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October 20, 1993

Darrell W. Martin
P.O. Box 17821
Salem, OR 97305

Re: **Petition for Public Records Disclosure Order:**
Oregon Military Department

Dear Mr. Martin:

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 October 14, 1993, asks the Attorney General to direct "Col Norman A. Thomas, Chief of Staff of the Oregon National Guard" to make available the "name of the Airline and the flight number which a Mr. Jerry T. Brown used to return to Oregon several months ago."

The Oregon National Guard is a unit of the military system of the United States government. 32 USC § 102. The Oregon Military Department is composed of the National Guard unit federally assigned to Oregon, and is a state agency. ORS 396.395. The Attorney General has no authority to order a federal agency to disclose records. Therefore, we respond to your petition as if it were made to the Oregon Military Department. 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. However, the Attorney General may order a state agency to disclose records only where the agency first has denied a request for public records. ORS 192.450(1).

In this case, we are informed by Colonel Norman A. Thomas, Chief of Staff, Oregon Military Department, that on October 14, 1993, you made an oral request for certain records of the Military Department. Colonel Thomas has further informed us that because he did not understand which records you were requesting, you were asked to submit a written request describing the records but the department has not yet received that written request. Upon receiving your written request, the department will respond to your request. The agency may charge you a fee to reimburse it for its actual cost in making records available, including its photocopy costs and the time spent by the agency personnel in reviewing the records. *See* ORS 192.440(3).

Absent a denial by the Military Department, the Attorney General does not have jurisdiction to order disclosure. *See* ORS 192.450. Because the Military Department has not denied your request, your petition is premature and is, therefore, denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

ESH:SMT:AV:cfs/JGG08056
c: Colonel Norman A. Thomas
Chief of Staff
Oregon Military Department
1776 Militia Way, SE
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