ELLEN F. ROSENBLUM
ATTORNEY GENERAL

FREDERICK M. BOSS
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE

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

July 1, 2016

VIA EMAIL ONLY: gkemp_cole@hotmail.com

Geri Kemp
218 Crestview Drive
Big Fork, MT 59911

Re: Petition for Public Records Disclosure Order:
Oregon Department of Public Safety Standards & Training
DOJ File No.: 259001-GA0089-16

Dear Ms. Kemp:

This letter is the Attorney General's order responding to your June 24, 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 Public Safety Standards & Training (DPSST) to provide records related to your complaint about an unknown private investigator conducting surveillance of you in a violent, harassing manner.

We deny your petition because ORS 703.480(2)(a) exempts from disclosure "all information about the alleged violation and the investigation . . . if [DPSST] determines that the allegation is false." Because DPSST determined that your allegation was false, and all its records relate to the alleged violation and the investigation, these records are exempt.

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(1). 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 agency carries the burden to sustain any such denial. *Id.*

Your petition shows that on May 25, 2016, DPSST provided you with its July 26, 2011, letter to you closing its investigation but denied access to the rest of its responsive records by citing the exemptions contained in ORS 192.501(35) and ORS 703.473. However, as you point out in your petition, those exemptions do not apply here because DPSST's investigation has concluded. *See* ORS 192.501(35) (exempting information until a report is issued, which per ORS 181A.640(8) and ORS 181A.870(6) happens after an investigation is completed); ORS 703.473 (exempting information until the case is dismissed or a proposed order is issued).

Although those exemptions do not apply to the requested records, ORS 703.480(2)(a) exempts DPSST's investigative records from disclosure if DPSST determines that an allegation about an investigator is false. Specifically, this exemption applies to "all information about the alleged violation and the investigation." We have spoken with Karen Evans, a DPSST investigator. She explained that DPSST determined that your allegation that an Oregon licensed investigator conducted surveillance of you in a violent, harassing manner was false. In addition, we reviewed DPSST's file on your complaint: all the records qualify as information about the alleged violation and DPSST's investigation, and thus are exempt from disclosure under ORS 703.480(2)(a).

Because these records are exempt from disclosure, we respectfully deny your petition.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:nog/DM7497114
c via email only: Karen R. Evans, DPSST