

August 16, 2001

Paul E. Meyer
Douglas County Counsel
1036 S.E. Douglas #321
Roseburg, Oregon 97470

Dear Mr. Meyer:

This is in response to your correspondence dated, July 31, 2001 regarding police officers being allowed to receive mail at their place of employment from Oregon Division of Motor Vehicles (DMV).

OREGON GOVERNMENT STANDARDS AND PRACTICES COMMISSION
STAFF OPINION NO. 01S-019

STATED FACTS: The Government Standards and Practices Commission issued staff opinion 01S-009 on May 4, 2001. This opinion stated that public employees would be in violation of ORS 244.040(1)(a) if they used their public employer's address for the receipt of personal mail. If a public employee used their employment address for personal mail, it would allow them to avoid the financial detriment of paying rent for a post office box or other such service. The GSPC acknowledged that, while such avoidance (gain) would be minimal, it would nevertheless violate the law as applied.

Douglas County Counsel cited ORS 802.250, which allows DMV documents to bear the public employer's address for police officers or other eligible public employees. The consequence is that DMV documents are mailed to eligible public employees at their employment address. Counsel wondered if this provision in the law would constitute an exception to 01S-009.

Counsel asked if the prohibition for delivery of mail would also apply to public employees depositing personal outgoing mail into an outgoing mail container used by and available both to public employees and members of the public.

RELEVANT STATUTES: The following Oregon Revised Statutes (ORS) are applicable to the issues that are addressed in this opinion:

244.020(15) Public official means any person who, when an alleged violation of this chapter occurs, is serving the State of Oregon or any of its political subdivisions or any other public body of the state as an officer, employee, agent or otherwise, and irrespective of whether the person is compensated for such services.

244.040 **Code of ethics; prohibited actions; honoraria.** The following actions are prohibited regardless of whether actual conflicts of interest or potential conflicts of interest are announced or disclosed pursuant to ORS 244.120:

244.040(1)(a) No public official shall use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment that would not otherwise be available but for the public official's holding of the official position or office, other than official salary, honoraria, except as prohibited in paragraphs (b) and (c) of this subsection, reimbursement of expenses or an unsolicited award for professional achievement for the public official or the public official's relative, or for any business with which the public official or a relative of the public official is associated.

802.250 **Records containing residence address of police officer or eligible public employee.** (1) A police officer or eligible public employee may request that any driver or vehicle record kept by the Department of Transportation that contains or is required to contain the officer's or eligible employee's residence address contain instead the address of the public agency employing the officer or eligible employee. A request under this section shall:

QUESTION NO. 1: Does ORS 802.250 create an exception to GSPC staff opinion 01S-009, which indicated that, if public employees accept personal mail at their employment address, they would violate Government Standards and Practices laws?

OPINION: Yes. 01S-009 was careful to address whether or not it was a violation of ORS Chapter 244 for public employees to receive personal mail at their place of employment. The opinion applied to public employees in general, since the stated facts presented for the opinion were framed for public employees in general.

GSPC staff recognized the provision in the law that allowed for police officers and other eligible public employees to have their public employment address

entered upon certain DMV documents. The GSPC staff also notes that the eligible public employees are carefully defined and most public employees would not be eligible for this accommodation.

QUESTION NO. 2: Would it be a violation of Government Standards and Practices laws for public employees to deposit personal outgoing mail in a place so designated and located in a public facility and have the county transport the mail to the post office if the same opportunity is also available to members of the public?

OPINION: No. If the access is readily and equally available to both public employees and members of the public, it would not be seen as a benefit available exclusively for and by virtue of public employment and would not place the employees in violation of Government Standards and Practices laws.

THIS RESPONSE ADDRESSES ONLY THE APPLICATION OF ORS 244 TO THE FACTS STATED HEREIN. ANY RELEVANT INFORMATION, WHICH WAS NOT INCLUDED BY THE REQUESTER OF THIS OPINION IN THE STATED FACTS, COULD COMPLETELY CHANGE THE OUTCOME OF THIS OPINION. OTHER LAWS OR REQUIREMENTS MAY ALSO APPLY. THIS IS NOT A FORMAL ADVISORY OPINION PURSUANT TO ORS CHAPTER 244.280. THIS OPINION DOES NOT EXEMPT A PUBLIC OFFICIAL FROM LIABILITY UNDER ORS CHAPTER 244 FOR ANY ACTION OR TRANSACTION CARRIED OUT IN ACCORDANCE WITH THIS OPINION. THIS OPINION IS ONLY MY PERSONAL ASSESSMENT AS THE EXECUTIVE DIRECTOR OF THE OREGON STANDARDS AND PRACTICES COMMISSION.

Do not hesitate to call or write if you have questions or would like additional clarification.

Sincerely,

L. Patrick Hearn
Executive Director