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September 26, 2000

John H. Beckfield
Beckfield & Wiseman, LLP
3000 Market Street NE
Suite 537
Salem, OR 97301

RE: *Petition for Public Records Disclosure Order: Department of Corrections Records*

Dear Mr. Beckfield:

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 September 12, 2000,[1] asks the Attorney General to order the Oregon Department of Corrections (ODOC) to make available for inspection or to produce copies of the following:

> records regarding all the juveniles (at age of 15, 16 or 17) who have been prosecuted in and sentenced by adult courts under ORS 137.700 et seq., commonly known as Measure 11, including their names, their parents' names, dates of birth, addresses, phone numbers, offenses, and sentences.

Your petition states that you requested the records from Pam Teschner, ODOC's Research Manager, on August 2, 2000, but that as of the date of your petition you had received no response from ODOC officials regarding your request. 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. Custodians of public records are required to make those records available for inspection or copying unless the records

[1] We appreciate your courtesy in extending the time period within which the law otherwise would have required us to respond.

are exempted from disclosure by statute. ORS 192.430(1). Any person denied the right to inspect or to receive a copy of a public record may petition the Attorney General to determine whether the record may be withheld from inspection. ORS 192.450(1).

Assistant Attorney General (AAG) Jef Van Valkenburgh, ODOC's General Counsel contact attorney in this office, has confirmed with ODOC's Communications Manager, Perrin Damon, that last week she provided you with all of the records included in your petition except the names, addresses and telephone numbers of the offenders' parents.[2] Accordingly, with respect to the records that ODOC has provided to you, we deny your petition as moot.

In a telephone call last week, you discussed your request for disclosure of parents' names, addresses and phone numbers with AAG Van Valkenburgh. At the conclusion of that discussion you told AAG Van Valkenburgh that you were withdrawing your request and petition for this information. AAG Van Valkenburgh informed ODOC of your decision, and, due to your decision, ODOC discontinued its consideration of disclosure of those records.

Yesterday, AAG Herb Lovejoy spoke with you to request a second extension of time for issuance of the Attorney General's order responding to your petition. In the course of that conversation you informed AAG Lovejoy that, notwithstanding your earlier representation to AAG Van Valkenburgh, you had changed your mind and now desire to reinstate your request and petition for the parental information.

ORS 192.430(1) requires a custodian of public records to provide "proper and reasonable opportunities for inspection and examination of the records in the office of the custodian." 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). ODOC has not denied your request for records regarding offenders' parents.

A public body does not deny a request for public records merely by failing to provide a requestor access to nonexempt records within the timeframe set by the requester. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1999) at 8. While ODOC has not yet responded to the portion of your request regarding parental information, ODOC's need for additional time to review its records in relation to that portion of your request, and to consult with counsel, is reasonable under the facts surrounding your petition. We conclude, therefore,

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[2] Although your petition does not clearly indicate that you requested ODOC to provide information regarding an offender's parents other than the parents' names, AAG Van Valkenburgh has clarified in discussions with you that you are seeking disclosure of parents' names, addresses and telephone numbers.

that ODOC's failure to respond to the portion of your request regarding parental information does not constitute a denial. Accordingly, we deny the portion of your petition regarding offenders' parents as premature.

Sincerely,

DAVID SCHUMAN
Deputy Attorney General

AGS05494
c: Ms. Perrin Damon, Communications Manager, ODOC
Ms. Pam Teschner, Research Manager, ODOC