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October 31, 2001

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

Re: *Petition for Public Records Disclosure Order:*
Board of Parole and Post Prison Supervision Records

Dear Mr. Maimon:

This letter is my order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. In your letter, which was received on October 26, 2001, you state that you have requested the following records from the Board of Parole and Post Prison Supervision:

1) The current contract between the Parole Board and Dr. Shellman, a psychologist who performs evaluations for the Board.

2) The documents sent to the Board by Mr. Tuttle, Release Counselor at the Oregon State Penitentiary related to the approved parole plan of David Isaac Maimon. Mr. Tuttle informed me that he faxed an approved parole plan verified by Marion County just prior to the 9/19/01 parole hearing.

3) The documents sent to the parole board prior to the 9/19/01 parole exit interview hearing from Tylay Frederickson, Marion County Parole Officer or from the Marion County Parole Supervisor, Mr. Hatteburg, or Marion County Parole Office, which approved and verified the parole plan submitted by David Isaac Maimon.

4) Any confidential documents including the confidential disclosure form in relation to the 9/19/01 parole exit interview hearing.

5) The video tape of the 9/19/01 parole exit interview hearing.

You do not contend that the Board has yet denied your request for any of these documents, but you ask: "Because at least one request involves alleged confidential documents, can you assist me in having that document sealed and provided to the Marion County Circuit Court, Judge Ochoa, in Maimon v. Czerniak, Marion County Case No. 010-C18312."

The Public Records Law confers a right to inspect any public records 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 any 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 written request to the Board is dated October 16, 2001. Diane Rea, Chair of the Board, has confirmed to us that the Board has not denied your request, but is in the process of preparing its response. Because the Board has not denied your request, your petition to this office is premature, and I do not have jurisdiction to order disclosure.[1]

With regard to your request for our assistance in having confidential documents sealed and conveyed to the Marion County Circuit Court, the Public Records Law does not authorize the Attorney General to intercede with the Board in that fashion. Should the Board deny your public records request in whole or in part, you would be entitled to petition the Attorney General under ORS 192.450(1) with respect to that denial.

For the foregoing reasons, I respectfully deny your petition.

Sincerely,

HARDY MYERS
Attorney General

AGS08934
c: Diane Rea, Chair, Board of Parole and
Post Prison Supervision

[1] It is not clear that the description in your petition of the categories of records requested exactly corresponds to the categories described in your request to the Board, particularly with regard to category number 4. Because I have determined that your petition is premature, it is not necessary to assess the effect of any such discrepancies.