

STATE OF WASHINGTON 2023 ANNUAL REPORT

PUBLIC RECORDS EXEMPTIONS ACCOUNTABILITY COMMITTEE “SUNSHINE COMMITTEE”

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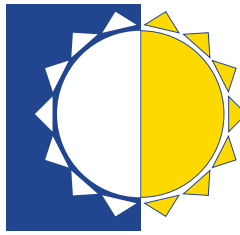
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PUBLIC RECORDS EXEMPTIONS ACCOUNTABILITY COMMITTEE

“SUNSHINE COMMITTEE”

November 15, 2023

SUMMARY

The Public Records Exemptions Accountability Committee (Sunshine Committee) met three times in 2023 to review and discuss the following

Child Support Records

RCW 26.23.150—Recording of social security numbers.

Commodities

RCW 21.30.170—Information obtained by Department of Financial Institutions.

Criminal Proceedings

RCW 9.73.230—Intercepting, transmitting, or recording conversations concerning controlled substances or commercial sexual abuse of a minor.

Fireworks and Explosives

RCW 42.56.460(2)—Records and reports submitted as required by the Washington Explosives Act, chapter 70.74 RCW.

RCW 42.56.655—Requires the Washington State Public Records Accountability Committee to submit a report by December 1, 2023, with recommendations as to whether the exemption in RCW 42.56.460(2) should be continued, modified, or terminated. This report will be submitted separately by the specified due date.

Health Care

RCW 43.70.050(2)—Collection, use, and accessibility of health-related data.

Health Professionals

RCW 42.56.350(1)—Exempts social security numbers of health care professionals from disclosure.

Juries


RCW 2.36.072(4)—Determination of juror qualification.

Library Records

RCW 42.56.310—Exemption for identity of library user.

Other Chapters

RCW 2.64.111—Judicial Conduct Commission investigations and initial proceedings.



RCW 4.92.210(6)—Risk Management valuation of tort claims against the State.

Public Records Exemptions Accountability Committee

RCW 42.56.140—Enabling statute for the Public Records Exemptions Accountability Committee (Sunshine Committee).

Public Records Exemption Accountability Committee Annual Reports for 2021 and 2022

2021 Sunshine Committee Annual Report

2022 Sunshine Committee Annual Report

HISTORY OF COMMITTEE

The Committee was created by Substitute House Bill 5435 in 2007 (codified in RCW 42.56.140). The bill established the Committee to review all public disclosure exemptions and make recommendations to the Legislature as to whether each exemption should be continued without modification, modified, scheduled for sunset review at a future date, or terminated. The Legislature stated that in light of the changing nature of information technology, record-keeping, and the increasing number of public disclosure exemptions, periodic review of public disclosure exemptions is needed to determine if exemptions continue to serve the public interest. Further information about the Committee and its work is available to the public on the internet at <https://www.atg.wa.gov/sunshine-committee>.

The Committee posts its agenda for each meeting on the website, and when available, the video of the meeting is also posted. In addition, the website invites citizens to join a listserv, so they may receive notification when new material is posted. TVW, the state's public affairs television broadcaster, has filmed or recorded most of the meetings, and the website for the Committee contains links to the TVW website or the recording so the public can view previous meetings. As required by the Legislature, the Committee has adopted and published criteria for reviewing exemptions. A copy of the Committee's criteria is available on the Committee website. The Committee receives an updated list of exemptions from the Office of the Code Reviser each year in August. A Schedule of Review is used by the Committee to organize its review activity. This schedule currently contains over 600 items and is posted on the Committee's website.

The Committee recognizes the importance of public comment and will continue to provide notice to the citizenry of the Committee's meeting agendas in order to encourage citizen participation and comment. The Committee receives staff assistance from the Attorney General's Office, as directed by the legislation establishing the Committee. The Legislature called for an annual report of the Committee's recommendations. This is the sixteenth annual report and summarizes the Committee's work since the November 2022 report was submitted.



MEMBERS OF THE COMMITTEE

The members are appointed to the Committee by the Governor, Legislature, Attorney General and State Auditor. The following individuals served on the Committee in 2023:

- Linda Krese, Chair, Former Snohomish County Superior Court Judge
- Lynn Kessler, Vice Chair, Former State Representative
- Kathy George, Attorney, Johnston George LLP
- Representative Jenny Graham (R)
- Senator Sam Hunt (D)
- Melissa Luck, News Director, KXLY, Spokane, WA
- Tricia Smith, Public Records Officer, Governor's Office
- Ann Marie Soto, Attorney, Madrona Law Group, PLLC
- Representative Larry Springer (D)
- Jennifer Steele, Assistant Attorney General
- Jaime Stephens, San Juan County Councilmember
- Rowland Thompson, Executive Director, Allied Daily Newspapers of Washington
- Senator Jeff Wilson (R)
- Taylor "Tip" Wonhoff, Counsel to the Governor
- David Zeeck, Former Publisher, Tacoma News Tribune

COMMITTEE PRACTICES AND PROCEDURES:

The Committee held three meetings in 2023 on February 28th, May 23rd, and October 17th. The meeting scheduled for August 22nd was cancelled due to concerns about lack of a quorum and the unavailability of the chair. All three meetings were held in person on the Capitol Campus in Olympia. Both the public and members of the Committee were provided the option to attend the meetings remotely. The Committee provided an opportunity for public comment at each meeting and received some public comments through its website. In addition, the Committee received testimony and documentary input from public agency representatives, interested stakeholders, and other parties. Some members of the Committee also provided written memoranda for consideration by the other members. As a result, there was a considerable amount of material for the members to review in advance of each meeting.

The review process resulted in the recommendations set forth below.

Approved minutes of each meeting as well as video and/or audio recordings of the meetings are available on the Committee's website: www.atg.wa.gov/sunshine-committee.



COMMITTEE RECOMMENDATIONS:

THE COMMITTEE RECOMMENDS RETAINING THE FOLLOWING EXEMPTIONS WITHOUT MODIFICATION:

RCW 2.36.072(4)—Juries. This statute permits collection of juror data by courts to use in determining juror qualifications to serve. The statute provides that the information collected may only be used during the term for which the juror is summoned. The statute is silent on the issue of public disclosure. However, applicable Washington State Court Rules provide for protection of this data. *See*, GR 31(j). By a vote of 8 to 1, the Committee recommends maintaining this statute without modification.


RCW 2.64.111—Judicial Conduct Commission. This statute provides an exemption from public disclosure for all “pleadings, papers, evidence records, and files” of the Judicial Conduct Commission “compiled or obtained during the course of an investigation or initial proceedings” unless the matter proceeds to a public hearing. The Committee voted unanimously, with one abstention, to recommend retaining the exemption without modification.

RCW 26.23.150—Child Support Records. This statute requires applicants for professional, commercial driver’s, occupational, and recreational licenses to furnish their social security numbers to assist in child support enforcement. The statute further provides that “[s]ocial security numbers collected by licensing agencies shall not be disclosed except as required by state or federal law or under RCW 26.13.120.” The Committee voted unanimously to recommend retaining the exemption without modification.

RCW 4.92.210(6)—Risk Management. This statute provides that the valuation of a specific claim by the Office of Risk Management “shall be privileged and confidential.” This does not apply to the amount of any settlement actually reached with a claimant or the amount of any verdict obtained against the State of Washington. The statute requires the Office of Risk Management to establish a reserve for “recognizing financial liability and monitoring effectiveness.” Making the valuation available through public disclosure would hamper the state’s ability to effectively defend against claims. The Committee voted unanimously to recommend retaining the exemption without modification.

RCW 9.73.230—Criminal Proceedings. This statute relates to recordings made during the course of certain criminal investigations where one party has consented to the recording and the other party is unaware that the conversation is being recorded. In some instances, the consenting party is a confidential informant. The statute provides protection from disclosure of confidential informants consistent with existing state and federal case law. The Committee voted unanimously to recommend retaining the exemption without modification.

RCW 21.30.170—Commodities. This statute protects certain information obtained by the Washington State Office of Financial Institutions from disclosure. The information exempted includes information obtained in private investigations and information obtained from state and federal agencies which is not subject to disclosure pursuant to state or federal law. The Committee voted unanimously to recommend retaining the exemption without modification.



RCW 42.56.310—Library Records. This statute exempts from disclosure library records that disclose or could be used to disclose “the identity of a library user.” The Committee voted unanimously to recommend retaining the exemption without modification.

RCW 42.56.350(1)—Health Professionals. This statute exempts federal social security numbers of health care professionals from disclosure. The Committee voted unanimously to recommend retaining the exemption without modification.

RCW 43.70.050(2)—Health Care. This statute protects certain health-related data collected by the state from disclosure “where the patient or provider of health care can be identified.” However, such data may be “used in proceedings in which the use of the data is clearly relevant and necessary and both the department and the patient or provider are parties.” The Committee voted unanimously to recommend retaining the exemption without modification.

RECOMMENDATIONS FROM PAST ANNUAL REPORTS:

The Committee also voted to recommend renewing its recommendations from the past two years. In 2022, the Committee recommended modifying two exemptions. No member of the Legislature indicated interest in sponsoring legislation reflecting either of these recommendations. Therefore, the recommendations were not considered by the Legislature at any level.

In 2021, the Committee filed an annual report recommending modification to five exemptions and terminating seven exemptions. With regard to those recommendations, several were supported by the interested agencies and unanimously recommended by the members of the Committee. Despite that, none of the recommendations was adopted by the Legislature. SSB 5098, which included several of the recommendations, passed out of the Senate State Government and Elections Committee with a “do pass” recommendation. SHB 5098 was passed to the Senate Rules Committee and no further action was taken.


The recommendations that the Committee renews are set forth below:

2022 ANNUAL REPORT:

THE COMMITTEE RECOMMENDS MODIFICATION OF THE FOLLOWING STATUTES:

RCW 43.190.110—State Government, Long-Term Care Ombuds. This statute provides that “[a]ll records and files of long-term care ombuds relating to any complaint or investigation . . . and the identities of complainants, witnesses, patients, or residents shall remain confidential unless disclosure is authorized by the patient or resident or his or her guardian or legal representative.” The statute further provides that if consent is not provided by any of the witnesses, residents, etc., that no disclosure can be made unless it is done without disclosing the identity of such individuals.

The Committee was informed by the current director of the ombuds program that this statute is not applicable because the ombuds program is no longer administered by the state. Rather, pursuant to authorization in Chapter 43.190 RCW, the program is run by a private nonprofit organization which provides services under the United




States Older Americans Act. As a result, disclosures by the program are governed by federal law, not the Washington State Public Records Act. The Committee noted that pursuant to the applicable federal statute, 42 U.S.C. 3058g(d), the ombuds (or designee) has complete discretion over whether any records are released. Washington law, as indicated above, does not give any discretion to the ombuds, but rather allows for disclosure if the interested parties either give consent or if their identities are not disclosed.

The Committee considered various options, including recommending repeal of RCW 43.190.110, recommending retaining as is, or modifying the statute with the intent of making a statement in favor of encouraging the maximum allowable disclosure because of the importance to the public of having information regarding the welfare and safety of residents in long-term care. After discussion of these options, the Committee voted unanimously to recommend modification of RCW 43.190.110 to provide that the state office of long-term care ombuds establish procedures for disclosure pursuant to 42 U.S.C. 3058g(d) and that such procedures “provide for exercising discretion in favor of disclosure to the maximum extent consistent with federal law and the policies of Chapter 42.56. RCW.” See Exhibit A for the complete text of the proposed amendment.

RCW 42.56.320(4)—Education, Gifts to Educational Entities. This statute provides an exemption for records not defined as public records in RCW 40.14.010 as follows: “[A]ny records or documents obtained by a state college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to those records or documents.” The Committee considered this exemption at the August and October meetings and received input from the University of Washington, the University of Washington Libraries, Central Washington University, The Evergreen State College, and Washington State University. The Committee also heard from a communications professor and a student journalist at Western Washington University who advocated for the public’s right to know the source of funds donated to public institutions of higher education.

The issue that concerned the Committee members was whether this statute was being construed to provide anonymity for financial donors to the Washington State public institutions of higher education and, if so, if that was the intent of the Legislature in enacting this statute. Further, the Committee was concerned about the issue of the public’s right to know the source of funds received by public universities and colleges and any restrictions or conditions on those donations.

The University of Washington representatives indicated that their institution does not treat RCW 42.56.320(4) as providing anonymity for financial donors. They indicated that if a donor does not desire to have their identity publicized the university will honor that request but informs the donor that if an appropriate public disclosure request is received that would result in disclosing the donor’s name they will honor that request, but withhold other identifying information such as home address, telephone number, and email address. The remaining institutions all indicated that they do interpret RCW 42.56.320(4) as providing a legal basis to withhold the identity of a financial donor, if the donor requests that it be withheld. They also expressed concern that some donations would be lost if they could not guarantee anonymity for the donor.



The University of Washington Libraries interest were with regard to conditions placed on donations of private documents and papers. The Committee felt that RCW 42.56.360(4) clearly provided for restrictions on such papers and had no issue with that application of the statute.

However, the Committee felt that RCW 42.56.360(4) presented ambiguities as to whether it was intended to provide anonymity for financial donors and if that ambiguity was resolved in favor of allowing such anonymity, whether that appropriately accounted for the public's legitimate interest in knowing the sources of funding of public institutions. Taking into consideration all of the information received, the Committee reached consensus that the public's interest in knowing the source of public higher education funds and any restrictions or conditions on those funds, outweighed the donor's interest in anonymity. Therefore, in order to ensure that donor information would be available to the public upon request and to clear up any ambiguity, the Committee voted unanimously to recommend modification of this exemption. Please see Exhibit B for the exact language of the Committee's recommendation.


2021 ANNUAL REPORT:

THE COMMITTEE RECOMMENDS MODIFICATION OF THE FOLLOWING STATUTES:

RCW 10.27.160—Criminal Proceedings and Information--Grand Juries. This statute authorizes a grand jury to prepare a report containing its conclusions, recommendations, and suggestions. The report is to be released to the public only upon a determination by a majority of the judges of the county superior court. The report may be released to the public only if "(1) the findings in the report deal with matters of broad public policy affecting the public interest and do not identify or criticize any individual; (2) release of the report would be consistent with the public interest and further the ends of justice; and (3) release of the report would not prejudice any pending criminal investigation or trial." The Committee felt that the requirement that the report "not identify or criticize any individual" made little sense in that almost any grand jury investigation would likely identify and, possibly, criticize individuals. Further that the other requirements adequately protect criminal proceedings and ensure that the matters are of public interest. Therefore, the Committee voted unanimously, with one abstention, to recommend modifying the statute to remove the language "and do not identify or criticize any individual." See Exhibit C for the proposed amendment.

RCW 27.53.070—Archaeological Records. This statute provides an exemption for information regarding the location of archaeological sites or resources. The Committee voted unanimously to recommend modifying this exemption for the sole purpose of clarifying the language of the exemption. The Committee's intention in doing so was not to reduce or change the protection from disclosure of this information. The Committee recognizes the importance of protecting archaeological sites from looting and depredation as set forth in RCW 42.56.300(1). See Exhibit D for the language of the proposed amendment.

RCW 46.52.065—Motor Vehicles and Transportation—Blood Samples. This statute requires the State Toxicologist to test blood samples taken from all drivers and pedestrians killed in traffic accidents where the death occurs within four hours of the accident. The statute also provides that the reports and records relating to analysis shall be reported to the Washington State Patrol (WSP) and made available to prosecuting attorneys and law enforcement. The results may be "admitted in evidence in any civil or criminal proceeding where relevant" and made available to the parties upon application to the court. After receiving input from



the WSP, the Washington Defenders Association, and the Washington Association of Prosecuting Attorneys, the Committee on a split vote (7-1) recommends terminating this exemption by removing the term “confidential” and making the reports and records available to all parties to litigation where relevant. See Exhibit E for the amendments approved by the Committee.

RCW 46.52.080—Motor Vehicles and Transportation—Accident Reports. This statute provides for confidentiality of motor vehicle accident reports. The Committee voted unanimously to recommend modification of this exemption by adding language that would allow disclosure of accident reports upon redaction of identifying information. See Exhibit F for the additional language approved by the Committee.

RCW 46.52.120—Motor Vehicles and Transportation—Accident Records. Relates to records regarding motor vehicle accidents that the Department of Licensing (DOL) is required to maintain. Section (2) of the statute provides that such records shall be for the “confidential” use of the director, law enforcement officers and the traffic safety commission. On a split vote with five members approving and four abstaining, the committee voted to recommend modifying the statute by removing the word “confidential.” See Exhibit G for the recommended amendment.

THE COMMITTEE RECOMMENDS TERMINATING THE FOLLOWING EXEMPTIONS:


RCW 18.46.090—Health Care—Birthing Centers. Establishes an exemption for information obtained by the Department of Health (DOH) regarding birthing centers. According to the DOH, such centers no longer exist, and this exemption is not needed. The Committee voted unanimously to recommend terminating this exemption by repealing the entire statute.

RCW 21.20.480—Financial Records. Investigative records regarding financial institutions. Input from the Division of Securities, Department of Financial Institutions, indicated the exemption contained in this statute was no longer necessary as they utilize the provisions of RCW 42.56.240(1) when dealing with requests for investigative records. In addition, most investigations of financial institutions are now handled at the federal level.

The Committee voted unanimously to recommend repeal of the second sentence of the statute which restricts public disclosure of the fact that an investigation is being conducted under Chapter 21.20 RCW. See Exhibit H for the exact language of the recommended repeal.

RCW 24.03.435 and RCW 24.06.480—Financial Records. Provide confidentiality for answers to interrogatories propounded to nonprofit corporations by the Secretary of State. After consulting with the Secretary of State Kim Wyman, it was determined that office no longer uses the procedures for issuing interrogatories to nonprofit companies set out in these statutes and, therefore, repeal of these two statutes is appropriate. The Committee voted unanimously to recommend terminating RCW 24.03.435 and RCW 24.06.480.

RCW 26.12.080—Family Court Proceedings. Grants authority to courts to order closure of family court files when the court determines that publication would be “contrary to public policy or injurious to the interests of children or to public morals.” This statute is inconsistent with Washington Court rule GR 15 regarding sealing of court files and applicable case law. A court has authority to seal court files pursuant to GR 15 and case law but only to the extent necessary to protect privacy interests and only after a hearing in which the court determines that the privacy interests outweigh



the public interest. The Committee voted unanimously to recommend repeal of this statute.

RCW 43.41.100—Financial Records. Relates to records provided to the Governor's Office by the Office of Financial Management. Both offices have indicated they have no objection to ending the exemption provided by this statute. Therefore, the Committee voted unanimously to recommend repeal of the exemption in RCW 43.41.100. See Exhibit I for the language to be repealed.


RCW 72.05.130(1)—Children's Records. Requires DSHS and the Department of Children, Youth, and Families to compile certain statistical information about children who are committed to institutions. Section (1) of the statute provides that this statistical information (which does not include identifying information for any child) shall not be disclosed except to the governor and superior court judges. This same statistical information is compiled pursuant to other statutes which require these agencies to do so and is routinely made available to the public. The agencies see no reason to retain this exemption. The Committee voted unanimously to recommend repeal of that portion of RCW 72.05.130(1) that restricts public disclosure. See Exhibit J for the exact language that the Committee recommends be repealed.

RECOMMENDATIONS REGARDING RCW 42.56.140

Over the course of our meetings in 2023, the Committee devoted considerable discussion to the issue of its continued viability. This discussion was prompted by the fact that over the last several years, none of the Committees recommendations have been adopted by the Legislature. Concerns were also expressed over the Committee's ability to review more than 600 statutory exemptions from public disclosure in a timely manner.

As a result of these discussions, the Committee has the following recommendations:

1. Modify RCW 42.56.140(7)(c) to provide that the Committee hold meetings four times per year rather than once a quarter. The Committee voted unanimously to recommend this modification because it will facilitate the attendance of the legislative members. The regular sessions of the State Legislature are held annually beginning on the second Monday of January (RCW 44.04.010). In odd years, these sessions are 105 days and, in even years, 60 days (Washington State Constitution, Art. II, Section 12(2)). This schedule makes it difficult for the legislative members to attend the Committee meetings in the first quarter of the year. Changing this provision to require four meetings per year would allow the flexibility to set the first meeting of the year after the session ends.
2. Amend RCW 42.56.140(7)(d) to provide not only that the Committee submit its recommendations to the Governor, the Attorney General, and the appropriate committees of the House of Representatives and the Senate by November 15th of each year, but also to require that the Committee chair or the chair's designee make an oral presentation to the appropriate committee of each chamber during committee days prior to the annual regular session.
3. Provide modest funding for administrative support and a part-time staff person to assist with legal research and establishing a priority list of exemptions for review annually. At present, the Sunshine Committee has a zero budget. This has been true since the Committee was created. Despite that, the Committee is charged with an important and time-consuming task



on behalf of the citizens of Washington State. This task gets bigger during virtually every legislative session as new exemptions to public disclosure are added. The enabling statute, RCW 42.56.140, states that the Attorney General's Office and the Office of Financial Management shall provide staff support to the committee, but no funding has ever been provided for this. The Committee does receive excellent, but very limited, support from the Attorney General's Office in terms of scheduling meetings, getting materials distributed, setting up technology for remote participation in meetings, etc., but no professional support to assist with reviewing and investigating whether existing exemptions should be modified or terminated.

Providing a modest budget for the committee would enhance its efficiency in reviewing the hundreds of existing exemptions already enacted and those that likely will be added in coming years.

CONCLUSION

The Committee intends to meet four times in 2024. The Committee plans to continue reviewing exemptions from public disclosure based on the age of the exemption and the lack of previous review. The Committee also plans to review recommendations from previous years to determine whether they should be renewed. At this time, it is unclear who will be chairing the Committee beginning in 2024 as the current Chair's term has ended and she is not seeking reappointment to the Committee. The Vice Chair will be available to preside pending appointment of a Chair.

The Committee hopes to work closely with the Legislature in the 2024 Session to discuss the Committee's recommendations and to facilitate implementation of the recommendations to the extent the Legislature concurs in the recommendations. The Committee is hopeful that the Legislature will give its recommendations serious consideration in the 2024 session. In this regard, the Committee also recommends that the Legislature consider adopting various other recommendations made by the Committee over the past several years, many of which were approved unanimously by the members of the Committee. In many instances in which the Committee has recommended termination or modification of an existing statutory exemption, the affected agency has agreed that the exemption was no longer needed or should be modified. If the Legislature wishes to revisit any of these past recommendations, the Committee would be happy to provide additional information regarding them. The Committee also hopes the Legislature will address the recommendations contained in this report for increasing the viability of the Committee going forward.

Respectfully submitted,



Linda C. Krese

Chair

November 15, 2023



EXHIBIT A

RCW 43.190.110

Confidentiality of records and files – ~~Disclosures prohibited~~ – Exception.

~~All records and files of long-term care ombuds relating to any complaint or investigation made pursuant to carrying out their duties and the identities of complainants, witnesses, patients, or residents shall remain confidential unless disclosure is authorized by the patient or resident or his or her guardian or legal representative. No disclosures may be made outside the office without the consent of any named witnesses, resident, patient, client, or complainant unless the disclosure is made without the identity of any of these individuals being disclosed.~~

The office of the state long-term care ombuds shall establish procedures for disclosure pursuant to 42 U.S.C. 3058g(d). Such procedures shall provide for exercising discretion in favor of disclosure to the maximum extent consistent with federal law and the policies of chapter 42.56 RCW.



EXHIBIT B

RCW 42.56.320

Educational information.

The following educational information is exempt from disclosure under this chapter:

(1) Financial disclosures filed by private vocational schools under chapters 28B.85 and 28C.10 RCW;

(2) Financial and commercial information supplied by or on behalf of a person, firm, corporation, or entity under chapter 28B.85 RCW relating to the purchase or sale of tuition units and contracts for the purchase of multiple tuition units;

(3) Individually identifiable information received by the workforce training and education coordinating board for research or evaluation purposes;

(4) Except for public records as defined in RCW 40.14.040, any records or documents obtained by a state college, university, library, or archive through or concerning any gift, grant, conveyance, bequest, or devise, the terms of which restrict or regulate public access to those records or documents other than the name and city of residence of a financial donor, the amount of the financial donation, and any restrictions or conditions on the financial donation; and

(5) The annual declaration of intent filed by parents under RCW 28A.200.010 for a child to receive home-based instruction.



EXHIBIT C

RCW 10.27.160

Grand jury report.

The grand jury may prepare its conclusions, recommendations and suggestions in the form of a grand jury report. Such report shall be released to the public only upon a determination by a majority of the judges of the superior court of the county court that (1) the findings in the report deal with matters of broad public policy affecting the public interest ~~and do not identify or criticize any individual~~; (2) the release of the report would be consistent with the public interest and further the ends of justice; and (3) release of the report would not prejudice any pending criminal investigation or trial.



EXHIBIT D

RCW 27.53.070

Field Investigations – Communications of site or resource location to department.

(1) It is the declared intention of the legislature that field investigations on privately owned lands should be conducted by professional archaeologists in accordance with both the provisions and spirit of this chapter. Persons having knowledge of the location of archaeological sites or resources are encouraged to communicate such information to the department. Such information shall ~~not constitute a public record which requires be exempt from disclosure pursuant to the exception authorized in chapter RCW 42.56.300 RCW to avoid site depredation.~~

(2) Nothing in this chapter shall be interpreted to allow trespassing on private property.



EXHIBIT E

RCW 46.52.065

Blood samples to state toxicologist – Analysis - Availability, admissibility of reports.

Every coroner or other official performing like functions shall submit to the state toxicologist a blood sample taken from all drivers and all pedestrians who are killed in any traffic accident where the death occurred within four hours after the accident. Blood samples shall be taken and submitted in the manner prescribed by the state toxicologist. The state toxicologist shall analyze these blood samples to determine the concentration of alcohol and, where feasible, the presence of drugs or other toxic substances. The reports and records of the state toxicologist relating to analyses made pursuant to this section shall be confidential: ~~PROVIDED, That the results of these analyses shall be reported to the state patrol and made available to the prosecuting attorney or law enforcement agency having jurisdiction: PROVIDED FURTHER, That the results of these analyses may be admitted in evidence in any civil or criminal action where relevant and shall be made available to the parties to any such litigation on application to the court.~~

RCW 46.52.080

Confidentiality of reports - Information required to be disclosed - Evidence.

All required accident reports and supplemental reports and copies thereof shall be without prejudice to the individual so reporting and shall be for the confidential use of the county prosecuting attorney and chief of police or county sheriff, as the case may be, and the director of licensing and the chief of the Washington state patrol, and other officer or commission as authorized by law, except that any such officer shall disclose the names and addresses of persons reported as involved in an accident or as witnesses thereto, the vehicle license plate numbers and descriptions of vehicles involved, and the date, time and location of an accident, to any person who may have a proper interest therein, including the driver or drivers involved, or the legal guardian thereof, the parent of a minor driver, any person injured therein, the owner of vehicles or property damaged thereby, or any authorized representative of such an interested party, or the attorney or insurer thereof. No such accident report or copy thereof shall be used as evidence in any trial, civil or criminal, arising out of an accident, except that any officer above named for receiving accident reports shall furnish, upon demand of any person who has, or who claims to have, made such a report, or, upon demand of any court, a certificate showing that a specified accident report has or has not been made to the chief of the Washington state patrol solely to prove a compliance or a failure to comply with the requirement that such a report be made in the manner required by law: PROVIDED, That the reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of RCW 46.52.088. PROVIDED FURTHER, That accident reports and supplemental reports may be disclosed pursuant to Chapter 42.56 RCW upon redaction of all information identifying the persons involved in the accidents, including names, address, phone numbers, email addresses, license plate numbers, driver's license numbers, vehicle identification numbers, social security numbers, and photos of such persons.

RCW 46.52.120**Case record of convictions and infractions.**

(1) The director shall keep a case record on every motor vehicle driver licensed under the laws of this state, together with information on each driver, showing all the convictions and findings of traffic infractions certified by the courts, together with an index cross-reference record of each accident reported relating to such individual with a brief statement of the cause of the accident and whether or not the accident resulted in any fatality.

(2) The records shall be for the ~~confidential~~ use of the director, the chief of the Washington state patrol, the director of the Washington traffic safety commission, and for such police officers or other cognizant public officials as may be designated by law. Such case records shall not be admitted into evidence in any court, except where relevant to the prosecution or defense of a criminal charge, or in case appeal is taken from the order of the director, suspending, revoking, canceling, or refusing a vehicle driver's license.

(3) The director shall tabulate and analyze vehicle driver's case records and suspend, revoke, cancel, or refuse a vehicle driver's license to a person when it is deemed from facts contained in the case record of such person that it is for the best interest of public safety that such person be denied the privilege of operating a motor vehicle. The director shall also suspend a person's driver's license if the person fails to attend or complete a driver improvement interview or fails to abide by conditions of probation under [RCW 46.20.335](#). Whenever the director orders the vehicle driver's license of any such person suspended, revoked, or canceled, or refuses the issuance of a vehicle driver's license, such suspension, revocation, cancellation, or refusal is final and effective unless appeal from the decision of the director is taken as provided by law.



EXHIBIT H

RCW 21.20.480

Unlawful use of disclosure of filed information.

It is unlawful for the director or any of the director's officers or employees to use for personal benefit any information which is filed with or obtained by the director and which is not made public. ~~The director or any of the director's officers or employees shall not disclose any such information or the fact that any investigation is being made except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter.~~ No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the director or any of the director's officers or employees.



EXHIBIT I

RCW 43.41.100

Director's powers and duties.

The director of financial management shall:

- (1) Supervise and administer the activities of the office of financial management.
- (2) Exercise all the powers and perform all the duties prescribed by law with respect to the administration of the state budget and accounting system.
- (3) Advise the governor and the legislature with respect to matters affecting program management and planning.
- (4) Make efficiency surveys of all state departments and institutions, and the administrative and business methods pursued therein, examine into the physical needs and industrial activities thereof, and make ~~confidential~~ reports to the governor, recommending necessary betterments, repairs, and the installation of improved and more economical administrative methods, and advising such action as will result in a greater measure of self-support and remedies for inefficient functioning.

The director may enter into contracts on behalf of the state to carry out the purposes of this chapter; he or she may act for the state in the initiation of or participation in any multi-governmental agency program relative to the purposes of this chapter; and he or she may accept gifts and grants, whether such grants be of federal or other funds.

Powers and duties of department - “Close security” institutions designated.

The department of social and health services and the department of children, youth, and families shall establish, maintain, operate and administer a comprehensive program for the custody, care, education, treatment, instruction, guidance, control, and rehabilitation of all persons who may be committed or admitted to institutions, schools, or other facilities, placed under the control of each, except for the programs of education provided pursuant to RCW 28A.190.030 through 28A.190.050 which shall be established, operated, and administered by the school district conducting the program, and in order to accomplish these purposes, the powers and duties of the secretary of the department of social and health services and the secretary of the department of children, youth, and families for the institutions placed under the respective department shall include the following:

(1) The assembling, analyzing, tabulating, and reproduction in report form, of statistics and other data with respect to children with behavior problems in the state of Washington, including, but not limited to, the extent, kind, and causes of such behavior problems in the different areas and population centers of the state. ~~Such reports shall not be open to public inspection, but shall be open to the inspection of the governor and to the superior court judges of the state of Washington.~~

(2) The establishment and supervision of diagnostic facilities and services in connection with the custody, care, and treatment of persons with disabilities, and behavior problem children who may be committed or admitted to any of the institutions, schools, or facilities controlled and operated by the department, or who may be referred for such diagnosis and treatment by any superior court of this state. Such diagnostic services may be established in connection with, or apart from, any other state institution under the supervision and direction of the secretary of the department of social and health services or the secretary of the department of children, youth, and families. Such diagnostic services shall be available to the superior courts of the state for persons referred for such services by them prior to commitment, or admission to, any school, institution, or other facility. Such diagnostic services shall also be available to other departments of the state. When the secretary of the department of social and health services or the secretary of the department of children, youth, and families determines it necessary, the secretary of the department of social and health services or the secretary of the department of children, youth, and families may create waiting lists and set priorities for use of diagnostic services for juvenile offenders on the basis of those most severely in need.

(3) The supervision of all persons committed or admitted to any institution, school, or other facility operated by the department of social and health services or the department of children, youth, and families, and the transfer of such persons from any such institution, school, or facility to any other such school, institution, or facility: PROVIDED, That where a person has been committed to a minimum security institution, school, or facility by any of the superior courts of this state, a transfer to a close security institution shall be made only with the consent and approval of such court.

(4) The supervision of parole, discharge, or other release, and the post-institutional placement of all persons committed to Green Hill school, or such as may be assigned, paroled, or transferred therefrom to other facilities operated by the department. Green Hill school is hereby designated as a “close security” institution to which shall be given the custody of children with the most serious behavior problems.