CHARLES S. CROOKHAM
ATTORNEY GENERAL

JACK L. LANDAU
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

January 15, 1992

James R. Eccles
3228 River Park Dr.
Baker City, OR 97814

Re: Petition for Public Records Disclosure Order:
State Board of Psychologist Examiners Investigator's Report

Dear Mr. Eccles:

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 we received on January 8, 1992, asked the Attorney General to direct the State Board of Psychologist Examiners (Board) to provide you with a copy of the Board investigator's (Art Mitchell's) report regarding your complaint against Dr. David Starr, a licensed psychologist. The Board has provided our office with a copy of Mr. Mitchell's report. We have reviewed the report and, for the reasons that follow, we grant your petition in part and deny it in part.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.420. If a public record contains both exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. ORS 192.505; Turner v. Reed, 22 Or App 177, 186 n 8, 538 P2d 373 (1975).

Portions of investigator Mitchell's report are exempt from public disclosure. ORS 675.075(1) provides:

> "(1) Any information provided to the State Board of Psychologist Examiners under ORS 675.070 is confidential and shall not be subject to public disclosure * * *."

This restriction is incorporated into the Public Records Law's exemptions from disclosure under ORS 192.502(8). Thus, the information which Mr. Mitchell received from Dr. Starr and from your former wife, Aletha Bonebrake, may not be disclosed to the

public. Accordingly, the Board may not release those portions of Mr. Mitchell's report, including the summary, that recount information provided by Dr. Starr and Ms. Bonebrake.[1] The remainder of the information in the report is subject to disclosure.[2] However, the Board has informed us that the documents in Exhibit 8 of the report are no longer in its possession; those documents were returned to Dr. Starr after the Board completed its work on your complaint. Because these documents are no longer retained by the Board, we have no authority to order their disclosure.

For the reasons stated above, we grant your petition in part and order the Board to disclose investigator Mitchell's report, except Exhibit 8 and those portions of the report containing information provided by Dr. Starr and Ms. Aletha Bonebrake. The Board has seven days from the date of this order in which to comply. See ORS 192.450(2).

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:WBW:cm
c: Bonnie Wilson, Administrator, State Board of Psychologist Examiners
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1. Exhibits 1 and 2 of Mr. Mitchell's report consist of copies of Dr. Starr's vita and his office intake forms. Although these documents provided by Dr. Starr arguably fall within the disclosure restriction of ORS 675.075(1), neither Dr. Starr nor the Board objects to their disclosure.

2. The Board has informed us, and your petition states, that you previously were provided a copy of Exhibit 5 of the report, which recounts Mr. Mitchell's interview of you.