



The League of Women Voters of Oregon is a 99-year-old grassroots nonpartisan political organization that encourages informed and active participation in government. We envision informed Oregonians participating in a fully accessible, responsive, and transparent government to achieve the common good. LWVOR Legislative Action is based on advocacy positions formed through studies and member consensus. The League never supports or opposes any candidate or political party.

February 5, 2019

To: **Sunshine Committee**

Chair Michael Kron, Special Counsel, Office of Attorney General Ellen Rosenblum
Vice Chair Emily Matasar, Government Accountability Attorney, Office of Governor
Kate Brown

Re: **Comment on Next Steps Regarding Personally Identifiable Information**

“The League of Women Voters believes democratic government depends upon the informed and active participation of its citizens and requires that governmental bodies protect the citizen’s right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible.”

The Sunshine subcommittee are charged with answering the following questions:

What are the different kinds of personally identifiable information (PII) that would be covered?

- defining what disclosure means / licensing model
 - publicly to everyone
 - press using info to verify things
 - enforcement
- rules that apply to bulk data access
- in what ways should the law change
- what are the particular and specific issues people have with the way the public records law addresses PII
- what should never be exempt
- what should always be exempt
- public interest reasons why different kinds of PII should be disclosed
- find a way to consolidate all PII into one exemption (or fewer exemptions)
- recommendation to full committee

Clearly a ‘bright line’ is needed to prevent subjective decision-making and untimely delays by an agency employee in response to a public records (PR) request.

To draw this bright line, please consider the following suggestion.

Once the above parameters are established for **legitimate reasons for non-disclosure (exemptions)** and what **are legitimate reasons for disclosing PII in the public interest**, these could be used as part of a sworn release form (affidavit) that the public records requester must sign with his or her identifying information, that the information obtained:

- A) will not be used for [a, b, c, d or e] reasons (such as active ongoing legal investigations, harassment, id theft, or marketing), and will never be shared with anyone else for these reasons, but instead,
- B) will be used in the public interest only for the following purposes (check all that apply):

[1, 2, 3, 4, 5 etc. such as the investigation of potential fraud, misconduct, social inequities, etc.) including a write-in category of investigation]

Signature _____
Under penalty of perjury

The form would have a release date and version number that can later be amended to include other exemption criteria.


The main concept is that the sworn list of those things that **SHOULD** and **SHOULD NOT BE DISCLOSED** on the form are to assist those charged with handling public records requests at the individual offices to know easily what the basic guidelines are, without having to look up the now nearly 600 exemptions. Currently, many legitimate requests are rejected or heavily redacted (say journalists in general) because most agencies prefer to err on the side of protecting the agency, rather than in the public interest as the law requires. For just one example, see a recent Oregonian article, [Portland let e-scooter companies dictate withholding of public records](#). Enforcement of potential violations would not be left up to the individual agencies and small government offices, but rather they could flag potential violations (something comes out in the local paper for instance), and they would then have a paper trail to send to the DOJ, for follow up and enforcement.

In conclusion, this form would address enforcement concerns, eliminate the need for giving privileged info to only certain classes of citizens (i.e., the press and what constitutes the press) and will remove the onus of decision-making by the employee for releasing or not releasing the requested info, and will eliminate the time delays in providing the info. All individual and repetitious exemptions could thus be eliminated both retroactively and going forward.

NOTE: Better public education must be made available for victims of harassment, violence, etc., about the extra protections available to them by the DOJ.

Thank you for the opportunity to submit this recommendation.

Respectfully submitted,



Josie Koehne
 Public Records, Transparency Portfolio



Norman Turrill
 President

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