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December 27, 2004

Chet DiBiaso, Inmate
Groveland Correctional Facility
7000 Sonyea Road
Sonyea, New York 14556-0001

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

Dear Mr. DiBiaso:

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. In your petition, which we received on December 20, 2004, you state that you requested from the Oregon State Police (OSP) a copy of records of your "misdemeanor convictions in the State of Oregon during the year 1982," and that OSP responded by providing you a form to submit together with "a full set of inked fingerprints and a fee of $12.00." You further state that you "responded to receipt of this form with a request pursuant to the Federal Freedom of Information Laws," and that you have received "NO response from the responding agency." By a letter dated December 21, 2004, Oregon State Police again notified you that a fingerprint card and payment of the $12.00 fee is required. For the reasons that follow, we respectfully deny your petition.

The Oregon Public Records Law confers a right to inspect any public record 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]

Under Oregon law, any person may request access to, or a copy of, information about that person contained in the OSP Criminal Offender Information System. OAR 257-010-0035. Subsection (2) of that rule provides, in pertinent part:

> Verification of such individual's identity may only be effected through submission, in writing, of name, date of birth, and a set of rolled ink fingerprints to the Oregon State Police, Identification Services Section, 3772 Portland Road N.E., Salem, OR 97303.

In your petition, you object to the requirement that you submit an inked fingerprint card because "Oregon State Police should already have a set of those, or they can be obtained relatively easily from the Jackson County Sheriff's Department." OAR 257-010-0035 explains that a person requesting Criminal Offender Information must provide a fingerprint card so OSP is certain that the information it provides is provided only to the person who is the subject of the information.

Because you have not provided a set of rolled ink fingerprints along with your request, OSP has not been able to perform the verification required by its rule. For that reason, your petition is denied.[2]

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

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cc: Kathy Cea, Records Manager, OSP

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[1] The federal Freedom of Information Act, 5 USC 552, which you cite in your petition, applies to requests for records made to the government of the United States. *See* 47 Op Atty Gen 1, 6 n 5 (1993).

[2] We have been authorized to inform you that, under the circumstances presented in this case, the Oregon State Police will not insist upon payment of any fee for providing you with the requested records.