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DEPARTMENT OF JUSTICE

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

March 11, 1988

Mr. Jason Charles
Box 48248
Oregon State Penitentiary
2605 State Street
Salem, Oregon 97310

Re: Request for Public Records Disclosure Order
Oregon State Penitentiary

Dear Mr. Charles:

On March 7, 1988, this office received your March 3, 1988 letter requesting copies of memoranda submitted by Oregon State Penitentiary (OSP) staff relating to two disciplinary cases at the penitentiary. We have construed your letter to be a public records disclosure request of the Attorney General. Your letter asks the Attorney General to intercede in your request to staff correctional officers at OSP for:

> ". . . copies of the memorandums submitted by staff members Reese, Forbes, Morrow, Phillips, Klicka, Jonic, Heplen, Yeaney, Tomlinsen, Armenakis, and any additional reports by other staff members of the Oregon State Penitentiary pertaining to disciplinary cases A1-88-171 and A1-88-179."
>
> ". . . a copy of the memorandum submitted to the security manager of O.S.P by C.O. Olstrum."

We must respectfully deny your petition for two reasons. First, the public records law, ORS 192.410 et seq, does not authorize the Attorney General to order a state agency to disclose records within the agency's custody or control unless a proper request is made of the agency, and the agency denies the request. In this case, you made your request to two staff officers, Lieutenant Reese and Correctional Mr. Jason Charles

Officer Olstrum. Neither staff officer has authority to speak for the Oregon State Penitentiary or the Corrections Division with respect to requests for division records. Accordingly, the "agency" has not had any opportunity to consider, let alone, deny your request.

Second, the public records law provides that state agencies may make reasonable rules and regulations concerning the inspection and examination of agency records as necessary for the protection of the records, and to prevent interference with the records custodian's regular discharge of his duties. To this end, the Corrections Division (now Department of Corrections) has adopted an administrative rule establishing procedures for obtaining Corrections Division records/files, or parts thereof.

For your information and assistance, we have enclosed a copy of the applicable rule which sets out the procedures you need to follow in order to have the administration at the Oregon State Penitentiary consider your request. We trust that upon your proper written request to the "functional unit manager" at the Oregon State Penitentiary, who in this case is the Superintendent, Fred Maass, the agency will properly consider your request.

Very truly yours,

JAMES E. MOUNTAIN, JR.
Special Counsel to the
Attorney General

JEM:cm
Enclosure
cc : Michael Francke, Director, Dept. of Corrections
Fred Maass, Superintendent, Oregon State Penitentiary
Scott McAlister, Assistant Attorney General
Jefry J. Van Valkenburg, Assistant Attorney General
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