

December 17, 2025
Location: WebEx
Sunshine Committee Members

Charlie Fisher, OSPIRG State Director / Co-chair
Morgan Smith, Polk County Counsel / Co-chair
Cameron Miles, Government Accountability Attorney, Governor’s Office
Elliot Njus, Editor, The Oregonian
Emily Cureton Cook, OPB Bend Bureau Chief
Stephanie Clark, State Archivist
Alex Downing, City Recorder, City of Corvallis
Representative Kim Wallan (ex officio)

Guests

Daivd Pitcher, Public Records Counsel, Department of Justice
Patricia Pascone, Legislative Policy and Research Office

Agenda

AUDIO STREAM 0:00:00-0.9

First Agenda Item: Approve Minutes

Co-Chair Smith moved to approve the minutes from the last meeting. **Mr. Njus** seconded. Motion passed unanimously with 7-0 in favor.

Second Agenda Item: Legislative Update

Chair Fisher provided an update regarding the presentations he and **Co-Chair Smith** made to the Senate and House judiciary committees. He said there wasn’t much of substance to report. They gave a history of the committee, why they exist and what they’ve done so far, and discussed plans for the future, specifically to bring forward a bill in the long session to adopt some of their recommendations. They made a plea not to add more exemptions when not needed. They talked to Representative Wallan afterwards, who is an ex officio member. He said he thought it was good they did it because most of them didn’t know the committee existed.

Co-Chair Smith said that the big benefit to it that he saw was in explaining who the committee was, the makeup of the committee and that their recommendations came from a variety of different perspectives from the requestor and media side. If a recommendation comes out of the committee then just about every stakeholder on the issue has come to a consensus, and that was helpful.

Third Agenda Item – Membership Update

Co-Chair Smith said that they have had some members depart and handed it over to **Mr. Pitcher**. **Mr. Pitcher** said they were still trying to fill the vacancy related to publisher as well as a statutory spot for someone with information technology expertise. He said they have 9 of 11 spots filled now.

Fourth Agenda Item – Discussion of form letter for legislature

Chair Fisher discussed their plan to have a form letter that they submit to every bill that has an open government impact statement discussing a boilerplate perspective from the committee about what kinds of things they could consider when thinking about whether to pass a bill that is going to create a new exemption.

Co-Chair Smith said that the number one thing they talked about was whether the legislature can confirm that a new exemption isn't one already covered by an existing exemption.

Chair Fisher said if it is a new exemption is it absolutely necessary?

Mr. Njus said that he would like to have language that talks about the value of transparency and transparent government. He also suggested that a public interest balancing test should be included for all exemptions.

Chair Fisher said he would like to add a link back to a list of existing exemptions. **Co-Chair Smith** said DOJ has a helpful searchable database of exemptions.

Mr. Pitcher said that he could include a hyperlink more prominently displayed on the website to the last three reports of the committee.

Mr. Miles said he would not assume that the Legislative Counsel knows about public records exemptions as they have one public records attorney. There are 20 attorneys who are drafting bills, and the public records exemptions would be attached to other bills. He said if they want this to get used, they should make it less like a letter and more like a one-pager where you have a bold heading with a main statement and maybe a small descriptive paragraph. He said they need something they can look at with a glance. He said anything other than that would be a difficult task for an overworked attorney on a short timeline who is drafting hundreds of bills.

Chair Fisher agreed that it should be succinct and easy to understand as opposed to a wordy letter. He and **Co-Chair Smith** will draft a form document for review at the next meeting.

Fifth agenda item – Mental health and counseling records

Ms. Cureton Cook wanted to talk about ORS 675.583, duty to report evidence of impairment or unprofessional or prohibited conduct. She thought it was strange that those two were lumped together. She said the public has a right to know if social workers are engaging in unprofessional conduct and that should be separate from health information related to impairment.

Co-Chair Smith said that there were a couple of these that veered into categories the committee looked at previously that were related to disciplinary proceedings from licensing agencies. He said they might carve some of those out as disciplinary proceedings to be treated differently than the rest.

Mr. Pitcher said he thought this part is creating a professional obligation for social workers to report misconduct to the board, which becomes confidential.

Mr. Miles said that there's a balance between protection of whistleblowers and to encourage social workers to report. He strongly believes in protecting whistleblowers but not at the expense of allowing bad conduct to continue.

Ms. Cureton Cook said her concern is also in the exemption for reports coming into the state lawyers assistance committee, where it lumps in a mental health issue with other conduct.

Co-Chair Smith said that the state lawyers assistance committee is a referral program for lawyers who have mental health or substance use issues that are impacting their practice. He

said that the misconduct is rooted in the behavioral health or substance use issues that the practitioner is experiencing.

Chair Fisher said his question is if there is a separate piece where disciplinary action is done that would be made public. So a mandatory report is confidential, but that triggers an investigation and when the investigation is complete it is subject to different public records access.

Co-Chair Smith said this would be a good item for a subcommittee to do a deep dive into.

Mr. Miles said he thought there was a big difference in a person who has been drinking too much and coming to work drunk versus someone pursuing sexual relations with their clients, which is misconduct as opposed to impairment. He agreed that the two concepts should be treated differently.

Chair Fisher brought up ORS 426.160, the information related to commitment proceedings, and ORS 426.370, withholding information obtained in certain commitment investigations. He said the way that records can be released in each circumstance seems contradictory.

Co-Chair Smith said that ORS 426.370 seems to be related to information that is not submitted to the court but obtained in the investigation. It would be confidential because it's part of a mental health assessment. ORS 426.160 covers anything used in court but anything that the county mental health official obtains but is not submitted to the court is confidential.

Chair Fisher said in that case it didn't seem contradictory. He also said that since many of them seem duplicative, he wanted to know if they could be combined into a broader exemption related to health professional and client privilege.

Mr. Pitcher said it was a weird area of law because ORS 192.359A is the catchall exemption that deals with privileged information. They all have a certain meaning in a legal context.

Mr. Miles said that this was talking about redoing the statutory scheme and there are tradeoffs involved. He said he did want to see the language standardized.

Co-Chair Smith's subcommittee will look into the issue.

Sixth Agenda Item – Planning for next report to the legislature

Chair Fisher said they could have a draft ready to review at the March meeting unless they want to make changes and would need an April meeting.

Mr. Miles said he was in favor of getting a general direction in January and having an additional meeting in April if there are substantive changes. The committee will work on a plan at the January meeting.

Sixth Agenda Item – Any future business

Chair Fisher asked how the committee would like to review future exemptions. **Ms. Cureton Cook** suggested that they should be emailed out. **Chair Fisher** suggested that people should talk to the co-chairs a week in advance of the meeting with any proposed agenda items.

Adjournment