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RECEIVED
MAY 15 1996
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May 15, 1996

Michael Haliburton, SID# 11534652
Oregon State Penitentiary
2605 State Street
Salem, OR 97310

Re: Petition for Public Records Order - Oregon State Penitentiary Records

Dear Mr. Haliburton:

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 May 10, 1996, asks the Attorney General to direct the Oregon State Penitentiary (OSP) to make available to you for inspection or produce copies of the following records:

1. Offenders Psychological Report;
2. PSI Report.

For the reasons that follow, we respectfully deny your petition.

The Public Records Law confers a right to access any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. The law requires generally that the custodian of public records furnish proper and reasonable opportunities for inspection and/or copying of the record in the office of the custodian. ORS 192.430. Any person denied the right to inspect or to receive a copy of any public record of a state agency may petition the Attorney General to review the public record to determine if it may be withheld from public inspection. ORS 192.450(1).

ORS 192.430 authorizes state agencies to adopt reasonable rules and regulations necessary for protecting the records and preventing interference with the regular discharge of duties of the custodian. ORS 192.430. Moreover, the Public Records Law permits public bodies to establish and recover fees reasonably calculated to reimburse them for their actual

cost in making public records available, including the time spent by agency staff in locating and reviewing the requested records in order to delete exempt material. *See* ORS 192.440(3). *See also*, Public Records Order, April 7, 1989 (Martin).

Your petition states that you asked to inspect and/or copy the public records listed in your petition above on April 21, 1996, but that your request was denied by the OSP Records Department.

In reviewing your petition with Tamara Blair, Support Services Manager at OSP, Ms. Blair advises that neither OSP, nor the Oregon Department of Corrections (ODOC), maintains or possesses a presentence investigation report (PSI) among their records pertaining to you. Ms. Blair advises further that she has caused a memorandum to be sent to you in response to your petition reflecting this fact. We understand from Ms. Blair that her memorandum also advises that OSP will make available to you, upon prepayment of its costs in accordance with ODOC's fee schedule,[1/] a copy of the only document in its possession that appears to fall within the scope of your request and petition -- a three page document entitled "Offender Profile Report."

Because ODOC does not maintain or possess a PSI report pertaining to you, ODOC cannot make that report available, and the Attorney General has no authority to order its disclosure. *See* ORS 192.450(1). Because ODOC is willing to furnish you with a copy of its Offender Profile Report concerning you, we deny your petition as moot with respect to this document.

Sincerely,

Elizabeth S. Harchenko

ELIZABETH S. HARCHENKO
Special Counsel to the Attorney General

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[1/]ODOC administrative rules establish a presumptive fee for copies of public records where no staff time is required for review of the requested record of $.50 per page. *See* OAR 291-37-020(3)(a)(A).