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August 10, 1998

Bill Birhanzl
1125 SE 202nd Avenue
Boring, OR 97009

Re: *Petition for Public Records Disclosure Order: Oregon Board of Investigator's Records*

Dear Mr. Birhanzl:

This letter is the Attorney General's order on your July 30, 1998, petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on August 3, 1998, asks the Attorney General to direct the Oregon Board of Investigators (board) to make available to you for inspection and "provide reasonable facilities for making memoranda and abstracts from" the following records:

> The register of investigators and operatives maintained pursuant to ORS 703.480(15).

For the following reasons, 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 law requires generally that the custodian of public records furnish proper and reasonably opportunities for inspection and copying of the record in the office of the custodian. ORS 192.430. Any person denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record to determine if it may be withheld from public inspection. ORS 192.450(1).

In your petition, you state that you asked to be provided an opportunity to inspect and copy the requested records on July 17, 1998, but that your request was denied by Michael Jacobs, Executive Director of the Board.

Mr. Jacobs informs us that he received three separate written Demands for Inspection of Public Records (demands) from you via facsimile transmission on July 17, 1998. Your demands contain language indicating that a failure to comply with or deny your requests in writing by July 22, 1998, would be deemed a denial of your request.

Mr. Jacobs has advised us that he sought legal counsel from the board's attorney on July 21, 1998, regarding the scope of your demands and to determine whether any portion of the records you requested were exempt from disclosure. Mr. Jacobs informs us that he spoke with you by telephone and advised you that he was working on a response to your three demands.[1/] On August 4, 1998, Mr. Jacobs sent you a letter via facsimile, stating that the register, which is the subject of this petition, "will be provided to you upon payment of the copying fee of $1.00."[2/]

Because Mr. Jacobs had not denied your request but actually has agreed to make the register available to you upon payment of the agency's cost, we deny your petition as moot.[3/]

Sincerely,



DAVID SCHUMAN
Deputy Attorney General

[1/] Although Mr. Jacobs is unable to recall the exact date upon which he spoke with you, he states that it was sometime between July 17 and July 22. In addition, Mr. Jacobs recalled that you also spoke with a board member by telephone during approximately the same period. The board member also advised you that the board was working on its response to your request.

[2/] Mr. Jacobs's August 4 letter also addressed the records you sought in the other two demands. According to Mr. Jacobs, those records may total up to 6,000 pages of documents. The board employs only one full time employee, the executive director. In complying with a public records request, an agency may do so in a manner calculated to minimize any interference with the designated duties of the records custodian. *See* ATTORNEY GENERAL'S ADMINISTRATIVE LAW MANUAL at 10. Given the current staffing level of the board's office, Mr. Jacob's statement that he will endeavor to make the records available to you within 45 days of receiving payment for the anticipated costs involved in producing the records appears to be reasonable.

[3/] A public body may charge a fee to reimburse it for its actual cost in making records available. ORS 192.440(3). These actual costs may include photocopy and mailing costs, as well as the cost of time spent by agency personnel in locating the records, reviewing the records to delete exempt material, supervising a person's inspection of original documents in order to protect the records and copying the records. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL at 11 (1997).