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DEPARTMENT OF JUSTICE
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March 12, 2003

Jacob Barrett
SID# 11123024
82911 Beach Access Road
Umatilla, OR 97882

Re: *Petition for Public Records Disclosure Order:*
Oregon Military Department and Oregon Army National Guard Records

Dear Mr. Barrett:

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. We received your petition on March 5, 2003. It asks the Attorney General to direct the Oregon Army National Guard[1] to release eleven categories of documents to you. For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. ORS 192.420. Any person denied the right to inspect or receive a copy of a public record by a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.450(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for the records. ORS 192.450(1).

You state that you made your request for records on February 3, 2003, and that you have yet not received a response. We spoke with Staff Sergeant Brian Mortensen at the Oregon Military Department (OMD) about your request. He told us that OMD did

[1] While your petition asks for an order directed to the Oregon Army National Guard, you addressed your underlying records request to both the Oregon Military Department (OMD) and the Oregon Army National Guard. Both entities are under the control of the same individual, the Adjutant General appointed by the Governor. ORS 396.160(1). Staff Sergeant Brian Mortensen has told us that OMD is responding to your request on behalf of both OMD and the Oregon Army National Guard. For this reason, we are treating your petition as being directed to both entities.

not receive your request until last week, and that it was postmarked "March 3, 2003." According to Staff Sgt. Mortensen, OMD is currently gathering records responsive to your request and is reviewing them to determine whether they are exempt from disclosure. He explained that the records you seek are maintained by a variety of functional areas, and that some of the records require an extensive search to compile. In addition, some of the records you seek are archived out-of-state and must be retrieved. Staff Sgt. Mortensen stated that OMD expects to respond to your request within seven days.

The Public Records Law allows a public body "a reasonable time period" within which to respond to a records request and imposes no specific deadline for release of requested records. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2001) at 9. In light of the fact that OMD received your request only last week and is currently working to provide you with a response, we conclude that OMD has not constructively denied your request. Therefore, we deny your petition as premature.

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

AGS12001
c: Staff Sergeant Brian Mortensen, Oregon Military Department