



MICHAEL D. SCHRUNK, District Attorney for Multnomah County
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October 20, 1998

Barbara Simon
Multnomah County Sheriff's Office
12240 NE Glisan St
Portland, OR 97220

William Birhanzl
11125 SE 202nd Ave
Boring, OR 97009
Fax: 618-0283

Re: Petition of William Birhanzl, October 6, 1998 to disclose certain records
of the Multnomah County Sheriff's Office

Dear Ms. Simon and Mr. Birhanzl:

On October 13, 1998, the District Attorney's Office closed the file on this petition as moot, based upon the letter sent to petitioner by Barbara Simon. Ms. Simon indicated in her letter that the requested documents were available either on disc or hard copy. On October 16, 1998, we were advised by petitioner that the Sheriff's Office had not complied with petitioner's request.

We have been in communication with both Multnomah County Counsel and the Sheriff's Office to resolve the contradictory information being provided to petitioner and this office. County Counsel has taken the position that there is no basis to deny the public record request for the concealed handgun license data base. The Sheriff's Office has accepted this position.

Petitioner has requested the production of a certified copy of the data base files. The Public Records Law expressly authorizes a public body to establish fees "reasonably calculated to reimburse it for its actual cost in making such records available." ORS 192.440(3). Pursuant to County Ordinance, advanced payment of the fee to produce the records must be made by petitioner. The Sheriff's Office has noted that it will take a few days to compile either the disc or hard drive information and mail it to petitioner. A form is available for petitioner to fill out stating his name and address.

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Petitioner has also requested the opportunity to inspect the concealed handgun license data base. Again, petitioner would be responsible for the costs necessary to produce the disc or hard copy for such an inspection. ORS 192.440(30 expressly permits a public body to include in its fees "costs for summarizing, compiling or tailoring such record, either in organization or media, to meet the person's request."

Due to the nature of the information and its location in the computer of a law enforcement agency, inspection of the data base in the computer system must be at the discretion of the Sheriff's Office. As stated in the Attorney General's Public Records Manual, 1997, page 9:

The statutes implementing the public's right to inspect nonexempt public records use the term "reasonable" to allow limits on inspection, examination and copying of public records. Those "reasonable" limits are allowed in order to protect identified governmental interests.

Arrangements to "inspect" the data base must be made under the direction of the Sheriff's Office. Any authorized inspection is subject to the requirements necessary to protect the integrity of the computer system, maintain the confidentiality of any records contained in the system, and to insure the safety and security of the Sheriff's Office. Petitioner would be responsible for the actual costs¹ necessary to monitor the inspection of the computer data base itself.

Petitioner is requested by the Sheriff's Office to make an appointment by telephone (255-3600) with either Barbara Simon or Lieutenant Brian Martinek to expedite his access to the requested documents.

ORDER

Accordingly, it is ordered that the Multnomah County Sheriff's Office promptly disclose all records sought in the above petition. Disclosure of the documents ordered

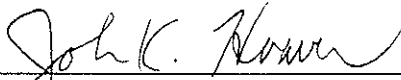
¹ "'Actual cost' may include a charge for the time spent by the public body's staff in locating the requested records, reviewing the records in order to delete exempt material, supervising a person's inspection of original documents in order to protect the records, copying records, certifying documents as true copies, or sending records by special methods such as express mail." Attorney General's Public Records Manual, 1997, page 11.

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is subject to payment of the Sheriff's Office fee, if any, not exceeding the actual cost in making the information available, consistent with ORS 192.440.

Very truly yours,

MICHAEL D. SCHRUNK
District Attorney
Multnomah County, Oregon

By 

John K. Hoover
Deputy District Attorney

NOTICE TO PUBLIC AGENCY

Pursuant to ORS 192.450(2), 192.460 and 192.490(3) your agency may become liable to pay petitioner's attorney fees in any court action arising from this public records petition (regardless whether petitioner prevails on the merits of disclosure in court) if you do not comply with this order and also fail to issued within 7 days formal notice of your intent to initiate court action to contest this order, or fail to file such court action within 7 additional days thereafter.

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