HARDY MYERS
ATTORNEY GENERAL

DAVID SCHUMAN
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE
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January 14, 1997

Jeff Myers
M.C.D.C. #125691
1120 S.W. Third Ave.
Portland, OR 97204

Re: ***Petition for Public Records Order: Mental Health and Developmental Disability Services Division***

Dear Mr. Myers:

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 January 9, 1997, asks the Attorney General to direct the Mental Health and Developmental Disability Services Division (MHDDSD)[1/] to make available the following documents:

1. Notes and memorandums from the investigation of commitment on 9-28-95 to Emanuel Hospital including the identity of the investigator for the county.

2. The name and number of your attorney on 9-28-95.

3. All records from Garlington Center (Jane Knechtel, Dr. Bishoff).

4. All notes from Emanuel admitting records.

5. Records from other hospitals (UCLA Medical Center, Dr. Ray Lindsey 1992, Honolulu, Hawaii, St. Vincent Hospital)

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[1/] Your petition does not specify the state agency possessing the records you are seeking. Because the records identified in your petition appear to be mental health treatment and civil commitment documents, we are construing your petition as a request to order MHDDSD to disclose the identified records. MHDDSD is the state agency responsible for the regulation and coordination of publicly funded mental health services in the State of Oregon.

6. Records stipulating arson conviction.

7. Hearsay records.

8. Records that say you escaped from maximum security prison.

9. Burden of proof records.

For the reasons stated below, we respectfully deny your petition.

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. Any person who makes a request to a state agency to inspect a public record, and whose request is denied, may petition the Attorney General to review the record to determine if it may be withheld from public inspection. ORS 192.450(1).

Madeline Olson, Assistant Administrator for the Office of Mental Health Services at MHDDSD, informs us that she is not aware of MHDDSD receiving any request from you for records.[2/] Because you did not make a request to MHDDSD to inspect any of the items described above, there has been no denial by MHDDSD of disclosure of those records. Absent a request to, and denial by, a state agency for records, the Attorney General does not have jurisdiction to order the agency to disclose records. *See* ORS 192.450(1). Accordingly, we deny your petition as premature.

Sincerely,

Elizabeth Harchenko

ELIZABETH HARCHENKO
Special Counsel to the
Attorney General

DJE:AV/JAA021ED
c: Madeline Olson
Jennelle Hall

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[2/] Ms. Olson also informs us that the records you are seeking are probably not in MHDDSD's possession. Ms. Olson states that your civil commitment was handled by Multnomah County. Therefore, Multnomah County may possess some of the records you are seeking. You would need to request such records from Multnomah County and, if denied, seek review from the District Attorney, rather than the Attorney General. *See* ORS 192.460.