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December 14, 2020

VIA EMAIL ONLY: dsupham58@gmail.com

Donald Scott Upham
3906 SW Altadena Ave
Portland, OR 97239

Re: Petition for Public Records Disclosure Order
Oregon State Police
DOJ File No.: 257001-GA0119-20

Dear Mr. Upham:

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, which we received December 7, 2020, asks the Attorney General to order the Oregon State Police (OSP) to review OSP's denial of a September 10, 2019 public records request. Specifically, you assert that "OSP did not provide any proof that they made a diligent and thorough search for the requested records *** and that is the equivalent of a denial of my request." 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). 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). An agency may also establish fees reasonably calculated to recover actual costs in making public records available, and its obligation to process a request is suspended until the fee has been paid or waived. *See* ORS 192.324(4) and 192.329(3)(a). An agency shall close a request if the requester fails to make payment within 60 days of having received notice of the fee. ORS 192.329(3)(b).

We contacted Laura Heathcock, OSP Central Records Section, regarding your petition. She explained that OSP did not deny your request; rather, OSP provided you with a fee estimate

for processing the request on October 30, 2019. She also explained that OSP subsequently closed your request after 60 days because you did not pay the fee.

After reviewing the fee estimate OSP sent you on October 30, 2019, we cannot conclude that OSP denied your request. OSP was permitted to assess a processing fee and it was required to close your request after you failed to pay the fee within 60 days. *See* ORS 192.324(4) and 192.329(3)(b). Because OSP did not deny your request, we respectfully deny your petition. You are free, of course, to resubmit your records request.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn
c via email only: Laura Heathcock (OSP)