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September 6, 1994

Thomas H. Womack, Jr.
214 Bleachery Street
Griffin, GA 30223

Re: *Petition for Public Records Disclosure Order: Oregon Department of Corrections Records*

Dear Mr. Womack:

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 1, 1994, asks the Attorney General to review your previous public records request to the Oregon Department of Corrections (hereafter the "department") for a report entitled "Property and Liability Statistics Quarterly Report," based upon your assumption that the department has refused your request. For the reasons that follow, we respectfully deny your request.

The Attorney General may order a state agency to disclose records only when the agency has first *denied* a request for such records. ORS 192.450(1) and 192.470. Your petition does not allege that an express denial took place, but only states that you assume your request has been denied. In fact after some time was consumed in communicating with you as to precisely what records you sought, the department requested legal advice from their attorneys as to their obligation of disclosure. That advice has been transmitted, and Tom Wells, Administrator of Personnel and Risk Management for the department, informs us that the department is now in the process of separating exempt from non-exempt material so as to provide the non-exempt material to you.[1/]

The Public Records Law allows a reasonable period of time for the custodian of the requested record to review the request and act upon it. *Morse Bros. Inc. v. O.D.E.D.*, 103 Or App 619 (1990). This includes time for the records custodian to consult with legal counsel about disclosure of documents that appear to be exempt, in whole or in part, from

the disclosure requirements of the Public Records Law. *Attorney General's Public Records and Meetings Manual* (1979) at 12. As of the date of your petition such a reasonable period of time has not expired. For the reasons stated, your petition is denied.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to
the Attorney General

ESH:AV:TET:bjs:cfs/JGG0A431
c: Tom Wells
Administrator of Personnel and
Risk Management
Oregon Department of Corrections
2575 Center Street NE
Salem OR 97310

[1/] The department may charge you for its actual costs in making the records available. ORS 192.440(3); OAR 291-37-005 through 291-37-025.