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April 3, 2008

Douglas Plane, SID #3430162
Two Rivers Correctional Institution
82911 Beach Access Road
Umatilla, OR 97882-9412

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

Dear Mr. Plane:

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 in this office on March 27, 2008, asks the Attorney General to order the Two Rivers Correctional Institution (TRCI) to make available to you for inspection a vendor contract between the Oregon Department of Corrections (ODOC) and NaphCare, Inc. 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(1). The Attorney General may order a state agency to disclose records only when the agency has denied a request for records. *See* ORS 192.450(1).

ORS 192.430 authorizes public bodies to adopt reasonable rules necessary for protecting public records and preventing interference with the regular discharge of duties of the custodian. The Public Records Law also 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 the requested records and reviewing them for exempt material. *See* ORS 192.440(3); ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2008) at 13-15. ODOC has adopted such a rule, which provides for charges for copying and staff time. OAR 291-037-0020.

Your petition states that you asked to inspect ODOC's vendor contract on March 12, 2008, but that your request was denied by Alicia Nelson, Supervising Executive Assistant at TRCI. We spoke with Ms. Nelson about your petition. She told us that she responded to your request to inspect the vendor contract by letters dated March 17 and March 24, 2008 (copies of which are attached for your convenience). In her letters responding to your request Ms. Nelson advised you that it is ODOC's policy to furnish inmates making public records requests with copies of records, for a fee, in lieu of allowing inspection of original records. Ms. Nelson further advised you that you would be required to pre-pay to the department its estimated fees for furnishing you with a copy of the vendor contract, and that because you lacked sufficient funds in your inmate trust account to cover ODOC fees, ODOC would not furnish you with a copy of the contract at this time.

Ms. Nelson's response to your records request is consistent with the agency's authority under the Public Records Law and ODOC's administrative rules governing inspection and copying of records. Pursuant to ORS 192.430, ODOC has promulgated an administrative rule providing that "[p]roper and reasonable opportunity for inspection and/or duplication of record(s) will be provided, consistent with security requirements at each Department facility and functional unit and as the circumstances warrant." OAR 291-37-0020(7). ODOC has determined that, for a fee, it will provide copies of records to ODOC inmates in response to requests made under the Public Records Law, in lieu of allowing inspection of original records. We have previously concluded on a number of occasions that ODOC's decision to furnish copies to ODOC inmates in lieu of allowing inspection of original documents is valid. *See* Public Records Order, July 19, 1982, Baucom (copy enclosed for your convenience); *see also* Public Records Order, October 30, 2001, Romair, and Public Records Order, March 14, 2002, Williams.[1] We therefore deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS21481
c: Guy Hall, Superintendent, TRCI
Aleca Nelson, Supervising Executive Assistant, TRCI
Shelli Honeywell, Administrator, Office of Legal Affairs, ODOC

[1] Ms. Towers' response is also consistent with ODOC's administrative rule governing the charging of fees for responding to records requests. OAR 291-037-0020(3).