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August 11, 2004

Sarah Jeans
3654 Village Ave.
Eugene, OR 97402

Re: Petition for Public Records Disclosure Order
Department of State Police Records

Dear Ms. Jeans:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on August 5, 2004, asks the Attorney General to direct the Department of State Police (OSP) to make available all of the following records created from April 2004 to date: (1) "records, recorder tapes, 911 tapes, photos videos, notes any reproducing device [sic] by wire or wireless," (2) "records of booking breathalyzer and UA test with samples and procedures used to identify and record results including make and model # and serial #, and (3) "records, phone call made by the Justice Court Clerk and Judge with the Prosecutor and defendant prior to the hearing." For the reasons that follow, we deny your petition.[1]

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. A custodian of public records may adopt reasonable rules for the protection of the records and to prevent interference with the regular discharge of the custodian's duties. ORS 192.430(2). Moreover, the Public Records Law allows a public body a "reasonable" time to respond to a records request. *See* ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL at 9 (2004). The

[1] The petition you filed with the Attorney General consists of three pages. Each page is the same form. All three refer to the same records and ask the Attorney General to order disclosure of those records by "the Police of Reedsport, State Police and Sheriff of Douglas County." One page states that a Trooper in the OSP Coos Bay office denied your request. The other two pages appear to pertain to denials by Reedsport police and the Douglas County Sheriff. The Attorney General has no jurisdiction to order the Reedsport Police or Douglas County Sheriff to disclose public records. *See* ORS 192.460 (conferring jurisdiction for other public records on District Attorney in county where the public body is located). For this reason, this order addresses your petition only as it applies to records of OSP.

reasonableness of time may vary with, for example, the extensiveness of the request and the complexity of the legal and factual issues that arise in determining whether the request encompasses documents that are exempt from disclosure. *Id.* A person may petition the Attorney General for disclosure of public records when a state agency has denied a request for access to those records. ORS 192.450(1).

OAR 257-020-0010 provides procedures and fees applicable to public records requests made to OSP. It provides, in part, that OSP may require such requests to be made in writing. We have conferred with Major Peter Spirup of OSP, who has informed us that OSP has been unable to locate any record of having received your records request. Consequently, OSP has not had an opportunity to take action on it and has not denied it. OSP has received a copy of the petition you filed with this office, and Major Spirup informs us that OSP will treat that as an original request for public records, and will respond to the request within a reasonable time.

Because OSP has not denied your request for public records, the Attorney General lacks authority to order disclosure. For this reason, we dismiss your petition because it is premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS:gvk/AGS14379
c: Major Peter Spirup, Oregon State Police