

Senate Privacy, Electronic Commerce and Financial Institutions Committee Informational Hearings on State Data Collection, Releases, and Privacy

Summary

The Senate Privacy, Electronic Commerce and Financial Institutions Committee, chaired by Senator Jon Erpenbach, sought to gather information regarding the data collected and distributed by agencies in the State of Wisconsin Government. Four informational hearings were held, with invited speakers from every state agency. Each state agency was given some direction. The agencies were asked to provide information regarding what personal information the agency held, why the information was collected (rule, statute, federal law, etc.), what governs the privacy of these records in the agency, if data is released and how, if data is sold and how, and what privacy policies exist when this information is shared, released, sold or traded.

In the course of the hearings, members of the committee raised many other questions, such as; data entry contracts within the Department of Corrections, data exchanges between state agencies, if sensitive information is being protected with current law and policy, if state data is an increasingly cheap way to buy information about people, should data be classified as sensitive and everyday knowledge, who owns personal information, and many others. Some questions were answered, while some were not.

The Committee did not define conclusions and no Committee legislation was agreed upon, although various members have indicated they are interested in specific areas and may introduce legislation.

The following is a brief summary of testimony by representatives from state agencies. The agencies are listed in order of appearance. Many who testified provided materials to the committee. Written testimony is included with this packet. However, supporting materials are provided upon request only. Copies of associated materials can be obtained from the committee clerk at (608)266-6670.

State Elections Board

Kevin Kennedy represented the State Elections Board. The Elections Board and its staff are responsible for collecting candidate information. Included in this information is declaration of candidacy, nomination papers, campaign finance reports, and petitions. By state law all of these records are open, but state law does prohibit non-authorized solicitation from this information. The board has had requests from vendors for information but it stated that they may obtain copies of the information, but may not solicit from them.

The State of Wisconsin does not have or maintain a central "voter file" like many others do. In addition, we do not have a closed party registration system. Therefore, party preference is anonymous.

It was asked if there are many complaints about campaign contributors' names being public and Mr. Kennedy answered that there have been a few. In addition, there are privacy questions regarding Internet publication of contributors; the Elections Board will try to handle these issues. Interest groups currently publish donor information on their web pages.

**Testimony attached*

**Additional documents available*

Department of Employee Trust Funds

Dave Hinrichs represented the Department of Employee Trust Funds. The department is the administrator of state retirement information and in that capacity holds many records on current and future retirees. Information included is who retires and when, names and addresses, social security numbers, and some medical information involving disabilities.

Section 40.07, Stats., governs the release of this data; it is protected and not subject to open records law. The information may only be released to the individuals whose information it is or their legal guardian. Section 10.70, Wis. Adm. Code, further explains the release by stating that the agency is prohibited from releasing information to anyone who is not authorized to have access to this material. In addition, any medical records the department holds cannot be given out to the individual they regard. This information must be obtained through the personal physician or medical provider.

Department of Veterans Affairs

John Scocos represented the Department of Veterans Affairs. The department collects data regarding veterans by county from information provided to them by the federal government. The information is available upon request under the open records law. The department also holds information regarding which veterans are receiving benefits. Lists of home loan applicants are private under s. 45.36, Stats., and s. VA 1.10, Wis. Adm. Code. Sensitive information

regarding an individual's military record is protected under federal law. A recruiter may request this information on an exiting veteran. Penalties for misuse are contained in s. 40.07, Stats.

**Additional documents available*

Office of the Secretary of State

Juna Krajewski and Marjorie Robb represented the Secretary of State's Office. All information collected by the agency is available under the open records law. The only exceptions are responses to the felony conviction question asked of notary public applicants and personnel records. Collected information that contains personal information includes notary public information, trade names and trademarks, and oaths of office. Information regularly requested is a list of notaries by bond companies who wish to market to them and trademark data by national research companies to compile information.

**Testimony attached*

**Additional documents available*

Public Service Commission

John Lorence and Paul Nelson represented the Public Service Commission (PSC). The PSC obtains some personally identifiable information that is available through the open records law. This information includes customer complaint information, rate cases, stray voltage investigations, utility accident records, and the Telecommunications Purchase Program. In addition, the PSC has no policy or practice on the release of social security numbers in compliance with open records requests.

Public Defender's Office

Gina Pruski represented the Public Defender's Office. The office represents those who need legal representation. In order to represent and bill accurately, the agency needs financial information and the clients' social security numbers. This information is used to help collect fees. To verify this financial information, the agency contacts the Department of Revenue and the Department of Workforce Development. If fees are not paid, a contract is established with a collection agency to collect the fees. There is a confidentiality agreement with the collection agency.

Wisconsin Conservation Corps

Laura DeGolier and Rebecca Christner-Kemp represented the Wisconsin Conservation Corps (WCC). The agency collects personal information about WCC enrollees, crew leaders, regional and mobile crew leaders. Information collected includes name, address, social security number, phone, sex, date of birth, driver's license information and W-4 form information. This information is for employees and is therefore governed by personnel records rules. The list is not sold or distributed. Inside security is tight.

**Testimony attached*

Department of Public Instruction

Cal Potter and Christine Selk represented the Department of Public Instruction (DPI). DPI collects information in two categories: information from school districts and licensure information. Information collected from school districts includes school enrollment, performance, assessment, program data and staff information. License information collected from each applicant includes demographic data. The department is currently working on a policy for confidentiality of individual pupil data and data redaction.

There are guidelines for what can be released, including to parents. License information is public record. The fingerprinting that must be done for background checks is turned over to the Department of Justice. Currently, local school districts do not have privacy policies.

**Testimony attached*

**Additional information available*

Department of Workforce Development

Orlando Canto and Carrie Chesnik represented the Department of Workforce Development (DWD). The department provides services to local government, businesses and individuals. The Kids Information Data System (KIDS) database is housed at DWD and the agency is responsible for child support enforcement. In addition all Workers Compensation information and all Wisconsin Works (W2) information is held in DWD. All information collected is required by state and federal law.

Personal demographic information is collected for all of the eligibility-driven programs including job training and income-based programs. Employment information includes employment trends data. Claims data held by the agency includes Unemployment Compensation and Workers Compensation information that includes sensitive material on the cause and determination of the claim.

Departmental security arrangements include specific logons and a tracking program to see who is accessing the data. Privacy is a high departmental priority. The agency has 41 data

matching agreements with other state agencies, including the Client Assistance Reemployment and Economic Support (CARES) database with DHFS. Copies of these agreements, as well as all contracts with outside businesses and local governments, were requested.

The department's open records requests are forwarded to their legal counsel. Individuals could request information but federal law governs many of the data sets they hold.

DWD will be the agency that collects social security numbers from all other state agencies that issue licenses. DWD will be the collection, sorting and enforcement mechanism for federally required child support enforcement.

**Additional documents available*

Department of Employment Relations

David Vergeront and Jean Hale represented the Department of Employment Relations. The department collects employment information and reports to the legislature in order to assist in planning for a diverse workforce. Information collected includes gender and race. These records are released by using a balancing test. Information often released includes data on pay ranges and salary. The discovery process in litigation is another way these records are often seen.

The department holds all applications for state employment. This information includes a social security number or another number if an individual requests it. The information is made available under s. 230.13, Stats. Access is granted except where information is received under a pledge of confidentiality.

The department undertakes workforce analysis and studies; the social security number is never included in these documents. Lists of state employees and their salaries are open records.

Frequently, requests are made for collective bargaining or grievance reports. These requests are decided under s. 230.13, Stats., which addresses personnel matters.

Unless an employee expresses fear for safety, his or her information is public and must be given out.

The department exchanges data with other state agencies. The committee requested a copy of the privacy agreements with these agencies.

**Additional documents available*

Department of Agriculture, Trade and Consumer Protection

Bob Rodrigues and Kate Nolan represented the Department of Agriculture, Trade and Consumer Protection. Data is collected by the department for licenses, registrations and certifications as well as consumer complaints. When lists are requested from the department, the department applies the balancing test. The data collected by the agency had not included social security numbers until the requirement for their collection was enacted for child support enforcement purposes. The department created a firewall to protect social security numbers collected by the agency.

Information released when requested includes dairy producers and pesticide users. Lists are released to private businesses and the department subcontracts for some services.

Data is entered through a contract with Badger State Industries, only 1% contains personally identifiable information.

**Testimony attached*

Department of Military Affairs

Terry McArdle and Brian Much represented the Department of Military Affairs. The department holds military records that are governed by federal law. The station of military personnel may be released, but addresses will not be released nor will military record. The names of personnel and their position and business address are given out upon request. The department would like to tighten up release because they are currently required to release a large portion of the information in the personnel file.

Department of Tourism

Dennis Fay and Todd Pierce represented the Department of Tourism. The mission of the department is to attract tourists to Wisconsin. In an effort to increase that interest, the department advertises Wisconsin through various media. The agency keeps a database of names and addresses of those requesting information about Wisconsin. This information is retained for further contact. To date, the department has not had open records requests. The committee asked if people were aware that they were being added to a list when they contacted the department and the department responded that people are not aware. The database includes age and area of interest, e.g. hunting or fishing. The department's Internet site contains a check off that allows individuals who request information to opt out of the department's database.

The database is about 50% Wisconsin residents and the department had 417,000 contacts in 1997. The current size of the database is around 1 million names. Currently, the department does not exchange data with other agencies, but plans to do so in the future. When industries request names, they are given out mostly as labels, but some are given out electronically.

State Historical Society

Peter Oemichen represented the State Historical Society. The personal information held by the department is fairly generic; it includes mostly names and addresses tied to a specific constituency. Examples would include history magazine subscribers, volunteers, and donor lists. In addition, people donate personnel records to the society for archives, including financial information. Some of this information is not released until after the death of the individual. There have been open records requests for donors and members by similar organizations like the Minnesota Historical Society. The donor cards and application cards offer the option of opting out from list exchanges. There is also a guest book that is frequently turned into a potential member list; applications may be sent to visitors.

Educational Communications Board

Ted Tobie represented the Educational Communications Board (ECB). The mission of the agency is to bring public broadcasting to people. Fundraising is 50% of the agency's budget. Membership makes up most of this budget, although the agency sells some things like instruction materials to teachers. This fundraising database includes name, address, preference of programs, gift history and phone number. The database is not treated as an open record by the department; they would challenge a request. This list contains 45,000 to 80,000 names. Recently the ECB and UW Extension combined their fundraising. The department trades lists, but has slowed down that practice since 1993. There is no opt-out of trading offered to donors. Other agencies have not requested the lists but maintenance of the list is out-sourced; this outside business has a confidentiality agreement with the agency.

Board on Aging and Long-Term Care

Bill Donaldson represented the Board on Aging and Long-Term Care. The agency administers the Ombudsman program and the Older Americans Act. They also offer insurance information. Each program has a privacy policy. Information about a client is released only to the client or someone with written approval or court authority. Outside entities have requested their data, but it was not provided. The confidentiality statutes that govern the release of information are s. 16.009(4)(e), Stats. The agency has a close relationship with DHFS but has clearly stated confidentiality agreements. Referrals are not made without client consent.

Freedom of Information Council

Dave Zweifel represented the Freedom of Information Council. He questioned whether we should tinker with Wisconsin's open records law in the name of privacy protection. There are court decisions and state statutes that protect open records, but there have been two recent court decisions that have closed records. The public interest of making information available

helps protect citizens and keeps government honest. Access to public information has helped reporters shed light on many important stories. Access to bus drivers records has protected children who ride the bus to school. It has also shown us that minorities are pulled over more often than whites. This is how open records ensure a government of, by and for the people. The more people create a privacy cocoon, the less they participate in government. Instead of limiting open records, we should regulate the use of information by commercial vendors. An opt-out for release of information to commercial vendors would be an acceptable limit on records for the council.

Department of Natural Resources

Jim Kurtz and Craig Carr represented the Department of Natural Resources (DNR). The DNR maintains and releases a number of databases related to their mission. Most contentious recently has been the collection of social security numbers as a condition of receiving hunting and fishing licenses. This authority is granted under the state statutes in order to enforce child support. The department had a request in the state budget bill to sell information, but it was removed as a policy item.

The Department of Corrections is contracted by the DNR for some projects. The contracts primarily involve mailing, but there are some hunting and fishing survey answers that are entered by inmates. The question was asked whether people should know that prisoners were entering their survey questions.

The department has a rather complicated security system for social security number processing. Only four people in addition to the vendor have access to the numbers. The vendor is Central Bank of Missouri; a copy of their contract was requested.

Hunting groups, hotels, and politicians make open records requests very frequently. The department requires people to sign-in which is probably a violation of open records law. Credit card information is gathered when people purchase licenses with their credit cards. A copy of departmental policy on financial information was requested.

The department stated that it probably collects information that it does not need to collect, but because of the sheer mass of what they collect and the various statutes and rule that govern that information, it is difficult to tell.

**Additional information available*

Department of Health and Family Services

John Kiesow represented the Department of Health and Family Services. The department collects many different sets of personal information. They generally fall into these categories: confidential, direct and tangible and open records. Confidential records include client-based

information from hospitals and will, in the future, include information from clinics. Direct and tangible information includes vital records. Open record information is aggregate information released on the health and welfare of Wisconsin's citizens.

The only information the department is allowed to sell is the data collected from hospitals and ambulatory surgery centers. This information is sold to help run the program. The information is released in protected groups, never less than 5 in a category that may allow for personal identification. Name and address are not collected under this data category.

Recently, there have been two security incidents at the department where unauthorized personnel could have viewed secure information. The department feels it has done a good job making sure that such incidents will not happen again. DWD and DOR have the authority to access DHFS databases. A copy of privacy agreements was requested.

Department of Revenue

Tom Ourada and Diane Hart represented the Department of Revenue (DOR). The department collects and distributes taxes and also holds other information related to its mission. No one is allowed access to this information under s. 71.78, Stats., which defines confidentiality of records for the department. An open records request can be made for an individual's net taxes but not the complete tax information. Requesters must identify themselves and a notification card is sent to the individual whose information was requested. In addition, all employees sign a memorandum of understanding regarding the state's anti-browsing laws.

In response to a question of whether sale of data is subject to the sales tax, the department responded that mailing labels are taxed, but the definition in the statutes is quite outdated. The idea of expanding the sales tax to include personal data sales was discussed.

The department shares data with a variety of other agencies. Copies of privacy agreements were requested. Under state statute, the department has authority to access other agency's databases of licenses to identify those who are delinquent in payment of taxes. The committee asked for copies of requests made by other state agencies for DOR lists.

**Testimony attached*

**Additional documents available*

Ethics Board

Roth Judd represented the State Ethics Board. All board records are open. Persons who want to inspect records must identify themselves and who they are looking for. In 1977, Wisconsin passed the law requiring the subject of the record to be notified when someone requests his or her ethics statement.

Gaming

The Division of Gaming regulates racing and on-track pari-mutuel wagering, bingo, raffles, crane games, and Class III Indian gaming and the tribal-state gaming compacts.

Personal Information Collected: Names, home addresses and telephone numbers, SSNs, criminal history, financial information, dates of birth, spousal information. Open records requests are referred to legal counsel.

- Bureau of Indian Gaming.
 - Individuals and business entities proposing to enter into a contract for gaming-related goods and services exceeding \$10,000 in any year must obtain a **Gaming-related Contractors Certificate** from the Division.
 - Information required serves as the basis for performing background reviews and eligibility determination. Such information includes **name, addresses, residency, telephone numbers, ownership structure, financial, tax litigation, criminal history, SSN and FEIN.**
- Bureau of Racing and Support Services.
 - Information collected in regulating **racing and pari-mutuel wagering** is used for determining licensure eligibility and the conduct of background reviews of individuals and business entities.
 - Information collected includes **applicant name, current and prior addresses, social security number, date of birth, criminal history, and spousal information** and background information in the pari-mutuel industry.
 - Section 562.05(1c), Wis.Stats., prohibits the Division from issuing a license without the applicant's SSN or FEIN.
 - Under Section 562.05(8m), Wis.Stats., the SSN or FEIN is conveyed to the Wisconsin Department of Revenue and Wisconsin Department of Workforce Development to determine tax liabilities and child/family support obligations.
 - Background information is also provided to law enforcement agencies to obtain disclosure on criminal violations and determine licensure eligibility. Section 562.05, Wis.Stats.

- In the case of **charitable gaming**, similar information is collected on individuals and organizations in the regulation of bingo and raffles conducted by charitable organizations for licensure eligibility purposes.
- Information collected includes **name, address, telephone number**, type of license sought, organization type, organization status, and officers of the organization. Section 563.12, Wis.Stats.
- Finally, **applicant name, address** and location are gathered for each **crane game** licenses.

Housing

The Division of Housing, created in Section 15.103(2) Wisconsin Statutes, by 1989 Wisconsin Act 31, provides housing assistance to benefit low- and moderate-income households. It offers state-funded housing grants or loans through local organizations, coordinates its housing programs with those of other state and local housing agencies, helps develop state housing plans and policies, and provides training and technical assistance. The division channels federal housing funds to local authorities and organizations and administers federal funds for the homeless. It also administers the federally funded Weatherization program, which provides energy conservation services, and the Low Income Home Energy Assistance Program (LIHEAP), which provides heating fuel payments, to needy households. In addition, the division regulates mobile home dealers and parks. The Division does not sell any data. Requests for information are referred to DOA legal counsel.

Personal Information Collected:

- Information collected by the Division is generally demographic and for purposes of grants to local units of government. Any personal information on applications for program assistance is not made public. The Division does not sell data and requests for records are referred to DOA legal counsel.
- Bureau of Energy Services.
- Bureau of Weatherization.
 - Low Income Home Energy Assistance Program (LIHEAP). Local agencies and tribes or their subcontracting agencies perform data entry. Such information is kept in a secure system accessed only by authorized personnel. The LIHEAP application provides information to applicants about the use of data. A release of information is obtained if a household is referred to a utility weatherization program.
- Bureau of Project Development.
 - Community Development Block Grant. This program awards funds to local units of government. The grant application requires the collection of household data, including family size, ages and condition of housing, and household income. Such information is collected via confidential survey and is not released to the public. Retention and disposition requirements apply to this data.
- Housing Cost Reduction Initiative. Various non-profit and for profit entities receive state-funded HCRI awards to assist low- and moderate-income

household to defray housing costs. Data regarding household size, ethnicity, female head of household, and condition of housing are collected to document eligibility.

- HOME Investment Partnerships Program. Homebuyers can obtain assistance through this program. Grantees must verify that recipients are income eligible.
- Homeless programs. Data is collected to determine applicant eligibility. Such information is kept on file by local units of government and used to prepare federally required reports and federal grant applications.
- Transitional Housing Program and State Shelter Subsidy Grant Program. Data collected for these programs include: age, gender, number of children, familial status, ethnicity, and veteran status.
- Emergency Shelter Grant. Participating agencies collect data on persons with disabilities, female heads of household, elderly, familial status, number of large families, minority-owned businesses, women-owned businesses, participant income, and prevention services.

Information Technology Services

The Division of Information Technology Services, created in Section 15.103 (3), Wisconsin Statutes, by 1991 Wisconsin Act 39, provides mainframe computer services to state agencies. Every state agency, except the University of Wisconsin System Board of Regents, must purchase all of its computer services from the division unless granted written authorization to procure services elsewhere.

Personal Information Collected: SSNs (encrypted)

- Bureau of Administrative Services
 - Bureau of Customer Technology Service
 - Bureau of Network Management
 - Bureau of Technical Support
- Almost all of the electronic information managed by the Division is collected automatically. Exceptions do exist, such as correspondence, problem tickets entered into the problem management system, change records entered into the change management system, asset information entered into asset files, etc. All electronic files retained by the Division are protected from inappropriate access through security software.
 - The only information maintained by the Division relating to individuals pertains to an **Internet-based program for filing sales tax returns** being developed by the Wisconsin Department of Revenue. Users have a single logon-ID and password for all Internet-based transactions they perform with the state. This file contains the taxpayer's name, address (generally business address) and an **encrypted version of the social security number**. The Division file is used to assist taxpayers in resetting lost passwords.

Technology Management

The Division of Technology Management provides a business and information technology planning model for use by all state agencies. The division also assists agencies in data processing and telecommunications planning, coordinates information technology procurement, operates statewide telecommunication networks, and establishes statewide technology standards and guidelines.

Personal Information Collected:

- Bureau of Information Presentation Management
- Bureau of Justice Information Systems
- Bureau of Statewide Systems Development
- Bureau of Technology Policy and Planning
- Bureau of Telecommunications Management

**Testimony to State Senate Committee
on Privacy, Electronic Commerce and Financial Institutions
September 14, 1999**

Good morning Senators, my name is Jesse Garza, General Counsel for the Wisconsin Technical College System Board. I am here to brief you and answer your questions on the policies and standards for collecting and securing records throughout the technical college system, some of which include personally identifiable information.

- I. The Wisconsin Technical College System has 16 districts encompassing 47 campuses statewide. We serve over 450,000 students/clients and currently have certified approximately 10,000 teachers/instructors, including approximately 200 at the Department of Corrections.
- II. The Technical College System Board **as a state agency**.
 - A. We maintain **PERSONNEL RECORDS** on each state employe and the state's Open Records Law and DER's guidance governs the release of such records.
 - B. The State Board does **CERTIFICATION** of district "educational personnel."
 - (a) Data collected from each district:
 - (1) Name
 - (2) SSAN – *redacted before release and internal use only*
 - (3) Transcripts – *not released b/c educational record*
 - (4) Documented work experience
 - (b) Retained for 50 years.
 - (c) Most inquires seek confirmation of certification, i.e., yes or no.
 - A. **Information** collected from each district is for reporting purposes. We receive approximately one request a year.
 - (a) Client Reporting System – student information, therefore FERPA controls
 - (b) Staff Accounting System – Public records
 - (c) Use = various reports such as AA/EEO federal compliance, state aid, district "comparison" reports. Reports done in the aggregate.
- III. At the District level:
 - A. Educational institutions, therefore **FERPA** and State law on pupil records **controls** release. Students have option of w/holding release of "directory information" except to U.S. military recruiters.
 - B. District employes = **public employes**, thus **Open Records** Law controls.
- IV. Our databases have **limited access** – "need to know basis" with firewalls.
- V. Neither the agency nor the districts "sell" lists of names.

LONGITUDINAL FOLLOW-UP INTRODUCTION

The longitudinal follow-up survey is conducted once every four years. The next survey is scheduled for fiscal year 1999-00 for the graduating class of 1993-94. The State Board selects the graduates reported on the six-month graduate follow-up for the districts to participate in the five-year longitudinal follow-up study. The file of graduates is available in early April through File Transfer Protocol (FTP) over the Internet. A DOT generated list of current addresses is available upon request. Call Carol Timbers at (608) 266-2790 to request the DOT address list.

The State Board creates longitudinal follow-up sample records in the same format the Department of Transportation (DOT) requires for obtaining current names and addresses. The client name field collected on the client reporting record is divided into first name, middle name or initial, and last name on the longitudinal sample record. This name conversion process also eliminates the special characters in the name that the DOT does not collect, thus making a match to DOT records more likely. Refer to s.10.2.1 for the longitudinal follow-up sample record description.

Districts have the option of requesting the graduates' current names and addresses from the Department of Transportation (DOT). The DOT uses the name, sex and date of birth data elements to find names and addresses. Dot returns an output record (the Longitudinal Follow-up Name and Address Record) for every input record. The *Records Found Code* (column 63) indicates whether or not a match was found. If there are multiple records (ties) for the same key, you will receive more than one Longitudinal Follow-up Name and Address record from DOT for the graduate. Ties are indicated by a T in the Record tie code (column 63) of the Longitudinal Follow-up Name and Address Record. Although the DOT discontinued collecting social security numbers a few years ago, they also attempt to match our student identification numbers. If a graduate has changed his or her name, the new name is in the current last, first and middle names data elements. If a graduate is deceased, the date of death will be present in Date of Death data element returned by DOT. The name and address record returned from the DOT is described in s.10.3.1-2.

After the longitudinal follow-up survey is completed, each district must **submit the longitudinal follow-up records to the State Board by October 15**. These records contain the answers chosen by each graduate to the questions on the longitudinal follow-up survey form. The State Board uses the longitudinal follow-up records to compile a statewide longitudinal follow-up report.

One record for each graduate in the longitudinal follow-up survey (whether respondent or non-respondent) must be submitted to the State Board. Only report graduates of associate degree (10), college parallel (20), short-term (30), one-year technical diploma (31) and two-year technical diploma (32) programs. The records will be edited and validated before being accepted for the State Board's files. Records with one or more errors will be rejected and available for correction through File Transfer Protocol (FTP) over the Internet. **All rejected records should be corrected and resubmitted to the State Board by December 1.**

Between October 15 and December 1, the State Board maintains a sequential longitudinal follow-up file for each district. The record key consists of the longitudinal year code, district number and student identification number. To change records previously accepted by the State Board, completely resubmit all valid longitudinal follow-up records. To correct records in error, districts need only submit those records with the appropriate corrections.



Wisconsin Technical College System Board
Edward Chin, State Director

September 14, 1998

SEP 17 1999

The Honorable Jon Erpenbach
Wisconsin State Senate
20 South, Wisconsin State Capitol
Madison, WI 53703

Re: Follow-up to Testimony by the Wisconsin Technical College System Board to the
Committee on Privacy, Electronic Commerce, and Financial Institutions

Dear Senator Erpenbach:

Enclosed is a copy of the outline I used for my testimony to the Senate Privacy Committee on September 14, 1999, as requested by your assistant.

Also, you had requested a copy of the security agreement that I believed we had with the Department of Transportation (DOT) to "match" student information with DOT records for our 5-year follow-up survey. I was in error with regard to my testimony and wish to correct it.

We do not have a security agreement, *per se*, with the DOT on matching student directory data with DOT driver license information. Instead, we have in place a procedure, which I have enclosed, that allows our Information Technology (IT) staff to send a file, electronically, and request a matching run against our information. There is no physical computer tape or CD that is exchanged or delivered to DOT to accomplish this task.

The DOT IT staff, in turn, run our request for a match and provide us with the information for items #'s 74 through 148 listed in the attachment, *i.e.*, name, address, and if deceased, the date of death. No other information is retrieved and DOT staff is limited in access to this file only. All other files maintained by the Technical College System are secure and inaccessible to anyone save our staff. Once matching is complete, the file is again accessed by our IT staff only. This matched information is then given back to each technical college district for the follow-up survey.

Please do not hesitate to contact me with any questions you may have about this information. I can be reached at (608) 267-9540.

Very truly yours,

A handwritten signature in cursive script that reads "Jesús G.Q. Garza".

Jesús G.Q. Garza
General Counsel

Enclosures (2)

**TESTIMONY BEFORE THE SENATE PRIVACY, ELECTRONIC COMMERCE
AND FINANCIAL INSTITUTIONS COMMITTEE**

**MARTHA KERNER, ADMINISTRATOR
DIVISION OF ADMINISTRATIVE SERVICES
DEPARTMENT OF COMMERCE**

SEPTEMBER 14, 1999

SENATOR ERPENBACH, MEMBERS OF THE SENATE COMMITTEE ON PRIVACY,
ELECTRONIC COMMERCE AND FINANCIAL INSTITUTIONS, MY NAME IS MARTHA
KERNER. I AM THE ADMINISTRATOR OF THE DIVISION OF ADMINISTRATIVE
SERVICES AT THE DEPARTMENT OF COMMERCE. I AM RESPONSIBLE FOR
SUPERVISING THE INFORMATION MANAGEMENT FUNCTION IN THE
DEPARTMENT.

THE OVERALL MISSION OF THE DEPARTMENT OF COMMERCE IS BASICALLY
TWO-FOLD: (1) TO FOSTER ECONOMIC GROWTH AND DEVELOPMENT

THROUGHOUT THE STATE, AND (2) TO PROMOTE THE HEALTH AND SAFETY OF THE PUBLIC.

WE FOSTER ECONOMIC GROWTH AND DEVELOPMENT THROUGH A VARIETY OF FINANCIAL AND ASSISTANCE PROGRAMS, AND WE PROMOTE PUBLIC HEALTH AND SAFETY BY ENSURING SAFE CONDITIONS IN PUBLIC AND PRIVATE BUILDINGS, AND FUNDING A SHARE OF THE ENVIRONMENTAL CLEAN-UP COSTS CAUSED BY PETROLEUM RELEASES FROM UNDERGROUND STORAGE AND HOME HEATING OIL TANKS.

IN ADMINISTERING THESE FUNCTIONS, THE DEPARTMENT COLLECTS AND MAINTAINS DATA ON ITS CUSTOMERS, NAMELY THE BUSINESSES AND INDIVIDUALS WHO CHOOSE TO PARTICIPATE IN, OR WHO ARE REGULATED BY OUR PROGRAMS.

FOR OUR BUSINESS FINANCING PROGRAMS, SUCH AS THOSE UNDER THE WISCONSIN DEVELOPMENT FUND, THE DEPARTMENT MAINTAINS A DATABASE TO TRACK THE GRANT AND LOAN PORTFOLIO. IT INCLUDES THE NAME AND LOCATION OF THE FIRM, THE DATE AND AMOUNT OF THE AWARD, AND THE CURRENT STATUS OF THE AWARD. IN EVALUATING FINANCIAL ASSISTANCE APPLICATIONS, WE COLLECT PERTINENT INFORMATION ON THE APPLICANT, INCLUDING CREDIT REPORTS (WHICH CONTAIN SOCIAL SECURITY NUMBERS), BUSINESS PLANS, AND FINANCIAL STATEMENTS.

WE DO NOT SELL ANY INFORMATION RELATED TO OUR BUSINESS FINANCING PROGRAMS. HOWEVER, WE DO RECEIVE OPEN RECORDS REQUESTS. IN RESPONDING TO THESE REQUESTS, WE DO NOT RELEASE PERSONAL OR PROPRIETARY INFORMATION SUCH AS CREDIT REPORTS, SOCIAL SECURITY NUMBERS (IN THE CASE OF SOLE PROPRIETORSHIPS OR PARTNERSHIPS) OR TAX IDENTIFICATION NUMBERS.

IN OUR REGULATORY PROGRAMS, WHICH ENSURE PUBLIC HEALTH AND SAFETY, WE MAINTAIN A "REGULATED OBJECTS" DATABASE. IT IS NECESSARY BECAUSE WE REGULATE A BROAD SPECTRUM OF BUILDING CONSTRUCTION-RELATED ACTIVITIES. THESE RANGE FROM ISSUING CREDENTIALS TO INDIVIDUALS OR BUSINESSES, SUCH AS SOIL TESTERS, ELECTRICIANS, AND ELEVATOR INSPECTORS TO APPROVING BUILDING PLANS . . . AND TO INSPECTING STRUCTURES AND SITES.

WE MAINTAIN INFORMATION ON THE CUSTOMER'S NAME, ADDRESS, AND PHONE NUMBER . . . ON THE LOCATION AND ATTRIBUTES OF THE REGULATED OBJECT OR SITE ON FEES AND BILLINGS AND ON THE STATUS AND HISTORY OF PLAN REVIEW AND INSPECTIONS. WHEN CREDENTIALS ARE INVOLVED, WE COLLECT THE INDIVIDUAL'S SOCIAL SECURITY NUMBER. THIS PERSONAL IDENTIFIER IS NECESSARY BECAUSE THE STATUTES NOW REQUIRE A SOCIAL SECURITY NUMBER FOR CREDENTIALS, SO THAT CHILD SUPPORT AND TAX DELINQUENCY CAN BE VERIFIED.

THE DEPARTMENT RECEIVES REQUESTS FOR THIS DATA. THE REQUESTS ARE MOST COMMONLY FOR LISTS OF INDIVIDUALS WITH VARIOUS CREDENTIALS. GENERALLY, THESE REQUESTS COME FROM BUSINESSES WHO WANT TO MARKET A PRODUCT OR SERVICE, OR WANT TO EXPAND INTO A NEW AREA OR PRODUCT LINE. IN THE CASE OF REQUESTS FOR CREDENTIAL LISTS, THEY OFTEN COME FROM BUSINESSES THAT ARE RECRUITING FOR A PARTICULAR SKILL.

WE DO CHARGE A STANDARD FEE OF \$25 FOR THESE LISTS. THE FEE IS GREATER FOR MORE CUSTOMIZED REQUESTS TO REFLECT THE ADDITIONAL COSTS THAT ARE INCURRED. IN RESPONDING TO REQUESTS INVOLVING CREDENTIALS, WE DO NOT PROVIDE SOCIAL SECURITY NUMBERS. WE ALSO DO NOT PROVIDE PLAN REVIEW INFORMATION FOR SECURITY-SENSITIVE BUILDING FACILITIES, SUCH AS JAILS, PRISONS, BATTERED WOMEN FACILITIES, POWER PLANTS AND OTHERS.

IN THE PETROLEUM ENVIRONMENTAL CLEAN-UP FUND AWARD PROGRAM (PECFA), WE MAINTAIN INFORMATION ABOUT PECFA CLAIMANTS IN A "TRACKER" DATABASE. IT INCLUDES SUCH INFORMATION AS THE NAME, ADDRESS, PHONE NUMBER, TAX IDENTIFICATION NUMBER, SITE LOCATION, SIZE OF THE AWARD, STATUS AND HISTORY.

WE DO NOT SELL ANY INFORMATION FROM THE DATABASE FOR PECFA.

HOWEVER, WE RECEIVE NUMEROUS OPEN RECORDS REQUESTS.

GENERALLY, THESE REQUESTS ARE FROM ATTORNEYS WHO ARE ENGAGED IN ENVIRONMENTAL WORK SEARCHING FOR CONTAMINATED PROPERTIES, AND FROM INDIVIDUALS AND AGENCIES WHO ARE SEEKING INFORMATION ABOUT PECFA COSTS, THE NUMBER OF PECFA SITES AND OTHER RELATED PROGRAM INFORMATION.

WE DO NOT RELEASE ANY INFORMATION ON SOCIAL SECURITY OR TAX IDENTIFICATION NUMBERS. THE DEPARTMENT CHARGES FOR THE COSTS OF PREPARING THE RESPONSE.

IN CONCLUSION, THE DEPARTMENT OF COMMERCE COLLECTS AND MAINTAINS INFORMATION TO ADMINISTER ITS FINANCIAL ASSISTANCE AND REGULATORY PROGRAMS. MOST REQUESTS FOR INFORMATION STEM THE OPEN RECORDS LAW. WE DO RELEASE SOME OF OUR LISTS OF CREDENTIALLED INDIVIDUALS AND BUSINESSES, IN ADDITION TO INFORMATION ABOUT THE STATUS AND LOCATION OF SOME OF THE REGULATED OBJECTS. BUT WE HAVE MEASURES IN PLACE TO PROTECT THE PROPRIETARY INFORMATION OF BUSINESSES AND PERSONAL INFORMATION OF INDIVIDUALS.

I WILL BE PLEASED TO RESPOND TO YOUR QUESTIONS.

All records of current elected officials are kept until three years after they leave office.

Lobbying records are also kept at the Ethics Board in-house and on the web page for the agency. Lobbyists are required to provide their social security numbers in order to comply with child support enforcement laws. The agency also fulfills requests for advisory opinions; the research that goes into these opinions is not a public record but the end result is.

The Department of Administration provides computer support for the board as well as for other smaller state agencies. This allows a number of DOA staff the opportunity to have access to Ethics Board records.

State of Wisconsin Investment Board

Ken Johnson represented the Investment Board. The Board manages \$65 billion. The Investment Board does not collect personal information. The public may have access to the board's records through a policy to comply with the open records law. Requesters of information must say who they are and why they are requesting information.

**Testimony attached*

University of Wisconsin System

Margaret Lewis represented the University of Wisconsin (UW) System. The UW collects and maintains information regarding students, faculty and staff. Under the Family Educational Rights and Privacy Act (FERPA), and the Buckley amendment, this information is only available to the public in directory format. Directory information is an open record and subject to those laws. A charge is made for requests. Credit card companies request directory data and market this way. Further information about UW kickbacks from credit card sign-up of students was requested. Faculty information is also maintained this way and is available upon request. Faculty can ask that some of their information be withheld.

Fundraising lists from the UW Athletic Department, the Alumni Association and the Foundation are not sold. These entities are separate. A social security number is no longer used as the student identifier. Athletic ticket holders' information is available as an open record, although it has never been requested.

**Testimony attached*

**Additional documents available*

Office of the Commissioner of Insurance

Eileen Mallow and Clare Stapleton Concord represented the Insurance Commissioner's Office. The agency keeps three types of identifiable records--complaints, companies, and agents. Complaints are public records though sensitive information is removed before release. Businesses make requests for copies of complaints and about \$50,000 is generated each year to cover the costs associated with granting requests. Information regarding agents is available and the department charges \$75 for the file. In addition, there is a toll-free number people can call to see if an agent is licensed. Agent data includes social security numbers and a background check is conducted to determine if the agent has committed fraud in other state. Information is shared with law enforcement agencies.

Medical information is accessed by examiners only. Employees are required to sign a confidentiality agreement when employed.

Information is also kept on companies that sell insurance. This information includes date of license, name and address, fax number, financial information of the company, and examination of practices. All information is a public record except examinations.

Complaints are kept on-site for one year after they are closed and an additional five years in the records center.

Finally, the department collects information regarding insurance funds for local and state governments.

**Testimony attached*

Office of the State Treasurer

Scott Felt and Nicholas Voegeli represented the Office of the State Treasurer. The office holds data containing personal information regarding unclaimed property and the cash management program. Unclaimed property is publicized through newspapers and other media. The office is the trustee of over \$75 million worth of property contained previously in safe deposit boxes, mutual funds, and stock. This property is remitted to the state after five years of trying to contact the owner. Unclaimed property information is provided to local governments to help with retrieval.

Wisconsin Housing and Economic Development Authority

James Langdon and Mick Conrad represented the Wisconsin Housing and Economic Development Authority (WHEDA). The agency is governed by s. 234.265, Stats. This statute is the basis for operation for the agency. The agency does not subcontract for any services except for lenders. These lenders receive the financial information of applicants. Information has never been released by the authority and to their knowledge no one has ever requested information

under the open records law. Information collected from applicants is minimal because extra information bogs the system down. Personal and financial information needed in the application process is kept for the life of the loan, i.e. thirty years. Confidentiality of these records is addressed in s. 234.265(2), Stats. The department is not required to give out information under the tax credit program.

WHEDA would like to close a loophole in the law under which tenant information is an open record. In addition, records pertaining to loans are not protected. They would like to change that as well. All other records are protected under the governing statute.

**Testimony attached*

Department of Regulation and Licensing

William Dusso represented the Department of Regulation and Licensing (DRL). The agency collects and maintains information provided to receive licenses. This information includes name, address, experience, and professional qualifications. The department also holds complaints records which are carefully screened before release. The Fair Employment Act limits what can be released by the agency. All test scores are available to the public as the result of a court case. All license applicants are informed that their information is made public.

DRL was the trial agency for the delinquent tax project. In addition, they are now participating in the child support enforcement program. Lists are not released to any other agencies besides DWD and DOR.

Information is released upon request, often to recruit people into continuing education programs. Only costs are covered and \$118,000 is collected for this each year. Information released includes name, address, date of birth, race, sex, specialty status, renewal date, and license number. A question was raised about the value of collecting the date of birth.

**Testimony attached*

**Addition documents available*

Office of Justice Assistance

Kevyn Radcliffe represented the Office of Justice Assistance. This is a small agency that administers federal grant money to local governments. It is public information who receives these grants. In addition, the agency keeps information on juvenile detention including uniform crime and criminal arrests and reports made to the FBI.

The Juvenile Justice Act of 1974 requires a state to prove it is in compliance with all federal minimum standards. Currently, recidivism information is not kept but they are exploring inclusion. Juvenile offenders are tracked through detention centers that report to the agency.

Any requests for information would be weighed through state and federal laws governing the release of juvenile records.

Department of Financial Institutions

David Anderson and Chris Green represented the Department of Financial Institutions. The department regulates and examines financial institutions as well as auditing other financial service organizations. Information cannot be released under s. 220.06, Stats.

Corporate information held by the agency is Uniform Commercial Code (UCC) lien filings as well as corporate records. Costs for administering these programs are recouped by the state. They are a program revenue-generating agency and self-sustaining. UCC forms contain personal information; the department recently removed the social security number from the form.

Licensing files of securities brokers and others have personally identifiable information, including the social security number. Field audits of these firms are generally confidential under s. 551.33, Stats.

Information is shared with DWD and DOR. Information has been requested by the National Association of Securities Dealers; they maintain a master list of dealers. It is unknown whether or not they sell their lists. DFI had a budget request to charge a price above cost for their data.

**Testimony attached*

Department of Justice

Frank Ace and Michael Roberts represented the Department of Justice. The divisions of the department include: crime victim services, legal services, criminal investigation, narcotics enforcement, management services, and law enforcement services. The department does not sell any lists on an across-the-board basis. Investigatory files are available only on case-by-case basis; discovery rules govern the release. Ongoing case information is not released.

Legal Services is a case management system where attorneys track cases. The records are closed to public access. Criminal Investigations and Narcotics Enforcement records are subject to internal investigations only and also available to law enforcement outside the agency. Management Services holds personnel records, which are governed by state statute. Crime Victim Services records contain compensation records, which are public, but the location of the victim is safeguarded. Law Enforcement Services houses a database that holds many records. Section 165.79, Stats., covers the release of this information. All pending court cases may not be released. Once a court case is closed, it can be released with approval of the Attorney General and the prosecutor. The DNA database is growing and there may be a day when we have DNA information on all criminals, just like fingerprints. The security of the DNA database is tight.

Criminal files are governed by ss. 165.83 and 165.84, Stats. There are 812,000 people listed in the criminal file that was started in 1971. Between 120,000 and 130,000 fingerprint cards are received each year. Potential employers have access to this when they run state-required background checks. Release of the criminal file is covered in s. 165.82, Stats. The public can access this information for \$13. The department has upwards of 500,000 requests per year for the criminal file.

The Circuit Court Automation Program (CCAP) captures disposition information electronically. Only convictions are tracked on the CCAP program, not arrests.

In response to a question of whether the department keeps a list of individuals that apply for firearms, DOJ stated that if you apply for a firearm, your background is checked for felony convictions. If you cannot have a gun, DOJ tells the dealer so; a copy of the application is sent to DOJ. Applications for attempted gun purchasers who are felons are kept in DOJ, but the negative checks are destroyed within 30 days. The information is not a public record

Background checks are undertaken on all DOJ employees. All servers require an access card. Network and Internet files have a firewall where passwords are changed frequently. There have been no breaches of security. Everyone's background is checked, even contract employees.

Department of Transportation

Joe Maassen represented the Department of Transportation (DOT). The department collects social security numbers now because of a statutory requirement to do so. These numbers are used internally and are released only to DWD and DOR. Copies of privacy statements with those two agencies were requested. The statute that governs the collection of driver's license application information is s. 343.12, Stats. This file contains name, address, date of birth, hair and eye color, and weight. This is the alpha file and is available at cost under the open records law. Additional information on driving records and vehicle registration is available for sale. Nearly \$9 million is generated every year from sale of DOT lists.

Information regarding organ donors is collected at the time of renewal or licensure. A request was made for follow-up information regarding whether or not there is an organ donation database.

License information about minors is released.

Currently, there exists an "opt out" form separate from the application and registration that allow the opportunity to "opt out" of lists released in groups of ten or more, with some exceptions.

Agreements with DOC included registration updates (no longer done). These updates included information like date of birth, address and financial information if paying by credit

card. Requested was a copy of all contracts with DOC. There were questions about the screening process DOT asked DOC to follow with prisoners – none existed

Registration of a new vehicle is governed by s. 341.17, Stats. Questions were raised about how useful the collection of the information is to the people of the state; it may be useful to companies who like to buy it, but is it useful to agency?

**Additional documents available*

Department of Corrections

Secretary Jon Litcher represented the Department of Corrections. The Secretary opened by stating that he was aware of two additional agreements with DOT--the registration of junk automobiles, and reference point information.

Most of the records that are kept in the Department of Corrections (DOC) are records of inmates. The department has outside contracts and has confidentiality agreements with those contractors. DOC does not sell any information.

Data entry by prisoners is a useful work program to the department. There are a number of contracts currently being fulfilled with the DNR (dead animals), Department of Transportation, City of Madison, Racine Unified School District, DATCP, Historical Society, Dane County, Swiss Colony, Lottery Board, Racine YMCA, and the Leukemia Society. Data entry has been performed at Racine Correctional, Ellsworth, Green Bay and Oshkosh

The department does not make a profit; they charge overhead. Currently, there are 71 prisoners doing data entry. There were questions asked about the screening of inmates who do data entry and telemarketing (based on prison behavior) and the current number of inmates cleared to do this kind of work. In addition, the question was raised of whether it is the right of people to know this work is being done and their personal information is being accessed by prisoners.

Currently, telemarketing and toll-free calls are not monitored. There is no average time for these calls. The department stated that some past contracts were eliminated because of the sensitive nature of the information the data contained. There are currently no disclaimers on forms handled by the department.

Supervision of inmates at work includes guards on rounds only. There have been no documented incidents regarding discipline associated with data entry or telemarketing by inmates.

Department of Administration

Linda Seemeyer represented the Department of Administration. There are nine divisions in the department. Personal information collected and maintained by the department includes name, address, social security number, financial information, state payroll and social security tax information, procurement information on state vendors, and contract compliance records (published). Information is not sold by the department and data released through open records requests does not contain personal information. There are about 200 open records requests every year. State employee information includes how much is earned and where the employee works.

The college tuition savings program information is housed in the department that includes financial information. Gaming contracts are also maintained and the social security number is required to obtain a license for paramutual gaming. There are background checks run for those applying for gambling licenses.

The department provides mainframe computer services to all state agencies. The Legislative Audit Bureau reviews these procedures frequently. Security is sound and all employees with access must sign a confidentiality agreement. Seven people have access to sensitive databases. The mainframe is backed up once a week and backups are kept for a year by the department.

**Testimony attached*

**Additional documents available*

Personnel Commission

Kurt Stege represented the Personnel Commission. The agency keeps information regarding submission of complaints. These files are used only by the commission and they do not contain social security numbers. All records are subject to open records requests. Other litigants often request copies of the files. All copies are provided at cost according to open records statutes.

Technical College System

Jesse Garza represented the Technical College System. Many records are kept by the system including names and addresses of students and faculty. There are 16 technical college districts with 42 campuses and 450,000 students per year. All 10,000 instructors are certified. Credit companies have requested information on students and faculty but the system does not provide it. They believe FERPA allows them not to release this information although there is some question of whether directory information must be provided, as is the policy of the UW. Transcripts and social security numbers are redacted with records and this information is kept for 50 years.

Currently, the system matches data with data maintained by the DOT. A copy of the privacy statement regarding the matching was requested by the committee. Clarification was made that directory information is an open record and released upon request.

**Testimony attached*

**Additional documents available*

Department of Commerce

Martha Kerner and Barb Bartz represented the Department of Commerce. The department's mission includes economic development inside the state and ensuring the health and safety of the public (e.g., examining the workplace and administering the Petroleum Environmental Cleanup Fund Award program, known as PECFA).

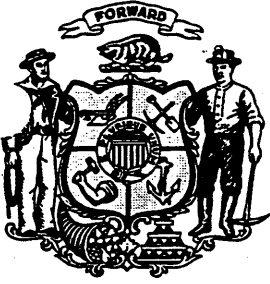
Information collected through the PECFA program includes name, address, date and amount of loan, credit report and social security number. The database is an open record but data is not released with personal data included. Also held is a contaminated site database. This database includes sites, name and address of claimant as well as social security number. Social security numbers are not released.

Inspection and regulation of the workplace creates data on building inspections, elevators, boilers, amusement parks and ski lifts. The Department of Commerce issues credentials to inspectors and this database includes names, addresses, and social security numbers, which are provided under statute to DWD.

Computers at the department are protected by use of passwords. The department shares databases on contaminated sites with DNR.

**Testimony attached*

State of Wisconsin \ Elections Board



Randy Nash
Chairperson

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(608) 266-8005
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Kevin J. Kennedy
Executive Director

Testimony of Kevin J. Kennedy
Executive Director, State Elections Board
Senate Privacy, Electronic Commerce and Financial Institutions Committee

August 24, 1999

Senator Erpenbach and committee members,

One of the fundamental purposes of the State Elections Board is to disseminate information to the public about campaigns and elections in Wisconsin. The Elections Board collects information from candidates for state office and political committees supporting and opposing state candidates and referenda. A copy of the campaign registration statement and campaign finance report forms will be given to the committee clerk. The Elections Board also collects information from candidates to enable them to qualify for ballot access. This information is collected from documents that include nomination papers with the signatures and addresses of qualified electors and declarations of candidacy. A copy of these forms will be given to the committee clerk. Counties, towns, cities, villages and school districts for local campaigns also collect this information.

The collection of this information is an essential element in providing information to voters and maintaining the integrity of elections in Wisconsin. I will briefly describe the type of information collected by the agency and respond to any questions from committee members.

Campaign Finance Information

Registrants, including candidates, provide their name, address, home and work telephone numbers along with the same information for their campaign treasurers. Registrants also supply the name and address of their committee's financial institution and the account number of their campaign depository account.

Registrants file detailed reports itemizing the source of their income and the nature of their campaign disbursements. The name, address and amount of any contribution over \$20 is disclosed. If an individual gives more than \$100 the name and address of the contributor's principal place of business and the contributors occupation are also listed.

This information is available for public inspection and photocopying in the Board's offices. There is no requirement that individuals examining the Board's records identify themselves. In calendar years 1997 and 1998 the agency received 2,646 requests to review 9,353 files. By January 1, 2000 the Elections Board expects to have campaign finance information available on the Internet.

The Elections Board staff is wrestling with some of the privacy ramifications of the availability of campaign finance information on the Internet. This will clearly make campaign finance information more accessible to Wisconsin's voters. We do not plan to list an individual contributor's street address on Internet postings. We have received inquiries from judicial and district attorney candidates asking that home addresses not be posted on the Internet. We are looking at this as a possible exception.

Current law prohibits the use of information taken from campaign finance reports for soliciting campaign contributions or for any commercial purpose. Ss. 11.21 (5), 11.22 (8) Stats. This is difficult to enforce but it has been done.

Election Information

Information about candidates, including election results, will be available on the Internet. Nomination papers are available for public inspection, but are destroyed after 22 months per state and federal law. We have had a Michigan based company purchase the papers for developing a state database of politically active individuals.

Wisconsin does not have a statewide list of registered voters. Only 450 of the state's 1,850 municipalities have voter registration. Wisconsin does not collect information about age, race or sex on voter registration forms. Some municipalities request social security numbers, but inform the elector it is not required. Voter registration lists and poll lists showing who voted at an election are public records along with information on absentee voting requests.

If committee members would like additional information the Elections Board staff will be happy to assist you. Thank you very much.

DOUGLAS LA FOLLETTE



**SECRETARY OF STATE
WISCONSIN**

MEMORANDUM

TO: Honorable Members/Senate Committee
on Privacy, Electronic Commerce,
and Financial Institutions

FROM: Office of the Secretary of State

DATE: August 24, 1999

RE: Request for Information on Agency's Policies Dealing with Data and Privacy Issues

Wisconsin's Constitution requires the Secretary of State to maintain the official acts of the Legislature and Governor, and to keep the Great Seal of the State of Wisconsin and to affix it to all official acts of the Governor. Currently the Office is comprised of two divisions: the Government Records Division and the Administrative Services Division.

The Government Records Division administers program responsibilities set forth in approximately 100 sections of the Wisconsin Statutes, including issuing notary public commissions; issuing notary authentications and apostilles; recording annexations and charter ordinances of municipalities; registering trade names and trademarks; publishing legislative acts; recording official acts of the Legislature and the Governor; and filing oaths of office and deeds for state lands and buildings. All of these services are critical to many of Wisconsin's business, legal, and real estate communities, as well as to other members of the public -- both in and outside of the state of Wisconsin.

All of these various documents are available to the public under the Open Records Policy of the Office (see attached). Although none of these documents contain social security numbers, the notary public application forms and registration forms for trademarks/names require names, addresses, and telephone numbers of the principals involved. This data is used to mail out verification of registrations and renewal/expiration notices as required by Wisconsin Statutes.

None of the information on file with the Office is sold or traded with other agencies. However, the Office fills several ongoing requests for copies of trademark/name registrations and various bonding companies come into the Office on a regular basis and record the names and addresses of pending notary renewals.



Wisconsin Conservation Corps

30 West Mifflin Street, Suite 406, Madison, WI 53703-2558 Ph: (608) 266-7730 FAX: (608) 267-2733

August 26, 1999

MEMORANDUM

TO: Sen. Jon Erpenbach and Members of the Senate Privacy, Electronic Commerce and Financial Institutions Committee

FROM: Laura DeGolier, Executive Secretary, Wisconsin Conservation Corps
Rebecca Christner-Kemp, Human Resources Coordinator, WCC

SUBJECT: Informational Hearing

We maintain lists of our corps enrollees, crew leaders, regional and mobile crew leaders. These are persons hired by the Corps and considered limited term employees.

Information contained on lists includes the following:

- 1) addresses
- 2) names
- 3) social security number
- 4) phone number if available
- 5) sex
- 6) w-4 form
- 7) birthdate
- 8) driver's license number

There are privacy features built into our database to limit access to this list. Employees with full access to the above information include the Human Resources Coordinator, Training and Development Officer, Program Assistant 3 and Program Assistant Class 2, all members of the Human Resources Department. Currently the Human Services Coordinator also has full access to this information.

Other members of the Human Services Department and the Executive Secretary have limited access. The limited access includes names of corps members and the crews on which they work, start date and termination dates. All other employees of the Agency have no access to this database.

Information on the database dates from 1997. Prior corps enrollee information is on hard copy in boxes stored in our warehouse.

Our list of the limited term employees, the corps members, crew leaders, regional and mobile crew leaders are not distributed or sold.

To Serve..... To Challenge..... With Pride

State of Wisconsin
Governor Tommy G. Thompson

Executive Director
Laura DeGolier



State of Wisconsin Department of Public Instruction

Mailing Address: P.O. Box 7841, Madison, WI 53707-7841
125 South Webster Street, Madison, WI 53702
(608) 266-3390 TDD (608) 267-2427 FAX (608) 267-1052
Internet Address: www.dpi.state.wi.us

John T. Benson
State Superintendent

Steven B. Dold
Deputy State Superintendent

Summary of data DPI collects from School Districts:

School and School District Directory Data:

- phone, fax, address, email

Pupil Data:

- Enrollment
- School Performance Report Data
Attendance, Suspensions, Expulsions, Retentions, Habitual Truancy, Dropouts, School Sponsored Activities, Graduation, Postgraduate Intentions, Advanced Coursework
- Assessment
Third Grade Reading, Knowledge & Concepts Examinations, Advanced Placement Test, ACT results
- Program Participation Data (examples)
Special Education, IDEA, Carl Perkins, Vocational Education Evaluation, School-to-Work, Job Training Partnership Act, SAGE, Choice, Open Enrollment, Limited English, Migrant Student, Title I-Basic Grants, Title II Eisenhower Professional Development, Title III-Technology Education, Title IV-Safe and Drug Free Schools, Title VI-Innovative Strategies, Goals 2000, Comprehensive School Reform

Staff Data:

- Administrative staff, licensed staff, support staff
Staff name, ssn (never released, used internally for license audits) fte, position, salary

Data DPI collects from individual license applicants:

License Applicant:

- Demographic data, name, ssn, license credentials
Copys of individual license records are provided in response to written Open Record requests for license data; the ssn is never released.

Tommy G. Thompson
Governor

Peter D. Fox
Secretary

State of Wisconsin



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DEPARTMENT OF EMPLOYMENT RELATIONS

Date: August 26, 1999

To: State Senate Committee on Privacy, Electronic Commerce, and Financial Institutions

From: David Vergeront, Chief Legal Counsel
Robert Lavigna, Administrator of Merit Recruitment and Selection

Subject: DER Open Records Policies and Procedures

Good morning Senators. My name is David Vergeront. I am the chief legal counsel of the Department of Employment Relations. With me is Robert Lavigna, the Administrator of Merit Recruitment and Selection. We are here to brief you and answer your questions on DER's policies and standards for collecting and securing records some of which include personally identifiable information.

DER administers the state's civil service system, the classification and compensation of employes and collective bargaining with unions that represent state employes. Our mission is to ensure all state agencies have qualified, and diverse staff. We prepare a compensation plan biennially for approval by the Joint Committee on Employment Relations to administer compensation equitably for non-represented employes.

The department collects work-force data, including gender, age and ethnic make-up and market wage information. This data is collected in order to prepare reports required by statute on the ethnic, disability status and veteran status of the workforce. It is also collected to assist our planning for a representatively diverse workforce.

When the department receives requests for records under the open records law, we consider on a case-by-case basis first, state law, then the balancing test between the potential harm and benefit to public interest on release of records.

Examples of records that the Department keeps are:

- ❖ Grievance and arbitration files
- ❖ Position descriptions
- ❖ Classification specifications
- ❖ Pay ranges
- ❖ Collective bargaining agreements
- ❖ Employe position history and salary

Mr. Lavigna will address the records his Division maintains. In our role as employer of all state employees, the department provides guidance to all state agencies on the "open" or "closed" status of data collected on state employees. I have brought with me copies of a policy bulletin that DER published for all state agencies listing employee records that are considered public, those that are closed with the statutory reference authorizing restriction, and those that fall into the "in-between" category to which the custodian of the record must apply the balancing test between public and private interest.

All records may be released in the discovery process during litigation, subject to legal objections.

Good Morning Senators, I am Robert Lavigna, the Administrator of the Division of Merit Recruitment and Selection of the Department of Employment Relations. The Division's mission is to recruit qualified applicants for classified positions in Wisconsin State Service, and to create and administer competitive examinations that identify qualified candidates, who we then refer to agencies for hiring consideration. On the application for classified state positions, we collect information such as the applicant's:

- ❖ Name
- ❖ Mailing address
- ❖ Social Security Number (as a unique identifier, unless an alternative identifying number is requested).
- ❖ Date of birth
- ❖ Racial/Ethnic group
- ❖ Disability, if any
- ❖ Veteran's status

After candidates apply, we conduct competitive exams to identify qualified candidates. We then establish "registers" which are lists of candidates who are qualified and may be referred to hiring agencies for specific vacancies. These lists of best-qualified candidates are called certifications. The hiring agency then interviews the certified candidates and makes a hiring decision.

Chapter 230.13 of the state statutes specifies the information that is available to the public upon request, and the information that may be withheld. The Wisconsin Administrative Code, Chapter ER-MRS 6 (section 6.08 in particular), further identifies what information may and may not be released. I am passing out copies of this statute and rule, as well as a sample of the state application form.

Age, gender and racial/ethnic data are compiled for workforce analysis, recruiting, and reporting purposes; but are not released on individuals. Social Security numbers are used for identification purposes only in our computerized system, and are never released. If an applicant does not want to submit his or her Social Security number, we will assign an alternative identifying number. An example of a record open to the public is the list of names of best-qualified candidates certified to an agency. An example of a record closed to the public is the list of all applicants who passed the exam to qualify for that position as well as all applicants who took the test but did not qualify.

When a record is requested under the open records law, we apply the balancing test as described by our legal counsel.

STATE OF WISCONSIN

Department of Agriculture, Trade & Consumer Protection

Division of Management Services

*Bureau of Information Technology Services
(608) 224-4789*

Kate Nolan
IT Director

Background: The Department of Agriculture, Trade and Consumer Protection collects and stores a variety of data in order to conduct business and comply with applicable statutes. As a regulatory agency, we store data related to licenses, certificates and registrations along with sample and test results generated both internally and externally. We also store data ranging from lists of contacts for Marketing to financial data necessary to audit financial reserves related to Trade Practices. The agency also collects and tracks data on consumer complaints and outcomes in its role of Consumer Protection. To support federal reimbursement requirements some programs also collect extensive data on employee workload and assignments.

Data Entry and Storage: Much of our data is entered manually. However, a significant amount of data is collected electronically from external partners or even directly from electronic instrumentation. We maintain a wide range of data storage depending on security requirements and access needs.

The agency's policy is to comply with all valid open records requests while ensuring, through review of requests by the legal staff, that taxpayer privacy and confidentiality needs are met. Our security is provided at several levels from physical security on the building, to application and database security to restrict access within the agency to network security to restrict access from outside the agency. We are in the process of implementing a major security upgrade in connection with the statutory requirement that requires licensing agencies to collect social security numbers with license applications.

Summary: DATCP collects and stores a variety of data and provides security to ensure, as much as possible, that data integrity, privacy and confidentiality are maintained.



State of Wisconsin • DEPARTMENT OF REVENUE

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Tommy G. Thompson
Governor

Cate Zeuske
Secretary of Revenue

Senate Privacy, Electronic Commerce, and Financial Institutions Committee

Testimony of Thomas Ourada on September 8, 1999

Thank you Mr. Chairman and members of the Senate Privacy, Electronic Commerce, and Financial Institutions Committee, for the opportunity to address you concerning the Department of Revenue policies regarding the collection and protection of information submitted to the Department by Wisconsin taxpayers.

The Wisconsin statutes provide that income tax returns, partnership taxes, corporation franchise or income taxes, withholding, fiduciary gift inheritance and estate taxes, local exposition districts, temporary recycling charge, sales and use taxes, stadium, premier resort area, motor vehicle fuel, alternate fuel and general aviation fuel, fermented malt beverage, distilled spirits and wine, tobacco and cigarette tax returns and dry cleaning, real estate transfer, and rental vehicle fee returns, are all confidential.

No person may examine or receive information from a tax return or tax credit claim, unless specifically authorized to do so by statute. The type of information covered by the statute includes, the various tax returns filed, farmland credit claims, homestead credit claims, any schedules, exhibits, writings, audit reports, and other documents or reports pertaining to such tax returns.

Chapter 71.78 covers the confidentiality provisions in the income and franchise tax. This chapter and similar provisions governing every other type of tax administered by DOR, restricts access to any information coming from a tax document. No person, except the one who filed the return, may inspect the return or claim filed, unless the person is required to do so in the performance of their job.

The statutes list the individuals who are authorized to examine and receive information from tax returns. This includes the Secretary of Revenue or any officer, an agent of DOR, the Wisconsin Attorney General, and the Department of Justice employees. Also included are, District Attorneys and the employees of the state, to the extent DOR determines the examination

is necessary for the employee to perform their duties. This activity is spelled out in agreements that DOR has with other state agencies that specify the people who may view tax returns.

Employees of DOR are given information and training concerning safeguarding tax taxpayer information. As we say in our employee guide, "To do our jobs, we rely on tax payers to voluntarily file tax returns which contains very sensitive information".

Safeguards are in place to assure that personal and financial information is kept confidential. Unauthorized disclosure or inspection of taxpayer information is a crime. Violation of laws against so called "browsing" of taxpayer information is a crime resulting in penalties, fines or imprisonment and dismissal from a job.

Anyone requesting to examine tax returns must follow the procedures established in specific written agreements between the Department and other Wisconsin governmental agencies. Individuals must be authorized to examine the return, must make the request in person, and must show proper identification. Returns can only be examined at the Department Central Files facility – no information is released over the phone and no photocopies are made unless the agreement specifically provides for it.

Although there are significant protections in place, Wisconsin law is also unique in that it allows Wisconsin residents to obtain the net income tax, franchise tax, or gift tax reported as paid of another person or corporation in the state. The information is not available to a non-resident or to a resident who makes the request for the use or benefit of a non-resident person or firm, or foreign corporation, except to the extent that similar information in the state of residence is made available to residents of Wisconsin or Wisconsin corporations. Any resident can pay \$4 and complete a form and the information is sent to the individual in a letter (copy is attached to testimony).

We believe that Wisconsin is possibly the only state that allows this type of information to be released – and the department has attempted to seek a statutory change to eliminate this provision. Given the current concerns regarding privacy and the overall usefulness of the "net tax" figure, perhaps the committee would like to consider supporting such a change and the department would offer any assistance needed.

Senate Privacy, Electronic Commerce and Financial Institutions
Committee

Testimony of Diane Hardt on September 8, 1999

Thank you Chairman Erpenbach and committee members for inviting the Department of Revenue here today.

I offer the following information in addition to what Tom Ourada has provided. Specifically I will talk about data capture and other operations in the Department of Revenue.

The Department processes over 4.6 million tax returns and reports annually. The documents are either received in the Department office on University Avenue in Madison or at the state's depository bank in Milwaukee. All income tax returns are received in the Department's office in Madison.

All documents are routed through a processing pipeline where they are checked for accuracy and completeness, and prepared for data capture. We capture all data by data entry operators, scanning equipment or electronically for those who file this way. The paper documents are then stored in our Central files until confidentially destroyed as provided in records disposal authorizations.

Paper documents or electronic tax information may only be accessed by authorized employees who need the information to do their jobs. A computerized tracking system is used to identify employee accesses.

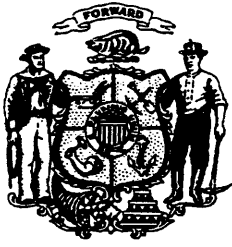
Department employees who require access to tax returns or return information to do their jobs receive training on the confidentiality and browsing laws on their first day of employment with the Department. They also sign certifications that they understand the laws and the penalties for violating the laws. They are also made aware that they are subject to federal laws and penalties when they have access to federal tax return information.

The Department takes the confidentiality and browsing laws seriously and this is communicated to all employees on a regular basis. In 1998, the Legislature passed 1997 Wisconsin Act 323, the "anti-browsing" bill. The Department implemented this legislation through:

- A training course for all employes. As Division Administrator, I personally delivered this training to over 800 employes to emphasize the importance of the message.
- Each employe was provided an "Employee's Guide to Safeguarding Taxpayer Information." As you can see, the first page warns our employes to "Stop! Don't do it" when it comes to browsing of tax information.
- At the end of the class, the employe signed and dated a Certificate of Understanding. This certificate explains the severe consequences for improper browsing of tax returns or return information.
- It was communicated to all employes that improper browsing is grounds for dismissal.
- Employes were told there is a tracking and monitoring system in place.

Department employes know and understand the law. In fact, since the law was passed in mid 1998, the Department identified one employe through our tracking system for improper browsing. This individual resigned before she could be discharged. As the statute requires, the case has been referred to the District Attorney.

Finally, I might add that the Department undergoes an extensive audit annually by the IRS. The IRS conducts an audit to ensure we are properly safeguarding taxpayer information and documents.



State of Wisconsin Investment Board

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September 8, 1999

Senator Jon Erpenbach, Chair
Senate Committee on Privacy, Electronic Commerce and Financial Institutions
Room 20 South, State Capitol
Madison, WI

Dear Senator Erpenbach:

Thank you for the opportunity to discuss the Investment Board's policies regarding privacy of records.

My understanding is that the primary interest of the Committee is the protection of records that contain information that pertains to individual members of the public under ss. 19.62 to 19.80 of the Statutes. The Investment Board does not collect that type of information.

With respect to public access to Investment Board records, we have a written policy to comply with all aspects of the Open Records law. Attached is a copy of our policy. We also have a specific written policy with respect to the privacy of personnel records for Investment Board employees. A copy of that policy is also attached.

Please let me know if there is additional information that would be helpful to your deliberations.

Sincerely,

Patricia Lipton
Executive Director

State of Wisconsin Investment Board

Public Access to Investment Board Records

Adopted March 1, 1999

The following bulletin further implements and defines the Personnel Guidelines adopted by the Board. This bulletin is not intended to be a comprehensive resource covering all requirements applicable to this subject matter.

APPLICATION OF OPEN RECORDS LAW

As an independent agency of the State, SWIB is subject to the Open Records Law, which is set forth in chapter 19 of the Wisconsin Statutes. The Law covers not only paper documents, but also computer, video, audio and other records. It is SWIB's policy to comply with the Open Records Law in all respects. The Executive Director and in-house counsel are official custodians of SWIB's records.

REQUESTS FOR ACCESS

Requests for access to SWIB records may be made orally or in writing. While requesters may be asked their name and other identifying information to assist in communicating about the request, access may not be denied if a person does not disclose their identity or purpose.

Access may be requested at SWIB's offices during business hours. While any SWIB staff person may receive a request, individuals seeking access to SWIB records will normally be referred to legal staff or the Executive Director. Records may be examined at SWIB's offices or copies may be provided at the requester's expense. Requests should have reasonable limits as to time and subject matter and be specific enough to allow identification of covered records. SWIB may also ask to have requests made in writing to reduce confusion over scope, though a request may not be denied simply because it is not in writing.

PROCEDURES

A request must be handled as expeditiously as practicable and without delay, given other workload demands of the agency. If it is expected that production of documents will take more than two weeks, the requester may be provided with an explanation and estimate of when documents will be available. Requests for certain documents may be denied in whole or in part, but only as permitted under the Open Records Law. A request may not be denied without an explanation of the basis for the denial. Written requests must be denied in writing. If a requester asks that an explanation of the denial of an oral request be provided in writing, SWIB will comply with the request.

SWIB may charge for copies of records, and the charge must reflect the actual costs involved. A location fee based on actual costs may be charged if the costs are more than \$50. Fees may

be waived by SWIB at its sole discretion. Prepayment of fees may be required only as allowed under the Open Records Law.

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

**Margaret Lewis, Acting Vice-President of University Relations
September 8, 1999**

Thank you Chairman Erpenbach and committee members for the opportunity to share information about the data systems of the University of Wisconsin System and how we respond to public records requests for this information.

We do NOT market student or faculty lists, but do charge to cover the costs of public record requests.

Student data

As you may know the 1974 Family Educational Rights and Privacy Act (FERPA) protects the privacy of student records. The only information that can be provided from student records is "directory information". "Directory information" includes items such as:

- Student name
- Address
- E-mail address
- Telephone number
- Date of birth
- Classification and year in school
- Enrollment status (full-time, half-time, etc.)
- Major field of study
- Participation in officially recognized activities and sports
- Height and weight of members of athletic teams
- Dates of attendance
- Degree and dates of graduation, including anticipated graduation dates
- Awards received, including academic awards
- Previous institutions attended

Even directory information can be withheld at a student's request.

Examples of requests responded to on a cost recovery basis include: 1) a textbook publisher wanting to sell textbooks on-line to students, 2) a business that sends care packages to students from their parents at exam time, 3) a graduation announcement printer, and 4) a dorm size refrigerator vendor.

Faculty data

Faculty and staff directory data is also maintained and provided at cost in the case of an open records request. Faculty and staff have the option of not providing home address and phone numbers.

Some examples of requests responded to on a cost recovery basis for this data are: 1) from an information technology unit to provide information to staff about training options and services, 2) an education association seeking lists of different classes of employees to share information about professional development conferences, 3) the Wisconsin Survey Research Lab seeking a sample for a research project, and 4) an insurance company wanting to share information about competitive insurance available for UW employees.

The form that is to be filled out for faculty and staff lists is attached for your information. Lists are not provided for fund raising, subscription, or paid membership solicitation purposes.

Athletic ticket sales lists are never sold. UW Foundation donor and Wisconsin Alumni Association lists are not public records. These are private organizations.

I have with me George Brooks, Associate Vice President of Human Resources for the UW System and Glenda Morgan of the UW System Office of Learning and Information Technology. We would be happy to answer any further questions you may have regarding UW System data and privacy issues.



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tommy G. Thompson
Governor

Connie L. O'Connell
Commissioner

September 8, 1999

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Testimony to The Senate Privacy, Electronic Commerce and Financial Institutions Committee September 8, 1999

Thank you for the opportunity to speak to your committee regarding the data collection activities of the Office of the Commissioner of Insurance (OCI). On behalf of Insurance Commissioner Connie O'Connell, I am Clare Stapleton-Concord, administrator of OCI's Division of Administrative Services.

The Office of the Commissioner of Insurance was created by the legislature in 1870 and vested with broad powers to ensure that the insurance industry meets the insurance needs of Wisconsin citizens responsibly and adequately. The fair, effective, and timely regulation of the insurance industry, offer OCI its challenge in meeting its public mission of leading the way in informing and protecting the public and responding to their insurance needs.

The information we are providing relates to three primary areas in which OCI collects data: complaints received by the agency, licensing of insurance agents, and licensing and monitoring of insurance company activities. In each of these areas most of the information OCI collects is public. As such it is available to anyone who requests the information. Costs involved in photocopying or making electronic copies of lists are charged to the requestor. These charges are set, consistent with the statute, at levels which permits only cost recovery. The monies received are placed in OCI's revenue account and do not increase expenditure authority.

Insurance Complaints:

Information collected about insurance complaints includes; the complaint files, general correspondence, legal files, and administrative actions.

Ensuring privacy of complaints is fairly straightforward. Closed complaint and legal files are considered public information. Before the public can view a "closed" complaint or legal file, it must be sent to either a complaints or legal staff person to remove "confidential" information [such as individual medical information]. This information is placed in a manila envelope marked with the complaint/legal file number on it and remains separated from the file until the requestor is finished with the file. The envelope is then placed back in the file. Open complaints or legal investigations are not considered an open record.

Costs of providing information about complaints is equally straightforward: If members of the public request photocopies of materials the price of the photocopies is charged to the requestor.

Agents:

Information is collected with regard to all agents who are licensed through OCI to sell a variety of types of insurance. Information collected about each agent includes date of birth, date of license, administrative actions etc., lines of insurance they are licensed to sell, e.g. homeowners, auto, health, and companies for which they are listed to sell insurance products.

Apart from agents and companies verifying license status, most of the requests for information about agents come from the general public. Very frequently the request comes by phone and most often involves license status etc. This information, which is public record, is delivered directly to the caller. OCI also provides lists of agent information. These lists contain the information most often requested by the public with regard to agents. The following data items are supplied: name, address, type of insurance an agent can sell, and company they can write for. These lists can be generated by groups of companies, types of insurance, zip code, or for all licensed agents.

Ensuring privacy of most agent data is not necessary since it is a matter of public record. Our database does contain agent social security numbers, however this is never supplied in lists. OCI uses the social security number to protect Wisconsin residents from insurance agents who have been cited for violations in other states and rogue agents who move from state to state, taking advantage of unsuspecting individuals. When we consult with law enforcement agencies, other licensing bodies and regulatory agencies regarding individuals who have requested agent licenses, a social security number is often needed to verify identification. In investigating license applications, we routinely check a national data base that provides information regarding administrative actions taken by other states. In order to have access to the data base, we must use a social security number, as well as share information we have collected with other state regulators.

Costs of providing information about agents is again simple cost recovery. OCI supplies the lists on diskettes, paper or tape according to the requestors choice. Generation of each list is charged at \$75.

Company:

Data collected about insurance companies includes details of dates of licensure, annual financial statements, policy forms, policy rates, and other financial documents.

Ensuring privacy of company information is not an issue since it is all public record. However, workpapers from financial and market conduct examinations are confidential and are not a public record. Persons are free to peruse the financial statements of companies and policy information.

Costs of providing information from paper materials is dealt with as a simple cost recovery. If members of the public request photocopies of materials the price of the photocopies is charged to the requestor. Sometime there are queries about information in the OCI database. Simple queries of which there are 15-20 per year are provided free. More complex requests which require analyst time and programming are usually charged about \$100 [we may only get one of these a year].

Other Questions and Issues

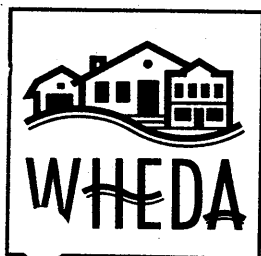
OCI provides a range of publications to assist the public and others with insurance matters. For an individual requesting publications the first one of each title is free, then a charge of \$1 is made for each. Requestors of multiple copies are advised that each publication is available on OCI's Web site and can be downloaded and duplicated. This usually saves the requestor a considerable amount.

OCI also administers the Local Government Property Insurance Fund, Patients Compensation Fund and the State Life Insurance Fund. In the interest of brevity, I will provide an overview of the data collected by the funds. I have also attached a summary of the information collected for each program.

In order to administer these funds OCI collects appropriate underwriting and loss data typical for a commercial insurance company. Because the Local Government Property Insurance Fund covers other governmental entities, much of this information is subject to the open records law. With respect to the Patients Compensation Fund, this information is public except for confidential information related to claims. Typical requests the PCF may receive include information regarding primary carriers, a provider's fund status and a listing of providers participating in the fund. The State Life Insurance Fund provides coverage for private citizens. Therefore, no policyholder information is available to the public. The only sharing of information is with a professional reinsurance company that reviews the application and medical reports to determine insurability.

We do not sell any of the data we collect for the Funds. However we assess charges or fees to cover the cost of reproducing or retrieving this information based on established OCI policies.

Thank you for the opportunity to provide information regarding OCI's data collection activities to your committee. I would be happy to answer any questions you may have.



Senate Committee on Privacy, Electronic Commerce and Financial Institutions

September 8, 1999

Jim Langdon, Executive Assistant
Mick Conrad, General Counsel

WISCONSIN
HOUSING AND
ECONOMIC
DEVELOPMENT
AUTHORITY

Chairman Erpenbach and members, thank you for inviting the Wisconsin Housing and Economic Development Authority (WHEDA) to provide information on data collection and privacy.

We share your interest in this area, and guard the privacy of our customers' personal and financial information with great care. In general, the following represent our guidelines:

- No personal or financial information is released without the permission of an individual borrower. In general, this occurs only when a borrower requests assistance from a legislative office in a matter concerning a loan application.
- We do not subcontract with any entity for the processing of borrower information (except a mortgage insurance company when necessary).
- We do not publish individual borrower information without prior consent.
- We do not sell information for any purpose.
- We collect only the minimum information required to make informed credit decisions and ensure program compliance.
- Information is generally maintained only for the life of a loan.

Tommy G. Thompson
Governor

Edwin J. Zagzebski
Chairman

Fritz Ruf
Executive Director

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fax 608/267-1099

WHEDA Open Records Statutes

WHEDA is unique in state government in that we are an independent agency. To that end, statutes provide us our own open records rules at sec. 234.265:

234.265 (intro.) Records of the authority. All records of the authority or any corporation established by the authority shall be open to the public, except:

(1) Those records relating to pending grants, economic development loans or housing projects which, in the opinion of the authority, must remain confidential to protect the competitive nature of the grant, loan or project.

(2) Records or portions of records consisting of personal or financial information provided by a person seeking a grant or loan under s. 234.08, 234.49, 234.59, 234.61, 234.65, 234.67, 234.83, 234.84, 234.88, 234.90, 234.905, 234.907 or 234.91, seeking a loan under ss. 234.621 to 234.626, seeking financial assistance under s. 234.66, seeking investment of funds under s. 234.03 (18m) or in which the authority has invested funds under s. 234.03 (18m), unless the person consents to disclosure of the information.

The exceptions under subsection (2) have in general been sufficient to safeguard the personal and financial information of individuals using our programs. However, at least two situations exist where personal and financial information is not protected by sec. 234.265.

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WHEDA supports equal
housing opportunities for
all persons



First, we administer a number of programs that are not listed in subsection (2). One of them is the Low Income Housing Tax Credit Program. This program provides federal tax credits for the development of affordable rental housing. After a tax credit allocation is made, it is common for project files to contain personal financial information from tenants in the development. Under sec. 234.265, that information is not protected because the program is not specifically listed in subsection (2).

Second, information collected on potential customers is not protected. As an example, we sponsor workshops for individuals interested in purchasing their first homes. We analyze certain personal and financial information from these persons to help them determine whether they are ready to purchase a house. Such information is not protected because there is no "pending" application.

HOME Loans

WHEDA is for the most part a single family housing mortgage lender. We issue federally tax-exempt bonds on the national capital markets to fund low-cost HOME Loans to about 4,000 first-time home buyers annually. As such, we collect information from individuals to ensure (1) compliance with various state and federal rules, (2) credit worthiness, and (3) property value. This information includes:

- Personal identification information
- Accepted offer to purchase or signed construction contract
- Three years' tax returns (with all schedules)
- Copies of recent paycheck stubs
- Bank statements from the last three months
- Record of any charge accounts, including account number and balance due
- Appraisal
- Credit report

All information is collected by originating local lenders and used only by WHEDA and our mortgage insurance company to process the home buyer's mortgage loan application. As required under federal law, records are maintained for the life of the borrower's loan plus up to seven years (depending upon whether WHEDA or a lender services the mortgage). Similar procedures are in place for our Home Improvement Loan Program.

Property Tax Deferral Loans

WHEDA operates a small program to help senior citizens pay their property tax bills. The Property Tax Deferral Loan program provides loans of up to \$2,500 to individuals who (1) are age 65 or above and (2) earn less than \$20,000 annually.

We collect information to ensure the borrower complies with statutes governing the program. In general, this information includes:

- Personal identification information (including age)
- Verification of income
- Verification of property tax liability
- Debt and asset information

CROP Fund

The CROP Fund provides 90% guarantees on loans to farmers for the production of agricultural commodities. The program is administered by WHEDA and supported by state funds.

We collect information from individual farmers to ensure (1) compliance with state statutes, and (2) credit worthiness and compliance. This information includes:

- Personal identification information
- Asset and liability information
- Information about the farmer's primary type of operation and use of the loan proceeds

Beginning Farmer Bond Program

The Beginning Farmer Bond Program uses federally tax-exempt bonds to help individuals finance their first farming operations. We collect information from individuals to ensure (1) compliance with various state and federal rules, and (2) lender security. This information includes:

- Personal identification information
- Information about the farmer's primary type of operation and use of the loan proceeds
- Personal financial information
- Lender letter of credit

Multifamily Housing Programs

Our multifamily housing financing is based on federal programs intended to serve persons of modest means. This financing is generally used by corporate entities (nonprofit and for-profit) to develop and manage low income properties. We are required by federal law to collect certain tenant information to ensure developments are in compliance with program requirements. This information is generally limited to tenant name, income, rent and utility obligations, and subsidy information. This information is destroyed upon completion of our compliance review.

Thank you for allowing us to provide information to the Committee. We would be happy to answer any questions.



Tommy G. Thompson
Governor

Marlene A. Cummings
Secretary

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**SENATE PRIVACY, ELECTRONIC COMMERCE
AND FINANCIAL INSTITUTIONS COMMITTEE**

**DATA ENTRY, DATA COLLECTION, PRIVACY AND SALES POLICIES OF
THE DEPARTMENT OF REGULATION AND LICENSING**

Statement of William Dusso

September 8, 1999

Room 201 SE, State Capitol

Mr. Chairman and members of the committee, I am William Dusso, legal counsel for the Department of Regulation and Licensing. Department Secretary Marlene Cummings requested that I appear today in response to your invitation.

The department is responsible for credentialing and regulating various professions and occupations and providing administrative services to boards attached to the department. Currently, the department and boards are responsible for regulating 72 professions and occupations and 27 types of business establishments. Licenses are renewed for about 280,000 individuals every two years. Examinations are administered to about 15,000 applicants annually. The department issues new or initial credentials to approximately 20,000 applicants per year. Complaints are filed by the public and processed by the department on the average of about 2,000 per year.

Data entry and data collection

The department maintains computer database information relating to credential holders, applicants, examination candidates, complaints and hearings.

Applicants and credential holders. Most of the data maintained by the department on computers relates to individuals who hold a credential. This information is obtained principally from application materials filed by the person who is seeking a professional credential. (A copy of an application form is attached.)

Data collected from applications for a profession is entered into the department's

Regulatory Boards

Accounting; Architects, Landscape Architects, Professional Engineers, Designers and Land Surveyors; Professional Geologists, Hydrologists and Soil Scientists; Auctioneer, Barbering and Cosmetology; Chiropractic; Controlled Substances; Dentistry; Dietitians; Funeral Directors; Hearing and Speech; Medical; Nursing; Nursing Home Administrator; Optometry; Pharmacy; Physical Therapists; Podiatry; Psychology; Real Estate, Real Estate Appraisers; Social Workers, Marriage and Family Therapists and Professional Counselors; and Veterinary.

database by agency staff who are assigned to the particular bureau that works with the profession or work in the department's central word processing area. Most renewal application information is processed electronically through a bank lockbox, with the exception that changes of address are keyed at the bank lockbox and verified by agency staff.

Examination candidates. Most professional credentials issued by the department require the applicant to complete an examination. The department maintains an examination database to track applicants through these various examinations. Department staff collect information for the examination database either from information provided to the department by the candidate, or from the contractors that provide and administer the examinations.

Complaints and Hearings. The complaint and hearing databases include:

- information received from the general public who write letters or file complaints against credential holders,
- information which is required by law to be filed with the department, such as loss of hospital staff privileges by a physician for quality of practice reasons, and
- information relating to the screening, investigation, prosecution and disposition of a formal or informal complaint.

Information is entered into the complaint and hearing database by staff in the department's Division of Enforcement and Office of Legal Services.

Legal obligations to collect, protect and disclose

The department has obligations to provide information to the public about credential holders and also to protect certain personal information that it receives.

Data collection restrictions. As a licensing agency, the department and the boards are constrained by s. 103.35, Stats.¹ from requiring licensing applicants to provide information which is ". . . not essential for the determination of eligibility for issuance or renewal . . ." of a credential. This statute prohibits the department from requiring

examinations, and name and address on a credential record may be provided to other who request it.

Limiting data redisclosure by contract. The department specifies in contracts for examinations that the data collected is the property of the state and may not be used by the contractor without the state's permission.³ The department reviews examination application forms used by contractors. Although many examination providers routinely require that applicants disclose social security numbers as a condition of taking the examination, the department requires the contractor to identify to the applicant that the social security number is voluntary

Social security numbers. Until January 1996, on the basis of the Federal Privacy Act, the department did not obtain social security numbers from credential holders and did not keep records of social security numbers. Under 1995 Wisconsin Act 27, the department began to request social security numbers for persons who hold credentials pursuant to a program for collecting delinquent state taxes. Current Wisconsin law requires that the department request social security or federal employer identification numbers from applicants and to deny applications if the numbers are not provided.⁴

Under s. 440.03 (1m) (c), Stats., the department is prohibited from disclosing social security numbers except to the Department of Workforce Development and the Department of Revenue for purposes of administering programs to collect delinquent state taxes and delinquent support obligations.⁵ Department procedures and computer software restrict access to social security numbers in department records. Social security numbers are collected from applicants on a form that is separate from other application information. All forms with social security numbers are forwarded to the central services unit of the agency. Computer access to social security numbers is limited to certain staff in the central services unit.

Name and address lists.

The department is obligated by statute, sec. 440.035 (4), Stats.⁶ to compile and keep current a list of the names and addresses of all persons who are credentialed and make this register available for public inspection. In 1979, the department requested an

opinion from the Attorney General on whether the department could deny requests for mailing labels on the basis that the licensee's interest in privacy outweighed any benefit to the public from providing the labels. The opinion of the Attorney General then was that the department could not deny the request on the basis of the licensee's interest in privacy and that the computerized name and address lists were available for inspection by the public under the public records statute.⁷ Based on the public records statute, the 1979 opinion and sec. 440.035 (4), Stats. the department makes name and address lists available for public inspection and copying. Fees for lists are based on costs to produce as described in sec. 19.35, Stats. In providing these lists, the department is not selling names and addresses, a practice prohibited by sec. 19.71, Stats.,⁸ because sec. 440.035 (4), Stats. requires the lists be made available for inspection and because a public records fee is charged.

The department occasionally receives a complaint from a credential holder that her or his name, address or license number is available to the public. Recently, the department responded to this concern by changing its policy so that credential holders may submit a business rather than residential address for department records. A statement of this policy is currently sent with each renewal notice. (A copy of the statement, a chart showing the number of lists sold and categories of purchasers and the department's form for ordering a list are attached.) In setting policy in this area, valid complaints from credential holders critical of the availability of personal information have to be weighed against uses of these lists that are generally thought to be in the public interest. For example, employers and insurance companies use the lists to verify license status; employers – to recruit professional employees; schools – to advertise continuing education courses; public officials – to communicate with constituents and researchers and planners – to anticipate manpower needs.

Thank you for the opportunity to provide information.

¹ 103.35 Information required for licensure. No state office, department, board, examining board, affiliated credentialing board, commission, council or independent agency in the executive branch, the legislature or the courts may, as a condition for receiving an occupational or professional certificate, license, permit or registration, require the submission of information by the applicant which is not essential for the determination of eligibility for the issuance or renewal of the certificate, license, permit or registration. Information which is not essential to determine eligibility for issuance or renewal may be requested but the applicant shall be notified in a prominent place on or accompanying the request that she or he is not required to provide such information.

² *Munroe v. Braatz*, 201 Wis.2d 442 (Ct. App. 1996)

³ An example: "Scores and candidate information collected by PES remain the property of the DEPARTMENT and may not be used without written permission of the DEPARTMENT for any purpose other than to prepare examination or score information and reports to the DEPARTMENT, and to evaluate the examination, except that with candidate authorization PES may report a candidate's score to another state board; group scores (without individual identification) may be provided to colleges and universities and periodic reports of group data may be provided to national committees and authorized state agencies and individuals."

⁴ Under s. 440.03 (1m), Stats.,

(a) Each application form for a credential issued or renewed under chs. 440 to 480 shall provide a space for the department to require each of the following to provide his or her social security number:

1. An applicant for an initial credential or credential renewal. If the applicant is not an individual, the department shall require the applicant to provide its federal employer identification number.
2. An applicant for reinstatement of an inactive license under s. 452.12 (6) (e).

(b) The department shall deny an application for an initial credential or deny an application for credential renewal or for reinstatement of an inactive license under s. 452.12 (6) (e) if any information required under par. (a) is not included in the application form.

⁵ 440.03 (1m) (c), Stats. The department of regulation and licensing may not disclose a social security number obtained under par. (a) to any person except to the department of workforce development for purposes of administering s. 49.22 and, for a social security number obtained under par. (a) 1., the department of revenue for the sole purpose of requesting certifications under s. 73.0301.

⁶ 440.035 (4) Compile and keep current a register of the names and addresses of all persons who are credentialed to be retained by the department and which shall be available for public inspection during the times specified in s. 230.35 (4) (a). The department may also make the register available to the public by electronic transmission.

⁷ 68 Op. Atty Gen. 231 (1979)

⁸ 19.71 Sale of names or addresses. An authority may not sell or rent a record containing an individual's name or address of residence, unless specifically authorized by state law. The collection of fees under s. 19.35 (3) is not a sale or rental under this section.



State of Wisconsin
Department of Financial Institutions

Tommy G. Thompson, Governor

Richard L. Dean, Secretary

TESTIMONY OF
David G. Anderson, Executive Assistant
Wisconsin Department of Financial Institutions

Senate Committee on Privacy, Electronic Commerce and Financial Institutions
September 14, 1999

Mr. Chairman and members of the Senate Committee on Privacy, Electronic Commerce and Financial Institutions, it is a pleasure for me to be here this morning on behalf of the Wisconsin Department of Financial Institutions. My name is Dave Anderson and I serve as the Executive Assistant at DFI. My primary responsibilities at DFI lie in the area of policy and legislation, and I am pleased to have this opportunity to discuss with you what we view as a very significant policy issue affecting the industries we regulate as well as the consumers of the financial services that these industries provide.

My role this morning will be to put into some context the types of information we collect and the safeguards that are in place with regard to the release of this information. I will then introduce DFI's General Counsel, Chris Green, who is the Department's custodian of the records.

At the outset, let me say how important it is for the committee to put into perspective DFI's various roles.

First, DFI is a regulatory agency. In all, we have responsibility for the safety and soundness oversight of 670 depository institutions, including banks, savings banks, savings and loan associations and credit unions. In addition to examining these institutions, we also examine or audit other financial services to ensure that they are in full compliance with their governing statutes. In the course of these examinations, we acquire a whole host of very specific information relating to the operations of these institutions and services. While our annual report contains summary information relating to their general operations, we are statutorily prohibited from releasing any specific information garnered through the examination process. As you have found out yourself on at least two occasions, Mr. Chairman, we take very seriously the responsibility of protecting this information. I should add that Supreme Court decisions have also affirmed our ability to not release in any form examination-related information.

Secondly, DFI is involved in the licensing of certain financial service providers and, in many cases, of certain individuals who work in the delivery of these financial services. Needless to say, we need to acquire as part of the licensing process a variety of personally identifiable information necessary for us to do background checks. While much of the information contained on licensing applications is in fact open for public review, we are very careful in only releasing information that is responsive to the requests we receive while not releasing information such as social security numbers.

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Thirdly, DFI is a ministerial agency. Our Corporate and Consumer Services Division, for example, is responsible for maintaining two important record-keeping systems, the state's Uniform Commercial Code Lien Filing System and our Corporate Records Information System. Both of these systems were designed not only to maintain in an organized fashion the information they collect but also to provide this information to the public in the most convenient way possible. As a matter of fact, state statutes provide for DFI to recoup any costs associated with the release of this information and they establish the rates for which these costs can be recovered.

Do we collect personally identifiable information as part of these filings? Well, it was just recently brought to our attention by State Representative Marlin Schneider that national uniform commercial code lien filing forms that we have used for years ask for a social security number as an optional identifier to be used for search purposes. We promptly moved to eliminate the social security number from our computer-based index and proposed to the International Association of Corporate Administrators that the request for the social security number be removed from the forms in use across the nation. We were pleased that the association agreed and we're proud that we were helpful in effectuating a national change of this magnitude.

Finally, DFI is an administrative agency and we are responsible for maintaining data and records involving each of our employees. Basically, the state's overall safeguards with regard to personnel information apply and, along these lines, we are no different than any other state agency.

With that brief overview, let me now introduce General Counsel Chris Green who will address more specifically privacy as it relates to our various areas of responsibility.



State of Wisconsin
Department of Financial Institutions

Tommy G. Thompson, Governor

Richard L. Dean, Secretary

Testimony of Christopher Green
General Counsel, Department of Financial Institutions
Senate Privacy, Electronic Commerce and Financial Institutions Committee
September 14, 1999

Senator Erpenbach and committee members:

Thank you for inviting the Department of Financial Institutions to appear before you to address the issue of data collection and privacy. As Dave Anderson has already alluded to, DFI has a number of primary functions. I will discuss information we collect pursuant to our functions of regulation, licensing and record-filing.

Regulation

The Division of Banking regulates state-chartered banks and various other entities under its licensed financial services and mortgage banking sections. The Division of Savings Institutions regulates state chartered savings banks and savings and loans while the Office of Credit Unions regulates state chartered credit unions.

Almost all of the information collected by the divisions or office relates to business entities. The nature of the information relates to the safety and soundness or financial condition of financial institutions or licensed financial service providers. Personally identifiable information is not normally collected on individuals under this regulatory function.

Under this function, the primary source of information is through the examination process. The statutes pertaining to banking, savings institutions and credit unions require that information gained through the examination process be treated as confidential. Since as far back as 1919 this confidentiality has been protected by the courts.

As an exception to the statement that the information collected under this function relates only to business entities, the Division of Banking collects information regarding individuals in the licensing of loan originators. Information collected includes the applicant's name, address, phone and fax numbers. Also obtained is the name of the mortgage banker/broker company responsible for the loan originator. The application asks a series of questions to enable the division to determine if the applicant has committed a crime that relates to a breach of trust or has been subject to regulatory actions in other jurisdictions. This information is public under the open records law.

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Licensing

DFI licenses certain financial service providers and certain individuals who work in the delivery of those financial services. Our Division of Securities, for example, licenses several thousand broker-dealers and about 80,000 broker-dealer agents.

In every case, we would have personally identifiable information which we would make available to the National Association of Securities Dealers, all state regulators, the Securities and Exchange Commission and state and federal law enforcement officials. We do not share social security numbers and certain disciplinary information.

The Division of Securities also conducts field audits of licensees and the information gained through those field audits is exempt from public disclosure.

The division also collects personally identifiable information pursuant to its enforcement function. All enforcement actions necessarily include personally identifiable information of not just the licensee but others including the complainant or alleged victims. All such files are treated as confidential while they are pending. Once the files are closed, all but the individuals' social security numbers become available for public inspection.

Record-filing

DFI acts as the public custodian of the charter documents creating certain Wisconsin business organizations. We have over 300,000 entities on file with the system. Of that there are 100,000 active Wisconsin organizations and 10,000 foreign (out-of-state) organizations.

DFI also reviews, processes and files financing statements for commercial and private business indebtedness, and indexes nearly all liens resulting from lending in the state of Wisconsin. These records contain information relating to the debtor, secured party and description of the subject property. We maintain 1.6 million records in this system.

The information in our UCC and Corporation sections is designed to be available for public consumption. We have no authority to withhold this information. These are public records.

If we do provide copies of records kept by DFI under this function we recover our costs pursuant to the open records law unless fees we charge are explicitly provided for such as in the case of the various business organizations statutes.

Conclusion

Regarding DFI as a whole, the only data we share with other agencies as a matter of course is with the Department of Revenue for delinquent taxpayers pursuant to statute. We will also be sharing data with the Department of Workforce Development regarding delinquent parents.

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Finally, information that is available to the public is already made available on the department's website. The information found there includes lists of the various entities chartered or licensed by the division.

With that, we would be happy to take any questions the Chair or members of the Committee may have.

SENATE PRIVACY, ELECTRONIC COMMERCE AND FINANCIAL
INSTITUTIONS COMMITTEE

Testimony of Linda Seemeyer

September 14, 1999

Chairman Erpenbach and members, thank you for the opportunity to appear before the committee today. I am Linda Seemeyer, Executive Assistant at the Wisconsin Department of Administration. This morning I will discuss the department's policies relating to data entry and collection, privacy, and sales.

The Department of Administration is comprised of nine divisions that perform services and oversight in a wide variety of areas including state payroll, procurement, low-income home energy assistance, dog racing, and state information technology management. There are instances where it is necessary to collect data that includes personally identifiable information such as names, home addresses, Social Security Numbers (SSNs), Internal Revenue Service Form 1099s, and personal financial information. The Department does not collect information beyond that which is necessary to perform its many duties

For instance, the Department collects Social Security Numbers for various purposes. State payroll requires the collection of such data for the simple reason that we must collect Social Security taxes. However, Social Security Numbers are also used in the context of the state's procurement system. When a vendor such as a sole proprietor does not have a Federal Employer Identification Number, that person's Social Security Number would be used as a vendor identifier. Furthermore, the Division on Gaming uses Social Security Numbers in the course of its oversight functions. Other personally identifiable information collected and maintained by the Department includes information related to unemployment compensation, worker's compensation information, personnel matters, and financial information submitted by EdVest program participants.

We do not sell lists containing personally identifiable information as a matter of course, however, the Department of Administration is subject to Wisconsin's Open Records Law, which presumes that most government records are open to public inspection. Gray areas do exist under the Open Records Law so as a matter of course, records requests received by the Department are referred to legal counsel for review to determine if the requested data or records contain material that is exempt from disclosure. In fact, DOA legal counsel processes about 200 information requests each year.

DOA does not sell lists or data it collects for administrative purposes, but such data may be released pursuant to Open Records requests. If the requested information is not protected from disclosure and the record is already available, no charge is assessed by the Department unless the record is a publication for sale. (Examples of publications for sale by the Department include the Wisconsin Blue Book, Wisconsin State Statutes and the Wisconsin State Telephone Directory). If the record is in a form that can be photocopied, the requester may be assessed a fee of 15 cents for each impression produced in response to the request.

While client agencies control their own data, the Division of Information Technology provides the mainframe computer services to those agencies. The Department has gone to great lengths to make state databases as secure as possible. Every entrance into the system is logged and that log is under constant scrutiny by agencies and DOA systems security personnel.

The Legislative Audit Bureau regularly reviews security procedures and is in the process of completing an audit at this time. In 1998, the LAB issued the following statement: "Overall, we found the Division has adopted sound security measures, policies, and procedures to minimize the risk of loss of data and resources at the data center."

Because Info Tech employees can encounter confidential information in the performance of their duties, each employee must sign a confidentiality agreement which,

in addition to any applicable legal sanctions, makes clear that abuse of information access privileges is cause for discipline up to and including termination.

If the committee is interested in learning more about policies and safeguards relating to DOA's information technology divisions, Dennis Vickers , who is Deputy Administrator of the Division of Information Technology is with me to answer any technical questions you may have.

That concludes my remarks. I would be happy to answer any questions you have.

Administrative Services

The Division of Administrative Services provides numerous support services to the department, including personnel, records and forms management, space and property management, financial management, computer services, printing, purchasing, mail and management planning. Its major functions for the department are to develop management information systems, prepare and monitor the departmental budget, provide recommendations to the secretary on policies and procedures, and perform internal audits. It pays the salaries and any associated fringe benefits for all district attorneys and their staff attorneys. It also reviews and pays the compensation of special prosecutors for the 71 district attorneys' offices. (Menominee and Shawano Counties share a district attorney.)

Personal Information Collected: SSN, Vendor 1099 forms, personnel records

- Bureau of Management Services.

- **In state purchasing transactions** businesses are identified by their Federal Employer Identification Number (FEIN) or **Social Security Number (SSN)** in the case of sole proprietorships.
- several forms are used that require a vendor's FEIN, or SSN
 - When a vendor complies the state's Contract Compliance Law (Section 16.765, Wis.Stats./Ch. Adm. 50, Wis.Adm.Code, regarding nondiscriminatory contracts) that vendor is identified in the Vendor Directory as an eligible vendor for three years or the life of the contract. The vendor is identified therein by name and FEIN or SSN.
 - DOA utilizes a form ("Notice to Vendor Filing Information") requesting vendor consent to list their FEIN and SSN in the Vendor Directory. Refusing consent means that a vendor does not appear in the directory and the state must request contract compliance information from the vendor each time a contract is entered with that vendor

- Bureau of Financial Management.

- **Social Security Numbers (SSN)** are used on **travel reimbursement** documents, but set up on WiSMART for all employees paid through central payroll. Travel records of employees are public but SSNs are deleted.
- Vendor FEIN numbers are maintained in WiSMART and used for vendor payments. Vendor FEINs are provided by vendors wanting to do business

with the state and are considered to be public records. Vendor payments are part of the public record.

- **Vendor Form 1099s** are kept but are stored as confidential IRS information. Section 77.61(5), Wis.Stats., prohibiting disclosure of tax records, would seem to apply.

- Bureau of Personnel.

- The Bureau is governed by Section 230.13, Wis.Stats., relating to closed **personnel records**. Requests for information are referred to DOA legal counsel. Within the Bureau, cabinets containing personnel files, medical, and payroll information are locked

- Bureau of Computer Services.

- When developing new computer systems data collection is limited to the extent possible. Personally identifiable information is masked in systems whenever possible. (Such information must be available to the systems developers who maintain systems.)

- State Prosecutors Office.

- The State Prosecutors Office does not create or maintain individual criminal or other case records. Individual District Attorney offices create and maintain such records. All requests for information are referred to DOA legal counsel.

State Agency Services

The Division of State Agency Services manages state government purchasing and contracts and is responsible for graphic design, typesetting, printing, transportation, records management, minority business contracting and contract compliance. It also handles municipal cooperative purchasing, fuels procurement, contracting with sheltered work centers, federal and state surplus property disposition and recycling and waste reduction programs for state agencies. The division manages the state's self-funded programs for state liability and property insurance and workers' compensation protection. In addition, it assists agencies in controlling and reducing losses.

Personal Information Collected: SSNs, Worker's Compensation information

- Bureau of Transportation.
 - Bureau leases vehicles to individuals and individuals. Compiles Vehicle Auction Mailing List (mailing list of individuals who wish to be notified of auctions)
 - Recently that mailing list was provided under an Open Records Request
- Bureau of Integrated Document Services.
 - The Bureau manages mailing lists for subscribers to DOA and other agency publications. For instance, training services may seek the list of paid subscribers to the Current Opportunities Bulletin. Such requests are referred to DOA legal counsel.
 - Certain items are sold for profit: Wisconsin Blue Book, Wisconsin Statutes, Administrative Code, Wislaw (CD-ROM), Tax Bulletin, State of Wisconsin Compensation Plan, Wisconsin Current Opportunities Bulletins, Wisconsin State Telephone Directory.
- Bureau of Procurement.
 - The Bureau identifies vendors by their FEIN or SSN in the case of sole proprietors. Such numbers are made public in certain directories such as the Contract Compliance Directory and the list of ineligible vendors. Vendor consent to list SSN is obtained.
 - Vendor FEINs are provided by vendors wanting to do business with the state and are considered to be public records. Vendor payments are part of the public record.

- Bureau of State Risk Management.

- The BSRM collects pursuant to the state **workers' compensation** statute (Ch. 102, Wis.Stats.). Section 102.33(2)(b), Wis.Stats., prohibits the release of records that reveal the identity of an employee who claims worker's compensation benefits, the nature of the employee's claimed injury or medical condition, benefit information, or financial information such data is confidential.

Buildings & Police Services

The Division of Buildings and Police Services operates and maintains twenty-nine major buildings in seven cities throughout the state. These include the State Capitol, the Executive Residence and state office buildings in Madison, Wisconsin. The division is also responsible for all state real estate leasing, planning of office space, and engineering services. The Capitol Police force, which is part of this division, protects state buildings, property and employees, manages parking for 5,000 vehicles and provides security for the governor and other dignitaries.

Personal Information Collected:

- Engineering Bureau
- Capital Bureau
- Hill Farms Bureau
- Space Management Bureau
- Capitol Police Bureau
- Out-state Bureau
- Central Madison Bureau

Energy & Intergovernmental Relations

The Division of Energy and Intergovernmental Relations manages statewide energy planning and also maintains state agency ties with local, regional, and federal governments. Primary functions include advising the department and the governor on federal and state-local relations, state and regional energy and coastal management, and emergency energy policies and programs. The division reviews federal legislation and directs state lobbying efforts, prepares and reviews federal grant applications, administers federal energy conservation funds and federal oil overcharge repayment funds and operates the state energy information clearinghouse. Other activities include producing annual population estimates for Wisconsin municipalities and other demographic research, forecasting energy supply and demand, assisting in the development of proposed state and federal energy legislation, and developing energy conservation programs.

Personal Information Collected: None.

- Bureau of Intergovernmental Relations
- Bureau of Energy

- The Division does maintain mailing lists for newsletters. However, no SSNs are collected and such lists are never sold. Requests for such data would be referred to DOA legal counsel.