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May 22, 2020

VIA EMAIL ONLY: amyscourtcase@gmail.com

Amy van der Linde
1710 East 19th Street
Eugene, OR 97403

Re: Petition for Public Records Disclosure Order
Department of Human Services
DOJ File No.: 100101-GA0049-20

Dear Ms. van der Linde:

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 Department of Human Services (DHS) to disclose identifying information about a person who reported a particular allegation of child abuse. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers the right to inspect public records in Oregon, unless such records are exempt under ORS 192.338, 192.345, or 192.355. ORS 192.314(1). The law is a disclosure law and exemptions from disclosure must be express. 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 192.411(1). The agency carries the burden to sustain its actions. ORS 192.411(1).

DHS is prohibited, with some exceptions, from disclosing records, documents, or reports compiled due to a report of child abuse. *See* ORS 419B.035(1).[1] One of these exceptions

[1] ORS 419B.035(1) states, in relevant part:

> Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.478, and 192.610 to 192.810 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 419B.010 to 419B.050 are confidential and may not be disclosed except as provided in this section ***.

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 contacted Kimberly Colkitt-Hallman, DHS Public Records Officer, regarding your petition. She explained DHS's position that the records you originally requested were compiled under Oregon's Child Abuse Reporting Statutes, ORS 419B.010 to 419B.050, and are therefore confidential under ORS 419B.035(1). And records made confidential under state law are expressly exempt from disclosure under the Public Records Law. *See* ORS 192.355(9)(a). However, Ms. Colkitt-Hallman further advised that DHS determined that disclosing some records to you was permitted by ORS 419B.035(3). Based on that determination, DHS provided you with responsive records, but withheld all identifying information about the person who reported the child abuse.

Because the reporter's identifying information was compiled by DHS as part of a child abuse investigation, it is generally confidential and exempt from disclosure under ORS 419B.035(1). Although DHS determined that the exception in ORS 419B.035(3) authorized DHS to disclose some confidential information to you, that same exception prohibits DHS from disclosing any identifying information about the person who made the report. We therefore respectfully deny your petition.[2]

Sincerely,



Frederick M. Boss
Deputy Attorney General

FMB:pjn/DM10248816
c via email only: Kimberly Colkitt-Hallman (DHS)

[2] This order only addresses your rights to this information under the Public Records Law. It does not address what rights you may have to access to this information under rules of civil discovery insofar as you seek this information for purposes of private litigation.