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March 15, 2017

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Les Zaitz
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289 A Street W
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Juliet Britton
Psychiatric Security Review Board
610 SW Alder, Suite 420
Portland, OR 97205

Re: Petition for Public Records Disclosure Order
Psychiatric Security Review Board
DOJ File No.: 399001-GA0062-17

Dear Mr. Zaitz and Ms. Britton:

This letter is the Attorney General's order responding to Mr. Zaitz's February 8, 2017, petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. We thank Mr. Zaitz for granting an extension of time to issue an order and for his patience. His petition asks the Attorney General to order the Psychiatric Security Review Board (PSRB) to produce various exhibits from its December 2016 public hearing that resulted in the discharge of Anthony Montwheeler from its jurisdiction.

Pursuant to ORS 192.450(1), we grant Mr. Zaitz's petition, in part, with respect to the majority of the exhibits. As we will detail in a supplemental order, we conclude that PSRB is not prohibited by ORS 179.505(14) from disclosing these exhibits; that the exhibits are not exempt as transferred records under ORS 192.502(10); and that the majority of the exhibits are not exempt under ORS 192.502(2), first because their disclosure would not constitute an unreasonable invasion of privacy, and second, because the public interest, by clear and convincing evidence, requires disclosure.

We deny Mr. Zaitz's petition, in part, with respect to portions of these exhibits, the release of which we conclude would constitute an unreasonable invasion of privacy that is not outweighed by the public interest. Certain portions of exhibits reveal intimate details about Mr. Montwheeler's life (and about the lives of his family members and former spouses) as well as details about his physical health. We conclude that the exhibits do not become subject to public inspection merely by being introduced into the record at a public hearing, and that certain portions are exempt from disclosure under ORS 192.502(2).

When a public record contains both exempt and nonexempt information, the public body must segregate the exempt information and produce the nonexempt. ORS 192.505. Therefore, we have provided PSRB with a copy of the exhibits with redactions applied to any information that is exempt from disclosure under ORS 192.502(2). PSRB must produce these records within seven days or issue a notice to the Attorney General and by certified mail to Mr. Zaitz of its intent to institute proceedings for injunctive or declaratory relief. ORS 192.450(2).

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM8058272

Juliet Britton w/ encl