

DRAFT MINUTES

**Public Records Exemptions Accountability Committee
("Sunshine Committee")
Virtual Meeting held via Zoom Webinar
John L O'Brien Building – Conference Room B15 – Olympia, WA**

May 23, 2023

Members Present: Linda Krese, Melissa Luck, Ann Marie Soto, Jennifer Steele, Rep. Larry Springer, Rep. Jenny Graham, Sen. Jeff Wilson, Rowland Thompson, and Tip Wonhoff

Members Absent: Sen. Sam Hunt, Lynn Kessler, and Dave Zeeck

Staff Present: Assistant Attorney General Lisa Petersen (Committee Counsel), Elaine Ganga, Ann Armstrong, and Brian North (Committee Staff)

1) Call to Order

1.1 Introduction / Roll Call and Establishment of Quorum

Chair Linda Krese called the meeting of the Sunshine Committee (Committee) to order at 9:17 a.m., May 23, 2023, remotely via Zoom Webinar and at the John L O'Brien Building, Conference Room B15, Olympia, WA.

Nine out of 12 members were present at the beginning of the meeting. A quorum was established.

1.2 Adoption of Agenda for May 23, 2023

Motion: To adopt the May 23, 2023 agenda. Moved by Sen. Jeff Wilson, seconded by Tip Wonhoff. Approved unanimously.

1.3 Review and Approve February 28, 2023, Meeting Minutes

Rep. Graham noted for the record that she and other committee members were not able to attend the last meeting due to the legislative floor proceedings. Chair Krese advised that the reason for the absence of the committee's legislative members was recognized and understood at the February 28, 2023 meeting.

Motion: To adopt the February 28, 2023 meeting minutes. Moved by Sen. Wilson, seconded by Rep. Graham. Approved unanimously.

2) Old Business

2.1 Criminal Proceedings – RCW 9.73.230 [Krese] (No. 232 on Schedule of Review)

The committee continued discussion regarding RCW 9.73.230's disclosure protection for individuals who consent to a recorded interaction while the other involved party (or parties) is unaware of the recording. Chair Krese explained this protection is consistent with existing case law at the federal and state levels that protects the identity of confidential informants, and recommended

leaving the exemption as is.

The committee received written public comment from Mr. Thomas Tisch.

Motion: Retain the exemption in RCW 9.73.230 as is. Moved by Tip Wonhoff, seconded by Rep. Graham. Approved unanimously.

2.2 Exempting Information Relating to the Regulation of Explosives from Public Disclosure (HB 1673) – RCW 42.56.460 [Krese] (No. 205 on Schedule of Review)

The committee continued discussion as to whether reports and information provided to the Department of Labor & Industries (LNI) pertaining to explosives should remain exempt from public disclosure. Deliberation followed as to whether any information should be available to the public, and how to address the broad nature of the statute.

The committee determined they needed further information before reaching a recommendation, and agreed to see if Tammy Fellin would return to answer additional questions. The committee also discussed the possibility of having a representative from the Department of Transportation speak about RCW 42.56.460 and the required identification of explosives in transit.

The committee will address this agenda item further at the next meeting.

3) New Business

3.1 Juries – RCW 2.36.072(4) [Krese] (No. 142 on Schedule of Review)

Chair Krese explained RCW 2.36.072 permits the collection and retention of jury information by courts to help determine juror qualifications and, although this juror data is unprotected by statute or exemption, court rules can safeguard this information from public disclosure. The committee engaged in brief discussion regarding court rules and the process required for an outside agency to obtain court records.

Motion: To retain RCW 2.36.072(4) as is. Moved by Rowland Thompson, seconded by Tip Wonhoff. Yes – 8 (Thompson, Wonhoff, Krese, Soto, Steele, Springer, Graham, Wilson); No – 1 (Luck); Motion passed.

3.2 Library Records – RCW 42.56.310 [Krese] (No. 163 on Schedule of Review)

Chair Krese explained the exemption in RCW 42.56.310 protects the identity of library users and recommended retaining the exemption, as library use has traditionally been subject to privacy protections. The committee discussed the reasoning behind privacy protections for library use and the scale of its protection.

Motion: To retain the exemption in RCW 42.56.310 as is. Moved by Tip Wonhoff, seconded by Rep. Graham. Approved unanimously.

3.3 Health Professionals – RCW 42.56.350(1) [Krese] (No. 170 on Schedule of Review)

Chair Krese explained how the exemption in RCW 42.56.350 protects health professionals and others from not having to disclose their social security numbers for various purchases, and not having to provide a current residential address and telephone number as long as an alternate or business address and telephone number are given. Chair Krese recommended retaining the exemption, but to change “residential” telephone number to “personal” telephone number. The committee engaged in discussion of the exemption and its language.

Motion: To retain the exemption in RCW 42.56.350(1) as is. Moved by Rowland Thompson, seconded by Sen. Wilson. Approved unanimously.

After the vote, Phyllis Barney of the Washington State Department of Health joined the meeting by Zoom and requested to make comment. The chair allowed Ms. Barney to do so. Ms. Barney supported Chair Krese’s recommendation of amending “residential” telephone number to “personal” telephone number, and proposed “personal email addresses” also be included. Ms. Barney further requested portions of RCW 42.56.350(2) be stricken. The motion was not reconsidered as no member of the committee made a motion to reopen the matter.

3.4 Child Support Records – RCW 26.23.150 [Krese] (No. 303 on Schedule of Review)

Chair Krese explained the exemption in RCW 26.23.150 protects from the disclosure of people’s social security numbers regarding the collection of child support. Chair Krese recommended retaining the exemption as is due to the traditional nature of protecting social security numbers from public disclosure.

Motion: To retain the exemption in RCW 26.23.150 as is. Moved by Rowland Thompson, seconded by Rep. Graham. Approved unanimously.

4) Public Comment

The committee received public comment from Thomas Tisch, Phyllis Barney, and Keith Shipman.

5) Committee Business

5.1 Election of Vice Chair

Chair Krese discussed the need to find a new committee vice chair to succeed Rep. Lynn Kessler before the August meeting, as well as a new committee chair to succeed herself after the expiration of her term on August 6, 2023. Tip Wonhoff spoke of the increasing challenges to recruit individuals to serve on the board, particularly in leadership positions, given the perceived challenges the committee is facing. Tip Wonhoff asked for any existing committee members interested in either of the two leadership positions to contact him after the meeting. Discussion regarding the challenges facing the committee ensued and segued into agenda 5.2.

5.2 Should the Sunshine Committee Consider Whether to Recommend Modification or Repeal of RCW 42.56.140

Chair Krese proposed several modifications in order to maintain the committee’s viability including the importance of establishing a budget to support committee needs, and ascertaining a

way to ensure the legislature reviews and considers the committee's reports.

The committee discussed the issue of its viability at length.

Motion: To repeal RCW 42.56.140. Moved by Rowland Thompson; seconded by Sen. Wilson. Motion withdrawn by Rowland Thompson to allow additional time for the committee to consider recommending modification or repeal of RCW 42.56.140.

Sen. Wilson left the meeting at 10:34 a.m. The remaining members in attendance still constituted a quorum.

The committee considered written public comment from Keith Shipman of the Washington State Association of Broadcasters.

The committee will address this agenda item further at the August meeting.

The committee adjourned at 10:55 a.m.