

PUBLIC RECORDS LAW APPENDIX E

Summaries of Oregon Attorney General's Formal Opinions and Selected Informal Opinions Concerning Public Records

NOTE: In 1987, the legislature reorganized and renumbered the Public Records Law exemptions. Or Laws 1987, ch 764. Since then, several provisions of ORS 192.501 and 192.502 were also renumbered. Earlier Attorney General opinions refer to the ORS cites in effect at the time the opinion was issued.

37 Op Atty Gen 98, August 30, 1974

Unrecorded copies of deeds, contracts, etc., and other instruments evidencing an interest in land, filed with county tax assessors under ORS 311.280(1) for purposes of segregating and assessing taxes on part of land previously assessed as one parcel, are subject to public inspection.

37 Op Atty Gen 126, September 4, 1974

Discussion of criminal investigatory information exempt from disclosure under ORS 192.500(1)(c), and in particular of “reports of crimes and records of arrest” which are *not* exempt from disclosure. The police agency has an obligation to weigh the public interest in disclosure. “[E]ach inquiry must be judged on the individual facts, considering the nature of the crime, the interest of the public in the efficient operation of the agency and the interest of the inquirer [*sic*].”

NOTE: ORS 192.500(1)(c) was amended in 1981 to amplify the definition of “reports of crime and records of arrest.”

38 Op Atty Gen 467, December 29, 1976

(Superseded by action of the legislature in exempting unfair labor practice investigatory material from disclosure. ORS 192.500(1)(i).)

Letter of Advice (OP-3928), June 7, 1977

Records maintained by the University of Oregon Health Sciences Center are public records. Although information of a personal nature is exempt from disclosure if public disclosure would constitute an unreasonable invasion of privacy, ORS 192.500(2)(b), “[w]e cannot conceive of a circumstance under which an individual’s request to review his or her medical file would constitute an invasion of that individual’s privacy.”

38 Op Atty Gen 945, June 8, 1977

Relates to handling of a name change request, not supported by substantiating court order or other document, in records of state university.

38 Op Atty Gen 1318, October 13, 1977

Election officer may not refuse inspection of poll book solely because inspection may disclose how a particular elector voted.

38 Op Atty Gen 1761, March 7, 1978

Background materials concerning agenda matters given to governing body members in advance of a public hearing are public records, subject to disclosure except to the extent that portions may be exempt under various provisions of ORS 192.500. A public body may voluntarily release such exempt portions of the materials to the press upon a stipulation that they will not be disclosed before the meeting. No such stipulation may be required for any nonexempt material. The only remedy for press violation of a stipulation would be refusal to conditionally release such exempt material in the future.

39 Op Atty Gen 61, July 20, 1978

Motor Vehicles Division is constitutionally required to charge other government agencies and private individuals for record information, since its expense otherwise would be an unlawful diversion of the constitutionally dedicated Highway Fund. It may charge for its expenses in conducting a search even if it does not find the requested information.

39 Op Atty Gen 480, January 12, 1979

A written personnel evaluation of a community college president is exempt from public inspection under ORS 341.290(19)(b), except with the consent of the college president involved. An executive session of the

board may be held to consider such evaluation under ORS 192.660(2)(b), “to consider records that are exempt by law from public inspection.” (ORS 192.660(2)(b) was amended by Oregon Laws 1979, chapter 644, section 5 and recodified as ORS 192.660(1)(f). ORS 341.290(19) was amended by Oregon Laws 1983, chapter 182, section 1 and recodified as ORS 341.290(17).)

39 Op Atty Gen 721, May 29, 1979

A county may *not* refuse to allow a person to use the person’s own equipment to copy maps which are public records, and may not decline to make available a duplicate copy of a magnetic tape containing public records, subject to reasonable rules and regulations for protection of the records and to prevent interference with county business. A home-rule county may not charge a fee exceeding the actual cost of making a record available.

40 Op Atty Gen 96, October 3, 1979

The Governor may inspect confidential child abuse records, to the extent required to determine that laws relating to child abuse are faithfully carried out. The Attorney General may inspect such records, in conjunction with defense of a suit against CSD arising out of a child abuse case, to the extent required by the legal action.

40 Op Atty Gen 155, December 5, 1979

Discussion of complex confidentiality requirements of Oregon Laws 1979, chapter 770, now ORS 441.630 to 441.685, relating to nursing home patient abuse.

41 Op Atty Gen 435, April 13, 1981

Library circulation records showing use of library materials by named persons are personal, and disclosure ordinarily would be an unreasonable invasion of privacy. The protection afforded by ORS 192.500(2)(c) for personal information is not limited to information in personal and medical files. However, disclosure of names and addresses of library patrons probably would not be an unreasonable invasion of privacy. (NOTE: Codified by 1981 enactment of ORS 192.500(1)(j) and amendment of 192.500(2)(c).)

41 Op Atty Gen 437, April 14, 1981

Routine job performance evaluation material concerning a local school district superintendent, placed in his personal file, and not relating to his health, family status, personal finances or similar subjects, is *not* exempt from disclosure under the “personal information” exemption. *Information relating to manner of performance of public duties is not personal.* Placing it in a personal file does not make it personal.

(Answer to the second question, that the file could not be considered in executive session, was superseded by enactment of ORS 192.660(1)(i). *Enactment of that provision did not supersede our answer above to the first question.*)

41 Op Atty Gen 455, April 28, 1981

The Department of Revenue may not divulge the names or other particulars of taxpayers who have paid the 100 percent fraud penalty in connection with income tax returns, except to the Attorney General or a district attorney to enable them to advise and represent the department. ORS 314.835.

42 Op Atty Gen 17, July 13, 1981

In view of *State ex rel Oregonian v. Deiz*, 289 Or 277, 613 P2d 23 (1980), holding that provisions of ORS 419.498(1) requiring juvenile court proceedings to be secret were unconstitutional, other provisions of the statute could not be construed to prohibit police disclosure of a juvenile’s name at the time of arrest, and of the grounds for arrest. Police agencies probably would not incur civil liability for release of such information, and news agencies would not incur civil liability for release of such information if lawfully obtained.

42 Op Atty Gen 382, May 26, 1982

The Oregon State Board of Nursing must disclose the names, business addresses and home addresses of its licensees when requested to do so. It may not charge more than its actual costs in making the information available.

42 Op Atty Gen 392, June 9, 1982

The Oregon Investment Council may employ executive sessions to consider records exempt by law from public inspection. Stock and stock market appraisals submitted in confidence by its money managers, written

evaluation of its money managers, and technical reports prepared by consultants and money managers may be kept confidential and discussed in executive session if the requirements of ORS 192.500(2)(c) can be met.

Letter of Advice (OP-6087), February 26, 1987

Checklists showing which employees have voted in representation elections conducted by the Employment Relations Board are public records and subject to disclosure. Information about an employee's mere act of voting is not exempt from disclosure as an unreasonable invasion of privacy, under ORS 192.500(2)(b), nor does it meet the tests for exemption as information submitted in confidence under ORS 192.500(2)(c).

45 Op Atty Gen 185, March 16, 1987

ORS 10.215(1) provides a valid exception to the Public Records Law for jury lists. Therefore, jury lists containing names and addresses of potential jurors are exempt from disclosure.

Letter of Advice (OP-6126), June 1, 1987

When a public body uses a computer program to generate appraisal information on real property, the records generated are public records. The Public Records Law requires public bodies to make available nonexempt information and records, but does not require a public body to provide information that does not exist in the public body's records or database. The appraisal information on a particular property does not exist until the program is applied to generate that appraisal, and the Public Records Law does not require the public body to create that information.

Letter of Advice (OP-6049), June 26, 1987

ORS 192.420 gives every "person" the right to inspect nonexempt public records. The definition of "person" in the Public Records Law does not include a "public body," which is a separately defined term. Therefore, the Department of Revenue may not use the remedies created by the Public Records Law to obtain public records from a local government. (The department may always ask the local government for the records, and the local government may supply the information if it chooses.)

Letter of Advice (OP-6217), March 29, 1988

Exemption from disclosure for faculty research in ORS 192.501(15) is intended to protect against “piracy” of research ideas and data collected by faculty members, as well as to protect against the risks associated with the release of incomplete and inaccurate data pending its verification and correction. Release of raw data or preliminary reports of research conducted by Oregon State University to persons cooperating in the research project does not “waive” the exemption when that partial disclosure furthers the purpose underlying the exemption of permitting the accuracy of the data to be verified.

46 Op Atty Gen 97, July 6, 1988

Records of the Oregon Trade and Marketing Center, Inc. (OTMC) that are in the custody of the Economic Development Department are “public records” under ORS 192.410(4) and would be subject to the Public Records Law.

Note that this opinion also concluded that OTMC was not a “public body” subject to the Public Records Law. We believe that this portion of the opinion is no longer correct in light of *Marks v. McKenzie High School Fact-Finding Team*, 319 Or 451, 878 P2d 417 (1994).

Letter of Advice (OP-6248), October 13, 1988

Identities of candidates for university president need not be disclosed by search committee. Although a name itself is generally not exempt from disclosure under the personal privacy exemption, ORS 192.502(2), a person’s name may be exempt in certain contexts, due to a person’s desire for confidentiality to avoid stigmatizing or other undesired effect. Because of the potential professional threat to candidates that could arise from release of their names, we conclude that revealing a person’s status as a candidate for president would constitute an unreasonable invasion of privacy. Release of the names would be contrary to the public interest since the potential for disclosure of such information may cause many or most qualified candidates to refuse to apply, making it more difficult for the state to recruit talented individuals to fill important offices. The identities may also be exempt from disclosure under ORS 192.502(3) as information submitted in confidence if the potential applicants requested that their identities be kept confidential.

46 Op Atty Gen 155, March 17, 1989

The Oregon Medical Insurance Pool is not a “state agency” or a “public body” subject to the Public Records Law.

