HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

April 18, 2001

Mr. Jeff Sierzega
13395 Lower Island Road
Dayton, Oregon 97114

Re: Petitioner for Public Records Disclosure Order
Oregon State Police Records

Dear Mr. Sierzega:

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 13, 2001, asks the Attorney General to direct the Oregon State Police (OSP) to make available the following records:

1. The records concerning the surveillance of Jeffery Sierzega by the Oregon State Police;

2. The records of the incidents I filed with the Oregon State Police in McMinnville, Oregon, regarding armed intruders on my property on 9/23/00 and the intruder with Oregon license plate No. MJV-651 reported to the Oregon State Police Office in McMinnville;

3. The court order allowing the interception of communications of Jeffery Sierzega.

For the following reasons, we respectfully deny your petition.

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. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. *Turner v. Reed,* 22 OR App 177, 186 n 8, 538 P2d 373 (1975).

On April 16, 2001, Assistant Attorney General Herbert F. Lovejoy spoke with Sergeant Brad Hessley of the OSP McMinnville Patrol Office concerning any records of surveillance of you. Sgt. Hessley informed AAG Lovejoy that OSP has not conducted any surveillance of either you or your property. However, Sergeant Hessley stated that, in 1994, you were the subject of an investigation by the Yamhill County Interagency Narcotics Task Force (YCINT). YCINT is a multi-agency task force made up of various law enforcement agencies, of which OSP is a member. As a result of that 1994 investigation, a YCINT report, which was approved by an OSP officer, was sent to the Yamhill County District Attorney's Office for prosecution. *See* Yamhill County Circuit Court Case No. CR94-497. Additionally, evidence seized from your residence as a result of that investigation was sent to the OSP Crime Lab for analysis, and a crime lab report was generated. Yamhill County District Attorney Brad Berry informed AAG Lovejoy that you have previously received copies of both the YCINT report and crime lab report, but he has agreed to provide additional copies to OSP. OSP Sgt. David Scholten informed AAG Lovejoy that he has agreed to make the YCINT report, as well as the crime lab report, available to you. Accordingly, we deny your request for these records as moot.

Regarding the second item in your public records request, Sgt. Hessley also informed AAG Lovejoy that you initially reported intrusions into your property to the OSP McMinnville Patrol office. At that time, Sgt. Hessley offered to send an OSP officer to your residence to take police reports regarding those intrusions. Sgt. Hessley states that you declined his invitation and that OSP has no records concerning armed intruders onto you property on September 23, 2000, or the intruder with Oregon license plate number MJV-651. Because OSP does not have any records regarding these incidents, we deny your petition for such records.

Finally, Sgts. Hessley and Scholten, as well as District Attorney Berry, have confirmed to AAG Lovejoy that there is no court order allowing any interception of your communications. Accordingly, we deny your petition for this record also.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS07540
C: Sgt. David Scholten, OSP
District Attorney Brad Berry