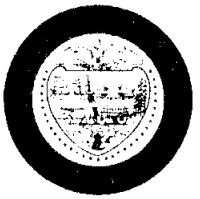
CHARLES S. CROOKHAM
ATTORNEY GENERAL

JACK L. LANDAU
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

April 6, 1992

Robert A. Walker, SID #7841823
Eastern Oregon Correctional Institution
2500 Westgate
Pendleton, OR 97801

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

Dear Mr. Walker:

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[1], which we received on April 1, 1992, asks the Attorney General to direct the Eastern Oregon Correctional Institution (EOCI) to make available to you for inspection, or produce copies of, the following records:

> Any and all documents, Reports, Records, Inter-Office Memos indexed under my name, or pertaining to me.

For the reasons that follow, we deny your petition as moot.

You state in your petition that you have requested to inspect and/or copy the above-referenced records, but that the Superintendent of EOCI, as of the date of your petition, had refused to honor your request. Superintendent Baldwin informs us that he has recently responded to your request by memorandum dated April 1, 1992. That response, a copy of which is enclosed, informs you that EOCI will make available to you copies of the requested records, absent any portion which is exempt from disclosure, upon your prepayment to EOCI of $750.00, which reflects its estimated costs of responding to your request.

The Public Records Law confers a right to access any public records 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. To that end, the Public Records Law authorizes state agencies to adopt reasonable rules and regulations necessary for the protection of the records and to prevent interference with the regular discharge of duties of the custodian. Id. In addition, it permits public bodies to establish and recover fees reasonably calculated to reimburse it for its 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.

Pursuant to these statutes, the Oregon Department of Corrections has adopted administrative rules, OAR 291-37-020(3)(b) and (7), which provide in pertinent part:

> (3)(b) * * * [n]o inspection and/or duplication of record(s) is authorized until payment has been received.
>
> * * * * *
>
> (7) Proper and reasonable opportunity for inspection and/or duplication of record(s) will be provided, consistent with security requirements at each Department facility and functional unit and as circumstances warrant.

Because Superintendent Baldwin has informed you that EOCI will make available to you copies of the non-exempt portions of the records you have requested, upon prepayment of the department's estimated actual costs in locating, reviewing and copying the records, we deny your petition as moot.

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:AV:JVV:bjs/JGG02C08
Enclosure
c: George H. Baldwin, Superintendent
Eastern Oregon Correctional Institution
2500 Westgate
Pendleton, OR 97801

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[1/] Your petition states that you requested records from EOCI under the federal Freedom of Information Act (FOIA), 5 USC § 552 et seq. Because the FOIA does not apply to state administrative agencies, but only to federal agencies, that Act has no application here. EOCI has, however, treated your request as a request for records under Oregon's Public Records Law. We have similarly treated your petition as arising under the Public Records Law.