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February 21, 1989

Marvin J. Garland
P.O. Box 1239
Hillsboro, OR 97123

Major Craig C. Brenton
Executive Assistant to the Superintendent
Oregon State Police
107 Public Service Building
Salem, OR 97310

Re: **Petition for Public Records Disclosure Order; Oregon State Police Records**

Dear Mr. Garland and Major Brenton:

This letter is the Attorney General's order on Mr. Garland's petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. The petition, which we received on February 13, 1989, asks the Attorney General to direct the Oregon State Police (OSP) to disclose:

> "1. All background investigation reports and notes compiled during the investigation of Brent A. Giesbers' fitness for employment with the Department of State Police.
>
> "2. The names of all references supplied by the applicant, Brent A. Giesbers, who were contacted as a part of the background investigation."

OSP denied Mr. Garland's request for disclosure. For the reasons stated below, we grant the petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exceptions. Here, OSP has asserted two exemptions: ORS

192.502(1), covering internal advisory communications; and ORS 192.502(3), covering information submitted in confidence. We conclude that neither of these exemptions applies.

OSP withheld five documents. The first is an October 1, 1987, "Officer's Report" on an interview with a reference supplied by Mr. Giesbers. We find nothing in that report that "should reasonably be considered confidential," ORS 192.502(3). Accordingly, that document does not fall within the confidential information exemption, the only exemption claimed.

We reach the same conclusion about the October 11, 1987, "Officer's Report" concerning an attempted contact with another reference.

The third document is a November 9, 1987, "Officer's Report" describing the writer's personal interview with Mr. Giesbers, and some related contacts. OSP asserts the exemption for internal advisory communications. Nearly all of that report, however, covers purely factual materials and, therefore, is subject to disclosure under that exemption. Although the writer included in the report some subjective impressions of Mr. Giesbers, we do not view those remarks as the type of "frank communication" that would be chilled by disclosure. Accordingly, we conclude that the entire report must be released.

Fourth, OSP withheld an October 27, 1987, "Officer's Report" describing the writer's conversations with several individuals concerning Mr. Giesbers. OSP claims that this report contains exempt confidential information. The report primarily recites the substance of contacts with several OSP troopers. We see nothing in those discussions that, as to Mr. Giesbers, "should reasonably be considered confidential." Nor are the remaining parts of the report confidential. One relates the writer's discussion with a person at the Oregon State University Registrar's office. None of the information in the report is confidential as to Mr. Giesbers. The other interview was with Mr. Giesbers' student advisor at OSU. OSP has advised us that the interviewer probably did not assure the student advisor that the conversation would be held in confidence. Accordingly, we must conclude that the confidential information exemption does not apply.

Finally, OSP withheld an October 8, 1987, teletype noting Mr. Giesbers' prior citation for a fish and game violation. Nothing in that report is confidential as to Mr. Giesbers.

In sum, all of the documents withheld by OSP are subject to disclosure. Therefore, we order OSP to make those documents available for inspection or copying, as requested by Mr. Garland. OSP has seven days from the issuance of this order in which to comply. ORS 192.450(2).

Very truly yours,

James E. Mountain Jr.

JAMES E. MOUNTAIN, JR.
Deputy Attorney General

JEM:RDW:cm
cc: Charles Pritchard, Administrator, Criminal Justice Division
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