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July 14, 1994

Paul B. Meadowbrook
Attorney at Law
Suite 555, 388 State Street
P.O. Box 884
Salem OR 97308

Re: *Petition for Public Records Disclosure Order*
Oregon Department of State Police Records

Dear Mr. Meadowbrook:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which was dated July 8, 1994, and which we received on that date, asks the Attorney General to direct the Director of the Law Enforcement Data System to provide all records regarding (LEDS) access of Bob A. Small's records on and after July 31, 1993.

For the reasons that follow, we respectfully deny your petition as premature.

The Attorney General may order a state agency to disclose records only where the agency first has *denied* a request for access to such records. ORS 192.450 (1) and 192.470. Your petition, dated July 8, 1994, does not allege that such a denial took place. The State Police officials who received your written requests and are now involved in processing them indicate that they have not refused you access to the requested records either orally or in writing. Your requests to Lloyd Smith concerning LEDS records are contained in three letters to Lloyd Smith dated May 20, 1994, June 17, 1994 and June 20, 1994. Mr. Smith acknowledged the receipt of the May 20, 1994 letter almost immediately and you and he have had a number of telephone conversations concerning your request since then. I also understand that Mr. Smith wrote you on July 7, 1994, advising that he was processing and analyzing your request. Specifically, he stated:

Part of this review process includes acquiring legal advice from the Oregon Department of Justice regarding your request. Please be assured that we will respond appropriately after this review process is complete.

The Public Records Law allows a reasonable period of time for the custodian of the requested records to review the request and act upon it. *Morse Bros. Inc. v. O.D.E.D.*, 103 Or App 619 (1990). As of the date of your petition, such a reasonable period of time had not expired nor had you received either a written or oral refusal of access to the requested records. For the reasons stated, your petition is denied as premature.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to
the Attorney General

ESH:TET:AV:bjs/JGG09DA5
c: Lloyd Smith, Director
Law Enforcement Data System
400 Public Service Building
Salem OR 97310