January 29, 1982

Michael J. Francis
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Re: Petition for Attorney General Review
Agency: Board of Parole
Records: ORS 144.223 Reports - LeRoy Wayne Earp

Dear Mr. Francis:

Your petition to the Attorney General to review all written reports of psychiatric or psychological examinations of LeRoy Wayne Earp which have been compiled pursuant to ORS 144.223 has been received and evaluated pursuant to ORS 192.450.

ORDER

Based upon ORS 192.500(2)(b) and (d), your petition is denied.

DISCUSSION

ORS 192.500(2)(b) protects public records when disclosure would constitute an unreasonable invasion of the personal privacy of the person who is the subject of the record. Personal psychiatric and psychological records fall within the ambit of this statute. It is true that if an applicant shows by clear and convincing evidence that the public interest requires disclosure in the particular instance, disclosure will be required. In the present case, there is no evidence of public interest in disclosure. Although there is a general public interest in knowing how

the Board of Parole operates, that interest is less than the public interest in the proper conduct of criminal trials which could be damaged by pretrial disclosure of this information.

Moreover, ORS 192.500(2)(d) protects the records of the Board of Parole from disclosure if the public interest in confidentiality (identified as interferring with rehabilitation or preventing carrying out functions) clearly outweighs the public interest in disclosure. As previously noted in this case, there is no public interest in disclosure at present. In fact, the public interest would suffer by a disclosure at this time.

Very truly yours,

STANTON F. LONG
Deputy Attorney General

SFL:SJMc:tlg