JOHN R. KROGER
ATTORNEY GENERAL

MARY H. WILLIAMS
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400

February 11, 2010

Carrie Bartoldus
91997 Hwy 202
Astoria, Oregon 97103

Re: Petition for Public Record Disclosure Order:
Oregon State Police Records

Dear Ms. Bartoldus:

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. Your petition, which we received on February 5, 2010, asks the Attorney General to direct the Oregon Department of State Police (OSP) to make available "DUI citations issued by Oregon State Police in Clatsop County 23 December 2009 1200 hrs – 3 Jan 2010 1200 hrs."

For the reasons that follow, we 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." ORS 192.430. If a state agency denies a request for disclosure of records, the requestor may petition the Attorney General for review of the denial. However, the Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. ORS 192.450(1).

On February 9, 2010, OSP Risk Manager Loree Fogleman provided you with the requested information. Your petition is therefore moot, and we deny it on that basis.

Ms. Fogleman also informs us that the only request OSP has a record of receiving from you was an email dated February 4, 2010 at 5:51 p.m. with a copy of your petition to the Attorney General attached. If you requested the documents prior to your petition, OSP has no record of it.

OSP is entitled to consider public records request before a requester may seek review of OSP's actions. ***Morse Bros., Inc. v. Oregon Dept. of Economic Development***, 103 Or App 619, 622, 798 P2d 719 (1990) ("The Public Records Law clearly contemplates that agencies have the opportunity to review the requested records and to act on the request before the Attorney General or the courts can review the matter"). If your petition were not moot, it appears that we would be compelled to deny it as premature.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

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c: Loree Fogleman, OSP