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DEPARTMENT OF JUSTICE
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October 21, 2009

Valerie J. Troyer
P.O. Box 1950
Sisters, OR 97759

Re: Petition for Public Records Disclosure Order:
Oregon State Bar, Clackamas County District Attorney

Dear Ms. Troyer:

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. We received a letter from you on October 14, 2009. As we understand your letter, it is a petition asking the Attorney General to direct the Oregon State Bar (OSB), the Clackamas County Sheriff's Office and the Clackamas County Circuit Court to disclose certain records.

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 state agency denies a request for disclosure of records the requester may petition the Attorney General for review of the denial. The Attorney General may not order a state agency to disclose records unless the agency has denied a request for those records. *See* ORS 192.450(1). For the reasons that follow, we respectfully deny your petition.

I. OSB Records

You state that in July 2008, Sylvia Stevens of OSB denied you the right to inspect "the files of Helen Hierschbiel of the OSB from September 26, 2004 – December 29, 2004." We understand from the context for this statement in your petition that the "files of Helen Hierschbiel" at issue are those that relate to complaints you and Mr. Troyer filed with the OSB in 2004.

We spoke to Ms. Stevens who reports that OSB has told you on numerous occasions that you are entitled to view any records OSB has regarding the complaints that you have made about OSB members. In an email dated July 31, 2008, Jeff Matthews of OSB told you that "we have

provided to you all of your requested file contents in our possession. If you did not receive it, it is because we do not have it." In an email dated August 12, 2008, Ms. Stevens informed you that "you are entitled to review and obtain copies of any of our public records" and that you could obtain them by requesting them from OSB's Disciplinary Records Clerk. Accordingly, OSB has not denied your request for public records and we must respectfully deny your petition as it relates to OSB.

II. Clackamas County Sheriff's Office Records

You next "ask[] for appeal[] to the denial of the Public Records of the CCSO/Complaint #956" without offering any further explanation. It appears that by "CCSO" you mean the Clackamas County Sheriff's Office, a local government body. Under the Public Records Law, the Attorney General has authority to issue a public records order only upon the petition of a person "denied the right to inspect or to receive a copy of any public records of a *state agency.*" ORS 192.450(1) (emphasis added). The Clackamas County Sheriff's Office is not a state agency. In any case in which a person is refused an opportunity to inspect a record by a local government body, a petition for disclosure may be filed with the district attorney. ORS 192.460. A petition regarding Clackamas County Sheriff's Office records should be directed to the Clackamas County District Attorney.

III. Clackamas County Circuit Court Records

You attached to your request a letter to the Clackamas County District Attorney's Office dated September 23, 2009 in which you state that you have "been asking for the public records file of the full manuscript of the 'trial' of this case before Reference Judge William Schulte; as well as the legal paperwork of John Peterson replacing Dylan Cernitz as the Attorney on Record for Kenneth A. Troyer, Petitioner" in what you identify as case number "DR0405-0344." It is unclear whether, by attaching that letter, you mean to petition the Attorney General for an order to disclose those records. Assuming that you did, we spoke to a Records Management Unit Specialist at the Clackamas County Circuit Court who checked the court's transcript request logs and found no request by you for the transcript of your case. Nor was he aware of any request for records regarding change of attorney. The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. ORS 192.450(1). Because it does not appear that the court has denied your request, we must respectfully deny your petition in regard to those records.

If you wish to request the above records, please direct your request to:

Clackamas County Circuit Court
Trial Court Administrator
807 Main Street
Oregon City, OR 97045

IV. Conclusion

Under the circumstances, your petition must be wholly denied. As to OSB's and the Clackamas County Circuit Court's records, we cannot find that you have been denied the opportunity to inspect any records. Consequently, we have no authority to order those agencies to make records available to you. ORS 192.450(1). And we do not have any authority to order the Clackamas County Sheriff's Office to make records available to you because that entity is not a state agency. Your petition is respectfully denied.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

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c: Greg Hor
Helen Hierschbiel
Sylvia Stevens
Scott Morrill
Jeff Sapiro