DAVE FROHNMAYER
ATTORNEY GENERAL
STATE OF OREGON

JACK L. LANDAU
DEPUTY ATTORNEY GENERAL

DEPARTMENT OF JUSTICE
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Salem, Oregon 97310
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April 22, 1991

Jim Marr
KPTV 12
735 S.W. 20th Place
P.O. Box 3401
Portland, OR 97208

Dave Hogan
The Oregonian
1320 S.W. Broadway
Portland, OR 97201

Don Rees
KGW-TV
1501 S.W. Jefferson Street
Portland, OR 97201

Re: Petition for Public Records Disclosure Order; Children's Services Division Records

Gentlemen:

This letter is the Attorney General's order on your petitions for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Each of you has requested the Attorney General's Office to order Children's Services Division (CSD) to release its records concerning Michael Lee Henry. Jim Marr and Don Rees both made a request to CSD for release of those records on April 15, 1991, and a request for review by the Attorney General on April 15, 1991. Dave Hogan requested release of the records from CSD on some date unknown to us, and requested review by the Attorney General on April 15, 1991. For the reasons that follow, we respectfully deny your petitions.

The Public Records Law confers a right to inspect any public records of a public body in Oregon, subject to certain exemptions and limitations. See ORS 192.420. In order to inspect such records, a person first must ask the agency that has custody of the records. See ORS 192.430. A person may petition the Attorney General for a disclosure order only when the custodian of records denies the person access to the records. See ORS 192.450. Mr. William L. Carey, Administrator of CSD, has informed us that he is making the requested records available to you, except for records about other persons, records which are medical and psychological records, and information which would permit identification of child abuse reporters. Mr. Carey's response is the final agency response to your request, and comes subsequent to the filing of your petitions with the Attorney General. Your petitions to the Attorney General could be considered premature in light of this response.

Even if your petitions were premature, we would deny them in this instance given Mr. Carey's response. The records which are not being released fall within an exemption to the general rule of public accessibility to government records.

ORS 192.502(8) prohibits disclosure of records which are made privileged under Oregon law. Michael Lee Henry's psychological and medical records are privileged under ORS 40.230 and 40.235, and consequently are exempt from public disclosure. Similarly, records which permit identification of child abuse reporters are confidential under ORS 418.770. Records relating to public assistance eligibility and grants are confidential under ORS 411.320.

For these reasons, we respectfully deny your petitions to compel disclosure.

Sincerely,

Richard Wasserman
Assistant Attorney General
Public Records Coordinator

DCA:RW:LRY:aml/9939a
c: William L. Carey, Administrator, Children's Services Division