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April 25, 2003

William Joseph Birhanzl
9268 SE Clinton St., #16
Portland, OR 97266

Re: *Petition for Public Records Disclosure Order:*
Oregon Board of Investigators Records

Dear Mr. Birhanzl:

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 April 18, 2003,[1] asks the Attorney General to direct the Oregon Board of Investigators (OBI) to make available for inspection "[a]ll existing information specific to each alleged incident of 'loud and disruptive behavior in (your) agency's office' (referenced in OBI's letter dated 11-27-00 * * * ." For the reasons that follow, we respectfully deny your petition.

You petitioned the Attorney General in January of this year with regard to your request to OBI for these records. We denied your petition as premature at that time, finding that OBI had not denied your records request. A copy of our order, dated January 13, 2003, is enclosed. We asked Kelly Paige, OBI's Executive Director, whether you had remitted OBI's estimated fees to respond to your request, and she told us that you have not provided any payment to OBI. While an attachment to your April 18 petition asserts that OBI lacks authority to require payment of a fee to process a records request, this is not an accurate statement.

[1] While you addressed your petition to the Attorney General, on April 2, 2003, you sent it to the Civil Enforcement Division instead of to the Attorney General's office. The Civil Enforcement Division is not responsible for processing petitions for disclosure of public records. Because your petition was identified as such a document on April 18, 2003, and forwarded to the appropriate officials at that time, we are treating your petition as being received on that date.

> The Public Records Law expressly authorizes a public body to establish fees "reasonably calculated to reimburse it for its actual cost in making such records available." ORS 192.440(3).
> * * * *
> "Actual cost" may include a charge for the time spent by the public body's staff in locating the requested records, reviewing the records in order to delete exempt material, supervising a person's inspection of original documents in order to protect the records, copying records, certifying documents as true copies, or sending records by special methods such as express mail.

ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) at 13.

Because there has been no change in circumstance, we reaffirm our January 13, 2003, order denying your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS12259
Enclosure: a/s