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July 10, 1995

Ms. Linda Cecil
PO Box 395
Arlington, OR 97812

Re: Petition for Public Records Disclosure Order; Driver and Motor Vehicles Services Records
DOJ 735-210-GGH0303-95

Dear Ms. Cecil:

This letter is the Attorney General's order with respect to your recent letter to the Attorney General, which we received on July 3, 1995, and which we construe to be a petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition asks the Attorney General to direct the Driver and Motor Vehicle Services Branch (DMV) of the Department of Transportation to make available:

(a) a copy of your driving record;

(b) copies of complaints about your driving, the name of the persons who complained, and other information relating to the complaints; and

(c) a copy of the Attorney General's "Delegation of Authority."

With respect to the first item described above, your request is premature and is, therefore, denied. Under the Oregon Public Records Law, a petition for disclosure is appropriate only with respect to records that an agency has refused to provide. There is no indication that you have asked DMV for a copy of your driving record, much less been denied such. Therefore, a petition to the Attorney General is premature in this regard. DMV informs us that they would not have denied any such a request but would grant it routinely, and they will do so for you if you go to your local field office of the DMV and pay the fee appropriate for the type of driving record you desire.

You also ask the Attorney General to direct the DMV to disclose to you copies of complaints about your driving, the names of person who complained and details of any conversations between DMV personnel and the complainant. For the reasons that follow, we respectfully deny your petition with respect to such records.

In the course of its administration of the motor vehicle laws, DMV may be called upon to determine whether "a person may be ineligible for a license because the person has a history of any physical or mental disease or disability that may impair the person's ability to safely operate a motor vehicle." ORS 807.090(1), ***see also*** ORS 807.070(4). DMV may require any licensed driver to reestablish the person's eligibility for a license "if the division has reason to believe that the person may * * * [n]o longer be able to safely operate a motor vehicle." ORS 807.340(1)(b). This belief may be triggered by letters from family, friends, neighbors or other concerned citizens.

Under ORS 192.502(3), DMV may in certain circumstances keep such reports confidential. That statute exempts from disclosure:

> Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure[.]

We conclude that all five elements of this exemption are satisfied here. First, the individual who submitted the report did so in confidence, expressly requesting confidentiality by checking the appropriate box on the DMV form used. Second, that person submitted the report voluntarily. Third, because of the potential for harassment from drivers who are the subject of such reports, the information reasonably should be considered confidential. Fourth, DMV obligated itself in good faith not to disclose the person's identify so long as the law permits that person's identity to remain confidential. Finally, we believe that the public interest would suffer by disclosure. Disclosure would discourage concerned citizens from submitting good faith reports of apparently unsafe drivers, thus impairing the public's safety.[1/]

For these reasons, we conclude that the complaint information you seek is exempt from disclosure under ORS 192.502(3). Accordingly, we respectfully deny your petition as to such records.

With respect to the last item you seek, we do not know what you mean by the Attorney General's "Delegation of Authority," or whether there is any public record with that title. If you are seeking copies of the statutes that address the scope of the Attorney

General's authority generally, you should consult Chapter 180 of the Oregon Revised Statutes. If you are seeking copies of the statutes that address the scope of the Attorney General's authority under the Public Records Law, you should consult Chapter 192 of the Oregon Revised Statutes.

If you can provide us with additional information about the particular record you refer to as a "Delegation of Authority," we may be able to provide a more satisfactory response in this regard. For now, however, we can only respond that your request is too vague for us to determine what records you seek and, consequently, we are unable to determine whether such records are exempt from disclosure. Accordingly, we deny your petition as to this final item.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
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to the Attorney General

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[1/] We previously have denied petitions for disclosure in similar circumstances. *See, e.g.*, Public Records Order, April 14, 1992 (Hickman); Public Records Order, May 13, 1988 (Haim); and Public Records Order, April 28, 1988 (Jones).