CHARLES S. CROOKHAM
ATTORNEY GENERAL

JACK L. LANDAU
DEPUTY ATTORNEY GENERAL

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

September 17, 1992

Elwin H. Rickels
52837 Bridge Drive
LaPine, Oregon 97739

Re: Petition for Public Records Disclosure Order; Motor Vehicles Division Records

Dear Mr. Rickels:

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 September 14, asks the Attorney General to direct the Motor Vehicles Division (MVD) to make available for inspection and copying any records and information "that prompted me to get medical certification." For the reasons that follow, we respectfully deny your petition.

In the case of its administration of the motor vehicle laws, MVD may be called upon to determine whether "a person may be ineligible for a license because the person has a history of any physical or mental disease or disability that may impair the person's ability to safely operate a motor vehicle. . . . ." ORS 807.090(1); see also ORS 807.010(4). MVD may require any licensed driver to reestablish the person's eligibility for a license "if the division has reason to believe that the person . . . [n]o longer be able to safely operate a motor vehicle." ORS 807.340(1)(b). This belief may be triggered by letters from family, friends, neighbors or other concerned citizens.

Under ORS 192.505(3), MVD may in certain circumstances keep such reports confidential. That statute exempts from disclosure:

> Information submitted to a public body in confidence and not otherwise required by law to be submitted, where such information should reasonably be considered confidential, the public body has obliged itself in good faith not to disclose the information, and when the public interest would suffer by the disclosure[.]

We conclude that all five elements of this exemption are satisfied here. First, the individual who submitted the report did so in confidence, expressly requesting confidentiality, by checking the appropriate box on the MVD form used. Second, that person submitted the report voluntarily. Third, because of the potential for harassment from drivers who are the subject of such reports, the information reasonably should be considered confidential. Fourth, MVD obligated itself in good faith not to disclose the person's identity so long as the law permits that person's identity to remain hidden. Finally, we believe that the public interest would suffer by disclosure. Disclosure would discourage concerned citizens from submitting good faith reports of apparently unsafe drivers, thus impairing the public's safety.[1]

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[1]We previously have denied petitions for disclosure in similar circumstances. See, e.g., Public Records Order, July 9, 1991 (Robins), Public Records Order, May 13, 1988 (Haim); Public Records Order, April 28, 1988 (Jones).

For these reasons, we conclude that the information you seek is exempt from disclosure under ORS 192.502(3). Accordingly, we respectfully deny your petition.[2]

Sincerely,

Amy Veranth
Opinions Coordinator
General Counsel Division

AV:cm/jaa008da
c: Robin Bower, Supervisor, Driver Control Unit, Motor Vehicles Division

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[2]You also express concern that a MVD computer printout shows that you have no driver record with MVD. This is incorrect. The printout shows that a Class C driver license has been issued to you, showing you name, address and date of birth, and that there were "no record entries" (such as arrests, convictions or accidents) as of August 3, 1992.