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June 10, 2004

Lemuel Hentz, SID #6750414
Snake River Correctional Institution
777 Stanton Boulevard
Ontario, OR 97914-0595

Re: *Petition for Public Records Disclosure Order*:
Oregon Department of Corrections Records

Dear Mr. Hentz:

This letter is the Attorney General's order on your petition for disclosure under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on June 3, 2004, asks the Attorney General to direct Jean Hill, Superintendent of the Snake River Correctional Institution (SRCI), and SRCI employees to make available to you copies of the following ODOC records:

1. The names of all females officers who worked complex-1 C-unit tower from 6:40 am to 2:40 pm and 2:30 pm to 10:30 pm, Monday thru Friday and Saturday and Sunday, between February 25, 2004 to April 20, 2004;

2. A complete list of any and all complaints, including grievances, discrimination and sexual harassment complaints, and copies of letters of reprimand, filed against Sgt. Taylor, C/O Futch, C/O Park, C/O Pinson, Ms. C. Cain, and T. Bechtel.

3. The list should included [sic] deposition [sic] and nature of complaint and dated [sic] filed. I further defined complaint to mean grievance, discrimination, sexual harassment and letters of reprimand. This information should cover from 1999 to date.

4. I want a complete copy of the Inmate Communication signed by Inmate Johnson between April 12, 2004 to April 17, 2004 to move from cell 1C310B to 1C319B.

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

The Public Records Law confers a right to inspect any public record of a public body in Oregon, subject to certain exemptions and limitations. *See* ORS 192.420. Any person denied the right to inspect or to receive a copy of a public record of a state agency may petition the Attorney General to review the record and determine if it may be withheld. ORS 192.450.

According to your petition, you made your request for copies of the identified records on May 14, 2004. You state that you attached to your written request a properly completed "CD 28" to pay for the agency's costs of making copies of the records available to you.[1] You further state that your request was denied by inaction. We spoke with Bill Doman, Executive Assistant to Superintendent Hill, about your petition.

Mr. Doman provided us with a copy of both your Inmate Communication in which you requested copies of the records at issue and his initial response, which he sent to you on June 3. In part, that response stated that his office would verify that you had sufficient funds to cover the agency's costs before processing your request. Processing your request would involve SRCI staff locating the requested records, reviewing them and redacting exempt material, and providing you with copies of the non-exempt records. Mr. Doman told us that, checking the balance of your inmate trust account to verify whether you had the necessary funds, he determined that your account balance was just ten cents. Consequently, Mr. Doman told us that he is going to send you a further response informing you that SRCI will not process your request for the records because you do not have sufficient funds in your account to cover the agency's costs for providing you with a copy of even one record.[2]

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). Moreover, public bodies may require a requestor to prepay the agency's estimated costs for doing so. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2004) at 14.

You do not have sufficient funds in your inmate trust account to pay SRCI's costs, and SRCI is acting within its authority in denying your request for this reason. Therefore, we deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS:AGS14169
c: Bill Doman, Executive Assistant to Superintendent Jean Hill, SRCI

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[1] We understand that a "CD 28" is the form that an inmate is required to complete and submit to prison officials to authorize the withdrawal of available funds in the inmate's trust account, and to direct that the funds be applied to a particular authorized purchase or other purpose.

[2] Mr. Doman told us that you will need to resubmit your request to Superintendent Hill, together with a properly completed CD 28 to authorize the withdrawal of funds, once your inmate trust account contains a balance sufficient to cover the agency's costs.