HARDY MYERS
ATTORNEY GENERAL

DAVID SCHUMAN
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310-0506
Telephone: (503) 378-4400
TDD: (503) 378-5938

April 7, 1998

Ronald S. Newton
Attorney At Law
1826 NE Broadway
Portland, OR 97232

Re: *Petition for Public Records Disclosure Order: Adult and Family Services Division Records*

Dear Mr. Newton:

This letter is the Attorney General's order on your petition[1/] for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on April 2, 1998, asks the Attorney General to direct the Adult and Family Service Division (AFSD) of the Department of Human Resources to produce a copy of the "transmittal letter of tax refund addressed to Page Waggener in the State of Texas." For the reasons stated below, we respectfully deny your petition.

Betty Gambone, AFSD Child Support Accounting Unit Caseworker, informs us that the record you requested does not exist. The Child Support Program does not send a transmittal letter with tax refund checks when it sends the checks to the obligor. The Attorney General cannot order agencies to disclose records that do not exist.

We understand that you are seeking to obtain the address of Mr. Waggener in Texas. Such information in AFSD records would be exempt from disclosure under the Public Records Law. ORS 192.502(9) exempts from disclosure:

[1/] Your petition was filed on behalf of your clients, Derenda Waggener and Kacy Waggener.

> Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon law.

This exemption incorporates other state laws prohibiting disclosure of information.

> Oregon Laws 1997, chapter 746, section 132, provides:
>
> (1) For the protection of applicants for and recipients of support enforcement services and the protection of any other person who may be a party to a proceeding to establish, modify or enforce a support obligation or an obligation to provide medical insurance coverage, the Support Enforcement Division, the district attorney and the Department of Human Resources, unless otherwise authorized by law, *shall not disclose* or use the contents of any records, files, papers or communications *for purposes other than those directly connected with*:
>
> (a) *The administration of the plan or program approved under Part A, B, D, E, or F of Title IV* * * * of the Social Security Act * * *.

(Emphasis added.) This statute prohibits AFSD, which is a division of the Department of Human Resources, from disclosing the information in its possession for purposes other than the administration of the state's public assistance and child support programs, unless otherwise authorized by law. It makes no difference whether the information sought concerns an applicant, recipient or absent parent.

The AFSD rule implementing ORS 25.260, the virtually identical statute replaced temporarily by the above provisions, states in pertinent part:

> (5) Information from a Child Support Program case record may be disclosed by an entity of the Child support Program to a party in that case, or attorney representing a party in that case, *except* for the following personal information about the other party, unless disclosure of that information is otherwise required by rule or statute:
>
> (a) The residence or mailing address of the other party if that other party is not the state; * * *.

OAR 461-195-0290 (emphasis added).

We conclude that Oregon Laws 1997, chapter 746, section 132, prohibits AFSD from disclosing Mr. Waggener's address to you. *See also* ORS 418.135(1) (AFSD shall use

information only for purposes of administration of public assistance), ORS 411.320 (AFSD shall not disclose contents of records for purposes other than directly connected with administration of public assistance laws or child support enforcement). Your request seeks Mr. Waggener's address for the apparent purpose of collecting on a civil judgment. That purpose is not related to the administration of the state's public assistance or child support programs, and disclosure to you of the information you seek is not otherwise authorized by law.

Because Oregon Laws 1997, chapter 746, section 132, as well as ORS 418.135(1) and 411.320, prohibit AFSD from disclosing to you Mr. Waggener's address, that information is exempt from disclosure under ORS 192.502(9). Accordingly, we deny your petition.

Sincerely,



DAVID SCHUMAN
Deputy Attorney General

JAA02AC6
c: Betty Gambone, Child Support Accounting Unit Caseworker, AFSD