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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF COLUMBIA

**REBECCA ZUBER AND RANDY
ZUBER,**

Plaintiffs,

vs.

**COLUMBIA COUNTY DISTRICT
ATTORNEY'S OFFICE AND
COLUMBIA COUNTY SHERIFF'S
OFFICE,**

Defendants.

Case No. 23CV46118

COMPLAINT

(Declaratory & Injunctive Relief; Oregon
Public Records Law)

Filing Fee: \$281 (ORS 21.135(2))

Not Subject to Mandatory Arbitration

Plaintiffs Rebecca Zuber and Randy Zuber allege as follows:

1.

Plaintiffs are individuals residing in Columbia County, Oregon.

2.

Defendant Columbia County District Attorney's Office is a public body operating in Columbia County, Oregon. Defendant Columbia County Sheriff's Office is a public body operating in Columbia County, Oregon. Defendants represent themselves as being "part of a law enforcement partnership."

3.

Plaintiffs are the parents of Sarah Elizabeth Zuber, who died on or about March 13, 2019, when she was 18 years old.

4.

On January 20, 2021, former Columbia County District Attorney Jeff Auxier transmitted a memorandum to Columbia County Sherriff Brian Pixley about Sarah Zuber's death. In that memorandum, Auxier stated that there was no evidence of

1 homicidal violence and that the Oregon State Medical Examiner had concluded that
2 Sarah's death was accidental.

3 **The 2021 Public Records Requests**

4 5.

5 On January 27, 2021, plaintiffs submitted a public records request to Defendant
6 Columbia County Sheriff's Office for records related to their daughter's death. Attached
7 as Exhibit 1 is a true and correct copy of plaintiffs' January 27 request. The next day,
8 Defendant Columbia County Sheriff's Office denied plaintiffs' request because:

9 "This is still under investigation. The request is denied at
10 this time under 192.345(3) – Criminal investigations[.]”

11 6.

12 On February 1, 2021, plaintiffs submitted a public records request to Defendant
13 Columbia County Sheriff's Office for records related to their daughter's death. Attached
14 as Exhibit 2 is a true and correct copy of plaintiffs' February 1, 2021, request.

15 7.

16 On February 8, 2021, former District Attorney Auxier and Columbia County
17 Sheriff Pixley responded to plaintiffs' public records requests, agreeing to disclose the
18 requested records and stating, “[p]lease be aware that we do not intend to withhold
19 anything from you and will look, whenever practical, to disclose everything to you free of
20 charge or at a reduced cost.”

21 8.

22 On February 9, 2021, Defendant Columbia County Sheriff's Office “closed”
23 plaintiffs' February 1, 2021, public records request because “The DA and Sheriff are in
24 contact with you so this public records request is no longer need *[sic]*.”

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9.

On February 22, 2021, Auxier and Pixley transmitted a letter to plaintiffs in response to their public records request. Auxier stated that law enforcement had “unanimous[ly]” determined that Sarah’s death “was not criminal in nature.” The letter acknowledged that defendants were disclosing “the first portion of [plaintiffs’] public records request” and promised that the remainder of the request would be disclosed:

“[We] are working diligently to provide you with a complete response but doing so will be time-consuming as it will require legal review, coordination between several agencies, and technical challenges. Rather than require you to wait for everything, we are providing you with the following partial release so that you have a first set of records while you wait for the remaining materials.

“* * * [W]e will continue processing the remaining portions of your public records request so that you have a complete set of investigative materials.”

(Emphasis added.). At no point did Columbia County provide plaintiffs with a prepayment cost estimate for the requested records.

10.

On or about March 18, 2021, Auxier disclosed a “thumb drive” containing “digital data” to plaintiffs in response to their public records request. Despite these partial disclosures, defendants never completed their response to plaintiffs’ public records request. That is, they never fully disclosed all responsive records or identified any statutory basis to continue withholding the remaining records.

11.

For the next two years, Sheriff Pixley and former District Attorney Auxier made repeated public statements reaffirming their conclusion that Sarah’s death was “accidental,” and their confidence “in the findings and conclusions as they relate to the criminal investigation.”

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On January 17, 2023, plaintiffs, through counsel, made a public records request to Defendant Columbia County Sheriff's Office for

Attached as Exhibit 3 is a true and correct copy of plaintiffs' January 17 request.

On January 31, 2023, Defendant Columbia County Sheriff's Office denied the request "because of an ongoing investigation."

On information and belief, former District Attorney Auxier had recently asked the Oregon Department of Justice to review Columbia County’s investigation into Sarah’s death. Auxier reported that the Department of Justice’s involvement meant that the case was “under investigation” for purpose of withholding the records from disclosure under Oregon Public Records Law.

On February 1, 2023, plaintiffs, through counsel, submitted a public records request to Defendant Columbia County District Attorney's Office. The request sought (1) all records related to the death of Sarah Zuber, including communications, the case investigative file, interviews, reports, and 911 calls; (2) all records that were not transmitted to the Department of Justice for review; and (3) specific records that were referenced in the records defendants disclosed in 2021, but which had not yet been

1 disclosed. Attached as Exhibit 4 is a true and correct copy of plaintiffs' February 1,
2 2023, request.

3 16.

4 While maintaining his position that the case was "under investigation," former
5 District Attorney Auxier agreed to disclose certain records to plaintiffs. Auxier
6 subsequently disclosed some of the requested records and for the next five months
7 continuously promised to disclose additional records to plaintiffs. Columbia County
8 officials also offered to release physical evidence to plaintiffs. At no point did Columbia
9 County state or imply that there would be a charge for disclosure of the records.

10 17.

11 Former District Attorney Auxier resigned from office in July 2023, without
12 fulfilling his promise to plaintiffs to disclose their requested records. Although Detective
13 Peabody of Defendant Columbia County Sheriff's Office indicated that he would provide
14 the missing records, that promise also has not been kept.

15 **Plaintiffs' Petition for Review**

16 18.

17 On September 14, 2023, in accordance with ORS 192.411 and ORS 192.415,
18 plaintiffs, through counsel, submitted a Petition for Review to the Columbia County
19 District Attorney. The Petition for Review concerned defendants' failure to disclose
20 records in response to plaintiffs' 2021 Requests and 2023 Requests. In connection with
21 their petition, plaintiffs sought disclosure of all requested records, a waiver of all fees
22 associated with those requests, and an order requiring defendants to pay a statutory
23 penalty of \$200 based on defendants' failure to timely respond and complete plaintiffs'
24 requests.

25 ///

26 ///

1 19.

2 On information and belief, neither defendant responded to plaintiffs' Petition for
3 Review nor articulated any reason as to why it should not be granted.

4 20.

5 On October 12, 2023, in response to the plaintiff's Petition for Review, the
6 Interim District Attorney for Columbia County responded to plaintiffs' petition for
7 review:

8 "On September 14, 2023, you petitioned my office for a
9 review of an earlier denial of a request for public records
10 under ORS 192.415. Having reviewed the matter and in
11 my position as interim District Attorney for Columbia
12 County I hereby reverse the decision to deny your request.

13 "I have notified Columbia County Counsel * * * copied
14 here, of my decision and I am directing our office manager
15 * * * also copied here, to provide you with the requested
16 records in a manner consistent with Oregon law."

17 (Emphasis in original). Attached as Exhibit 5 is a true and correct copy of the Interim
18 District Attorney's October 12 order.

19 21.

20 On November 7, 2023, defendants issued a prepayment estimate for the requested
21 records. Defendants demanded—for the first time—that plaintiffs pay it \$4,321.50 for
22 the records that plaintiffs had been requesting from the defendants since 2021 and which
23 defendants had been ordered to disclose by order of the Interim District Attorney 54 days
24 earlier.

25 22.

26 On November 8, 2023, plaintiffs requested a fee waiver given, among other
things, the undue delay in defendants' disclosure of the records. At the time of this filing,
that request has not been granted.

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23.

Plaintiffs are the parents of a teenager who suddenly and tragically died in 2019, four years ago. For more than two years and nine months, plaintiffs have repeatedly sought the records related to their daughter's death and to defendants' investigation into her death.

In addition to plaintiffs' interest in the records, the public at large is interested in the requested records. The Justice for Sarah Zuber Facebook page has over 2,000 members. On that Facebook page, members of the public discuss Sarah's case based on records that defendants released in early 2021 and records that plaintiffs received from other public bodies and state agencies.

(Declaratory & Injunctive Relief – 2021 Requests)

Plaintiffs incorporate by reference Paragraphs 1 - 24, above.

Defendants determined that Sarah Zuber’s death was accidental on or before January 20, 2021. At that time, the investigation into Sarah’s death was closed. The closure of the investigation was again confirmed by Auxier and Pixley on February 22, 2021, when they informed plaintiffs that law enforcement had “unanimous[ly]” concluded that Sarah’s death was “not criminal in nature.”

On information and belief, since January 2021, no law enforcement entity engaged in any activity to investigate whether Sarah's death was criminal in nature.

1 28.

2 Despite closing the investigation, defendants failed to comply with their
3 obligations under Oregon Public Records Law in responding to plaintiffs' 2021 public
4 records requests for one or more of the following reasons:

5 (a) Defendant Columbia County Sheriff's Office "closed" plaintiffs' request for a
6 reason not supported by Oregon law. Specifically, there is no statutory basis
7 to withhold public records because the requester is in communication with the
8 district attorney and/or sheriff.

9 (b) Defendants agreed to produce records to plaintiffs in response to their request,
10 disclosing at least two "batches" of responsive documents. Yet defendants
11 failed to complete the request by disclosing all requested records or providing
12 plaintiffs with the statutory basis to continue withholding responsive records.

13 29.

14 Oregon Public Records Law requires public bodies to complete their response to a
15 public records request "as soon as practicable and without unreasonable delay." ORS
16 192.329(1).

17 30.

18 On October 12, 2023, the Interim District Attorney ruled on plaintiffs' Petition for
19 Review and ordered defendants to disclose the requested records. When a public body is
20 ordered by the district attorney to disclose records following a petition for review, the
21 public body must "comply with the order in full within seven days after issuance of the
22 order," unless the public body files an action in Circuit Court. ORS 192.411, ORS
23 192.415. Defendants filed no action to appeal the Interim District Attorney's order
24 requiring them to disclose the requested records to plaintiffs.

25 ///

26 ///

1 31.

2 As of the date of this filing, defendants have not completed their response to
3 plaintiffs' 2021 public records requests. Defendants have not disclosed the balance of the
4 requested records and have not cited any statutory basis to continue withholding records.

5 32.

6 Despite having no legal basis to withhold the requested records from January 20,
7 2021, to present, and despite having been ordered by the Interim District Attorney to
8 produce the requested records to plaintiffs, defendants have refused to disclose records
9 unless plaintiffs pay them \$4,321.50.

10 33.

11 Given defendants' undue and unwarranted delay in disclosing records and the
12 order requiring defendants to produce records, all fees associated with disclosing records
13 responsive to plaintiffs' 2021 public records requests should be waived. ORS
14 192.407(3)(c). A fee waiver is also appropriate given the public's interest in the
15 requested records.

16 34.

17 A public body's response to a public records request is complete when it provides
18 access to all requested records or asserts any exemptions from disclosure that the public
19 body believes apply to the requested records. ORS 192.329(2).

20 35.

21 Defendants have not completed their response to plaintiffs' 2021 public records
22 requests. Defendants have neither provided access to all the requested records nor
23 asserted any statutory basis to continue withholding records responsive to plaintiffs' 2021
24 public records request. Because defendants have failed to respond to plaintiffs' requests,
25 defendants should be ordered to pay plaintiffs a statutory penalty of \$200.00. ORS
26 192.407(3)(b).

1 36.

2 Plaintiffs are entitled to an award of their reasonable costs and attorneys' fees at
3 trial and on appeal. ORS 192.431(3).

4 **SECOND CLAIM FOR RELIEF**
5 **(Declaratory & Injunctive Relief - 2023 Requests)**

6 37.

7 Plaintiffs incorporate by reference Paragraphs 1 - 36, above.

8 38.

9 Sometime in late 2022 or early 2023, former District Attorney Auxier requested
10 that the Oregon Department of Justice review Columbia County's investigation into
11 Sarah's death. On information and belief, the Department of Justice's role was to *review*
12 Columbia County's investigation – not to conduct an independent investigation. That is,
13 the Department of Justice is not actively investigating Sarah's death; it is not
14 interviewing witnesses, gathering evidence, or engaging in any other investigative
15 procedures commonly associated with a criminal investigation. Rather, its role is limited
16 to determining whether Columbia County's investigation was adequate. As of the date of
17 this filing, Department of Justice has not issued any decision based on its review of
18 Columbia County's investigation.

19 39.

20 Despite the fact that no public body or agency is actively investigating Sarah's
21 death, defendants have failed to comply with their obligations under Oregon Public
22 Records Law in responding to plaintiffs' 2023 public records requests for one or more of
23 the following reasons:

- 24 (a) Defendants have erroneously relied on a statutory exemption that is applicable
25 only when the public body is engaging in a criminal investigation, when no
26 such investigation was ongoing or planned for Sarah's case.

1 (b) Defendant Columbia County District Attorney's Office has, through its former
2 elected official Auxier, promised to disclose the requested records to plaintiffs
3 notwithstanding the purported criminal investigation, yet the office has failed
4 to fulfill that promise.

5 40.

6 Oregon Public Records Law requires public bodies to complete their response to a
7 public records request "as soon as practicable and without unreasonable delay." ORS
8 192.329(1).

9 41.

10 On October 12, 2023, the Interim District Attorney ordered defendants to disclose
11 the requested records. When a public body is ordered by the district attorney to disclose
12 records following a petition for review, the public body must "comply with the order in
13 full within seven days after issuance of the order," unless the public body files an action
14 in Circuit Court. ORS 192.411, ORS 192.415. Defendants filed no action to appeal the
15 Interim District Attorney's order compelling defendants to produce records responsive to
16 plaintiffs' 2023 requests.

17 42.

18 As of the date of this filing, defendants have not completed their response to
19 plaintiffs' 2023 public records requests. Defendants have not disclosed any of the
20 requested records and have not cited any statutory basis to continue withholding records.

21 43.

22 Despite having no legal basis to withhold the requested records from February 1,
23 2023, to present, and despite having been ordered by the Interim District Attorney to
24 produce the requested records to plaintiffs, defendants have refused to disclose records
25 unless plaintiffs pay them \$4,321.50.

26 ///

1 44.

2 Given defendants' undue and unwarranted delay in disclosing records and the
3 order requiring defendants to produce records, all fees associated with disclosing records
4 responsive to plaintiffs' 2023 public records requests should be waived. ORS
5 192.407(3)(c). A fee waiver is also appropriate given the public's interest in the requested
6 records.

7 45.

8 Because defendants have failed to respond to plaintiffs' requests, defendants
9 should be ordered to pay plaintiffs a statutory penalty of \$200. ORS 192.407(3)(b).

10 46.

11 Plaintiffs are entitled to an award of their reasonable costs and attorneys' fees at
12 trial and on appeal. ORS 192.431(3).

13 WHEREFORE, plaintiffs pray for a judgment in their favor and against
14 defendants as follows:

15 1. On plaintiff's First Claim for Relief:

- 16 a. Declaring that defendants failed to comply with Oregon Public
17 Records Law in connection with plaintiffs' 2021 public records
18 requests;
19 b. Ordering defendants to promptly disclose all requested records
20 within seven days, ORS 192.407(3)(a);
21 c. Ordering defendants to waive all fees associated with the requested
22 records based on their undue and unwarranted delay in disclosing
23 records and the public's interest in the records, ORS 192.407(3)(c);
24 d. Ordering defendants to pay plaintiffs a \$200 statutory penalty for
25 failing to timely complete their response to plaintiffs' public
26 records requests, ORS 192.407(3)(b); and

24 ///

25 ///

26 ///

1 e. Awarding plaintiffs their reasonable attorney fees and costs, ORS
2 192.431(3).

3 2. On plaintiffs' Second Claim for Relief:

4 a. Declaring that defendants failed to comply with Oregon Public
5 Records Law in connection with plaintiffs' 2023 public records
6 requests;

7 b. Ordering defendants to promptly disclose all requested records
8 within seven days, ORS 192.407(3)(a);

9 c. Ordering defendants to waive all fees associated with the requested
10 records based on their undue and unwarranted delay in disclosing
11 records and the public's interest in the records, ORS 192.407(3)(c);

12 d. Ordering defendants to pay plaintiffs a \$200 statutory penalty for
13 failing to timely complete their response to plaintiffs' public
14 records requests, ORS 192.407(3)(b); and

15 e. Awarding plaintiffs their reasonable attorney fees and costs, ORS
16 192.431(3).

17 DATED this 10th day of November, 2023.

18 HARRANG LONG P.C.

19 By: /s/ Erica Tatoian
20 C. Robert Steringer, OSB #983514
21 bob.steringer@harrang.com
22 Erica Tatoian, OSB #164896
23 erica.tatoian@harrang.com
24 Of Attorneys for Plaintiffs

25 Trial Attorney: Erica Tatoian
26

**COLUMBIA COUNTY SHERIFF'S OFFICE
REQUEST FOR PUBLIC RECORDS INFORMATION**

(As Provided for in O.C.G.A § 50-18-70)

Please complete the following information and submit to the County Clerk.

(1) Individual requesting information:

a) Name Rebecca Zuber
b) Address 71004 Neer City Road, Rainier, OR 97048
c) Phone (503) 442-9417

(2) Name of department from which information is requested:

Name Columbia County Sheriff's Office

(3) Detailed description of public records or access to records requested:

1. Any and all photographs taken where my daughter, Sarah E. Zuber [REDACTED] was found deceased on Neer City Road on 03/13/2019.
2. Interview(s) with Vishal Christian and Vishal's cell phone text messages and cell phone calls dated 03/11/2019 through 03/14/2019 from BOTH cell phones.

(4) Please Check One:

☒ I would like to review the documents/receive the copies within three business days of this request if the records are available; however, I understand that if the records cannot be produced within three business days, a timetable for their release will be provided to me; or
☐ I do not need the documents/access within three business days, but would like to review the documents/receive the copies by: _____

(5) I understand that, pursuant to O.C.G.A. § 50-18-71, I may be charged administrative and copying fees for the cost to search, retrieve, copy and supervise access to the requested documents. This fee represents the hourly rate of the lowest paid full-time employee with the necessary skill and training to respond to my request with no charge for the first fifteen minutes that it takes to respond to the request. The charge for copies is generally .10¢ per page unless otherwise provided by law. I agree to pay all copying and/or administrative costs incurred with fulfilling my Open Records Request.

Please note the following staff time and costs associated with obtaining public records:
(to be filled out by records custodian)

(1) Number of copies _____ at .10¢ a copy.....\$ _____
(2) Number of hours of employee time required to research records _____ hours at _____ per hour (no charge for first 15 minutes).....\$ _____
(3) Number of CDs _____ at .25¢ each.....\$ _____
(4) Other cost _____ \$ _____
(5) TOTAL COST.....\$ _____

Kathy Coddington 1/27/2021
Receiving Employee's Signature Date

Rebecca Zuber 1/27/2021
Requesting Applicant's Signature Date

Employee Receiving Request/Computing Cost Date

Receiving Applicant's Signature Date

Luber 24573943

**COLUMBIA COUNTY
PUBLIC RECORDS REQUEST
[Standard Form]**

[Enacted by Order No. 2 - 2005; amended by Order No. 56 - 2005]

REQUESTOR INFORMATION:

Date of Request: February 1, 2021

Request is for: ☐ inspection of public records ☐ hard copies of records ☒ digital copies of records

Name: Rebecca Zuber

Mailing Address: _____

City, State, Zip: _____

eMail Address: _____

Daytime Phone: _____

Preferred Method of Contact: ☐ Mail ☐ Phone ☒ eMail

If available, do you wish to get a certified copy of the public records requested? [Please note that there will be additional charges for this service.] ☐ Yes ☒ No

PUBLIC RECORD INFORMATION:

Designate County Department from which records are requested CCSO

What type of records are you requesting? (E.g., annual report, aerial photos, meeting minutes, correspondence, staff reports, etc.) Be as specific as possible. [If you need more room, please attach additional sheets of paper.]

Please see attached pages

For what time frame? (July 1994 to present; most current; last two years, etc.) March 2019 - Present

Please provide any additional details that will aid in quickly locating the documents you are requesting (e.g., permit or application numbers; tax account numbers; project name; owner's name; property address, etc.)

Suspicious Death Investigation Case #19-0656 "accidental death" see attached

NOTE: Public records are writings containing information relating to the conduct of the public's business. Writings include handwritten, typed, photographed, electronic or otherwise recorded words, letters, pictures, sounds, symbols or combinations of any of these mediums. ORS 192.410. There are numerous exceptions to the public records laws which allow a public body to refuse to disclose public records. ORS 192.501, 192.502. Public bodies are not required to explain or answer questions about their public records, nor are they required to create public records where none exist. Public bodies are required to make available for inspection and copying, subject to any applicable exemptions, only those records that exist at the time of the request.

COST INFORMATION: [TO BE COMPLETED BY CUSTODIAN OF RECORDS]

> Estimated Costs:	\$ _____	Date Paid: _____
> Requester notified of estimated costs on	_____	
> Final Costs:	\$ _____	Date Paid: _____

CCSO Case #19-0656

Sarah Elizabeth Zuber [REDACTED] DOD 3/13/2019

List of Records/Evidence I would like to obtain:

Complete Report of Det. David Peabody and Sgt. Jason Lindland

Neuropathology Report

Vitreous Humor Forensic Analysis

Full name and title of authorized professional who performed entire SAFE Kit procedure

SAFE Kit results

Lab report on Sarah's water bottle

Investigative Report on search of Crown Victoria (black car that was seen in area)

History of communication between Sarah and boyfriend (preferably 48hrs of all social media as well as text and phone conversations)

Interview of both Kaitlyn and Abigail Zuber at Amani Center, recorded

Interview of Randy and Rebecca Zuber at CCSO, recorded

Interview of Vishal Christian by CCSO (not the one by my private investigator)

Any other interviews pertaining to this case

List of names of all suspects or persons of interest

Soil and debris sample analysis (both from underneath Sarah's body, as well as on her naked body)



HARRANG LONG
GARY RUDNICK P.C.
attorneys at law

ERICA TATOIAN

Admitted in Oregon and Washington
111 SW Columbia St, Suite 950
Portland, OR 97201
erica.tatoian@harrang.com
(503) 242-0000
(541) 686-6564 (FAX)

January 17, 2023

Via email: jacyn.normine@columbiacountyor.gov

Custodian of Records for Columbia County

Jacyn Normine

230 Strand, Room 331

St. Helens, OR 97051

Re: Public Records Request to Columbia County Sheriff
Re: Sarah Elizabeth Zuber

Dear Custodian of Records:

On behalf of the Rebecca and Randy Zuber and pursuant to Oregon Public Records Law, ORS chapter 192, we request the following public records from the Columbia County Sheriff's Office:

1. All records related to the death of Sarah Elizabeth Zuber on March 13, 2019, (Case No. 19-13448) including, but not limited to, communications, the case investigative file, interviews, reports, and 911 calls.

If you have any questions about this request, please contact me directly.

Sincerely,

Erica Tatoian

ERT:

**COLUMBIA COUNTY
PUBLIC RECORDS REQUEST
[Standard Form]**

[Enacted by Order No. 2 - 2005; amended by Order No. 56 - 2005]

REQUESTOR INFORMATION:

Date of Request: 1/17/23

Request is for: ☐ inspection of public records ☐ hard copies of records ☐ digital copies of records

Name: Erica Tatoian on behalf of Rebecca and Randy Zuber

Mailing Address: 111 SW Columbia St., Suite 950

City, State, Zip: Portland, OR 97201

eMail Address: erica.tatoian@harrang.com

Daytime Phone: (503) 242-0000

Preferred Method of Contact: ☐ Mail ☒ Phone ☒ eMail

If available, do you wish to get a certified copy of the public records requested? [Please note that there will be additional charges for this service.] ☐ Yes ☒ No

PUBLIC RECORD INFORMATION:

Designate County Department from which records are requested Columbia County Sheriff's Office

What type of records are you requesting? (E.g., annual report, aerial photos, meeting minutes, correspondence, staff reports, etc.) Be as specific as possible. [If you need more room, please attach additional sheets of paper.]
Please see attached office

For what time frame? (July 1994 to present; most current; last two years, etc.) March 13, 2019 to present

Please provide any additional details that will aid in quickly locating the documents you are requesting (e.g., permit or application numbers; tax account numbers; project name; owner's name; property address, etc.)

NOTE: Public records are writings containing information relating to the conduct of the public's business. Writings include handwritten, typed, photographed, electronic or otherwise recorded words, letters, pictures, sounds, symbols or combinations of any of these mediums. ORS 192.410. There are numerous exceptions to the public records laws which allow a public body to refuse to disclose public records. ORS 192.501, 192.502. Public bodies are not required to explain or answer questions about their public records, nor are they required to create public records where none exist. Public bodies are required to make available for inspection and copying, subject to any applicable exemptions, only those records that exist at the time of the request.

COST INFORMATION: [TO BE COMPLETED BY CUSTODIAN OF RECORDS]


> Estimated Costs: \$ _____ Date Paid: _____
> Requester notified of estimated costs on _____
> Final Costs: \$ _____ Date Paid: _____

INSTRUCTIONS: The County may need five business days to initially respond to your request. The first contact from the Custodian of the Records will be to advise of the estimated costs involved in fulfilling your request, which must be prepaid before any further work is performed in completing your request. No public record request will be processed absent prepayment of the estimated cost. Once paid, the Custodian will contact you 1) when the records you requested are ready for your review; or 2) to provide a date when the records can be reviewed or picked up; or 3) to advise that the request is being denied. If the County denies your request to review the public record(s), a written explanation of the reason for denial will be forwarded to you by the Custodian within a reasonable amount of time.

Full payment of the total amount of costs incurred is required before the public record(s) is/are inspected or copies are released. YOU WILL BE REQUIRED TO PAY THE COSTS OF PROCESSING YOUR PUBLIC RECORDS REQUEST EVEN IF NO RECORDS ARE FOUND, OR IF THE RECORDS ARE EXEMPT FROM DISCLOSURE.

Most records are available for public inspection but are Columbia County property. NOTHING CAN BE ALTERED, ADDED OR REMOVED FROM THESE RECORDS. Photographing documents or sending documents or data via electronic mail is not permitted. Allowing the inspection and/or copying of public records in the custody of Columbia County is not meant to waive or restrict any copyright, proprietary, confidentiality, privilege, exemption from disclosure, or other rights in said documents.

I HAVE READ AND AGREE TO COMPLY WITH THE ABOVE CONDITIONS. and further agree to pay the cost of fulfilling this Public Records Request according to the conditions set forth above and the Public Records Policy adopted by Order No. 56 - 2005, or any amendment thereto or revision thereof by the Board of County Commissioners. These costs may include the cost of locating records, reviewing records to delete exempt material, supervising the inspection of records, copying records, certifying records and mailing records, including the cost of searching for records regardless of whether staff was able to locate the requested records.


[Signature of Requestor]

1/17/23
[Date]

NOTES OF CUSTODIAN: _____



ERICA TATOIAN

Admitted in Oregon and Washington
111 SW Columbia St., Suite 950
Portland, OR 97201
erica.tatoian@harrang.com
(503) 242-0000
(541) 686-6564 (FAX)

February 1, 2023

Via e-mail: jeff.auxier@columbiacountyor.gov

Columbia County District Attorney
Attn: District Attorney Jeff Auxier
203 Strand Street
St. Helens, OR 97051

Re: Public Records Request to Columbia County District Attorney
Re: Sarah Elizabeth Zuber

Dear Mr. Auxier:

Thank you for your email, for our Zoom meeting, and for reiterating your commitment to providing the Zubers with the outstanding records relating to their daughter's death. To facilitate those disclosures, we are sending you this public records request.

On behalf of Rebecca and Randy Zuber and pursuant to Oregon Public Records Law, ORS chapter 192, we request the following public records from the Columbia County District Attorney:

1. All records related to the death of Sarah Elizabeth Zuber on March 13, 2019, including, but not limited to, communications, the case investigative file, interviews, reports, and 911 calls;
2. All records (including communications) that were not transmitted to the Department of Justice for review; and
3. The following records that are referenced in the public records you previously disclosed to the Zubers, but which have not yet been produced in response to their requests:
 - a. All records associated with the Oregon State Police Reconstruction Report conducted by William Bush on March 14, 2019 (believed to include videos, 423 aerial images, 201 ground photos, reference points, diagrams, drone video, measurements, and crime scene diagraming);
 - b. All emails, texts, or paper communications sent to or from the Oregon State Medical Examiner concerning Sarah Zuber;
 - c. Video footage collected from 71490 Neer City Road;

- d. Laboratory sample results of exhibits 1, 2, and 3 marked at the scene (property evidence numbers 9363-7, 9363-8, and 9363-9);
- e. Records of GPS locations produced by Verizon Wireless, Google, and Facebook in response to a warrant for records;
- f. Records depicting the make, model, and calibration date(s) of the PBT device that David Peabody used to test the ambient ethanol from the water bottle found in Ms. Zuber's right pocket;
- g. All photographs and reports of the results of the ethanol test David Peabody performed to test the ambient ethanol from the water bottle found in Ms. Zuber's right pocket;
- h. All photographs of Sarah Zuber's necklace, including full image of the chain (Columbia County property evidence number 9363-5);
- i. Daniel Ray Leno's records concerning 75801 Larson Road in Rainier, Oregon [flash drive] (property evidence number 18307-11);
- j. All photographs of Katie Zuber's shoes that were taken at the scene (property evidence number 9359-1);
- k. Records of Katie Zuber's 911 call at 12:04p.m. on March 13, 2019;
- l. Toxicology reports, photographs, and records concerning Sarah Zuber's stomach contents;
- m. All photographs of Sarah Zuber's clothing, jewelry, and personal property; and
- n. The following pages from officer reports:
 - i. Page 2 from the 03-13-2019 Gary Fibich (55206) 1509 report;
 - ii. Pages 1 and 2 from the 03-21-2019 Steven Salle (11595) 0598 report;
 - iii. Page 2 from the 03-21-2019 Steven Salle (11595) 0927 report;
 - iv. Pages 1 and 3 from the 03-21-2019 Matthew Dorick (51962) report;
 - v. Page 2 from the 03-29-2019 (50929) 1110 report;
 - vi. Page 4 from the 04-01-2019 (57140) 0815 report;
 - vii. Pages 2, 3, 4, and 5 from the 04-04-2019 Steven Salle (11595) report;
 - viii. Page 2 from the 04-04-2019 Steven Salle (11595) 1208 report;

- ix. Page 2 from the 04-04-2019 Steven Salle (11595) 1140 report; and
- x. Page 2 from the 04-22-2019 (50929) 1228 report.

We understand that your office takes the position that the investigation of Sarah Zuber's death is open and that provides an exemption from the Public Records Law. Although we are not convinced that is true following our outreach to the Oregon DOJ, there should be no dispute that records falling outside that exemption should be disclosed now. In responding to this request, please explain which records, if any, you have chosen to withhold from disclosure and cite to the applicable public records law exemption(s) that you contend exempt each record from disclosure. Once we have your office's response, we will evaluate whether to seek review of any decision to withhold records.

If you have any questions about this request, please contact me directly.

Thank you,

A handwritten signature in black ink, appearing to read "Erica Tatoian", with a horizontal line extending from the end of the signature.

Erica Tatoian

ERT:

Debi Boersma

From: Benson Colin <colin.benson@doj.state.or.us>
Sent: Thursday, October 12, 2023 1:42 PM
To: Hanson Sarah; Erica R. Tatoian
Cc: Dawn Hunt
Subject: In re: public records request related to the death of Sarah Elizabeth Zuber

**External Sender - From: (Benson Colin
<colin.benson@doj.state.or.us>)**
This message came from outside your organization.

[Learn More](#)

Ms. Tatoian:

On September 14, 2023, you petitioned my office for a review of an earlier denial of a request for public records under ORS 192.415. Having reviewed the matter and in my position as interim District Attorney for Columbia County I hereby reverse the decision to deny your request.

I have notified Columbia County Counsel, Sarah Hanson, copied here, of my decision and I am directing our office manager, Ms. Dawn Hunt, also copied here, to provide to you with the requested records in a manner consistent with Oregon law.

Thank you,

Colin Benson
Interim District Attorney
Columbia County District Attorney's Office
230 Strand Street, Rm 336
St. Helens, OR 97051
503/397-0300
Colin.benson@columbiacountyor.gov

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