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October 23, 2007

Lorena P. Martin
P.O. Box 6245
Corpus Christi, TX 78466-6245

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

Dear Ms. Martin:

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 15, 2007, asks the Attorney General to order the Oregon State Police (OSP) and the Marion County Sheriff's office to make available for inspection, or to produce copies of, a "one to two minute segment of surveillance video showing the vehicle driven by Christopher Lee Millis crashing through the front entry of the Marion County Courthouse on November 12, 2005." For the reasons that follow, we respectfully deny your petition.

With respect to the Marion County Sheriff's Office, we deny your petition because that office is not a state agency. Under ORS 192.450, we have the authority to review public records decisions made by state agencies and issue orders pertaining to those decisions. For public bodies that are not state agencies, ORS 192.460 provides that the district attorney of the county within which the administrative offices of public entity are located is the proper addressee of a public records petition.

We turn to your petition with respect to OSP.

The Public Records Law confers a right to inspect public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420 to 192.505. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt materials available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. ORS 192.505; *Turner v. Reed*, 22 Or App 177, 186 n. 8, 538 P2d 373 (1975).

OSP has informed Senior Assistant Attorney General Herbert F. Lovejoy that OSP currently possesses, in digital format, a working copy of the footage captured by the Marion County Courthouse security system during Mr. Millis's criminal rampage. The video footage is from cameras located throughout the Marion County Courthouse. Some of the footage is responsive to your request for footage of Millis's vehicle "crashing through the front entry." Finally, OSP informed Mr. Lovejoy that footage from each camera is segregated into a separate computer folder on the hard drive.

We conclude that ORS 192.501(23) conditionally exempts the footage you request from disclosure requirements. In relevant part, that provision exempts

> Records or information that would reveal or otherwise identify security measures, or weaknesses or potential weaknesses in security measures, taken or recommended to be taken to protect:
>
> * * * * *
>
> (b) Buildings or other property

Thus the exemption applies to video footage that would reveal actual or recommended security measures, along with footage that would reveal weaknesses or potential weaknesses in those measures.

Some of the surveillance cameras in the Marion County Courthouse are easily visible to the general public, but some are not. As a result, the exact location of all of the surveillance cameras is not readily apparent. Disclosing footage taken using any cameras that cannot be easily seen would "reveal * * * security measures" by revealing the existence and location of those cameras. Therefore, any footage of that nature falls within the exemption.

Even where the cameras themselves may be readily visible, disclosure of the video footage gathered by the camera would still reveal non-obvious information. For example, disclosure of the footage would demonstrate a camera's visual field. That information is not apparent to observers, and would reveal potential blind spots in the surveillance system. In addition, producing the footage would reveal the focus and image quality of the camera; once again this information is not obvious to the observer. Because footage taken from readily visible cameras would nevertheless release otherwise secret information that exposes potential weaknesses of the courthouse security system, we conclude that video footage from visible security cameras is exempt from disclosure under ORS 192.501(23).

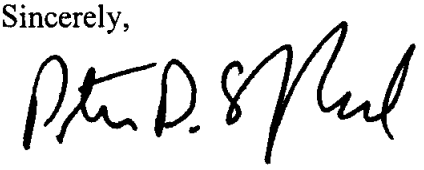
Exemption under that provision is conditional. Disclosure is still compelled if "the public interest requires disclosure in the particular instance." ORS 192.501.

In your petition, you indicate that you intend to show the footage to various "court administrators/policy makers." Considering the entirety of your submission, it appears that you intend to integrate the footage into "presentations on court security" that you conduct, sometimes

"with members of the U.S. Marshals service." You believe that exposing your audience to this video footage could avert similar occurrences in the future. However, you have already received "678 photos on four CD's" depicting the dramatic aftermath of the attack. We would expect professional court administrators and policy makers and U.S. Marshals to take those still images just as seriously as they would video footage. By contrast, non-disclosure of the surveillance footage furthers the public interest by maintaining government control over information that might encourage or aid individuals attempting to take advantage of weaknesses or potential weaknesses in security measures at the Marion County Courthouse. In our view, this interest outweighs any public interest in disclosing the footage you request.

We find that the requested records are exempt from disclosure under ORS 192.501(23), and that the public interest in disclosure does not outweigh the public interest in nondisclosure. Therefore, we deny your petition.

Sincerely,



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Deputy Attorney General

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