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July 30, 2007

Michael Smith, SID #12082633
Snake River Correctional Institution
777 Stanton Blvd.
Ontario, OR 97914-0595

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

Dear Mr. Miller:

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 July 23, 2007, asks the Attorney General to direct the Snake River Correctional Institution (SRCI), and its employees to make available to you hearings transcripts in inmate disciplinary case number 0702-M16-M05 (tape number 07-026-A-304). 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. The Public Records Law does not impose on public bodies the duty to *create* public records. ATTORNEY GENERAL'S PUBLIC RECORDS AND MEETINGS MANUAL (2005) at p. 5. 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.

According to your petition, you asked the SRCI Section Manager and SRCI Hearings Officer Ron Myers for a copy of the hearings transcripts, but they referred you to the Attorney General. We spoke with Stacey Gehrman, an Office Specialist in SRCI's Hearings Section, regarding your petition. Ms. Gehrman provided us with a copy of your inmate communication to the SRCI Hearings Section requesting a copy of the hearings transcript for the inmate disciplinary case referenced in your petition, together with her response. We have attached a copy of your inmate communication and Ms. Gehrman's response for your convenience. In her

response, Ms. Gehrman advises you that "[t]ranscripts are not provided[,]" but that you may request a copy of the audiotaped hearing record for a fee, in accordance with ODOC's rules governing the release of public records. Ms. Gehrman told us that in advising you that "transcripts are not provided," what she meant is that generally ODOC does not make transcripts of the audiotaped record of inmate disciplinary hearings, and in this instance no transcript of the disciplinary hearing record referenced in your petition was made.

Because the hearings transcript you seek does not exist, ODOC has not denied a request for public records. Accordingly, we deny your petition.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS20052
Enclosure
c: Mark Nooth, Superintendent, SRCI
Sheila Mecham, Executive Assistant to Superintendent Nooth, SRCI
Ron Myers, Hearings Officer, SRCI
Stacey Gehrman, OS2, SRCI