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September 5, 1995

Patrick Dinan
PO Box 1031
Sherwood, OR 97140

Re: *Petition for Public Records Disclosure Order: Adult and Family Services Division Records*

Dear Mr. Dinan:

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 August 28, 1995, asks the Attorney General to direct the Adult and Family Services Division (AFSD) to make available the following documents:

1. All records generated, written or otherwise, to Patrick W. Dinan, connected with claims of past due child support payments from January 1994;

2. All records generated to any Consumer Reporting Agencies, as noted in ORS 25.650, from January 1994;

3. Copy(ies) of the results of the review from the "Request for Review of Support Records" sent to Patrick Dinan in June 1994.

4. Copies of any requested information regarding your account to any Consumer Reporting Agencies made by the Department of Human Resources (DHR) and or its agencies from January 1994 to date.

5. Proof that the above agency(s) followed the requirements of ORS 25.650(2) in releasing information to the Consumer Reporting Agency(s).

6. Copy of the notice sent, required under ORS 25.020(3), for any month claimed by DHR as delinquent.

7. Copies of the narratives in your case.

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).

You state in your petition that you requested these records from October 1994 to July 29, 1995, and that the request was denied by the following persons: Phil Yarnell, Patricia A. Locnikar, W.J. Munn, and Art Kapteyn. These persons have informed this office that you requested only the results of the review from the "Request for Review of Support Records" (Item 3) and the narratives (Item 7).

Because you have not been denied access to the records in Items 1, 2, 4, 5 and 6, the Attorney General lacks authority to order disclosure of these documents. *See* ORS 192.450(1). We discuss the other two items requested below.

Review of the "Request for Review of Support Records"

You requested copies of the results of the review from the "Request for Review of Support Records". Art Kapteyn, AFSD, has informed this office that no such document exists.

Narratives

You requested the "narratives to [your] case" by written letter dated July 29, 1995, and directed to Art Kapteyn, AFSD. That request was denied by AFSD by letter dated August 21, 1995, "because under ORS 25.260 these are confidential documents."

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[.]

ORS 25.260 addresses the confidentiality of DHR support enforcement files. This statute provides:

> For the protection of applicants for and recipients of support enforcement services and the protection of any other person who may be a party to a proceeding to establish, modify or enforce a support obligation or an obligation to provide medical insurance coverage, the Support Enforcement Division, the district attorney and the Department of Human Resources shall not disclose or use the contents of any records, files, papers or communications for purposes other than those directly connected with the establishment and enforcement of support obligations, including criminal nonsupport proceedings, and these records, files, papers and communications are considered confidential. In any judicial proceedings except proceedings directly connected with the establishment or enforcement of a support obligation, including a criminal nonsupport proceeding, their contents are considered privileged communications.

A child support order requiring you to pay child support is currently being enforced by DHR. The purpose of maintaining the confidentiality of support enforcement records is to protect those persons involved in the support enforcement action. Such protection is not needed when release of the information about one of the participants is to that participant. Consequently, information regarding you, if contained in the narratives, may be released to you on request. However, information in the narratives about persons other than the requestor remain exempt from disclosure and are confidential. Your petition for narrative information about other persons is therefore denied. ORS 25.260

AFSD has informed this office that the narratives will be released to you after confidential information has been deleted. The records are currently being reviewed for such purposes and you will be contacted shortly by AFSD regarding them. Because AFSD has agreed to release the non-confidential narrative records to you, your petition as to that portion of the records is now moot, and is therefore, denied.

The agency may charge you a fee to reimburse it for its actual cost in making such records available, including its photocopy costs and the time spent by agency personnel in reviewing the records. See ORS 192.440(3).

Sincerely,

Elizabeth S. Harchenko

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Attorney General

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