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September 9, 2026

VIA E-MAIL ONLY: shouston247@yahoo.com

Sharon Houston
shouston247@yahoo.com

Re: Petition for Public Records Disclosure Order
Department of Human Services
DOJ File No.: 100301-GA0168-26

Dear Ms. Houston:

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 Oregon Department of Human Services (ODHS) to disclose records associated with a particular Adult Protective Services (APS) investigation. 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 to ODHS for records concerning "the factual and evidentiary basis" supporting an APS order affirming a finding of abuse. You specifically seek "relevant transaction information, documents, witness statements or summaries, investigative findings administrative-review materials, and the reasoning supporting" the order. ODHS denied your request because the records were compiled in connection with an APS investigation. Your petition followed.

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We contacted Mallory Kenney, Public Records Unit Manager for ODHS, regarding your petition. She explained ODHS's position that ORS 124.090 generally makes the APS records you seek confidential and exempt from disclosure because they were compiled under Oregon's Elder Abuse Reporting Statutes, ORS 124.050 to 124.095.[1] And records made confidential under state law are expressly exempt from disclosure under the Public Records Law. *See* ORS 192.355(9)(a). Although ORS 124.090 contains several exceptions that permit ODHS to disclose otherwise confidential APS records in limited circumstances, Ms. Kenney explained ODHS's position that none of those exceptions apply to your request.[2]

After reviewing the records,[3] we find that they were compiled under Oregon's Elder Abuse Reporting Statutes and are therefore "not accessible for public inspection" under ORS 124.090(1), making them exempt from disclosure under the Public Records Law. *See* ORS 192.355(9)(a). And because it does not appear to us that any of the exceptions to ORS 124.090 expressly permit ODHS to disclose them to you, we respectfully deny your petition.

Sincerely,

BENJAMIN GUTMAN
Deputy Attorney General

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

[1] ORS 124.090(1) states:

> Notwithstanding the provisions of ORS 192.311 to 192.478, the names of the public or private official or any other person who made the complaint, the witnesses and the elderly persons, and the reports and records compiled under the provisions of ORS 124.050 to 124.095, are confidential and are not accessible for public inspection.

[2] The exceptions to the general rule of confidentiality, ORS 124.090(2)(a)-(g), permit ODHS to disclose elder abuse records only to: law enforcement agencies; agencies that license or certify residential facilities or their employees; public and private nonprofit agencies providing protective services to the elderly person; the Long Term Care Ombudsman; the agency that licensed or certified the person alleged to have abused an elderly person; a court pursuant to a court order; and to an administrative law judge in proceedings relating to protective services or when necessary to investigate, prevent or treat elder abuse

[3] The records include investigative reports, witness statements, law enforcement reports, notes of the APS Central Office review team, as well as financial and medical records obtained by the investigators.