HARDY MYERS
ATTORNEY GENERAL

PETER D. SHEPHERD
DEPUTY ATTORNEY GENERAL



DEPARTMENT OF JUSTICE

1162 Court Street NE
Justice Building
Salem, Oregon 97301-4096
Telephone: (503) 378-4400
TTY: (503) 378-5938

September 25, 2002

Arlen P. Smith, SID #3738655
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914

Re: *Petition for Public Records Disclosure Order:*
Department of Administrative Services, Risk Management Division Records

Dear Mr. Smith:

This letter is the Attorney General's order on your petition for disclosure of records under the Oregon Public Records Law, ORS 192.410 to 192.505. Your petition, which we received on September 18, 2002, asks the Attorney General to direct the Risk Management Division of the Department of Administrative Services to make available for inspection and/or to produce a copy of the following records:

A. Copies of a list of the persons employed in the I.C.U. [Inmate Claims Unit] and their positions;
B. Copies of the position descriptions related to the above persons; and
C. Copies of any documents showing the management structure of the Inmate Claims Unit within the Risk Management Division.

For the reasons that follow we respectfully deny your petition.

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).

In your petition you state that you asked to inspect and/or copy the requested records on April 12, 2002, and that your request was "effectively denied" on May 20, 2002. Your petition

does not state to whom you directed your request for public records, or identify the official or officials that purportedly denied your request. Nor does your petition have attached to it a copy of your request.

We have spoken with Michael Baird, Claims Manager for the Risk Management Division, regarding your petition. Mr. Baird has advised us that he and his staff are unable to locate any correspondence from you asking for copies of the records mentioned in your petition. Under these circumstances the Risk Management Division has not denied a request for public records. Accordingly, this office lacks authority to order the Risk Management Division to make copies of its records available to you. ORS 192.450(1). We therefore deny your petition as premature.

However, Mr. Baird also advises us that the Risk Management Division will make available to you, upon prepayment of the Division's fee for making copies of public records available,[1] a copy of the Division's Claims Section staff roster as it currently appears on the agency's website, the position descriptions for the Claims Section staff positions, and an organization chart that details the management structure of the Claims Section.[2] Should you desire to obtain copies of these records Mr. Baird asks that you direct your written request for copies of the records to him at the following address:

Michael Baird, Claims Manager
Department of Administrative Services, Risk Management Division
1225 Ferry Street SE
Salem, OR 97301-4287

Sincerely,

Peter D. Shepherd

PETER D. SHEPHERD
Deputy Attorney General

PDS/mch/11078

[1] 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).

[2] Mr. Baird has explained that a formal "Inmate Claims Unit" does not exist within the Risk Management Division, but that Claims Section staff have for many years used the generic "Inmate Claims Unit" designation when corresponding with state prison inmates in regards to their tort claims filed with the Division. Mr. Baird has further explained that all of the claims consultants and representatives who process tort claim notices and demands filed with the Division are assigned to process tort claims submitted by state prison inmates.