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January 7, 1991

John W. Lunstedt
P.O. Box 615
Lincoln City, OR 97367

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

Dear Mr. Lunstedt:

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 31, 1990, asks the Attorney General to order the Oregon State Penitentiary (OSP) to make available for inspection and copying all documents pertaining to legal name changes of John Walter Lunstedt. For the reasons that follow, we respectfully deny your petition.

The Public Records Law generally requires a custodian of public records to furnish proper and reasonable opportunities for inspection and examination of records in the office of the custodian. 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). Under these provisions, an agency may be said to have "denied" the right to inspect or to receive a copy of a public record only if it receives a proper request for public records. Public Records Order, July 7, 1989 (Baker).

ORS 192.430 empowers 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. Pursuant to this statute, the Oregon Department of Corrections has adopted an administrative rule, OAR 291-37-015(2), which provides in pertinent part:

> "The request must be in writing, addressed to the Department's functional unit manager where the record(s) is located, and must specify the record(s) from which information is requested, if known. Where applicable, the request must be accompanied by a signed release of information. If the record(s) is not in the location where the request is received, the request will be forwarded to the functional unit manager in the location where the record is situated."

For purposes of the rule, the "functional unit manager" is the Superintendent at OSP, Manfred (Fred) Maass.

Your petition states that you asked to inspect and copy the records on December 26, 1990, at OSP, and that your request was denied by an unidentified male employee at OSP. It thus appears that your records request did not comply with the Department of Corrections' rule. Consequently, the Department of Corrections has not denied a proper request for disclosure of records. Therefore, we deny your petition as premature.

We have enclosed a copy of the administrative rule setting out the procedures you must follow in order to have the administration at OSP consider your records request. We trust that upon your proper written request to Superintendent Maass, the agency will respond to your request.

Sincerely,

Pamela L. Abernethy

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:JJVV:cfs/6433G
Enclosures
c: Manfred Maass, Superintendent
Oregon State Penitentiary
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