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March 15, 2006

Mr. Jared Paben
News Reporter, *The Daily Emerald*
University of Oregon
Eugene, OR 97403-3159

Re: Petition for Public Records Disclosure Order.
University of Oregon Records

Dear Mr. Paben:

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 your petition on March 8, 2006. The Petition asks the Attorney General to direct the University of Oregon to make available:

1. All correspondence from the Department of Public Safety to the University administration, including the Office of the General Counsel, regarding the recent review of accounting practices in the department's public operations. I am not seeking records generated by the General Counsel's office because I know these may be privileged and exempt from disclosure. This request includes, but is not limited to, all correspondence from DPS regarding missing parking funds or accounting books that don't add up.
2. All documents related to the recent review of cash handling procedures in the Department of Public Safety's parking operations.

For the reasons that follow, we respectfully deny your petition.

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. A custodian of public records must provide "proper and reasonable opportunities for inspection and examination." *See* ORS 192.430. Correspondingly, the custodian is allowed a "reasonable" time to respond to a request for records.

You made three public records requests of the Office of General Counsel, two on November 20th and one on November 21, 2005. You also make a request of Mary Stanik, Senior Director of Media Services for the University, to which request the University responded on December 2, 2005. In a letter dated December 22, 2005, Ms. Grier asked that you wait until you had reviewed an OUS Internal Audits Division audit issued on December 20th on the subject to see if you could reduce the number or types of records you were seeking, or if you could develop specific questions about the subject after reading the audit which she or other staff could discuss with you.

By letter of December 29, 2005, you renewed your request for the two items above, and dropped your request for the records you requested on November 21st. You explained that with the office closed, any response could be mailed to your home address over the holidays. You told Ms. Grier you would provide her office an extra 7 days to respond to the request, until January 4, 2006, or you would file a petition for disclosure with this office.

Ms. Grier replied to your letter on January 5th, expressing surprise that you were about to file a petition. She stated she had understood that you were trying to schedule a meeting with Vice President Francis Dyke and that she (Ms. Grier) had not had an opportunity to speak with Vice President Dyke's to determine what records might be available from her office that would be responsive to your request.

There is no further record of correspondence between you and Ms. Grier on this subject until your email renewing your request on March 2, 2006. A copy of that email was not provided with your petition. There are also three stories you have written on the subject in *The Oregon Daily Emerald* on January 17th, February 21st and March 10th, 2006.

We spoke with Ms. Grier about your petition. She explained that after her correspondence with you on January 5, 2006, she understood you were going to speak next with Vice President Dyke. She also believed that since you had published your article on the subject on January 17th you were no longer requesting the records. She observed that it is not uncommon for records requests to be made for information on a particular story which cannot be fulfilled before deadline and therefore are not pursued by the requestor.

The next communication Ms. Grier received you was your email of Thursday, March 2nd. She informed us that she did not understand from that email to which documents you were referring, which documents you might have received from various parts of campus and which you might still be interested in obtaining. On Wednesday, March 8th, you filed your petition.

We conclude that the delay between your last request in January and your renewed request on March 2nd, and the filing of your petition in March 8th, was reasonable under the circumstances described above. Between November and January, you and Ms. Grier

were actively engaged in getting you information on the subject matter in a sequential pattern designed to assist you in limiting the information you were requesting to make it less expensive and more targeted for ease and economy of production. Once your article was published on January 17th, it was reasonable for Ms. Grier to believe that your request was no longer active, particularly when you did not advise her otherwise for nearly two months and published another story in the interim. Ms Grier has assured this office that she has no intention of denying your request for records. We therefore conclude that there has been no denial of your request. As a result, this office lacks authority to order disclosure. ORS 192.450(1). We respectfully deny your petition to compel disclosure as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS17104
Cc: Melinda Grier, University of Oregon General Counsel