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May 16, 1985

Kathleen Haley, Executive Director
Psychiatric Security Review Board
Executive Department
620 SW Fifth/Suite 907
Portland, Oregon 97204

Re: Public Records Requests

Dear Ms. Haley:

This is to advise you concerning requests for information from PSRB records which you have received from the Oregon State Board of Higher Education.

OSBHE Request

The Board of Higher Education requests the names, and the crimes of which the named persons would have been convicted, of persons within the jurisdiction of PSRB who are enrolled in state institutions of higher learning. The board further requests an opportunity to review the files of those persons.

The fact that a person has been found not guilty by reason of (or guilty except for) mental disease or defect and has been placed under the jurisdiction of the Psychiatric Security Review Board is a matter of public record. Theoretically, it is possible for Higher Education to obtain this information by reviewing all courthouse criminal records for many years back, but it is obviously practically impossible to do so. The PSRB presumably keeps records showing school enrollment of persons within its jurisdiction.

The fact that a person is within the custody of PSRB, and the nature of the crime giving rise to that custody is neither personal nor confidential, and disclosure of this information is required. Whether or not the fact of enrollment in a particular school is information of a personal nature (and we doubt that it is), disclosure to the institution involved is not an invasion of the privacy of the person. The Board of Higher Education is entitled to the information.

The files of such person contain information some of which is subject to disclosure, some of which is conditionally subject to disclosure, and some of which is not subject to disclosure. It would therefore be improper for PSRB to allow Higher Education unrestricted access to such files. It is probable that upon receiving the information to which it is clearly entitled (name and crime of person enrolled), Higher Education will determine that in some cases it needs further information, and that in other cases it does not. At that stage it will be appropriate for Higher Education to request further information and for PSRB to consider what information in the particular file is subject to disclosure. In this respect, you should note that any information received by Higher Education would be a student record for the individual concerned, and therefore subject to strict confidentiality requirements under state law and federal regulations.

Sincerely,

DONALD C. ARNOLD
Special Counsel to the
Attorney General

DCA:cm
cc: Pamela L. Abernethy, Attorney-in-Charge
Education and Human Services Section
Melinda Grier, Compliance Officer, Oregon State
System of Higher Education