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December 7, 2020

VIA E-MAIL ONLY: mc@jmcafee.com

Jason McAfee
2634 SW 31st St
Redmond, OR 97756

Re: Petition for Public Records Disclosure Order
Department of Human Services
DOJ File No.: 100101-GA0112-20

Dear Mr. McAfee:

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 portions of a child protective services screening report that were redacted from a version provided to you. 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).

In response to your petition, we contacted Kimberly Colkitt-Hallman in DHS' Public Records Unit. She indicated that the screening report was compiled under Oregon's Child Abuse Reporting Statutes, ORS 419B.010 to 419B.050, and is therefore confidential under ORS 419B.035(1).[1] And, she noted, records made confidential under state law are expressly

[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 ***

exempt from disclosure under the Public Records Law. *See* ORS 192.355(9)(a). She explained that DHS has limited discretion under ORS 419B.035(3) to release child abuse records and that DHS exercised its discretion in this instance by disclosing the redacted screening report to you.[2] She indicated, however, that when disclosing records under its discretionary authority, ORS 419B.035(3) prohibits DHS from disclosing information about the identity of the person who filed the abuse report. In this instance, she explained that the only information DHS redacted from the screening report was confidential reporter information.

ORS 419B.035(3) provides, without any exceptions, that when making discretionary disclosures under that subsection, "[t]he name, address and other identifying information about the person who made the report may not be disclosed." We have reviewed the information redacted by DHS. The redactions appear in a section of the report titled "Confidential Reporter Information" and the redactions themselves are limited to identifying information about the person who filed the report. Because DHS was prohibited by ORS 419B.035(3) from disclosing this information to you, we conclude that the redactions were appropriate and respectfully deny your petition.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:pjn
c via e-mail only: Kimberly Colkitt-Hallman (DHS)

[2] ORS 419B.035(3) permits DHS to make records compiled under Oregon's Child Abuse Reporting Statutes available to any person "when the department determines that such disclosure is necessary to administer its child welfare services and is in the best interests of the affected child, or that such disclosure is necessary to investigate, prevent or treat child abuse and neglect, [and] to protect children from abuse ***."