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April 16, 2001

Jacob Barrett
#11123024
2605 State Street
Salem, OR 97310

RE: Petition for Public Records Disclosure Order:
Oregon Department of Corrections 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. Your petition, which we received on April 9, 2001,[1] asks the Attorney General to direct the Oregon Department of Corrections (ODOC) to make available certain records concerning inmates Brownie Larry Atkinson and Roach. You specifically requested the prison file of inmate Roach, #31517, photographs of Brownie Larry Atkinson, records indicating a physical description of Brownie Atkinson, presentence reports for Brownie Atkinson, and records concerning Brownie Atkinson's escape from custody in 1966. You later made a separate request for medical and psychological records for Brownie Atkinson. We respectfully deny your petition as moot.

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. Likewise, the Attorney General may issue orders only with respect to alleged denials of access to a "public record." ORS 192.450. ORS 137.077 states that "[t]he presentence report is not a public record." Therefore, the Attorney General does not have jurisdiction to determine whether you are entitled to inspect or obtain a copy of Brownie Atkinson's presentence reports, and we deny your petition as to any such records.

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[1] Although your petition was received by the Appellate Division of the Department of Justice on April 5, 2001, it was not immediately identified as a petition to the Attorney General for a public records disclosure order because it was included in with other correspondence related to your criminal cases. On April 9, your petition was forwarded to the appropriate section of the Attorney General's office for issuance of an order.

As to the remaining records, we understand from Penny Cooper, Offender Information and Sentence Computation Unit, that ODOC has agreed to make the records available to you upon payment of appropriate fees.[2] On April 13, 2001, you discussed your petition with Assistant Attorney General Jef Van Valkenburgh, and you agreed that ODOC could satisfy its obligation to make the records available to you by sending the records to your mother, Dawn O'Neil, at an address you provided. Accordingly, as to these records, we deny your petition as moot.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

LRR:ALV/GEN80976.DOC
c: Penny Cooper, Offender Information and Sentence Computation Unit, ODOC

[2] ODOC may charge you a fee to reimburse the agency for its actual cost in making the records available. *See* ORS 192.440(3); OAR 291-037-0020. ODOC may require that payment be received before the materials are provided. OAR 291-037-0020(3)(b). Ms. Cooper informs us that ODOC will send you an invoice for the records responsive to your request.