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February 27, 2002

David Maimon, SID #6211527
Oregon State Penitentiary
2605 State Street, NE
Salem, OR 97310

Re: Petition for Public Records Disclosure Order:
Oregon Department of Corrections Records

Dear Mr. Maimon:

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. Your petition, which we received on February 21, 2002, asks the Attorney General to direct the Oregon State Penitentiary (OSP) to make available copies of the audio-taped record in an inmate disciplinary case, Case No. 0201-A144-A15 (tapes 02-012-B-084 and 02-014-B-022). 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. *See* ORS 192.420. Any person who is denied the right to inspect or to receive a copy of a public record of 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. *See* ORS 192.450(1).

Your petition states that you last made a request of OSP officials for a copy of the audio-taped records on February 10, 2002, but that OSP officials had failed to respond to your request as of the date of your petition.[1]

[1] Your petition suggests that OSP officials have constructively denied your request by failing to respond within seven working days of their receipt of your written request. The Public Records Law requires a custodian of public records to provide "proper and reasonable opportunities" for examination of records. ORS 192.430. Under this requirement, a public body has a "reasonable" time to respond to a request. The amount of time that is reasonable

We have spoken with Connie Barnett, Hearings Support Specialist at OSP, regarding your petition. Ms. Barnett advises us that at your request she mailed copies of the requested audio-taped records to your wife earlier this week.[2] Because OSP officials have provided copies of the requested records to your wife at your request, we deny your petition as moot.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS09696
c: Stan Czerniak, Superintendent, Oregon State Penitentiary
Connie Barnett, Hearings Specialist, Oregon State Penitentiary

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will depend upon the volume of records requested, the staff available to respond to the records request and the difficulty in determining whether any of the records are exempt from disclosure. A custodian of public records does not constructively deny a request for public records merely because the custodian does not make the records available within the timeframe set by the requestor. *Morse Bros., Inc. v. ODED*, 103 Or App 619, 798 P2d 710 (1990).

[2] Ms. Barnett confirms that you have requested that OSP officials mail copies of the audio-taped records to you wife.