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September 27, 1996

Tony Davis
Reporter
Statesman Journal
P.O. Box 13009
Salem, OR 97309-1015

David White
Assistant Director
Oregon Department of Administrative Services
155 Cottage Street NE
Salem, OR 97310-0310

Re: ***Petition for Public Records Disclosure Order: Department of Administrative Services Records***

Dear Mr. Davis and Mr. White:

This letter is the Attorney General's order on Mr. Davis' petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. That petition, which we received on September 24, 1996, asks the Attorney General to direct the Department of Administrative Services to provide a copy of the state's report showing the most recent forecasts for how many inmates the state is expecting to add to the state prison system under Measure 11. For the reasons that follow, we order release of the report.

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).

We have been informed by Mr. David White, Assistant Director, that the the Department has such a report[1/] and that it will be released to the public on Monday, September 30, 1996. No basis exists for withholding the report at this time. Therefore, we grant Mr. Davis' petition and order the Department of Administrative Services to disclose the requested report. The agency has seven days from the date of this order to comply. ORS 192.450(2).

Sincerely,

THOMAS A. BALMER
Deputy Attorney General

LRR:AV:lrr/JGG0E982

[1/] We interpret the petition filed by Mr. Davis to seek the raw data and comparisons to previous forecasts only if the report is not available. Because the report is available, we do not address that aspect of the petition, other than to note that an agency does not have a duty to create records that do not exist. *See* OREGON ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (1995) at 5.