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February 1, 1993

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

Dear Mr. Henderson:

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 January 26, 1992, asks the Attorney General to direct the Oregon State Police (OSP) to make available for inspection and copying the address of an ex-Cadet Larry Purdy. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. The records you wish to inspect fall within an exemption to the general rule of public accessibility to government records.

ORS 192.502(2) exempts private personal information from the disclosure requirements of the Public Records Law. This provision exempts:

> Information of a personal nature such as but not limited to that kept in a personal, medical or similar file, if the public disclosure thereof would constitute an unreasonable invasion of privacy, unless the public interest by clear and convincing evidence requires disclosure in the particular instance. The party seeking disclosure shall have the burden of showing that public disclosure would not constitute an unreasonable invasion of privacy[.]

The purpose of this exemption is to protect the privacy of individuals from unreasonable invasion. Jordan v. MVD, 308 Or 433, 440-42 (1989). The exemption is not intended for the benefit of the public body. Only personal information that would constitute

an unreasonable invasion of privacy if publicly disclosed is protected under this exemption. An invasion of privacy would be unreasonable if "an ordinary reasonable person would deem [it] highly offensive." Id. at 442-43. Further,

> if the information is established to be of a "personal nature," and the agency holding the records is shown that disclosure would constitute an "unreasonable invasion of privacy," the exemption applies and may only be erased in favor of disclosure if clear and convincing evidence of the public interest in disclosure of the record is produced or if the showing of unreasonable invasion is overcome.

Id. at 442.

Prior to this record request, ex-Cadet Purdy requested that OSP not disclose his address. His request was in writing on the Executive Department Personnel Division Address Disclosure Form. While we generally believe that, due to the nature of their work, disclosure of the addresses of law enforcement personnel may pose an unreasonable invasion of their privacy, we also have specific information in this particular case warranting nondisclosure.

By letter dated September 29, 1992, you informed ex-Cadet Purdy and OSP that your client, Wesley Ward, demanded $2,500 damages for an alleged violation of Mr. Ward's civil rights by ex-Cadet Purdy on July 28, 1992. Because you are representing Mr. Ward in a matter that involves ex-Cadet Purdy, we conclude that it is reasonable to assume you would disclose ex-Cadet Purdy's home address to Mr. Ward.

On July 28, 1992, ex-Cadet Purdy had contacted Mr. Ward for the purpose of investigating a possible criminal violation. During the course of the investigation, ex-Cadet Purdy found Mr. Ward to be uncooperative. Ex-Cadet Purdy's written report of the events includes the following:

> At this point I walked back to my patrol unit and called the Bend Regional Dispatch Center. I informed RDC of my situation and asked for assistance. RDC advised that Deschutes County Deputy Dobler was approximately 10 minutes away and would respond to my location. I then requested a check with DMV/LEDS/NCIC on Ward with the name and date of birth he had provided. While awaiting Dobler's arrival, the four picked up their raft and carried it to a picnic table where they all sat on the table. I followed in my patrol unit and parked about 15 yards away from the table. I overhead Ward attempting to incite Lovett and Walther to assault me. Ward

> told the others that he thought I was only about 20 years old because it said Cadet on my shirt. Ward also pointed out that I wasn't carrying a firearm. Ward told them that it would be easy for the three of them to jump me, beat me up, and throw me in the river. Lovett agreed to the plan but Walther refused.

This information sufficiently establishes that disclosure of the requested information would more likely than not unreasonably invade ex-Cadet Purdy's privacy because providing the information would allow Mr. Ward to harass ex-Cadet Purdy, and Mr. Ward has shown an inclination to do so. Cf. Jordan, supra, 308 Or at 442 (residence address exempt from disclosure because providing information would allow requester to harass individual to extent that an ordinary reasonable person would deem highly offensive).

ORS 192.502(2) also requires us to determine whether, in this particular instance, the public interest by clear and convincing evidence compels disclosure. Neither this office nor OSP has been provided any information that would demonstrate that the public interest requires disclosure of an ex-cadet's home address.

In Jordan, the court reviewed the statutorily authorized uses of Motor Vehicles Division records containing addresses in order to determine whether there was an overriding public interest in disclosure. 308 Or at 439, 443. With respect to the home addresses of law enforcement officers, there are no uses authorized by state statute. Absent any indication to the contrary, we are at a loss to understand how the public interest demands the disclosure of the home address of an ex-cadet whose only connection with the state is his status as a former employee of a state agency. This conclusion is strengthened because of Mr. Ward's previously stated desire to assault ex-Cadet Purdy, action which is plainly contrary to the public interest. Accordingly, we conclude that ex-Cadet Purdy's home address is exempt from disclosure under ORS 192.502(2).

For these reasons, we respectfully deny your petition to compel disclosure.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

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