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July 3, 2014

SENT VIA EMAIL ONLY

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Erin Redding
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Re: Petition for Public Records Disclosure Order
Oregon State Police
DOJ File No. 257001-GA0048-14

Dear Ms. Woolington and Ms. Redding:

This letter is the Attorney General's order in response to a petition filed by The Oregonian reporter Rebecca Woolington. Ms. Woolington asks our office to direct the Oregon State Police (OSP) to disclose records pertaining to its investigation of Sherwood Police Department officer Adam Keesee. OSP investigated allegations that Officer Keesee behaved inappropriately toward a Sherwood High School student who was the victim of child sex abuse perpetrated by Officer Keesee's wife, Denise Keesee.

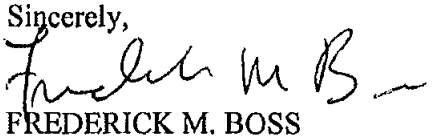
The Oregon Public Records Law, ORS 192.410 to 192.505 provides that "Every person has a right to inspect any public record of a public body in this state, except as otherwise expressly provided by ORS 192.501 to 192.505." ORS 192.420(1). Exemptions from public disclosure requirements must be explicit in statute and cannot be inferred. *See, e.g., Colby v. Gunson*, 224 Or App 666, 675-676. Even express exemptions are construed narrowly to favor public disclosure, "mean[ing] that, if there is a plausible construction of a statute favoring disclosure of public records, that is the construction that prevails." *Id.* at 676. 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.

In this case, OSP asserted ORS 419B.035 as the basis for its decision to withhold the requested reports. That statute makes confidential "reports and records compiled under the provisions of ORS 419B.010 to 419B.050." (The cited statutes are Oregon's child abuse reporting laws.) For the reasons that follow, we largely grant the petition.

In another order issued today construing ORS 419B3.035, we explain why we understand ORS 419B.035 to make police investigative documents confidential when the crime being investigated is a crime of child abuse. Public Records Order, **DATE**, Bailey and Stevens-Scwhenger. With respect to this petition, however, we observe that the requested records are not police records developed in an investigation of abuse. Officer Keesee was investigated for conduct that does not meet the definition of "abuse" in ORS 419B.005(1). Consequently, we cannot agree with OSP's contention that the records generated in that investigation are subject to the confidentiality provisions of ORS 419B.035. We grant Ms. Woolington's petition with respect to original records generated by OSP in its investigation of Officer Keesee.

However, OSP obtained as part of its investigation some of the records of the investigation by Sherwood PD and the Washington County Sheriff's Office (WCSO) into the conduct of Denise Keesee.[1] Those records were compiled pursuant to a law enforcement investigation of child abuse. And OSP's reports in some cases appear to reproduce sections of those Sherwood PD and WCSO investigative records. For the reasons explained in our order issued to Mr. Bailey and Ms. Stevens-Schwenger today, we conclude that such records are exempt from disclosure. Consequently, in complying with this order, OSP may redact or otherwise remove investigative material from the Sherwood PD and WCSO investigations into the conduct of Denise Keesee.

Sincerely,



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Deputy Attorney General

[1] ORS 419B.035(4) authorizes law enforcement agencies to share records and reports with other law enforcement agencies "when the law enforcement agency determines that disclosure is necessary for the investigation or enforcement of laws relating to child abuse and neglect." ORS 419B.035(5) authorizes sharing between law enforcement agencies "for the purpose of managing and supervising offenders in custody or on probation, parole, post-prison supervision or other form of conditional or supervised release." OSP did not receive the records for either of these purposes. In light of our conclusion that those records are subject to ORS 419B.035, it does not appear that Sherwood PD or WCSO had authority to share its investigative records with OSP.