



WISCONSIN STATE SENATE

P. O. Box 7882 Madison, WI 53707-7882

Special Report of the

Senate Committee on Privacy, Electronic Commerce and Financial Institutions

Senator Jon Erpenbach, Chair
Senator Jauch, Senator Plache, Senator Rude, Senator Fitzgerald

November 10, 1999

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.

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).

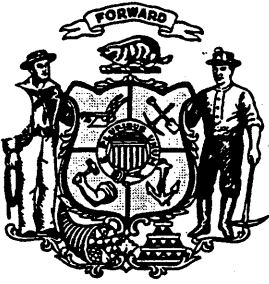
Information collected through the PECFA program includes name, address, date and amount of loan, credit report and social security number. The database is an open record but data is not released with personal data included. Also held is a contaminated site database. This database includes sites, name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



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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



345 West Washington Avenue
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Madison, WI 53707-7855
Voice (608) 266-9820
FAX (608) 267-1020
TTY (608) 267-1004

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

AN EQUAL OPPORTUNITY EMPLOYER

Mr. Lavigna will address the records his Division maintains. In our role as employer of all state employes, the department provides guidance to all state agencies on the "open" or "closed" status of data collected on state employes. I have brought with me copies of a policy bulletin that DER published for all state agencies listing employe 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.



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.

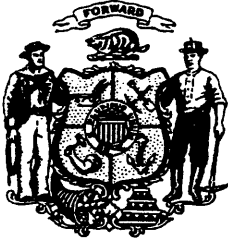
Department employees who require access to tax returns or return information to do their jobs receive training on the confidentiality and browsing laws on their first day of employment with the Department. They also sign certifications that they understand the laws and the penalties for violating the 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 employees. As Division Administrator, I personally delivered this training to over 800 employees to emphasize the importance of the message.
- Each employee was provided an "Employee's Guide to Safeguarding Taxpayer Information." As you can see, the first page warns our employees to "Stop! Don't do it" when it comes to browsing of tax information.
- At the end of the class, the employee 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 employees that improper browsing is grounds for dismissal.
- Employees were told there is a tracking and monitoring system in place.

Department employees know and understand the law. In fact, since the law was passed in mid 1998, the Department identified one employee 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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http://badger.state.wi.us/agencies/oci/oci_home.htm

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.

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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.