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May 10, 2004

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

Re: *Petition for Public Records Disclosure Order*:
Records of the State Court Administrator

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 May 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 records:

1. A complete and legible copy of Lemuel Hentz's Housing Unit/Group Living file card;
2. A copy of any and all institutional memos wrote (sic) by State Employees advers (sic) to inmate Lemuel Hentz, from December 1, 2003 to date;
3. The full and complete name and title of the African American state employee, Ms. C. Cain, consulted about Mr. Hentz's speech for Black History Month, Feb, 2004;
4. The full and complete names and title of SRCI Privilege[d] Housing Committee members, who made the decision to move Mr. Hentz from priviledge (sic) housing, April 20, 2004.

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. The Attorney General does not have authority to order disclosure of public records unless the agency

has denied a request for those records. In responding to a public records request, an agency is permitted a reasonable opportunity to retrieve and review the requested records, and, if necessary, to consult with legal counsel before providing the records or denying the request. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2004) at 9; *Morse Bros., Inc. v. ODED,* 103 Or App 619, 622, 798 P2d 719 (1990).

According to your petition, you asked to inspect and copy, and to pay for, copies of the requested records on April 20, 2004, at SRCI through the office of Superintendent Hill. You state that, as of the date of your petition, you had not received a response to your request. We spoke with Bill Doman, Executive Assistant to Superintendent Hill, about your petition.

Mr. Doman told us that he sent you a response to your records request on April 30, 2004. Mr. Doman has provided us with a copy of your Inmate Communication in which you request copies of SRCI records, and his response. According to that response, Mr. Doman provided you with a copy of the SRCI housing unit/ group living card file that you specified in your petition as request item #1. With respect to your request for staff memos described in your request item #2, Mr. Doman explained that the Superintendent's office does not maintain these records, and asked for clarification from you regarding the nature of the memos in order to assist the Superintendent's office to locate the records. Finally, Mr. Doman referred you to Ms. Cain for response to your request for information concerning the person she consulted regarding your speech as described in your request item #3. As reflected in your request, and as confirmed by Mr. Doman, your Inmate Communication did not mention or request records pertaining to the Privileged Housing Committee members specified as request item #4 in your petition.

Based upon Mr. Doman's response, with regard to the records provided to you in response to request item #1, we deny your petition as moot. With regard to request items #2, #3 and #4, we conclude that SRCI has not denied your request. Therefore, with regard to those items we deny your petition as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

PDS:AGS13960
c: Bill Doman, Executive Assistant to Superintendent Jean Hill, SRCI