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October 29, 2008

Zachariah Kain, SID #14442135
Two Rivers Correctional Institution
82911 Beach Access Road
Umatilla, OR 97882

Re: Public Records Disclosure Order:
Oregon Department of Corrections Records

Dear Mr. Kain:

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 October 22, 2008, asks the Attorney General to direct the Oregon Department of Corrections (ODOC) and its employees to make available to you for inspection or copying the following records:

> Misconduct Report Case #0806 N171 N25, and any and all documents/records submitted at the hearing in this case.

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

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).

ORS 192.430 authorizes state agencies to adopt reasonable rules necessary for protecting the records and preventing interference with the regular discharge of duties of the custodian. Pursuant to this statute, the Oregon Department of Corrections (ODOC) has adopted

administrative rule, OAR 291-37-020(2), which requires that a request to access public records of the department be made in writing.

Your petition states that you requested to inspect or to obtain copies of the requested records on July 1, 2008, but that your request was denied by Mr. Deacon, a Hearings Officer at the Two Rivers Correctional Institution (TRCI), at the hearing. We have spoken with Aleca Nelson, Executive Assistant to the Superintendent and Public Information Officer at TRCI, regarding your petition. Ms. Nelson told us that TRCI has no record of having received a written request from you to access the requested records.

Because you have not made a written request of TRCI for the records as required by ODOC's rules, we conclude that ODOC has not denied a request for the records within the meaning of the Public Records Law. As a result, this office lacks authority to order disclosure. ORS 192.450(1). We respectfully deny your petition to compel disclosure as premature.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

DM1097510
c: Don Mills, Superintendent, TRCI
Aleca Nelson, Executive Assistant to the Superintendent/Public Information Officer, TRCI
James Deacon, Hearings Officer, TRCI