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April 21, 2016

VIA EMAIL AND REGULAR MAIL: dhenden@hfg-law.com

Hiefield Foster & Glascock, LLP
Attn: Donna Henden
6915 SW Macadam Ave, Suite 300
Portland, OR 97219

Re: Petition for Public Records Disclosure Order:
Oregon Department of Human Services Records
DOJ File No.: 100101-GA0061-16

Dear Ms. Henden:

This letter is the Attorney General's order responding to your April 14, 2016, petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition asks the Attorney General to order the Oregon Department of Human Services (DHS) to provide you with the following records:

> A complete copy [of the] Oregon Police Traffic Crash Report Case No. SP-14-398527 . . . related to the motor vehicle accident on 12/21/2014 in Clackamas County Oregon regarding Elijah Michael Harris . . . .

We deny your petition, in part because DHS has agreed to disclose a redacted version of the police report to you and in part because DHS has met its burden of showing that the redacted information is exempt from disclosure.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions contained in ORS 192.501 to 192.505. *See* ORS 192.420. In addition to the express exemptions contained in those sections, any other information that is confidential, privileged, or prohibited from being disclosed under other Oregon laws is also exempt from disclosure. ORS 192.502(9)(a). Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review

the record and determine if it may be withheld. ORS 192.450(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for records. *See id.* The agency carries the burden to sustain any denial of information. *Id.*

DHS is prohibited, with some exceptions, from disclosing any records, documents, or reports compiled due to a report of child abuse. *See* ORS 419B.035(1). One of these exceptions permits DHS to disclose records if DHS "determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child." ORS 419B.035(3). But even if DHS makes this determination, it may not disclose "[t]he name, address and other identifying information about the person who made the report." *Id.*

We have spoken with Shawnna Phillip, the legal unit manager at DHS. She advised us that DHS obtained the requested police report from the Oregon State Police in order to investigate a report of child abuse. She further advised that DHS had determined that disclosing the report to you is authorized by ORS 419B.035(3). Based on that determination, DHS mailed you a redacted copy of the requested report on April 19. DHS then e-mailed you on April 20 with a revised version of page 3 of the report, which removed a redaction. We have reviewed the remaining redactions, which remove identifying information about the person who reported the child abuse.

Because DHS obtained the police report in order to investigate a report of child abuse, the report is generally exempt from disclosure under ORS 419B.035(1). Even though DHS determined that an exception in ORS 419B.035(3) permits disclosure of the police report to you, that same exception prohibits DHS from revealing any identifying information about the person who reported the abuse.

Therefore, we deny your petition for the following reasons: Your petition is moot with respect to the portion of the report that DHS disclosed to you; and any identifying information about the person who made the report is exempt from disclosure under ORS 419B.035(3).

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:nog/DM7324976
c via email only: Shawnna Phillip, DHS