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December 21, 1995

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GENERAL COUNSEL
DEPT. OF JUSTICE
SALEM, OREGON

Jon P. Terry
Cascade Building, Suite 930
520 SW Sixth Avenue
Portland, OR 97204-1533

Re: *Petition for Public Records Disclosure Order - Oregon State Police Records*

Dear Mr. Terry:

This letter is the Attorney General's order on your petition[1/] for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on December 15, 1995, asks the Attorney General to direct the Oregon State Police (OSP)[2/] to make available to you for inspection and copying the following records:

1. The initial complaint, police report or notes for the subject case number;

2. The name and address of the outside law enforcement agency and officer who provided the information which lead to the investigation;

[1/] We understand that your petition was filed on behalf of your client, Matthew Estes.

[2/] Your petition also requests that we order the Lake Oswego Police Department to produce copies of the requested documents. The Attorney General does not have the authority to issue a Public Records Disclosure Order to any public body other than a state agency. ORS 192.450(1). Thus, we treat your petition to this office as involving only records of the Oregon State Police. The proper avenue for a petition ordering an entity other than a state agency to disclose a public record is the district attorney of the county in which the administrative offices of the public body are located. ORS 192.460.

3. The name and address of the complainant, identified as Mr. Estes' neighbor.

For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to access any public record 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 reasonable opportunities for inspection and/or copying of the records 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).

Your petition states that you requested to inspect and/or copy the requested records from the Oregon State Police on October 24, 1995, and that your request was denied by Detective Alan C. Corson.

We have spoken with Detective Corson as well as his superior, Lieutenant Jim Reed, and the OSP Criminal Records Division. All of them inform us that OSP does not have records containing the information you seek. The only records OSP has regarding this investigation of Mr. Estes is the Information Report, dated May 1, 1995. This report, which was provided to your client by the OSP and is in your possession, does not contain the information you have requested. We cannot order a state agency to create records that do not exist or to make available records that are not in the agency's custody. *See* ORS 192.450(1). Accordingly, your petition is respectfully denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the
Attorney General

ESH:HM:AV:cfs:jpl:JAA01B53E
c: Detective Alan Corson, OSP