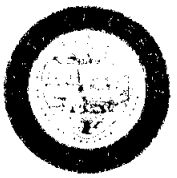
DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JAMES E. MOUNTAIN, JR.
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

March 15, 1989

Wendell R. Birkland
Suite 1215
Orbanco Building
1001 S.W. Fifth Avenue
Portland, OR 97204-1199

Re: **Request for Attorney General Demand for Public Records; Oregon State Bar Disciplinary Proceeding**

Dear Mr. Birkland:

I am writing in response to your March 9, 1989, letter concerning your request to the Oregon State Bar for documents in the Bar's file relevant to the investigation of Leonard Popick. In that letter, which we received March 10, you ask that the Attorney General "make a demand on the Oregon State Bar, pursuant to the Public Records Law, that the Oregon State Bar produce its entire file for review by the Attorney General's Office." Under the present circumstances the Public Records Law does not empower the Attorney General to do so. Accordingly, we cannot comply with your request.

Under the Public Records Law, the Attorney General may compel a public body to transmit public records to the Attorney General only if (1) a public body has denied the right to inspect or to receive a copy of any public record, and (2) the Attorney General receives a petition under the Public Records Law to review the record to determine whether it may be withheld. ORS 192.450(1), 192.470(2). As we understand your March 9 letter, neither condition has been satisfied. First, your letter does not state that the Bar has denied a Public Records Law request to the Trial Board (as opposed to any request you may have made under the Bar's discovery rules). Rather, you explain that you have renewed your request to the Trial Board, and are currently awaiting a response. Second, because you do not ask for an Attorney General public records disclosure order, we do not construe your letter as a petition

under the Public Records Law. Rather, we understand you to ask that we demand the Bar's records so that we can advise the Bar on whether any of those records are exempt from disclosure.

In sum, your letter indicates that the Bar has not denied your public records request. That letter is not a petition that triggers the Attorney General's duties and powers under the Public Records Law. The Attorney General, therefore, lacks authority to order the Bar to produce its records for our inspection.

We encourage you to continue to work with the Bar to resolve your public records request in a mutually satisfactory manner. We are confident that the Bar will comply fully with the letter and spirit of the Public Records Law.

Very truly yours,

James E. Mountain Jr

JAMES E. MOUNTAIN, JR.
Deputy Attorney General

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cc: George Riemer
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