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To: [Charlie Fisher](#); [Morgan Smith](#)
Cc: [Foltz Andrew](#)
Subject: Subcommittee recommendation regarding background check exemptions - and my apologies for missing our upcoming meeting
Date: Monday, November 18, 2024 10:35:57 AM

Good afternoon, Sunshine Committee Chairs. Your Special Projects subcommittee met on Halloween and discussed whether the Committee ought to recommend that public records exemptions pertaining to criminal background check records should be amended. As Morgan explained to the larger group in September, Oregon law appears to go beyond federal confidentiality requirements by treating the fact that a background check was conducted as exempt information in some circumstances.

After discussion, the subcommittee felt that the committee should recommend amending the exemptions that go beyond what federal law requires.

Specifically, ORS 166.412 and 166.436 should be amended to apply to the “results of the criminal records check” (the language already used in other statutes on the subject, like ORS 125.240) rather than “the record of the information obtained during a request for a criminal history record check”. The difference would allow the state police to disclose that a background check about a particular individual was requested and whether that check was completed - but would protect the confidentiality of the results, as federal law requires.

With respect to these two exemptions, the subcommittee also discussed whether to require a requester to provide a particular name of an individual, or include some other means to ensure that requests for this type of information can't be used to determine who has purchased firearms. Ultimately the subcommittee did not make such a recommendation. That is in part because simply asking what background checks were conducted during a particular timeframe does not inherently reveal why the background check was conducted. But it was also because the larger group might want to have this discussion.

The subcommittee also felt that the committee should advise amendments to ORS 181A.220 to provide that the fact a background check was conducted is not confidential, and that records not specifically containing information that is otherwise confidential under state or federal law are not exempt under ORS 181A.220.

Unfortunately I am going to be traveling this week and will miss our meeting. Sorry about that. Morgan is very knowledgeable about these issues though, along with the rest of the subcommittee at this point. so the Committee should be in good hands.

Michael