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ATTORNEY GENERAL

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DEPARTMENT OF JUSTICE
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October 20, 2000

Dennis La Vine
Michelle La Vine
148721 Hwy 97 North
Gilchrist, Oregon 97737-9752

Re: Petition for Public Records Disclosure Order:
Department of State Police Records

Dear Mr. and Ms. La Vine:

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 October 13, 2000, asks the Attorney General to order the Oregon State Police (OSP) to make available for inspection and copying the following records:[1/]

> [C]ell phone records for Sergeant M.O. Crisp of the Gilchrist work station for March 15, 2000 [which were requested in writing on May 24, 2000 to Dennis M. Dougherty and]:
>
> 1. The second of two reports of the OSP investigation of a supposed[] suicide of a Sandra Doll Mouser.
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> 2. All fax and e-mail records for the Gilchrist work station from December 17, 1999 to current.
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> 3. The videotape from Sergeant M.O. Crisp police vehicle of March 15, 2000.

[1/] Your petition also seeks records from the Oregon Department of Fish and Wildlife (ODFW), the Klamath County Sheriff's office and other Klamath County agencies. We address your petition for the ODFW records in a separate public records order. Because the Attorney General's authority is limited to petitions seeking records of state agencies, you will need to direct your petition concerning the Klamath County records to the District Attorney for Klamath County.

4. The videotape mentioned by Trooper James Hayes – OSP Gilchrist in his 12-30-99 trespass complaint. * * *

5. All reports of a "State Police Arson Squad Out of Bend, Oregon", this was also requested in writing to Dennis M. Dougherty on 9-6-2000 with no response.

6. A copy of Sergeant M.O. Crisp field notes for the incident involving Dennis La Vine that happened on March 15, 2000. (Requested 5-24-2000).

7. A copy of the radio transmissions that would have been used by any officer of the Gilchrist State Police office starting at 6:00 p.m. March 15, 2000. (Requested 5-24-2000).

8. A copy of 911 call supposedly made by either Luke or Kathryn Knowles on March 15, 2000. (Requested 5-24-2000).

9. Trooper Clark's field notes for an incident that happened on 9-27-2000 and his notes for a follow up visit to the parties that were shooting at the La Vine's during that time frame.

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. Any person who is denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.450(1).

This office has reviewed your correspondence with OSP concerning these records. Your letter to OSP Captain Dougherty of May 24, 2000, requested only the cell phone records for Sgt. Crisp and items #1, #7 and #8, above.[2/] By letter dated June 8, 2000, Capt. Dennis Dougherty informed you that OSP does not operate the 911 answering center, and that you would need to request a copy of the 911 call (item #8) from the county in which you live. With regard to the other records requested in your May 24 letter, Capt. Dougherty informed you that your request should be directed to OSP Sergeant (now Lieutenant) Malcolm Lewis.

On August 7, 2000, you forwarded to Lt. Lewis a copy of your May 24 letter and Capt. Dougherty's response, and you also requested item #3, above. On September 6, 2000, you sent a letter to Capt. Dougherty requesting item #5, above. On October 4, 2000, you sent a letter to Lt. Lewis, requesting item #9, above, which OSP Sgt. David G. Scholten then sent to you on October 19th. Lt. Lewis informs us that OSP not denied your requests for any of the records, except item #8, which is not in OSP's custody.

The Attorney General may order a state agency to disclose records only when there has been a request to a state agency for records, and the agency has denied the request. *See* ORS 192.450(1). The Public Records Law imposes no specific deadline for the release of requested

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[2/] Although your petition notes that item #6, a copy of Sgt. Crisp's field notes, was requested on May 24, 2000, your May 24 letter requests only the sergeant's "police report."

records; the public body must release nonexempt records within a "reasonable" time. The reasonableness of time may vary with, for example, the extensiveness of the request and the complexity of the legal and factual issues that arise in determining whether the request encompasses documents that are exempt from disclosure. *See* ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL at 8 (1999). Given the multiple requests that you have made to the agency and the agency's regular communications with you about these requests, we do not find that the time the agency has taken to respond to your requests to be unreasonable.

Because OSP has provided item #9 to you, we deny your petition as to that item as moot. Because OSP has not denied your request for any of the other records in its custody,[3/] we deny your petition with respect to those records as premature.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS05633
c: Lt. Malcolm Lewis, Oregon State Police

[3/] Lt. Lewis informs us that OSP is in the process of preparing a response to your records requests.