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April 17, 2026

VIA E-MAIL ONLY: chrisk1530@yahoo.com

Christopher Kanagy
411 E. Lowell
Klamath, Fails, OR97601

Re: Petition for Public Records Disclosure Order
Oregon State Police
DOJ File No.: 257001-GA0071-26

Dear Mr. Kanagy:

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 State Police (OSP). 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 request made to OSP for records relating to a specific criminal investigation. Additionally, your request seeks records pertaining to any previous disciplinary investigation and any *Brady* material concerning a specific OSP trooper. Finally, your request seeks several categories of records related to radar and speedometer logs. OSP denied your request citing the criminal investigatory exemption provided by ORS 192.345(3). Your petition followed.

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Your petition argues that OSP has applied the criminal investigatory exemption too broadly and failed to segregate potentially disclosable records.[1] We discussed your petition with OSP's Public Records Unit. OSP informed us that it has no records responsive to your request for disciplinary investigations and *Brady* material. Additionally, OSP stated that it has no records concerning the radar or speedometer logs that are specifically referenced in your records request.[2] Because we cannot order OSP to produce records that do not exist, we respectfully deny this portion of your petition.

OSP indicates that the remainder of its responsive records, consisting of the police reports, video, and DHS cross report were withheld pursuant to ORS 192.345(3) (the criminal investigatory exemption) because OSP created or compiled them for criminal law purposes. OSP also noted that ORS 419B.035 prohibits OSP from disclosing any records related to an investigation of child abuse.

We reviewed the police and DHS reports at issue. Both relate to a criminal investigation conducted by OSP on February 4. That investigation led to a criminal case now being prosecuted by the Klamath County District Attorney. ORS 192.345(3) conditionally exempts "[i]nvestigatory information compiled for criminal law purposes." Because the records you seek were generated or gathered by OSP in connection with an active criminal case, they were compiled for criminal law purposes.[3] Therefore, we conclude that OSP is permitted to withhold those materials under ORS 192.345(3) unless the public interest requires disclosure in this instance.[4]

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).[5]

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[1] Your petition also explains that you are a defendant who is seeking these records for purposes of a fair trial. Your petition cites *Brady v. Maryland* and alleges that OSP has committed constitutional discovery violations. Under Oregon's Public Records Law, the Attorney General has no authority to adjudicate your rights as a criminal defendant. The Circuit Court presiding over your criminal case is the appropriate forum for those concerns.

[2] OSP does have a "Certificate of Accuracy" pertaining to the speed measuring radar device at issue. Although not responsive to your records request, OSP is willing to provide this record to you.

[3] *Attorney General's Public Records and Meeting Manual* at 48-49 (2024).

[4] We also note that that DHS cross report was compiled under Oregon's Child Abuse Reporting Statutes, and OSP must, therefore, keep it confidential pursuant to ORS 419B.035(1).

[5] *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).

In this instance, we are not persuaded that there is a public interest that requires immediate disclosure. Your petition describes your private interest in obtaining the records for purposes of challenging the criminal case. The records at issue describe a routine criminal investigation. 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
Deputy Attorney General

DEP:pjn
c via e-mail only: Micah Hubbard (OSP)