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Telephone: (503) 378-4400

May 19, 1988

Mark D. Donahue, P.C.
Attorney at Law
344 NW Sixth Street
Corvallis, Oregon 97330

Re: Petition for Public Records Disclosure Order; Children's Services Division

Dear Mr. Donahue:

This letter is the Attorney General's order on your petition for disclosure under the Public Records Law (ORS 192.410 to 192.505). Pursuant to ORS 192.450(1) and on behalf of your client, Enrique Lopez, you ask the Attorney General to order the Children's Services Division [CSD] to disclose "any records regarding Christopher [Lee Lopez] in the possession of the Children's Services Division in Roseburg." We respectfully deny your Public Records Law petition.

In accordance with ORS 192.470(2), the Attorney General has consented to CSD's submission of a summary of the nature and substance of the records you wish to inspect. We have considered that summary and CSD's statement of reasons for believing that the records should not be disclosed. We conclude that CSD lawfully may withhold public disclosure of those records.

The records are reports or referrals of child abuse complaints. This information was compiled under the child abuse reporting laws, ORS 418.750 to 418.762. The records thus are exempt from the public disclosure requirements of the Public Records Law under ORS 192.502(8), which incorporates the confidentiality provisions of ORS 418.770.

ORS 192.502(8) exempts the following types of records from the public disclosure requirements of ORS 192.410 to 192.505:

> "Public records or information the disclosure of which is prohibited or restricted or otherwise made confidential or privileged under Oregon Law."

ORS 418.770(1) is the pertinent law that makes confidential the records you seek to inspect.

ORS 418.770(1) expressly provides that records of child abuse information compiled under the child abuse reporting laws are confidential and exempt from public disclosure under the Public Records Law:

> "Notwithstanding the provisions of ORS 192.001 to 192.170, 192.210 to 192.505 and 192.610 to 192.990 relating to confidentiality and accessibility for public inspection of public records and public documents, reports and records compiled under the provisions of ORS 418.750 to 418.762 and 418.765 are confidential and not accessible for public inspection. * * *." ORS 418.770(1). (Emphasis added.)

Thus, the records you seek to inspect may be withheld from the type of public disclosure otherwise afforded by the Public Records Law which you invoke in your petition.

We acknowledge that ORS 418.770(1) goes on to provide for mandatory disclosure of child abuse report information to certain entities. We also acknowledge that ORS 418.770(2) grants CSD the discretion to disclose such information when CSD makes certain determinations. But those rules of special access are beyond the scope of the Public Records Law and its enforcement procedures.

In seeking access to public records under ORS 192.410 to 192.505, you and your client stand in the shoes of every member of the public. See ORS 192.420 (conferring a public right of inspection). On administrative review of a state agency's denial of public record disclosure, the issue for the Attorney General is whether the record " . . . may be withheld from public inspection." ORS 192.450(1). (Emphasis added.) Clearly, under the confidentiality rule of ORS 418.770(1) as incorporated by ORS 192.502(8), CSD may withhold the documents you wish to review from the public inspection. We therefore deny your Public Records Law petition.

If you have any further questions, please call CSD's contact lawyer in the Department of Justice, Assistant Attorney General Dale Hormann, or me.

Respectfully submitted,

James E. Mountain Jr.

JAMES E. MOUNTAIN, JR.
Special Counsel to the
Attorney General

JEM:cm
cc: Larry Mack, CSD Branch Manager (Douglas County)
Dale Hormann, Assistant Attorney General
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