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October 2, 2006

Lemuel Hentz, SID #6750414
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. 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 September 25, 2006, asks the Attorney General to direct Ms. Debbie Elwood, Manager of the Central Trust Unit of the Oregon Department of Corrections (ODOC), to make available to you copies of the following records:

(a) A complete copy of the check and the envelope that was posted to my trust account June 8, 2006; under check #ODOC0648747; and
(b) The exact date a trust account was established for a "Ryan William" no middle name, African American, age between 20 to 25 and year of concern 2003 to 2006.

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.

With these principles in mind, we address each part of your request separately.

1. Request for a copy of the check and envelope.

ORS 192.430 authorizes state agencies to adopt reasonable rules necessary for protecting records and preventing interference with the regular discharge of duties of the custodian. Moreover, 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).

In a public record order dated August 9, 2006, we addressed a previous request for copies of the check and envelope by informing you that Ms. Debbie Elwood, ODOC's Central Trust Unit Manager, would make these copies available to you if you provide her with a properly authorized CD-28 Inmate Trust Account Withdrawal Request form as required by ODOC's administrative rules.[1] According to your petition, you submitted a CD-28 Inmate Trust Account Withdrawal Request Form on September 20, 2006 to Ms. Elwood. We spoke with Ms. Elwood about your petition.

Ms. Elwood told us that your CD-28 was not properly authorized because it does not contain an authorized signature. Ms. Elwood also told us that not all of your funds are "frozen," as you stated in your petition. You may access funds not held in a restricted account; however, we have been informed that your non-restricted account does not contain sufficient funds to cover copying costs. If you submit a properly authorized CD-28 and when your non-restricted trust account contains sufficient funds to cover ODOC's fees for making copies of the records, Ms. Elwood has told us that she will make these copies available to you.

Because Ms. Elwood has stated that she will furnish to you copies of the records you have requested upon receiving your properly authorized CD-28 form and verifying that you have sufficient funds in your inmate trust account, we deny your petition as moot.

2. Request for date ODOC created inmate trust account for Ryan Williams.

ORS 192.410(4)(a) defines a "public record" as including:

> any writing that contains information relating to the conduct of the public's business * * * prepared, owned, used or retained by a public body regardless of physical form or characteristics.

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[1] OAR 291-158-0055 states, in pertinent part:

> (2) Each inmate expenditure from the individual trust account will require the inmate to submit a completed Withdrawal Request Form (CD 28) to the functional unit manager or designee. Only a Withdrawal Request with the authorized employee signature will be recorded on the inmate trust account. If funds are not available to cover a withdrawal request, the form will be returned to the inmate marked with an explanation.

We spoke with Mr. Jerry Johnson, ISSD Operations Manager, about your petition. After searching for the record, Mr. Johnson informed us that there is a record containing this information. We also spoke with Ms. Elwood about this record and her denial of your request. Ms. Elwood has informed us that she will disclose the record to you upon payment for the costs associated with locating, redacting, and copying the record.

The cost for locating the record has been determined to be $63.69. Because your petition required ODOC to review the record and make a determination of whether the record could be released, the cost for copying the record is $1.25 per page. OAR 291-037-0020(3)(a)(B). Therefore, before ODOC can release the record to you, you must submit a properly authorized CD-28 for the amount of $64.94. When your non-restricted trust account contains sufficient funds to cover ODOC's fees for locating, redacting and copying the record, Ms. Elwood has told us that she will make a copy of the record available to you.

Because Ms. Elwood has agreed to furnish to you a copy of the record you have requested upon receiving your properly authorized CD-28 form and verifying that you have sufficient funds in your inmate trust account, we deny your petition as moot.

Sincerely,

PETER D. SHEPHERD
Deputy Attorney General

AGS18566
cc: Debbie Elwood, Manager, Central Trust Unit, ODOC