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January 14, 2021

Rafael Mora Contreras, #18-05511
215 SW Adams MS35
Hillsboro, OR 97123

Re: Petition for Public Records Disclosure Order
Oregon Department of Public Safety Standards & Training
DOJ File No.: 259001-GA0006-21

Dear Mr. Contreras:

This letter responds to your petition for disclosure under the Oregon Public Records Law, ORS 192.311 to 192.478. Your petition, which we received on January 7, asks the Attorney General to order the Department of Public Safety Standards & Training (DPSST) to produce records it withheld in response to your request related to four individuals. Because those records are exempt from disclosure, 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. *Id.*

Your November 17, 2020, records request to DPSST sought all files regarding Michael James O'Connell, Edward Joseph Bowman, Joe D. Noffsinger, and Frank Martinez. DPSST produced responsive records to you, but also withheld various records related to an open Professional Standards case involving Mr. O'Connell.

We spoke with Rebecca Hannon, a Files Maintenance Specialist at DPSST. She explained that DPSST's open case relates to Mr. O'Connell's private investigator license, and

that DPSST asserts that these records are exempt from disclosure under ORS 703.473(3).[1] She further explained that the information in these records was obtained as part of DPSST's investigation of Mr. O'Connell. She added that there were no records withheld related to any of the other individuals you requested records for.

As relevant here, DPSST licenses private investigators. ORS 703.430(1). The department also investigates alleged violations of the standards applicable to these investigators. ORS 703.480(2)(a). ORS 703.473(3) provides that "[i]nformation obtained by the department as part of an investigation of a licensee or applicant, including complaints concerning the licensee or applicant, is confidential and not subject to disclosure under ORS 192.311 to 192.478 until the department dismisses the case or issues a proposed order." Records made confidential under state law are expressly exempt from disclosure under Public Records Law. *See* ORS 192.355(9)(a).

Based on the information provided by Ms. Hannon and on our review of the withheld records, the records contain information obtained by DPSST as part of its open investigation of a private investigator licensee. That investigation has not yet resulted in a dismissal or a proposed order. Therefore, we conclude that these records are exempt under ORS 703.473(3), and we respectfully deny your petition.

Sincerely,

Frederick M. Boss
Deputy Attorney General

FMB:ne2
c via email only: Rebecca Hannon, DPSST

[1] DPSST initially asserted ORS 192.345(35) in its denial to you, but now asserts ORS 703.473(3).