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RECEIVED
MAY 5 1995
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SALEM, OREGON

May 4, 1995

Andrew W. Carter
Dunn, Toole, Coats & Carter
Attorneys at Law
112 West Fourth Street
The Dalles, OR 97058

Re: Petition for Public Records Disclosure Order
Oregon Department of State Police Records
Your Client: Tracy Persons

Dear Mr. Carter:

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 May 2, 1995, asks the Attorney General to direct the Oregon Department of State Police ("department") to make available to you copies of the following records regarding your client's son, Kyle Alexander Coutts:

> Any and all reports regarding the investigation of the touching of Kyle Alexander Coutts by Robin Davidson which took place on approximately January 16, 1995 at Coopers Spur Ski Resort in Hood River County, including reports prepared by Oregon State Police investigator Fred Hawkins.

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. *See* ORS 192.420.

ORS 192.501(3) conditionally exempts criminal investigatory materials from the disclosure requirements of the Public Records Law. This provision exempts "[i]nvestigatory information compiled for criminal law purposes."

One purpose of this exemption is to prevent interference with ongoing law enforcement proceedings. *Jensen v. Schiffman*, 224 Or App 11, 16, 544 P2d 1048 (1976).

ORS 192.501(3) requires that the record of an arrest or the report of a crime be disclosed "unless and only so long as there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim." "Record of an arrest or report of a crime" includes, but is not limited to:

(a) The arrested person's name, age, residence, employment, marital status and similar biographical information;

(b) The offense with which the arrested person is charged;

(c) The conditions of release pursuant to ORS 135.230 to 135.290;

(d) The identity of and biographical information concerning both complaining party and victim;

(e) The identity of the investigating and arresting agency and the length of the investigation;

(f) The circumstances of arrest, including time, place, resistance, pursuit and weapons used; and

(g) Such information as may be necessary to enlist public assistance in apprehending fugitives from justice.

ORS 192.501(3).

We are advised by Laurie Scales, Investigative Services, Department of Oregon State Police, that both the department and the Hood River District Attorney's Office are involved in an ongoing criminal investigation in this matter. Disclosure of the requested records at this time would interfere in a pending or contemplated criminal prosecution. Although ORS 192.501(3) is subject to a balancing of the public interest, we do not find that the public interest requires disclosure in this instance. For this reason, we deny your petition to compel disclosure.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

ESH:AV:SMT:cfs/JGG0B8A3
c: Laurie Scales
Investigative Services, Oregon State Police
400 Public Service Bldg., Salem, OR 97310

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