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April 22, 1988

Robert C. Joondeph
Managing Attorney
Mental Health Program
Oregon Advocacy Program
635 Board of Trade Building
310 SW Fourth Avenue
Portland, Oregon 97204

Re: Petition for Public Records Disclosure Order
Dammasch State Hospital Records

Dear Mr. Joondeph:

This letter responds to your April 7, 1988 "request for production" of public records of Dammasch State Hospital ("Dammasch"). Because you ask us to "order" Dammasch to produce these records, we treat your letter as a petition, filed under the Public Records Law (ORS 192.410 to 192.505), for an Attorney General's disclosure order under the authority of ORS 192.450(1).

Specifically, you seek disclosure of Dammasch records of monthly statistics regarding: 1) the use of the ordered seclusion and mechanical restraints of patients; 2) the number of patient grievances filed; and 3) the number of abuse reports and incident reports. For the reasons set forth below, your petition for disclosure under the Public Records Law respectfully is denied.

Dammasch officials inform us that the hospital maintains no monthly statistical record of the number of patient grievances filed or the number of abuse reports filed. Pursuant to ORS 192.470(2), Dammasch officials have transmitted to us sample copies of monthly statistical reports on the use of seclusion and restraints and a sample copy of a monthly incident summary. We conclude, however, that these records are exempt from public disclosure under the Public Records Law.

The monthly statistical records on seclusion and restraints and the monthly incident summaries are used for hospital management purposes as quality assurance information. The seclusion/restraint summaries reveal the number of times a physician has ordered seclusion or restraint. The incident statistics are compiled for use in reducing the causes of patient injury. As quality assurance data, the statistical reports you seek to inspect are privileged under ORS 41.675, and therefore exempt from Public Records Law disclosure under ORS 192.502(8). See companion public records order issued this date, Public Records Order, Joondeph/Oregon State Hospital (April 22, 1988). And because you and the Advocacy Center have no greater rights under the Public Records Law than any member of the public, your petition for an Attorney General's order under the Public Records Law is denied. Id.

In the companion order we distinguish the statute that grants the Advocacy Center special inspection authority, ORS 179.505(14). We again urge you to discuss the scope of this statute with Assistant Attorney General Diane Brissenden. And again, I thank you for your professional courtesy in this matter.

Respectfully submitted,

James E. Mountain Jr

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

JEM:cm
cc: Stanley F. Mazur-Hart, PhD, Superintendent, Dammasch State Hospital
George W. Bachik, Superintendent, Oregon State Hospital
Diane Brissenden, Assistant Attorney General
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