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November 25, 2025

VIA E-MAIL ONLY: loftin20@hotmail.com

Chamet Jackson
PO Box 1311
Depoe Bay, Oregon 97341

Re: Petition for Public Records Disclosure Order
Department of Human Services
DOJ File No.: 100101-GA0160-25

Dear Ms. Jackson:

This letter is the Attorney General's response to your petition under the Oregon Public Records Law, ORS 192.311 to 192.431. Your petition seeks assistance from the Attorney General in obtaining records you requested from the Oregon Department of Human Services (DHS). 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).

Your petition stems from a records request you made to DHS for its case file related to an investigation involving your child. Your petition indicates that DHS denied your request because of an ongoing criminal investigation. Your petition requests that DHS release non-exempt portions of the records to you including your "own statements." [1]

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[1] Your petition also states that you had sought "a copy of the unfounded letter addressed to me." DHS indicates that this was not a record in its possession. However, after seeing your request, DHS has now generated this letter for you, and it is available for you to pick up.

We discussed your petition with Mallory Kenney, Public Records Unit Manager for DHS. She informed us that the DHS records you seek were provided by DHS to the Lincoln County District Attorney's Office pursuant to a grand jury subpoena. Upon receiving your records request, DHS consulted with Lincoln County District Attorney, who informed DHS that there was an ongoing criminal matter and requested that DHS not release the records to protect the integrity of the investigation until any criminal process is concluded. Therefore, DHS's position is that the materials are currently exempt under ORS 192.345(3) (the criminal investigatory exemption).

ORS 192.345(3) conditionally exempts "[i]nvestigatory information compiled for criminal law purposes." Because the records you seek were subpoenaed by the District Attorney for an active criminal case, they were compiled for criminal law purposes.[2] The criminal case is ongoing. Therefore, we conclude that DHS is permitted to withhold those materials under ORS 192.345(3) unless the public interest requires disclosure in this instance.

Your petition describes your private interest in obtaining the records. We are also aware that there has been some media coverage surrounding these matters. But, when evaluating the application of ORS 192.345(3), the Court of Appeals has explained that "investigations connected with pending or contemplated proceedings will ordinarily remain secret because disclosure would likely interfere with enforcement proceedings." *Jensen v. Schiffman,* 24 Or App 11, 16 (1976) (internal quotations omitted). We have long followed the court's guidance in public records orders examining the application of ORS 192.345(3). *See, e.g.,* Public Records Order, Feb 26, 2019, Hasenstein (strong public interest in delaying disclosure until conclusion of criminal proceedings outweighs public interest in immediate disclosure); Public Records Order, Jul 8, 2016, Iboshi (investigatory information in pending criminal cases is exempt because the public has a strong interest in protecting the integrity of investigations and prosecutions); and Public Records Order, Jan 28, 2016, O'Brien (once criminal proceedings are concluded, investigatory information remains exempt only if disclosure would result in particular harm).

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[2] *Attorney General's Public Records and Meeting Manual* at 48-49 (2024) *citing* Public Records Order, Jan 17, 2020, Bial (ODOC records subpoenaed by District Attorney exempted from disclosure).

In this instance, we are not persuaded that there is a public interest that requires immediate disclosure. Any public interest in the records will not be frustrated because the exemption is temporary and will expire upon completion of the criminal case. We have no reason to conclude that the information will be less useful or interesting to the general public after the conclusion of the criminal proceedings, at which time the strong public interest in avoiding premature disclosure of the investigatory information will have diminished. Under the circumstances, we conclude the strong public interest in confidentiality described in *Jensen* outweighs the public interest in immediate disclosure of the records you seek. We therefore respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Interim Deputy Attorney General

DEP:pjn
c via e-mail only: Mallory Kenney (DHS)