THEODORE R. KULONGOSKI
ATTORNEY GENERAL

THOMAS A. BALMER
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
1162 Court Street NE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400
TDD: (503) 378-5938

January 4, 1994

Barry Joe Stull, SID #7941656
Oregon State Penitentiary
2605 State Street
Salem, OR 97301

Re: **Petition for Public Records Disclosure Order; Oregon State Penitentiary Records**

Dear Mr. Stull:

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 December 30, 1993, asks the Attorney General to direct the Oregon State Penitentiary (OSP) to make available to you for inspection or to produce copies of the following records:

1. The sheet from the Master Call Pass List that includes the name, housing unit, and time for the scheduled CTS Drug and Alcohol Workshop for Barry Stull, SID #7941656, on the date June 4, 1993[;]

2. The addendum to the above listed Master Call Pass List which shows that no pass was issued to Barry Stull on June 4, 1993 because of being out of the institution.

For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to access any public record of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. The law requires generally that the custodian of public records furnish proper and reasonable

opportunities for inspection and/or copying of the records in the office of the custodian. ORS 192.430. Any person 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 public record to determine if it may be withheld from public inspection. ORS 192.450(1).

Your petition states that you requested to inspect and/or copy the requested records on December 20, 1993, and that your request was denied by T. Blair, OSP Records Department.

We have spoken with Tamara Blair, Support Services Manager at OSP, concerning your petition. She has confirmed to us that you requested copies of the records listed in your petition; however, she is unable to confirm whether she responded to your request for copies of the records in writing or, if she did, the substance of her response.

Notwithstanding the above, Ms. Blair informs us that she has reviewed the Master Pass Call List for June 4, 1993, and that the records as described in your petition do not exist.[1/] We cannot order a state agency to make available for inspection and/or copying records that do not exist. ORS 192.450(1). For this reason, your petition is denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to
the Attorney General

ESH:AV:JVV:jvv/bjs/JGG08984
Enclosure
c: (w/o encl):
Fred Maass, Superintendent;
Tamara Blair, Chief Records Clerk
Oregon State Penitentiary
2605 State Street
Salem, OR 97310

[1/] Ms. Blair informs us that she will be making available to you copies of a housing assignment record for the relevant period, and other records indicating that your name was crossed off the CTS call out request list. Ms. Blair advises that she believes that these are the records that contain the information you seek.