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July 19, 1995

J.P. Harris, II
Attorney at Law
5778 Commercial St. S.E.
Salem, OR 97306-1213

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

Dear Mr. Harris:

This letter is the Attorney General's order on your petition on behalf of Jimmie and Cheryl Neace for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on June 30, 1995,[1/] asks the Attorney General to direct the Children's Services Division (now the State Office for Services to Children and Families [SOSCF]) to make available its entire file regarding the minor child Brandon Richter. You previously sent CSD a written release signed by Cheryl Neace, the adoptive mother, authorizing such release. 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. If a public record contains exempt and nonexempt material, the public body must separate the materials and make the nonexempt material available for examination if it is "reasonably possible" to do so while preserving the confidentiality of the exempt material. *Turner v. Reed*, 22 Or App 177, 186 n 8, 538 P2d 373 (1975).

[1/] We appreciate your extending the time within which the law would have otherwise obligated us to respond.

We have carefully reviewed SOSCF's files to determine whether information contained therein should be released to you. Dan McGowan, SOSCF social service specialist, informs us that, with the exceptions discussed below, SOSCF will voluntarily turn over to you the contents of the files. Therefore, your petition with respect to the portion of the files to be released is denied as moot.

Exemption for Records Made Confidential Under Oregon Law

Portions of the files are not subject to disclosure under the Oregon Public Records Law. ORS 192.502(8) exempts:

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

This exemption incorporates into the Public Records Law the provisions of other statutes that prohibit disclosure of records or make such records confidential. Some of the requested records are subject to statutes prohibiting disclosure or making them confidential, as discussed below.

A. Identifying Information about Persons Making Child Abuse Reports

Under ORS 419B.035(1), the reports and records compiled by CSD under ORS 419B.010 to 419B.030 relating to child abuse are confidential, notwithstanding the provisions of the Oregon Public Records Law. Pursuant to ORS 419B.035(2) and OAR 412-01-145(2)(f), CSD has exercised its discretion to make the protective service investigation reports available to Ms. Neace. However, CSD is redacting from those reports any identifying information about the persons who made child abuse reports. The redaction of this information is mandated by ORS 419B.035(2). Accordingly, that information is exempt from disclosure under the Public Records Law. ORS 192.502(8).

B. Adoption Records

Under ORS 109.440 and 7.211, an agency shall not disclose any confidential information relating to an adoption except pursuant to a court order or as provided in ORS 109.425, 109.435 to 109.507 and 109.990(3). Therefore such information is not

subject to disclosure pursuant to a request under the Oregon Public Records Law. ORS 192.502(8).

Conclusion

Your petition is denied. SOSCF has agreed to provide you with all of the file, with the exception of the information noted above. The Department of Justice is making copies of the portion of the CSD file that is disclosable. As soon as that information is ready, your office will be informed. SOSCF has agreed to waive any copying expenses in this matter.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

ESH:LRY:aml/LRY0542.LET
c: Greg Colburn, CSD Branch Manager