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September 8, 2014

SENT VIA EMAIL ONLY

Jon Friedman
232 NE 9th Avenue
Portland OR 97232
friedman14@gmail.com

Re: Petition for Public Records Disclosure Order
State of Oregon, Department of Human Services
DOJ File No. 100101-GA0082-14

Dear Mr. Friedman:

This letter is the Attorney General's order in response to your original and amended petitions asking our office to direct the Oregon Department of Human Services (DHS) to disclose three crime reports believed to be submitted to it by the Portland Police Department (PPD). For the following reasons, we respectfully deny your petition.

The Oregon Public Records Law, ORS 192.410 to 192.505 provides that "Every person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.501 to 192.505." ORS 192.420(1). A person denied a request to inspect a public record of a state agency may file a petition with the Attorney General's office seeking review of the agency's decision. ORS 192.450. The public records law requires a public body to produce only those public records "prepared, owned, used or retained" by the public body. ORS 192.410(4)(a).

In your petition, you report that you filed a written public records request with PPD for three crime reports related to the criminal investigation and April 1, 2014 indictment of Katherine Parker, specifically Crime Report PP 13-76485, Crime Report PP 14-5904, and Crime Report 14-5905. You relate that PPD denied your request and referred you to DHS. That original request to PPD is not part of the record before us. On June 25, 2014, you filed a written request for disclosure of public records with DHS seeking the same three crime reports. You

report that this petition was denied in an August 7, 2014 telephone conversation with Jesse Stanton, a DHS Child Welfare officer in Jackson County. On July 17, 2014, you filed a petition for an order to disclose those public records with the Attorney General, based on that oral denial. Subsequently, on August 20, 2014, DHS issued a written denial of your June 25, 2014 request citing a number of bases on which the documents requested were not available for public disclosure. You then filed an amended petition for public records order with this office. You kindly extended our usual seven day deadline to respond to your petition and amended petition.

Because you requested disclosure of certain "crime reports", and because reports of criminal investigations are subject to certain disclosure limitations based upon their content and whether they are part of an ongoing investigation, *see e.g.*, ORS 192.501(3), we requested that DHS provide us with a copy of the crime reports sought. After searching for the specific records sought, DHS informs us that it does not, in fact, have those records. The records sought were created by PPD, and are not maintained, cared for, or controlled by DHS. *See* ORS 192.410(1).

In this case, we know that the crime reports sought were "prepared" by PPD, and it appears that DHS has never "owned, used or retained" those crime reports. Hence, DHS cannot disclose those records, and we deny your petition on that basis.

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

JAG:tmt/5738759
cc via email only:
Erinn Kelley-Siel, DHS