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August 19, 2021

**VIA E-MAIL 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-GA0126-21

Dear Mr. Upham:

This letter is the Attorney General's order responding to your petition under the Oregon Public Records Law, ORS 192.311 to 192.478. For the reasons that follow, we respectfully deny your petition.

Your petition includes an e-mail from the Oregon State Police (OSP) responding to a records request submitted by you. OSP's e-mail simply states "Please see the attached document(s) related to your request for records." Your petition states "no such record was received by me," but it does not otherwise explain the basis for your appeal or include any documents that were attached to OSP's response to you. When this office pointed out that your petition does not describe what you are appealing, you declined to provide any clarification.

We contacted Laura Heathcock, OSP Central Records Section Administrative Specialist, regarding your petition. She provided us with a copy of your records request and OSP's response to you. You requested records relating to the unavailability of an OSP trooper on July 1, 2021, to appear in response to a subpoena that you claimed to have served on OSP's Salem office on June 19, 2021. You also requested a copy of the subpoena. OSP's response indicated that it was not able to locate any responsive subpoena or related records. Based upon our review of this correspondence, we assume that the intent of your petition was to appeal OSP's claim that it does not have any responsive records.

In response to your petition, Ms. Heathcock explained that OSP has no record of receiving a subpoena from you at its Salem office for the trooper to appear on July 1, 2021. Moreover, she explained, because OSP never scheduled the trooper to appear on that date, it

follows that there would be no records relating to his unavailability. Upon further inquiry, however, OSP was able to locate a copy of a subpoena for the trooper to appear on July 1, 2021, that you mailed to OSP's office in Bend. And although that subpoena Bend is technically not responsive to your original request, we understand that OSP has provided a copy to you.

Under the circumstances, we have no reason to second-guess Ms. Heathcock's representation that OSP was unable to locate records responsive to your original request. And because we cannot order OSP to produce documents that do not exist, we must respectfully deny your petition.

Sincerely,

FREDERICK M. BOSS
Deputy Attorney General

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