DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JACK L. LANDAU
DEPUTY ATTORNEY GENERAL

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

March 26, 1991

Mark J. Geiger
Attorney at Law
317 Court Street, NE
Suite 203
Salem, OR 97301

Re: Petition For Public Records Disclosure Order; Oregon State Penitentiary Records

Dear Mr. Geiger:

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 March 19, 1991, asks the Attorney General to direct the Oregon State Penitentiary (OSP) to make available for inspection the following records:

> [P]ersonnel files and any written material containing information pertaining to disciplinary actions either contemplated or actually carried out, of the following previously employed guards:
>
> 1. William Amburgy
> 2. John Smithey
> 3. Dana Dudek
> 4. Tim Bowman
> 5. Officer Eastwood
> 6. Vernell Wigglesworth

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

You state in your petition that you directed your request to inspect the above records to the records custodian at OSP, but that as of the date of your petition, you had received no response.

We have spoken with Tamara Felt, Chief Records Officer at OSP, concerning your request for records. She informs us that OSP does not maintain the personnel and disciplinary records you seek, but that such records are maintained in the Personnel Office of the Oregon Department of Corrections (ODOC) located in the Dome Building at 2575 Center Street, NE, in Salem, Oregon 97310. We also understand from Ms. Felt, and from Norma Phillips, a personnel officer employed in the Personnel Office at ODOC, that your request was forwarded to the Personnel Office and that Ms. Phillips will be responding to your request for public records after she has an opportunity to review the personnel and disciplinary files maintained by her office.

Because you did not direct your request to the proper custodian of the records, your records request did not comply with the law. Accordingly, we have no authority to order the custodian to provide copies of the requested documents to you. See ORS 192.450(1).

Your request is currently before the records custodian. ODOC will respond to that request within a reasonable time, as provided by the Public Records Law. See ORS 192.430(1) (duty to provide "reasonable" opportunity for inspection).

Sincerely,

PAMELA L. ABERNETHY
Special Counsel to the
Attorney General

PLA:cfs/bjs/0225G
c: Tamara Felt, Chief Records Officer
Oregon State Penitentiary
2605 State Street
Salem, OR 97310

Norma Phillips, Personnel Officer
Oregon Department of Corrections
2575 Center Street, NE
Salem, OR 97310