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January 26, 2012

Mr. Caleb R. Johnson
P.O. Box 8187
Brookings, Oregon 97415

Re: Petition for Public Records Disclosure Order
Oregon State Police Record
DOJ File No. 257001-GA0004-12

Dear Mr. Johnson:

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. We received your petition on January 19, 2012. The petition asks the Attorney General to direct the Oregon State Police ("OSP") to make available "OSP record number: 11-261848," documenting "all activities surrounding the OSP investigation into charges of sexual abuse as described on the request form." That underlying request form sought OSP's report in that case involving "[a]n investigation into alleged misconduct on the part of Brookings Police Dept. Administrators." For the following reasons, we respectfully deny your petition as premature.

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." See ORS 192.430. Correspondingly, the custodian is allowed a "reasonable" time to respond to a request for records.

The following account is summarized from your petition and your accompanying email to Tony Green. You initially requested records from OSP in August of 2011. In November of 2011, you obtained the information you needed to request the police incident record, such as the case number, the investigating officer's name, and dates and times of the incident. You filed the Request for Oregon State Police Report on November 3, 2011, and paid the required fee. On December 6, 2011, OSP responded to your request by providing only the "CAD" (a computer generated dispatch report) for Incident Number 11-261848. OSP's response included a note stating: "Based on the information provided we are unable to locate an Oregon State Police

Report for this incident. Your check is also being returned." You then asked OSP Central Records about the possibility that there were more records associated with the report. Central Records told you, in December 2011, that they would have to determine if there were any more associated records and, if so, whether those records were exempt from disclosure under the Public Records Law. As of January 19, 2012, you had neither received the complete record, nor been informed whether there are associated records other than the CAD report.

We spoke with Cecily Brown, Supervisor of OSP's Central Records, about your petition. Ms. Brown provided copies of email correspondence she had with you, beginning on September 28, 2011. On October 8, 2011, Ms. Brown wrote you that a preliminary review of your request did not provide enough information to determine that OSP was the custodian of any of the requested records. She directed you to OSP's online form for requesting an incident report and for providing more information. On December 9, 2011, you wrote to Brown asking if there were more records about the incident, in addition to the CAD. Ms. Brown responded on December 12, 2011, that she was looking into your questions and hoped to get back to you that week. Also on December 12, 2011, you wrote back thanking Ms. Brown for her professionalism and helpfulness.

Ms. Brown told us that she has located and is reviewing additional records regarding Incident No. 11261848. She said OSP has not yet responded to your request because OSP has not yet determined whether those records could be disclosed, even if redacted, under pertinent statutes. OSP has informed us that they will issue a response to your request within three business days of the date of this order.

We conclude that the delay between your first request for the police report and your obtaining sufficient information to file the incident request form on November 3, 2011, is not attributable to OSP. The delay between your submission of the incident request form and OSP's current review of the requested records is reasonable under the circumstances described above, particularly inasmuch as OSP has committed to respond promptly. We therefore conclude that there has been no denial of your request. As a result, this office lacks authority to order disclosure. ORS 192.450(1). We respectfully deny your petition to compel disclosure as premature.

Sincerely,

MARY H. WILLIAMS
Deputy Attorney General

smg/3185932
c: Cecily Brown, Oregon State Police