HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

September 3, 2008

Jacob Barrett, #557456
Oklahoma State Penitentiary
P.O. Box 97
McAlester, OK 74502

Re: Petition for Public Records Disclosure Order: *Records of the Oklahoma and Oregon Departments of Corrections*

Dear Mr. Barrett:

This letter is the Oregon 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 August 27, 2008, asks the Oregon Attorney General to direct the Oklahoma and Oregon Departments of Corrections to make available to you for inspection and copying various records that you set out in a letter to those agencies. 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).

ORS 192.430 authorizes state agencies to adopt reasonable rules necessary for protecting the records and preventing interference with the regular discharge of duties of the custodian. Moreover, the Public Records Law permits public bodies to establish and recover fees reasonably calculated to reimburse them for their actual cost in making public records available, including the time spent by agency staff in locating and reviewing the requested records in order to delete exempt material. *See* ORS 192.440(3); *see also* Public Records Order, April 7, 1989 (Martin).

Your petition states that on July 23, 2008, you sent a letter to the Oklahoma and Oregon Departments of Corrections requesting certified copies of those agencies' records. Your letter, a copy of which you attached to your petition, describes the bulk of the records that you have requested as records that have been prepared or received by the Oklahoma Department of Corrections pertaining to your transfer and incarceration in that state, and to incidents of assault or other occurrences at the Oklahoma State Penitentiary. Your letter includes a separate request for a copy of your "Interstate Corrections Compact (ICC) file," including the transfer application and all documents included with the application.

As discussed above, Oregon's Public Records Law governs a person's "right to inspect any public record of a public body in this state." The Oklahoma Department of Corrections is not "a public body in this state."[1] In making your request of the Oregon and Oklahoma Departments of Corrections, you argued that Oregon's Public Records Law applies regardless by virtue of Article IV, section 5 of the Interstate Corrections Compact. That provision states,

> The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

ORS 421.245. We do not agree that this provision means that Oregon's Public Records Law governs your request to inspect documents of the Oklahoma Department of Corrections. That is because the legal right conveyed by Oregon's Public Records Law is the right to "to inspect any public record of a public body in this state." The Public Records Law does not extend to Oklahoma Department of Corrections documents, and we find nothing in the Interstate Corrections Compact that would compel such an extension.

Accordingly, we deny your petition to the extent that it asks the Attorney General to order the Oklahoma Department of Corrections to furnish you with copies of its records. We turn to your petition for an order directed to the Oregon Department of Corrections (ODOC) to furnish you with copies of its records.

We have spoken with Karin Potts, ODOC's Compact Transfer Coordinator, regarding your petition as it relates to documents of which ODOC is the custodian. Ms. Potts told us that she very recently responded to your letter requesting certified copies of records. In her response, Ms. Potts informed you that, in accordance with the Department's administrative rules, you would be required to prepay to the Department its estimated fees for furnishing you with copies of its records before the Department would act on your request.

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[1] To the extent that the Oregon Department of Corrections maintains copies of Oklahoma Department of Corrections records as described in your petition as a "custodian" of those records, Oregon's Public Records Law grants you a right to obtain certified copies of the records, subject to the statutory disclosure exemptions and other limitations provided in the law.

Ms. Potts' response to your request for certified copies of ODOC records is consistent with ODOC's authority under the Public Records Law and ODOC's administrative rules governing inspection and copying of records. *See* ORS 192.440(3); *see also* Public Records Order, April 7, 1989 (Martin). Accordingly, we deny the remainder of your petition as moot.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

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Enclosure
c w/encl: Karin Potts, Compact Transfer Coordinator, Office of Population Management, Oregon Department of Corrections