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December 23, 1988

Aaron N. Eastlund
13795 SW Electric #17
Beaverton, OR 97005

Re: Petition for Public Records Disclosure Order; Motor Vehicles Division Records

Dear Mr. Eastlund:

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 December 16, 1988, asks the Attorney General to direct the Motor Vehicles Division (MVD) to disclose records relating to "the function of programs used by the Motor Vehicles Division on the Department of Transportation computer." On the understanding that you wanted a list of all data processing programs and the functions of these programs, MVD denied your request on the ground that MVD has no such records. MVD indicated that, if such records existed, the records would be at the Department of Transportation rather than with MVD. Accordingly, we have contacted the Information Systems Development Section of the Department of Transportation to determine if such records are available. For the reasons stated below, we respectfully deny your request that we order release of the requested records.

The Public Records law confers a right to inspect any public record of a public body in Oregon, subject to certain exceptions. However, the records that you request do not exist at MVD or at the Department of Transportation, and the Public Records Law does not impose a duty to create these records. 44 Op Atty Gen 239, 277 (1984). (Attorney General's Public Records and Meetings Manual).

The information in the computers has been written and stored in "pieces," and can be extracted only by extensive collating and cross-referencing of these pieces. The

Department of Transportation estimates that it would take one person three to four weeks, working full time, to develop the record that you request. The Public Records Law does not compel an agency to develop such a public record. See Letter of Advice dated June 1, 1987, to Jim Kenney, Supervisor, Urban Renewal Section, Department of Revenue (OP-6126) at 4-5 (Public Records Law does not require agency to select small portion of computerized public records and configure them in potentially meaningful fashion).

Moreover, we understand that 2,000 to 3,000 program modules relating to MVD are in the computers of the Department of Transportation. The program designations contain information that would permit computer access. Thus, the program designations would be exempt from disclosure under ORS 192.501(16), which conditionally exempts from disclosure any "series of instructions or statements which permit the functioning of a computer system in a manner designed to provide storage, retrieval and manipulation of data from such computer system, and any associated documentation and source material that explain how to operate the computer program." This exemption is inapplicable when the public interest requires disclosure in the particular instance. No such overriding public interest is evident with respect to your request.

For these reasons, we respectfully deny your petition.

Very truly yours,

James E. Mountain Jr

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