JOHN R. KROGER
ATTORNEY GENERAL

MARY H. WILLIAMS
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

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Salem, Oregon 97301-4096
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April 21, 2011

Rod Souza
PO Box 10
Lafayette, OR 97127

Re: Petition for Public Records Disclosure Order:
Legislative Counsel Records

Dear Mr. Souza:

This letter is the Attorney General's order on your petition for the review of an alleged denial by Dexter Henderson, Legislative Counsel, of your request for public records under the Public Records Law, ORS 192.410 to 192.505. We received your petition dated April 11, 2011, on April 14, 2011. For the reason that follows, we respectfully deny your petition.

The Public Records Law confers the right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any person denied the right to inspect or to receive a copy of a public record may petition the Attorney General to review the record and determine if disclosure is required. ORS 192.450(1). However, the Attorney General has no authority to review the actions taken in response to a request for public records that are in the custody of an elected official. ORS 192.480.

Your petition asserts, in essence, that you have been unable to "secure a second generation copy" of certain records from "Committee Legislators and their staff persons." You ask the Attorney General to "cause Legislative Counsel, Dexter Johnson, to timely deliver the session law * * * to the members of the House Transportation and Economic Development Committee, by and through the Office of Representative Cliff Bentz, Chairman thereof."

We understand the background for your petition to be as follows. On February 2, 2011, you ("on behalf of The Committee for Appropriate Enforcement of Motor Vehicle Laws") requested Dexter Johnson, Legislative Counsel, to

> provide for the inspection of my fiduciaries, the members of House Transportation Committee and Economic Development Committee, the legislative

> enactment, complete with a relating clause and a bill number, for further reference as may be necessary, that describes the 'Non-commercial driver license' such as is sold by ODOT director Matthew Garret and his division chief Tom McClellan, and referenced in their 'Oregon Driver Manual.'

This request further informed Mr. Johnson that "You shall distribute copies of the demanded act to those who need to know: member [*sic*] of my legislative committees within ten days * * *." Finally, you said that you "would obtain a copy for my own purposes through the office of one of my legislators when they receive it from you."

Although couched as a public records request, you have in fact asked Mr. Johnson to review actions and publications of the Oregon Department of Transportation (ODOT), assess whether they are justified by any legislative enactment, and if Mr. Johnson concludes that ODOT's activities are justified, give certain legislators copies of the law or laws that provide that justification. In other words, you are asking Mr. Johnson to do legal research on your behalf and effectively opine on the lawfulness of ODOT's administration of motor vehicle laws.

The Public Records Law does not require public bodies to "explain or to answer questions or provide legal research or analysis about their public records." ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2010) (MANUAL) at 6. Your petition is respectfully denied on that basis.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

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c: Dexter Johnson, Legislative Counsel