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ATTORNEY GENERAL

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DEPUTY ATTORNEY GENERAL

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March 30, 2001

Kevin E. Lucey
Attorney at Law
1412 American Bank Building
621 S.W. Morrison St.
Portland, OR 97205

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

Dear Mr. Lucey:

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 March 27, 2001, asks the Attorney General to order the Board of Parole and Post-Prison Supervision (board) to produce copies of the following records pertaining to Willie Stewart:

(1) any and all policies, rules and procedures concerning handicapped inmates;

(2) documents showing Mr. Stewart's dates of incarceration in this case;

(3) any and all reports, memoranda, notes, email, letters or other documents concerning any of the matters discussed in this tort claim notice;[1] and

[1] This language appears to refer to a notice of tort claims dated December 22, 2000, addressed to Clackamas County Counsel.

(4) any and all documents including notes, memoranda, letters or email discussing accommodations made, to be made, or possibly to be made at the Clackamas County jail pursuant to the Americans with Disabilities Act or similar law.

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).

In your petition, you state that you "asked for a copy of those records on December 22, 2000, and January 16, 2001," and that copies of your request are attached to the petition. The December 22, 2000, letter you attached appears to be a tort claim notice addressed and directed to Clackamas County Counsel. The January 16, 2001, letter is addressed to "Farrell & Associates" and is directed to the attention of Mike Farrell.[2] Nothing in either letter suggests that you sent it to the board. When contacted by Assistant Attorney General Steven Wolf regarding your petition, Diane Rea, Chair of the board, reported that the board has no record of receiving a request from you regarding Mr. Stewart.

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). Absent a request to the board and the board's denial of that request, the Attorney General does not have jurisdiction to order disclosure.[3] Because the board has neither received nor denied your request, your petition to this office is premature. Accordingly, we respectfully deny your petition.

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

AGS07406
c: Diane Rea, Chair, BPPPS

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[2] We have been unable to identify Mr. Farrell's association with a state agency or other public body.

[3] A person denied the right to inspect a public record of a public body other than a state agency may petition the district attorney of the county in which the public body is located to review the public record to determine if it may be withheld from public inspection. ORS 192.460.