



April 17, 2019
Oregon Senate Workforce Committee
Oregon State Legislature

Re: Problems with Sec. 11(m) of HB 2016

Chair Taylor, Vice-Chair Knopp, members of the committee:

Members of the Oregon Territory Chapter of SPJ seek to provide meaningful and accurate public-service journalism to Oregonians.

SPJ would note that at the time of this letter being written, discussions were underway concerning whether Sec 11(m) can be fixed by amendment. But pending those discussions, SPJ would like to alert you for the record that, as written, Sec. 11(m) would have grave impacts upon the transparency Oregonians expect:

- 1) As written, Sec. 11(m) of HB 2016 inaccurately portrays how Oregonians' records law works. The law for decades has provided access to certain information if a public-interest test is met. In specified circumstances, home and email addresses, telephone numbers and birthdates of public employees can be crucial for public scrutiny and public-service journalism. As written, Sec. 11 (m) would largely obstruct or eliminate public-interest access.
- 2) Under this language, agencies that release records as they are required to by Oregon's records law can then be subject of an unfair labor practice complaint, putting government agencies in an untenable position.
- 3) At the Legislature's explicit direction, volunteers on the Legislature's advisory Oregon Sunshine Committee put in more than a year of study and debate on the issues in play in Sec 11(m). The Joint Committee on Legislative Counsel, Subcommittee on Public Records, last year directed the Sunshine Committee to study this particular portion of records law and report back with recommendations. The recommendation the Legislature asked for is nearly done, and Sec. 11(m) contravenes it.
- 4) Information about Oregon government employees seemingly placed off-limits by Sec. 11(m) has been used to inform Oregonians about wage disparities by age, race and gender, to background candidates for government office, and to study the state's public retirement system.

- 5) Public-interest access to DOBs or home addresses allow government employees to undergo appropriate public scrutiny when their off-duty endeavors lead to 911 calls being placed from their homes, stalking orders (frequently requiring DOB to locate) being placed against them, police reports of them committing domestic abuse, or in other situations. These episodes often foreshadow greater problems, like years ago when a Multnomah Deputy DA was accused of assaulting the mother of his child as well as pointing a loaded firearm at a neighbor. He later was forced out for abusing his position and using a Portland cop to allegedly extort funds.

A sampling of how this information is used for public-service journalism:

- Years ago, after the rape of a 32-year-old developmentally disabled woman by a TriMet driver who turned out to be a convicted murderer, a newspaper reporter used dates of birth to run checks on all such drivers actively serving vulnerable disabled people in the tri-county region. The finding, that 44 drivers had criminal records of a predatory nature (robbery, sex assault, abuse, menacing, theft, etc.), caused the agency to investigate and determine that 28 did not meet community standards for serving vulnerable people. Other women then came forward with complaints of improprieties.
- A couple of years ago it came out TriMet had failed to detect a longtime driver's history of fraud as well as sex abuse of a 15-year-old girl. Birthdates are a prime example of the information that journalists need to accurately verify and expose such things, especially when it involves a common name, as it did in this case.
- Birthdate was crucial to telling the story of how a Portland Public Schools teacher was paid to stay on administrative leave for most of two years, even while spending a month behind bars for a variety of charges that could have instead gotten him fired — raising questions about how PPS protects its students.
- The Portland Mercury recently used home addresses to determine that 82 percent of Portland police officers live outside city limits, and indeed, more live in Washington state than in Portland proper — a finding that has significant implications for public safety in an earthquake or other major crisis.

Placing this information off limits to public-interest access would not only obstruct meaningful watchdog journalism and public scrutiny, it could contribute to significant delays and additional costs of legal review to disclose even routine documents. That runs counter to Oregon lawmakers' clear intent that Oregonians' access to public records must be reasonable and timely to be meaningful.

Nick Budnick

Board member, OTSPJ, Co-Chair OTSPJ Freedom of Information Committee