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DEPARTMENT OF JUSTICE
Justice Building
Salem, Oregon 97310
Telephone: (503) 378-4400

August 15, 1988

Emanuel Sistrunk
2500 Westgate
EOCI Box 581
Pendleton, OR 97801

Re: Request for Public Records Disclosure Order - Department of Justice

Dear Mr. Sistrunk:

This letter responds to your August 4, 1988 letter to Attorney General Frohnmayer. You request copies of all Department of Justice records that "are indexed under or contain my name." We have located some records and will continue searching for others upon payment of the fee provided for by the Department's administrative rules.

We are treating your letter as a request for records under Oregon's Public Records Law, ORS 192.410 et seq. The federal Freedom of Information Act does not apply to state agencies. I am enclosing a copy of OAR 137-08-010, the Department of Justice administrative rule which establishes fees for costs incurred by Department personnel in locating, copying, and segregating records, the disclosure of which is required by the Public Records Law. Please note that an indigent person does not have a right to waiver of the fees for inspection and copying under the Oregon Public Records Law. See, 44 Op Atty Gen 277.

Because of the breadth of your request, we must require advance payment of the costs detailed below before providing any of the available records or continuing our search for other records subject to your request.

We have conducted a preliminary investigation to ascertain what material may be possessed by the Department of Justice. That investigation found the following post-conviction case

files in possession of the Corrections Section of the Criminal Justice Division: Sistrunk v. Wright, Federal Civil No. 88-251 FR; Sistrunk v. Wright, Umatilla Case No. CV87-281; and Sistrunk v. Wright, Umatilla Case No. CV87-448. Those files contain no more than 500 pages and largely are filled with pleadings and papers submitted by you (and your attorneys) and the Department's responses. Copies of such pleadings and papers which are subject to disclosure will be provided upon your prepayment of twenty dollars toward the cost of copying, if you decide to incur that cost. Material other than pleadings will require attorney review to determine whether the material is exempt from the disclosure requirements of the Records Law. This review should take no more than one hour to conduct. We will conduct this review upon receiving $52.00 to cover the costs of the review.

Our preliminary examination disclosed no other documents or files subject to your request, and your letter did not identify other possible files which could contain additional information. However, we can conduct a further investigation should you desire.

I would expect that it would take no more than ten (10) hours of investigator time to contact all possible record holders to determine whether the Department has other records subject to your request. We will not proceed with this further investigation until we receive $400.00 to cover the costs of that investigation. The time and expense of that review could be limited if you wish to narrow your request or indicate where in the Department of Justice records subject to your request might exist. Any funds not expended will be returned to you.

Please advise me on how you wish to proceed.

Sincerely,

James E. Mountain Jr.

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

P.S. The Department's file in State v. Sistrunk, Multnomah Case No. 86-03-31290, was closed by the Appellate Division in August 1987 and returned to Multnomah County.

JEM:pl
Enclosure
cc: Scott McAlister, Assistant Attorney General
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