation about their effectiveness as a committee and how they can be more effective at getting their recommendations considered by the legislature. He provided an update that their bill passed where they changed the reporting timeline and the committee they report to. He said that's a good step, but he wanted to discuss how they could have more legislative buy-in and input.

Ms. Wu said that the conversations held by the committee are nice because they don't have the same time pressure as the legislature does. As a newer member of the committee, she has been struck by how thoughtful the discussions have been. She said she has also been struck by the broad coalition of backgrounds of people on the committee who have been able to come to a consensus. She suggested reaching out to legislative members of the committee on how the committee can be more helpful.

Mr. Pitcher said they get the invitations to the committee meetings.

Ms. Wu said she is happy to volunteer because she talks to them about other things and she could talk to them more about the committee's work or possibly ask their staff to sit in on committee meetings.

Co-Chair Fisher said he was struck by how substantial the recommendations are, and that they are specific enough to be easy to be turned into statutory language.

Mr. Landauer said that being the lobbyist amongst the group, he said it would make sense for the committee to ask the chairs of the judiciary committees to give the Sunshine Committee time to speak to them, such as 15 minutes during legislative days, to get their face before the

committee. He said his experience in the legislature is that they're not going to take something up unless they have a personal commitment to it or there's a squeaky wheel.

Co-Chairs Fisher and Smith said they were willing to be presenters at such a session.

Mr. Njus suggested drafting a letter that they could submit into the record. **Co-Chair Fisher** agreed that a letter that consists of a set of principles would be helpful.

Co-Chair Fisher said he thought the committee comes up with better recommendations because they have input from the subcultures involved.

Co-Chair Fisher said he would like to see himself and **Co-Chair Smith** present at the next legislative days judiciary committee meetings, and would follow up with some ex officio members or their staff. **Ms. Wu** said she could follow up with them prior to the next meeting.

Ms. Cureton agreed that the committee was a great resource and they should focus on how they can engage legislators more.

Fifth agenda item – Non-listed items

Committee members agreed to look at the next sets of exemptions at the next meeting, tabling the mental health and counseling exemptions until then.

Adjournment