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April 23, 1991

Robin E. Bower, Supervisor
Driver Control Unit
Motor Vehicles Division
1905 Lana Avenue, N.E.
Salem, OR 97314

Max E. Reigle
347 S.E. 31st Avenue
Portland, OR 97214

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

Dear Ms. Bower and Mr. Reigle:

This letter is the Attorney General's order on Mr. Reigle's petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. This petition, which we received on April 16, 1991, asks the Attorney General to direct the Motor Vehicles Division (MVD) to disclose the names, addresses and telephone numbers of persons who reported that Mr. Reigle was driving "irrationally." MVD records indicate that one person reported an incident and asked that Mr. Reigle be retested to determine his fitness to drive a motor vehicle. For the reasons stated below, we grant the petition.

Pursuant to ORS 807.070(4), 807.090(1) and 807.340(1)(b), the MVD may retest a driver when it determines that retesting is necessary to establish the driver's fitness to operate a motor vehicle safely on Oregon's highways. Retesting frequently is triggered by letters from family members, friends, neighbors or other concerned persons.

The only public records exemption arguably applicable here is ORS 192.502(3), which exempts from public dislosure:

> "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."

(Emphasis added.) Under this statute, a record is confidential only if the person submitting the information asked for confidentiality. See, e.g., Public Records Order, September 12, 1988 (Hansen); see also OAR 735-74-010(2)(b).

The person who reported Mr. Reigle to MVD did not request confidentiality. On the form that person submitted, he did not check the box specifically provided to show a desire for confidentiality. Consequently, ORS 192.502(3) does not exempt the person's name from disclosure.

Therefore, we grant the petition and order MVD to disclose the requested records to Mr. Reigle. MVD must comply within seven days of the date of this order. ORS 192.450(2). MVD may charge Mr. Reigle for its actual cost in providing the requested copies. ORS 192.440(3).

Sincerely,

Richard Wasserman FOR

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

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