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January 10, 2019

VIA EMAIL ONLY: sllvolin@gmail.com

Stephanie Volin
29 South Valley Road
West Orange, NJ 07052

Re: Petition for Public Records Disclosure Order
Commission on Judicial Fitness and Disability
DOJ File No.: 175001-GA0001-19

Dear Ms. Volin:

This letter is the Attorney General's response to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition asks the Attorney General to order the Commission on Judicial Fitness and Disability (the "commission") to disclose a list of the number and dates of complaints against certain judges. We respectfully deny your petition because the commission does not possess records responsive to your request.

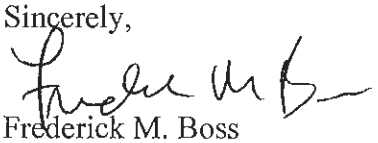
Your petition shows that on December 27, 2018 you asked the commission whether the complaints it receives are public records. The commission's Executive Director, Susan Isaacs, informed you that, under ORS 1.440,[1] complaints filed with the commission are not public records. On December 29, 2018, you requested the number, and dates received, of complaints the commission received against nine current and former judges. Your request specified that you were not seeking copies or summaries of the complaints themselves. Ms. Isaacs replied that the commission does not have records responsive to your request.

We contacted Ms. Isaacs, who continues to represent that the commission does not maintain records listing the number and dates of complaints against certain judges. Given our inferior knowledge of the commission's records and systems, we are not in a position to second-

[1] ORS 1.440 states, in relevant part, "(1) Documents filed with the Commission on Judicial Fitness and Disability and the investigation conducted by the commission prior to a hearing pursuant to ORS 1.420 or 1.425 shall not be public records unless received as competent evidence in the course of a hearing pursuant to ORS 1.420."

guess her representation. We must therefore deny your petition. We cannot order the commission to disclose records that do not exist. And the Public Records Law does not require public bodies to create new records, disclose other knowledge their staffs might have, or answer questions about their records. *See Attorney General's Public Records and Meeting Manual* at 7 (2014) (citation omitted).

Sincerely,



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