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August 30, 1993

Donald Lee Toney, Jr.
#3797255
2605 State Street
Salem, Oregon 97310-0505

Re: Petition for Public Records Disclosure Order:
Crime Victims' Assistance Program

Dear Mr. Toney:

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 August 23, 1993, asks the Attorney General to order the Crime Victims' Assistance Program to disclose a copy of all records, reports, notes and applicable information pertaining to the applicant C. Grey (step-father) of alleged victim Hope Grey, case number CV 04552. The petition also seeks information about the amount of compensation, if any, paid to the victim. For the reasons below, we respectfully deny the petition.

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

1. Information About the Applicant

ORS 192.502(8) exempts:

> Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential under Oregon law[.]

The confidentiality protection of any record covered by a statute outside the Public Records Law is incorporated into the Public Records Law by ORS 192.502(8).

The Crime Victims's Assistance Program receives information from applicants for compensation seeking to establish eligibility for compensation and the amount of compensation pursuant to ORS 147.105 and 147.125. ORS 147.115(1) provides that:

> All information submitted to the department by an applicant * * * shall be open to the public unless the department * * * determines that the information shall be kept confidential * * * because:
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> * * * * *
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> (b) The offense allegedly perpetrated against the victim is rape, sodomy or sexual abuse and the interests of the victim or of the victim's dependents require that the information be kept confidential ***;
>
> (c) The victim * * * is a minor; * * *.

The offense allegedly perpetrated in this case included sexual abuse and the victim was a minor. Gerri Badden, Administrator, Crime Victims' Assistance Section, Department of Justice, has informed us that for both of these reasons, she determined that the information submitted to the department by the applicant must be kept confidential and she denied your request.

We find that the Department's denial of your request for information about the applicant falls within the Department's authority under ORS 147.115, as "information submitted to the department by an applicant," and that the statutory grounds for

determining that records shall be kept confidential have been satisfied in this case.[1] Because the records are confidential under ORS 147.115, they are exempt from disclosure under ORS 192.502. Therefore, we deny your petition to compel disclosure of records about the applicant.

2. Request for Payment Information

Your petition also seeks the disclosure of information establishing whether any compensation was paid. In many cases, compensation information could not be released without also disclosing information otherwise confidential or protected under relevant law. In this case, however, because the payment record does not include information otherwise confidential, Ms. Baden has agreed to release the payment record with the victim's name deleted. A copy of the payment record is enclosed. Accordingly, we deny your petition as to this information because it is moot.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:jpl/JAA00DB8.W51
Enclosure
c: Gerri Badden, Crime Victims Assistance Program

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[1] Because we find that ORS 147.115 applies, we don't discuss the additional exemptions applicable to the request. See Federal law exemption, ORS 192.502(7) (incorporating 42 USC § 3789g and 42 USC § 10604(d) requiring confidentiality of records by crime victim assistance programs and 20 USC § 1415 and 1232g describing the confidentiality of school records); additional state statutes under the Oregon law exemption, ORS 192.502(8) (mental health records, ORS 179.505; medical records, ORS 192.525; school records, ORS 336.195; and child abuse reports, ORS 418.770)); the criminal investigatory information exemption, ORS 192. 501(3); and the personal privacy exemption, ORS 192.502(2).